

# AGREEMENT FOR BROKERAGE AND NOMINAL HOLDING SERVICES No. NH-\_\_\_\_/08

This Agreement is made as a deed this \_\_\_\_ day of \_\_\_\_\_ 2008 in Almaty, Republic of Kazakhstan.

## BETWEEN

1. \_\_\_\_\_  
a legal entity, registered and existing under the laws of \_\_\_\_\_  
\_\_\_\_\_ and having an address at \_\_\_\_\_  
(the "Customer"); and

2. **JSC "VISOR Capital" (БИЗОП КамтраА)**, a legal entity, registered and existing under the laws of the Republic of Kazakhstan, and having an address at: Furmanova 240 G, Almaty 050059, Kazakhstan, and having a licence to conduct broker-dealer activities in the securities market with a right to maintain clients accounts as nominal holder, license No. 0401201181 dated 10 March 2006 issued by the Agency of the Republic of Kazakhstan on Supervision and Regulation of Financial Market and Financial Organisations (the "Company").

## WHEREAS:

- A. The Customer wishes to buy and sell Assets (as defined below) with the assistance of the Company.
- B. The Company is a professional participant in the securities market in the Republic of Kazakhstan and elsewhere in the world, where allowed by the respective legislation and provides brokerage and nominal holding services to sophisticated and professional investors.
- C. The Customer wishes to appoint the Company to buy and sell Assets from time to time in accordance with its instructions and on the terms and conditions of this Agreement.

**NOW THEREFORE** in consideration of the promises and mutual agreements and covenants contained herein the Parties (as defined below) agreed upon the following.

## 1. Definitions of Terms

1.1 In this Agreement and the Schedules hereto, unless there is something in the subject matter or context inconsistent therewith, the following terms and expressions will have the following meanings:

“**Account**” – the Securities Account and Cash Account of the Customer, opened by the Company hereunder. Cash Account of the Customer comprises: the Account opened in the currency of the Agreement and the Account in KZT.

“**Accrued Interest**” the coupon or discount, interest or other income accrued on Securities as calculated by the Company and added to the Price based on the total value of the Securities, the applicable coupon interest or other income accrued and the number of calendar days from the beginning of the current coupon or income period to the Delivery Date. The amount of any Accrued Interest shall be rounded in accordance with the acceptable rules of rounding to two decimal places.

“**Affiliate**” of any Entity means any Entity (excluding any state body which is entitled to control or supervision functions) or individual:

- entitled to directly and (or) indirectly determine and affect the decisions of each other (either Entity), as well as in pursuance of the transaction concluded; or
- which directly or indirectly, is Controlled by, Controls or is under direct or indirect common Control with such Entity, or

- upon whose advice or direction such Entity customarily acts, or who customarily acts upon the advice or direction of such Entity.

“**Assets**” any Securities, Currency, together with any reinvestments made and the proceeds received in respect of such Securities or Currency credited from time to time to the Account.

“**Authorized Person**” any officer, employee or agent of the Customer, authorized by a written notice or duly executed power of attorney to act on behalf of the Customer in the implementation of any act, discretion or obligation under this Agreement; or any other Entity holding a duly executed power of attorney and/or an instruction agreement, issued by the Customer in a form acceptable to the Company.

“**Business Day**” a day on which banks are generally open for business in New York, London, Moscow and Almaty excluding weekends, official holidays or any special holidays announced by the respective governments.

“**Cancellation Fee**” has the meaning attributed to that term in Clause 3.7 of this Agreement.

“**Control**” with respect to any Entity, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Entity, whether through the ownership of voting securities, by contract or otherwise; the terms “**Controls**”, “**Controlling**” and “**Controlled by**” have corresponding meanings.

“**Conflict of Interests**” a situation where the interests of Company and Customer are not the same.

“**Currency**” freely convertible, readily available and freely transferable KZT, US dollars, Euro or GBP.

“**Currency of the Agreement**” – currency other than Kazakhstan Tenge.

“**Custodian**” – professional participant of the securities market performing the accounting of Customer’s Assets and confirmation of rights thereon, as well as any other activities under the Governing law .

“**Customer Instruction**” any written instruction given to the Company by an Authorised Person, provided that the instructions shall be given in State, Russian or English language and shall include the Material Terms and any other terms and conditions the Parties agree are Material Terms and any Customer Instruction must be in a form in accordance with the provisions of this Agreement.

“**Delivery Date**” a Business Day on which either Party shall transfer the Securities to the Account, unless otherwise agreed by the Parties.

“**Dispute**” any and all differences, discrepancies or disputes arising out of or in connection with this Agreement, including any question regarding this Agreement’s validity, breach or termination.

“**Dispute Notice**” a Notice of Dispute served in accordance with Clause 16.3.

“**Distributions**” include all dividends, coupon interest, maturity value or other sums in respect of Securities.

“**Entity**” any natural person, company, corporation, association, organisation, partnership, joint venture, consortium, trust, corporate body or other type or form of entity, howsoever and

wheresoever incorporated, organised or established and under any applicable laws, and whether or not having a separate legal personality, and any Governmental Authority.

**“Exchange Rate”** the rate at which one currency exchanges for another currency at the market rate or at the rate published from time to time by the National Bank of the Republic of Kazakhstan.

**“Expenses”** all fees, liabilities, costs and expenses of any nature whatsoever, including, without limitation, loss of profits, all legal fees, costs and disbursements on a full indemnity basis, and all commissions related to the transfer, conversion of money, banking services, securities ownership and record maintenance, securities nominal holding services, central depository services and stock exchange dues and all fines and penalties accrued by the Customer but incurred by the Company on behalf of the Customer as a result of providing services to the Customer under this Agreement or the Customer’s failure to fulfill its obligations under this Agreement.

**“Euro”** the currency of the member States of the European Union that adopt a single currency in accordance with the Treaty establishing the European Communities, as amended by the Treaty on the European Union.

**“Fees”** the fees set out in Clause 7 of this Agreement, charged as prescribed by Schedule 1 hereto.

**“Force Majeure Events”** any event or series of events out of reasonable control of the Company including but not limited to nationalization, expropriation, currency, banking or securities restrictions, acts of war, terrorism, insurrection, revolution, civil unrest, riots or strikes, acts of God, acts of any Government Authority, agency or official (regardless of whether the Government Authority, agency or official was acting within the scope of its authority), including actions of Issuers, exchanges, registrars, agents, custodians, nominees, depository or banking institutions but excludes bankruptcy or financial deterioration.

**“Funds”** the Customer’s money which: (i) has been transferred by the Customer to the Account to carry out the settlement of a Transaction pursuant to a Customer Instruction or (ii) has been received as a result of a Transaction or as a Distribution on Securities.

**“Further Agreements”** has the meaning attributed to that term in Clause 19.12 of this Agreement.

**“GBP”** the currency of the United Kingdom of Great Britain and Northern Ireland.

**“Government Authority”** domestic, foreign, or supranational governmental, regulatory agency, agency, court, tribunal, commission, central regulatory body or other governmental regulatory or self regulatory entity.

**“Internal Procedure”** the Company’s internal procedures for conduct of broker and dealer activities on the securities market with a right to maintain the clients’ accounts as nominal holder, which regulate the Company’s provision of services to its customers, its day to day operations and its procedures with dealing with any third party including but not limited to statutory, regulatory or Government Authorities, and related and unrelated Service Providers, Entities and other third parties.

**“Issuer”** an Entity (excluding a natural person, non-commercial organization or an unincorporated association) or a Government Authority duly organized and validly existing under the laws of its jurisdiction, which is the issuer of Securities.

**“KZT”** the currency of the Republic of Kazakhstan.

“**Law**” the laws of the Republic of Kazakhstan in force from time to time.

“**LCIA**” London Court of International Arbitration.

“**Loss**” has the meaning attributed to that term in Clause 11.6 of this Agreement.

“**Material Terms**” the material terms of a Customer Instruction includes the following items for the sale and purchase of Securities:

purpose of the Transaction; time of issuance and receipt of instruction, trade date; direction of trade; type of instruction (limited, market, buffer); instruction expiry date; name of the Issuer; ISIN or NIN of the Security; instructions to debit or credit the Account; Payment Amount; Delivery Date; value date; type of Securities; Accrued Interest (if relevant); Price of Securities; Total nominal value or quantity of Securities; Currency; Distributions; the Exchange Rate; Name of employee receiving the Customer Instruction; and any recommendations by the Company.

“**Notice**” has the meaning attributed to that term in Clause 15 of this Agreement.

“**Party**” each of the Customer and the Company and “**Parties**” means the Customer and the Company.

“**Payment Amount**” the amount to be paid by one Party to the other Party pursuant to this Agreement including the proceeds of the sale of any Securities, the Company’s Fees and Expenses and the Payment Amount will also include the Accrued Interest accumulated on Securities with coupon interest up to and including the date the Transaction is executed.

“**Price**” the price of Securities in the Currency of the country in which the relevant Securities of the Entity are issued, or in percentage of their total nominal value on the relevant stock exchange trading system, or over the counter market through which Securities are purchased, sold or otherwise transferred or redeemed. The Price of Securities shall be written in the relevant Trade Confirmation Notice.

“**Registrar**” a legal entity, conducting registration and re-registration of ownership rights for the Securities in compliance with the respective jurisdiction, including a professional participant of the Securities market which forms, keeps and maintains the registration system of Securities holders

“**Rules**” means the rules of the LCIA.

“**Securities**” shares, bonds, participatory interests or other equity, debt, corporate or government securities registered in the Republic of Kazakhstan or anywhere else in the world; derivatives, depository receipts, CFD’s, and others.

“**Security Interest**” any agreement, pre-emptive right or right of first refusal (whether statutory or contractual), option (whether put or call), mortgage, charge, pledge, lien, encumbrance, security interest, action, suit, claim, demand or equity (whether or not all or any of the foregoing is legally enforceable or amendable to action, or suit, and whether or not in the Republic of Kazakhstan or any other jurisdiction whatsoever).

“**Service Provider**” any Affiliate of the Company or unrelated Entity acting for the Company as broker, dealer, depository institution, clearing system, registrar, accountants, nominee or custodian to provide services to the Company for the purpose of the Company providing services to the Customer pursuant to this Agreement.

“**Setoff Amount**” has the meaning attributed to that term in Clause 17.1 of this Agreement.

“**Trade Confirmation Notice**” has the meaning attributed to that term in Clause 3.5 of this Agreement and shall be in a format as set out in Schedule # 3.

“**Transaction**” has the meaning attributed to that term in Clause 2.1.1 of this Agreement.

“**Taxes**” any taxes, duties, assessments, or governmental charges, imposed, levied, collected, withheld, or assessed by any taxing authority, whether national, provincial or local, and whether imposed on income, capital, profits, turnover, sales, value added, assets, liabilities, property, registration, licensing, or otherwise whatsoever.

“**US dollars**” the currency of the United States of America.

## **1.2 Rules of Interpretation**

- 1.2.1 Clause headings and subheadings are for ease of reference only, and, do not effect the construction of any provisions of this Agreement.
- 1.2.2 A reference to a clause is a reference to a Clause in this Agreement.
- 1.2.3 The terms "**include**", "**including**", and cognate terms, shall be construed as if followed by the phrase "**without being limited to**".
- 1.2.4 The terms "**Agreement**", "**hereof**", "**herein**", "**hereunder**" and similar expressions refer to this Agreement and the Schedules hereto as a whole and not to any particular clause, sub-clause, paragraph or other portion hereof, and shall be deemed to include any agreement or instruments supplementary or ancillary hereto.
- 1.2.5 In this Agreement, unless there is something in the subject matter or context inconsistent therewith:
- (a) words in the singular include the plural, and such words shall be construed as if the plural had been used;
  - (b) words in the plural include the singular, and such words shall be construed as if the singular had been used;
  - (c) words importing the use of any gender shall include all genders, where the context or party referred to so require; and
  - (d) the rest of the relevant sentence shall be construed as if the necessary grammatical and terminological changes had been made.
- 1.2.6 Where under this Agreement a right is exercisable or an obligation is to be performed on or by a day, which is not a Business Day, then such right is exercisable or obligation is to be performed, on the next following Business Day.

## **2. Subject of the Agreement**

- 2.1 The Customer appoints the Company to provide services in respect of any Asset (together with such other services the Parties may from time to time agree) including:
- 2.1.1 purchase and sale of Securities in accordance with a Customer Instruction ("**Transaction**");
  - 2.1.2 the receipt and distribution of money in the agreed Currency;
  - 2.1.3 nominal holding services, settlements on securities transactions;
  - 2.1.4 Customer reporting,
  - 2.1.5 representation of the Customer's interests in the course of the Transaction;
  - 2.1.6 information, analytic and advisory services;
  - 2.1.7 recommendations on execution of transactions

each on the terms and conditions set out in this Agreement and in compliance with the rules set forth by the Law for licensees operating on the securities market in the Republic of Kazakhstan.

- 2.2 The Company hereby accepts the appointment to provide services in respect of any Assets (together with such other services as the Parties may from time to time agree) upon the terms and conditions of this Agreement.
- 2.3 The Company may also provide to the Customer from time to time other services as agreed by the Parties and as permitted by the Law.

### 3. Customer Instruction

- 3.1 The Customer will submit to the Company Customer Instruction, one by courier, e-mail or by fax with further delivery of the original Customer Instruction within fourteen (14) calendar days .
- 3.2 The Customer Instruction will include all of the Material Terms for the proposed Transaction and will be in the format of the Schedule # 2.
- 3.3 The Company will only act upon the Customer Instruction to execute and settle any Transaction.
- 3.4 The Company will within one (1) Business Day of the receipt of a Customer Instruction send by e-mail or by fax to the Customer an acknowledgement of receipt of the Customer Instruction with a mark acknowledging the receipt of the Customer Instruction.
- 3.5 The Company will within one (1) Business Day of the Transaction execution send to the Customer a confirmation that Customer Instruction and the Transaction associated with the Customer Instruction have been executed (the “**Trade Confirmation Notice**”).
- 3.6 The Customer shall advise the Company in writing within three (3) Business days of the Company sending a Trade Confirmation Notice of any mistake or error in the Trade Confirmation Notice, failing which the Customer will be deemed to have accepted the Trade Confirmation Notice.
- 3.7 If the Customer cancels a Transaction at any time the Company will be entitled to receive the Fees and Expenses of the Transaction as calculated pursuant to Clause 7 of this Agreement. In addition, an amount equal to three percent (3%) of the value of the Customer Instruction or Transaction that was cancelled (the “**Cancellation Fee**”). Any Cancellation Fee or other, Fees or Expenses arising from the Customer’s cancellation of a Customer Instruction or a Transaction will be payable within three (3) Business Days of the Company receiving the cancellation notice or written off by the Company from the Customer Account in accord with the Clause 7.4 of the Agreement.
- 3.8 The Customer acknowledges and agrees that the Company will have no obligation to execute any Customer Instruction to purchase or transfer any Assets unless at the time the Customer Instruction or Transaction the Customer has sufficient Assets to fund the purchase price of the Customer Instruction or has sufficient Assets to transfer to execute the Customer Instruction including the payment of all of the Company’s Fees and Expenses.
- 3.9 The Customer acknowledges and agrees that the Company will have no obligation to execute any Customer Instruction to purchase or transfer any Assets unless at the time of the Customer Instruction or Transaction the Securities are not the subject of any Security Interest.
- 3.10 The Customer designates and appoints the Company as its agent and attorney in fact with full power and authority and without further approval of the Customer, to act in accordance with the Customer Instruction, the terms of this Agreement and the Law and to take all reasonable steps and necessary actions in connection with the rights and obligations set out in this Agreement. The power of attorney is a continuing power of attorney and shall remain in full force and effect until the termination of this Agreement.

- 3.11 The Company may rely upon each Customer Instruction, communications, requests or demands in any written form (facsimile, courier mail, personal delivery, email or other electronic means) which purports to be given by an Authorised Person on behalf of the Customer, without further enquiry as to the genuineness, authority or identity of the person purporting to give each of the Customer Instructions. However, the Company may, in its sole and absolute discretion, decline to act upon any Customer Instruction where the Company on reasonable grounds concludes that a Customer Instruction has not been accurately transmitted or is not genuine.
- 3.12 The Company may delay the performance of the obligations set out in Clauses 3.8 and 3.9 subject to the arrangements of the Company with any Service Provider if proper arrangements for the extension of credit or prepayment have not been made by the Parties.
- 3.13 The Customer shall expressly instruct the Company in each Customer Instruction to credit or debit the Account in respect of the Assets due to the Customer or third parties as the case may be. In the absence of such instructions the Company shall have the right to credit or debit the Account.
- 3.14 Subject to the Laws and the Internal Procedures of the Company, the Company will not execute a Customer Instruction or will suspend a Customer Instruction if:
- 3.14.1 a Dispute between the Parties arises in relation to that Customer Instruction;
  - 3.14.2 the Company is aware that the Customer Instruction is contrary to the Law;
  - 3.14.3 the Customer Instruction does not contain sufficient information or details to enter into or execute a Transaction;
  - 3.14.4 the Company receives a lawful instruction from a relevant custodian, regulatory or statutory body or Government Authority prohibiting the Company from executing the Customer Instruction;
  - 3.14.5 the Customer is in default under this Agreement or any other agreement between the Parties;
  - 3.14.6 the Customer fails to deliver the Securities associated with the Customer Instruction;
  - 3.14.7 the Customer Instruction is not placed by an Authorised Person;
  - 3.14.8 the Customer Instruction is not communicated in accordance with the terms of this Agreement;
  - 3.14.9 Securities covered by the Customer Instruction are subject to any encumbrances
  - 3.14.10 the Customer Instruction is incomplete, ambiguous, or conflicts with the terms of this Agreement; or
  - 3.14.11 if the Company is of the view on reasonable grounds that to do so might be impracticable or impossible, as a result of breakdown, malfunction or failure of any exchange or registry service.
- 3.15 The Company shall inform the relevant regulatory, statutory or Government Authority about each Customer Instruction received and Transaction executed in accordance with this Agreement, which has been restricted or subject to special conditions imposed by the Law.
- 3.16 The Company will advise the Customer if the Company is aware after making reasonable inquiries of any conflict of interest arising in receiving or executing a Customer Instruction.
- 3.17 Within the term of the present Agreement, Company may not provide the customer with recommendations concerning the execution of the transaction, if the execution of such Transaction might result in the conflict of interest to arise. Should the Company breach the condition above, it will repay to the Customer all the losses incurred by the latter as a result of such breach as well as the penalty at the rate of 0.005% of such transaction amount.
- 3.18 So far as the Company is aware, the Company will advise the Customer within one (1) Business Day of any restrictions or special conditions imposed by the Law, or regulatory, statutory or Governmental Authority regarding a Customer Instruction that arises during the term of this Agreement.
- 3.19 Where at the time of the receipt of the Customer Instruction there are insufficient Assets in the relevant Account to fund such purchase or effect such transfer or sell such Assets then the

Company may in its absolute discretion agree to enter into a Margin Loan with the Customer to facilitate such a transaction. However, the terms and conditions of a Margin Loan Agreement shall be the subject of a separate agreement between the Parties and shall be executed by the Parties prior to the Company entering into such transactions and the Margin Loan Agreement shall prevail in the event there is any inconsistency between this Agreement and the Margin Loan Agreement.

3.20 The Customer will timely advise the Company in writing of any changes to any Authorised Person, bank details and addresses from time to time.

#### **4. Settlement of Customer Instruction**

4.1 The Company will settle any Transaction according to the Customer Instruction it has received from the Customer.

4.2 The Customer acknowledges that the services shall be rendered by the Company under this Agreement to the Customer subject and pursuant to the Company's arrangements with any Service Provider and the Company may enter into all transactions with third parties in its own name.

4.3 The Company will settle any Transaction on behalf of the Customer as agent for the Customer and/or as principal. The Company will not accept any responsibility for the execution of a Transaction that is executed by a broker who is neither the Company nor an Affiliate of the Company.

4.4 The Company is authorized to place orders with any brokers or dealers including the Company or an Affiliate of the Company, for the purpose of executing a Transaction. Such orders will be placed with such brokers or dealers on such brokers or dealers usual terms, which may include the taking of security over any Assets of the Customer subject to first obtaining a Customer Instruction confirming the acceptance of the proposed security arrangement where applicable.

4.5 Any Assets due to the Customer as a result of any Transaction executed under this Agreement as well as any Distributions, shall be primarily credited to the Customer's Account and then may be transferred by the Company to the account specified in the Customer Instruction or used for any other settlements between the Parties or as otherwise agreed by the Parties.

4.6 Securities acquired by the Company under this Agreement will be registered by the Company on the Delivery Date as set out in the Trade Confirmation Notice unless otherwise agreed by the Parties and the Company will be registered as the custodian of the Customer's Securities on a nominal holder basis only. Such registration will include if applicable the registration of any Security Interests over the Securities.

4.7 The Payment Amount received by the Company from the sale of Securities pursuant to a Customer Instruction or a Transaction will be credited to the Account on the value day as set out in the Trade Confirmation Notice. The Payment Amount will be credited to the Account in the Currency of the country in which the relevant Securities are issued unless otherwise instructed by the Customer or agreed by the Parties.

#### **5. The Accounts**

5.1. Company on behalf of the Customer shall open in its books a Customer cash and securities account (the "**Account**") for all securities and moneys in any currency received by the Company for the account of the Customer or arising out of any or in connection with any Securities, Customer Instruction or Transaction; and

5.2. The title of any Account will make it clear that the Account is designated as a "*Customer Account*" and will be treated as separate from any other book entry account recording the Company's own assets or the assets of other customer's of the Company and that any assets credited to such Account are the property of the Customer.

- 5.3 Any Assets credited to the Account may be held by the Company at any client bank account of the Company and/or with nominal holders of the Company in the absolute discretion of the Company and in compliance with existing laws of Republic of Kazakhstan, in which such Assets may be held in the name of the Company. The Customer will not receive any fee or interest with respect to such bank accounts.

## **6. Reporting and the provision of information**

- 6.1. The Company will send to the Customer, by facsimile or other electronic means or otherwise pursuant to Clause 15:
- (a) a statement of the Account executed in accordance with the requirements of legislation and Internal Procedures of the Company providing the then balance of each Account and details of the Assets then held in each of the Account, at least once every calendar month; and
  - (b) Trade Confirmation Notice as per Article 3 of the Agreement.
- 6.2 The Customer shall be bound by the contents of such statements sent to the Customer pursuant to Clause 6.1 of this Agreement if not disputed within five (5) Business Days of sending such a notice by the Company to the Customer.
- 6.3 The Company will not be liable for any loss or damage whatsoever to the Customer resulting from any error or discrepancy in any such statement.
- 6.4 The Company will extend during normal business hours as and when requested by the Customer all reasonable facilities and assistance from the Company's auditors and other authorized representatives to audit and verify records of the Company relating to the Customer's Assets and Transactions in respect thereof.
- 6.5 The Customer may, at any other time and in accordance with the Law request the Company in writing to provide a statement of the Account. The Company shall provide such a statement to the Customer within five (5) Business Days or as otherwise required by the Law.
- 6.6 Company may upon Customer's request provide a statement of the trading activity, detailing net positions and net mark to market value of the Assets as determined in good faith by the Company, whenever a Customer Instruction or Transaction in respect of any Assets is effected on behalf of the Customer pursuant to the terms of this Agreement or whenever the Customer shall reasonably request such a statement.

## **7. Fees and Expenses**

- 7.1 Unless otherwise agreed by the Parties, the Customer must pay the Company for the provision of services under this Agreement the fees set out in Schedule One of this Agreement (the "**Fees**") without set off or deduction.
- 7.2 The Customer must also pay the Company any Expenses the Company incurs in regards to executing any Customer Instruction or Transaction pursuant to this Agreement.
- 7.3 The Customer hereby irrevocably authorizes the Company to deduct from the Customer's Account all Fees and Expenses that are due and payable to the Company pursuant to this Agreement. Fees and Expenses are to be written off by the Company from KZT Account by conversion of the moneys from Agreement Currency Account at the rate of maintaining bank.
- 7.4 If there is no sufficient amount to cover the Expenses on the Account, Company will send an invoice to the Customer payable within five (5) Business days of receipt by Customer.
- 7.5 The Trade Confirmation Notice will set out the Company's Fees associated with the Customer Instruction.

- 7.6 The Company will notify the Customer in writing at least ten (10) calendar Days prior to any changes in the Fees taking effect.
- 7.7 In the event of a delay in the payment of the Fees and Expenses under the Clause 7.4 of the Agreement by the Customer the Customer agrees to pay the Company the penalty of one hundredth of one percent (0.01%) of due amount for each day of delay.

## **8. Acknowledgements**

- 8.1 The Parties acknowledge that:
- 8.1.1 Nothing in this Agreement will limit the freedom of the Company to act as a broker or dealer, investment adviser or investment manager or to provide other investment or financial services to any other person, provided that the Company shall exercise no less diligence and care in relation to the performance of its duties under this Agreement than when acting for or providing services to any other Entity;
- 8.1.2 Subject to Clause 8.1.1 the Company will execute all Customer Instructions pursuant to this Agreement on behalf of the Customer in the capacity as principal, as agent or partly as principal and agent. If acting as principal the Customer will have rights against and obligations only to the Company and not the counterparty with whom the Company enters into the relevant transaction with; and
- 8.1.3 In executing any Customer Instruction and subject to those Customer Instruction the Company may acquire an Asset for the Account of the Customer pursuant to this Agreement issued by the Company or any Affiliate of the Company, or enter into any contractual commitments with any Affiliate, or subscribe or apply to purchase an Asset on behalf of or for the Account of the Customer notwithstanding that the Company or any Affiliate may be participating in some other capacity in the underwriting of or the arranging of the issue or offer of such Assets or otherwise acting in connection with it.
- 8.2 The Customer acknowledges that:
- 8.2.1 it is and shall remain solely responsible for evaluating the risks in relation to any Customer Instruction it gives to the Company or any Transaction it requests the Company to execute. The Customer acknowledges and agrees that (i) it has made its own independent assessment (based on such advice from its advisors as it deems appropriate) as to whether the terms of this Agreement or any Customer Instruction it requests the Company to execute under this Agreement are or will be suitable for it; and (ii) it is capable (on its own behalf, or through advice from its advisors) of assessing the merits and risks of the terms of this Agreement or any Customer Instruction it requests the Company to execute under this Agreement.
- 8.2.2 investing in the Assets involves certain considerations and a high degree of risk and uncertainty. Such risks include but are not limited to any political risks, confiscatory taxes, political and economic instability, the likelihood of currency devaluation and currency exchange rate fluctuations, certain policies that may restrict profitability of investment in businesses deemed to be sensitive to relevant national interests and restrictions on the repatriation of investment proceeds and environmental pollution and social degradation.
- 8.2.3 no documentation or information or documents of title forwarded by the Company or any of its Affiliates or any of their respective employees, officers, brokers, or agents to the Customer should be taken as constituting investment, legal, tax or other advice.
- 8.2.4 the Company makes no representations or warranties in relation to any assets including without limitation any representations or warranties in relation to any information provided or opinions expressed to the Customer (whether written or oral) in connection with any Customer Instruction or Transaction or investing generally.
- 8.2.5 neither the Company nor any Affiliate is acting as a fiduciary or advisor to the Customer. In particular neither the Company nor its Affiliates shall be responsible for determining

whether this Agreement or any Customer Instruction or Transaction executed pursuant to this Agreement is appropriate or suitable for the Customer or is consistent with or does not breach the Customer's investment guidelines, investment objectives, financial circumstances, or constitutional or other restrictions (even if the Company or an Affiliate has been advised of these or even if the same may be apparent from the Customer's trading history) except for restrictions and bans set forth by the laws and regulations of the Republic of Kazakhstan.

- 8.2.6 the Customer will be responsible for all filings, tax returns and reports on any Transaction undertaken or settled pursuant to this Agreement which must be made to any relevant authority whether governmental or otherwise for the payment of all unpaid calls, Taxes, imposts, levies or duties or any other liabilities or payments arising out of or in connection with the Assets.
- 8.2.7 the Customer will be responsible for the payment of all unpaid calls, Taxes, imposts, levies or duties or any other liabilities or payments arising out of or in connection with the Assets to any Governmental Authority, regulatory or statutory body of any description whatsoever.

## **9. Representations and warranties**

- 9.1 The Customer hereby represents and warrants that:
  - 9.1.1 it accepts and acknowledges all relevant risk factors including but not limited to those set out in clause 8.2.2 and Schedule Four of this Agreement and confirms and guarantees its financial ability to bear the loss of all Securities and Currency which may occur due to such risk factors.
  - 9.1.2 it has and will during the term of this Agreement and will continue to have full capacity and authority to enter into this Agreement and to carry out the obligations contemplated herein.
  - 9.1.3 if the Customer is a company or a body corporate, all necessary resolutions authorising the execution, delivery and performance of this Agreement have been obtained and such resolutions remain and will continue to remain in full force and effect as of the date hereof and during the term of this Agreement without revocation or amendment.
  - 9.1.4 Neither the Customer or any of its respective Authorised Persons is a resident of the United States of America and the Customer is entering into this Agreement and any relevant transactions outside of the United States of America and is not engaged and does not expect to be engaged in trade or business in the United States of America.
  - 9.1.5 it has taken all advice (including advice from Entities other than the Company) the Customer deems necessary or advisable prior to executing this Agreement or acting hereunder.
  - 9.1.6 it is qualified and experienced investor as it has been entering into investment transactions, whether on its own account or on account of another Entity, directly or through the agency of another Entity, with another Entity who already provides financial services, being transactions of a substantial size in relation to the Entity's total wealth and the nature of which, as well as the risks involved in entering into such transactions, it can reasonably be expected to understand.
- 9.2 The Company represents and warrants that it is duly organized and validly existing under the laws of its jurisdiction of incorporation, has full legal capacity and authority to enter into the Agreement and to carry out all of its obligations contemplated herein and has taken all necessary actions (including the obtaining of all necessary licenses, consents and registrations with all relevant regulatory, statutory and Government Authorities) to authorise the execution, delivery and performance of this Agreement.
- 9.3 The Customer acknowledges that the Assets held by the Company under this Agreement shall be treated as Assets of the Customer and the Company will not be responsible to clients of the

Customer, if any, whether or not the Company is aware of such clients or interest of such client's in the Assets.

- 9.4 The Customer hereby acknowledges that the Company is not acting under this Agreement as an investment manager or investment adviser of the Customer and the Company's duty is solely to carry out the Customer Instructions and Transactions subject to the terms and conditions and limitations set out in this Agreement. Any information provided by the Company to the Customer in connection with this Agreement or otherwise, will be deemed to be provided for information purposes only and will not constitute an offer, recommendation, or a solicitation of an offer to buy, sell or hold Assets.

## 10. **Termination of the Agreement.**

- 10.1 This Agreement may be terminated:

10.1.1 with the mutual consent of the Parties;

10.1.2 by either Party giving the other party twenty (20) Business Days notice prior to the date of termination of this Agreement;

10.1.3 if any license that is required by the Company in the Republic of Kazakhstan to conduct its day to day operations as a broker-dealer on a domestic or international securities market is suspended or revoked by the relevant regulatory or statutory body or Governmental Authority;

10.1.4 a Party is the subject of a winding-up (other than a Party's voluntary winding up for the purposes of a corporate reorganization which has received the prior written consent of the other Party) or an administration;

10.1.5 any amendment to the Laws prohibiting or restricting the material operation of the Company's day to day business operations in the Republic of Kazakhstan; or

10.1.6 a Force Majeure Event occurs.

- 10.2 If this Agreement is terminated for any reason whatsoever, it will not affect any Transaction or Customer Instruction or any legal rights and obligations, which have already arisen as a result of such a Transaction or Customer Instruction. Any Transaction or Customer Instruction which is in the process of execution on the date of termination will be fulfilled by the Company, unless otherwise agreed between the Parties provided that it is lawful for the Company to do so.

- 10.3 Upon the termination of this Agreement the Company will have the right to receive any Fees and Expenses or Cancellation Fees that have accrued under this Agreement and any Expenses it may incur as a result of transferring or retransferring a Customer's Assets to it following the termination of this Agreement.

- 10.4 Upon termination of this Agreement, subject to the receipt of all Fees and Expenses referred to in Clause 10.3, the Company will transfer all of the Customer's Assets to accounts nominated by the Customer and all such transfers shall be completed by the Company within three (3) Business Days of the date of termination of this Agreement unless restricted by the Law or as otherwise agreed by the Parties.

## 11. **Responsibilities and Indemnities**

- 11.1 The Parties agree that the Company shall not be liable for or have any responsibility for any error of judgment or any loss suffered by the Customer in connection with its services provided under this Agreement of any description whatsoever, unless such loss arises directly from the bad faith, willful default or fraud of the Company or any of its employees, directors or officers. In any event the Parties agree that such losses by the Customer in such circumstances will be limited to the market value of the Assets as at the date of discovery of the Expense, loss, costs or damage without reference to any special circumstances and in no event whatsoever shall the

Company be liable for any special, general or consequential damages, even if the Company has been advised at any time of the possibility of such damages.

- 11.2 The Parties agree that Company shall have no liability or responsibility for any loss suffered by the Customer as a consequence of any cause beyond the reasonable control of the Company including but not limited to the following:
- 11.2.1 the termination of the Agreement as the result of the occurrence of a Force Majeure Event;
  - 11.2.2 the shut down of communications, transmission and computers, shut-downs of electricity, discontinuities in the banking activities of banks involved in the Customer Instruction or Transaction, or trading administrators or the central depository or nationalisation, expropriation or other government action, regulation of the banking and securities industry including changes in rules, currency restrictions, devaluations and fluctuations and market conditions affecting the execution of or settlement of Transactions or the value of Assets;
  - 11.2.3 a breach of this Agreement caused by a change in the Law that prevents or limits the performance of duties and obligations of the Company under this Agreement until such time that the Company is once again able to perform its obligations and duties under this Agreement;
  - 11.2.4 the collection, deposit or crediting to the Account of invalid, fraudulent or forged Securities or any entry into the Accounts made in connection therewith;
  - 11.2.5 delay while the Company seeks clarification of ambiguous, incomplete, contrary or inconsistent Customer Instructions; or
  - 11.2.6 the Company, acting in good faith on what it believes to be valid Customer Instructions in accordance with directions or instructions from a properly appointed Authorised Person.
- 11.3 The Company accepts no liability whatsoever for any Expense, cost, loss or damage suffered by or occasioned to the Customer resulting from the general risks of investment or investing in or the holding of Assets in the Republic of Kazakhstan, the Russian Federation and any other Commonwealth of Independent States.
- 11.4 The Company shall be under no obligation or duty to insure any Assets for the Customer against any risk of any description whatsoever to the Assets or any part thereof howsoever caused.
- 11.5 The Company shall have no duty to make or take (or likewise require a registrar, nominee or sub custodian to make or take) any special arrangements or precautions beyond those currently made or taken by the Company or the sub custodian for the safe keeping of the Assets. The Company shall also have no duty to make special enquiries as to the safe keeping arrangements or the collection, delivery or transfer procedures of any sub custodian or to take local legal advice in connection therewith.
- 11.6 The Customer agrees irrevocably and unconditionally, on demand to indemnify and keep indemnified on an after tax basis the Company, its Affiliates and their officers, directors and employees against:
- (a) any losses (including loss of profits), liabilities, costs, actions proceedings, claims, demands, calls, assessment and charges, Expenses or damages (each a “**Loss**”) which may be incurred by or brought or preferred against the Company or its Affiliates, officers, directors or employees pursuant to or in connection with this Agreement, any Transaction, Customer Instruction or any Asset and the performance of the Company’s obligations hereunder other than in respect of the Company’s own Tax obligations;
  - (b) any Taxes for which the Company or its Affiliates is or may be liable or accountable in connection with any Transaction, Asset, this Agreement or the performance of the Company’s obligations except Taxes on or attributable to Fees and Expenses,

but such indemnity does not extend to any liability arising out of the fraud, willful default or gross negligence of the Company, its Affiliates, their officers, directors and employees.

- 11.7 The Customer shall indemnify and keep indemnified the Company, on demand against any Loss which the Company incurs as a result of or arising out of:
- (a) compliance by the Company with any control legislation, including but not limited to any regulations of the National Bank of the Republic of Kazakhstan or any other Government Authority;
  - (b) the existence, adoption, enactment, or implementation of or compliance with any rule, regulation or statute by any Governmental Authority which has the effect of (i) imposing any exchange controls, limitations or restrictions on the convertibility of any currency (including without limitation KZT to US dollars), or limiting or restricting the transfer of US dollars or other currency outside the relevant country; or (ii) limiting or restricting the transfer of securities or cash proceeds arising from the redemption, sale or holding of any securities in any manner (including without limitation, each Loss incurred as a result of defending or settling a claim alleging such a liability).
- 11.8 The Customer will indemnify the Company against any liability loss (including loss of profits) or Expense or costs of any description whatsoever which the Company may certify as incurred by the Company or its Affiliates as a consequence of any default in payment by the Customer of any sum hereunder when due or any breach by the Customer of any provision of this Agreement or the occurrence of any event that terminates this Agreement pursuant to Clause 10. Any such sum shall also accrue interest at the rate that accrues on bonds issued by the Government of the Republic of Kazakhstan as published by the National Bank of Kazakhstan from time to time from the date of the loss to the actual date of payment of the loss by the Customer to the Company.

## **12. Appointment of agents, nominees**

- 12.1 The Company will be entitled to appoint agents, brokers and dealers and nominees or other service providers or third parties, if it determines in its sole discretion it is required to appoint such a party to execute a Transaction or a Customer Instruction under this Agreement.
- 12.2 A person who is not a party to which this Agreement relates has no rights to enforce any terms of this Agreement but this does not affect any right or remedy of a third party. Notwithstanding the granting of third party rights to any Affiliate of the Company, this Agreement may be amended without the consent of such third party.

## **13. Confidentiality**

- 13.1 All information about the Parties to this Agreement, this Agreement and its contents will be kept confidential and will not be disclosed by either Party other than by explicit requirements under the Law. If explicitly required to disclose any such information, a disclosing Party will (i) submit information only to the extent required by the appropriate regulations and only to the person stated in such regulations; (ii) inform the other Party about any required disclosures of such information.
- 13.2 Subject to the Clause 13.1 Company agrees to observe the legislative requirements on commercial secret of Customer account, keep confidential all financial and other information about the Customer, obtained during the term of the Agreement, save for the cases prescribed by the Legislation of the Republic of Kazakhstan and unless the Customer entitles the Company to disclose the information about itself and other information given to the Company.

## **14. Term**

- 14.1 This Agreement shall be valid for 1 year from the date of its execution by the Parties. This Agreement shall be automatically extended for an additional 1 year, unless either Party informs

the other Party of its intention to terminate this Agreement by written notice no later than twenty (20) Business days prior to the end of any such one year term.

## 15. Notices

- 15.1 All and any Notices to be given, issued or made pursuant to this Agreement must be made in writing, and shall be issued in the English, Kazakh or the Russian language.
- 15.2 All and any Notices will be considered properly issued if delivered in any written form by facsimile, email or other electronic means, courier mail or personal delivery at the addresses of the Parties.
- 15.3 All and any Notices must be sent:

If to the Company:

Nurly Tau Complex,  
Building 2A, 10<sup>th</sup> Floor, Al-Farabi Avenue  
Almaty, 050059, the Republic of Kazakhstan  
Tel. +7 (3272) 777 717  
Fax: + 7(3272) 777 718  
Email: ana@visocap.com

Atn: Akiyanova Anel Zhanatovna

### **Bank Account details:**

#### In Tenge:

Beneficiary Account: 003276002 (KZT)  
Beneficiary Bank: SB JSC HSBC Bank of Kazakhstan  
National Nomenclator of Businesses and Organisations Code 38766515  
TIN 600900546845  
BIC 190501949

#### In Dollars:

Bank Account: 001-003276-012 (USD)  
Beneficiary Bank: HSBC Bank Kazakhstan, Almaty, Dostyk ave. 43, Republic of Kazakhstan  
SWIFT HSBCKZKA

### **Bank Correspondents:**

HSBC Bank NA, New York  
USD account: 000-05496-8  
SWIFT: MRMDUS33

If to the Customer:

[address, e-mail and details of contact person].

### **Bank Account details**

[\*]

or to any other address or fax number for any person or entity which may, from time to time, be notified in writing by one Party to the other Parties to this Agreement.

- 15.4 A Notice sent by fax or email will be deemed delivered at the moment of its transmission, provided always that a clean and clear transmission report is obtained, and any Notice sent by an international courier service of repute will be deemed delivered within five (5) Business Days after the date of the notice's delivery to such courier.
- 15.5 If any Notice is sent, transmitted or delivered on any day which is not a Business Day in the country of the addressee, or after 4:00 p.m. of any Business Day, then such Notice will only be, delivered and received by the addressee at 9:00 a.m., of the first following Business Day.
- 15.6 Any Notice delivered by hand, will be deemed valid if a signed receipt is obtained from the addressee or a contemporaneous affidavit of service is prepared and sworn by the delivering Party. Such a Notice will be considered delivered at the moment of delivery.

## **16. Governing law, Disputes and Arbitration**

- 16.1 This Agreement will be governed by, and construed in all respects, in accordance with the substantive laws of the Republic of Kazakhstan save only for any conflict of laws rules of principles.
- 16.2 Any Dispute must be resolved and finally settled in the manner provided for in this Clause 16.
- 16.3 In the event of any Dispute, any Party shall serve a Dispute Notice upon the other Parties proposing that the Parties seek to resolve the Dispute by negotiation.
- 16.4 The Parties will then act in good faith, in order to try and resolve any Dispute through negotiation, without recourse to the dispute resolution procedures, as set out below.
- 16.5 If, nevertheless, a Dispute is not resolved within thirty (30) days of the Dispute Notice, such Dispute will be finally resolved by arbitration to be carried out under the Rules of the LCIA by three (3) arbitrators. The Rules are deemed to be incorporated, mutatis mutandis, by reference into this Clause 16.5. Each of the Parties will each nominate one (1) arbitrator within thirty (30) days of the Dispute Notice, and the two (2) arbitrators so nominated and selected shall nominate the third arbitrator. If the two (2) arbitrators nominated and selected by the Parties cannot agree on a third arbitrator, within thirty (30) days after the selection of the two (2) arbitrators, the third arbitrator will be appointed, in accordance with the Rules. The arbitration will take place in London, England or such other location as the Parties may agree. The language of the arbitration will be English.
- 16.6 The arbitral tribunal will have the authority to include in its awards, a decision binding upon the Parties enjoining them to take or refrain from taking specific action with respect to the subject matter of the Dispute.
- 16.7 Each of the Parties agrees not to resist the enforcement of any arbitration award obtained under this Agreement and the related Documents, other than as expressly permitted by the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitration Awards.
- 16.8 In any arbitration, in relation to any Dispute pursuant to this Agreement, the arbitral tribunal will have the power and the right in its discretion, to order consolidation of proceedings or concurrent hearings (or both) of all and any difference, discrepancy, divergence, or dispute, howsoever arising between the parties, including in relation to the other Documents.
- 16.9 The Parties agree that either Party may record telephone conversations with the other Party or such other Party's employees, officers and agents and each of the Parties agree that such recordings may be used as evidence in a Dispute.

## 17. Setoff

17.1 The Company may without prior notice to the Customer set off any obligation owing by the Customer (matured or contingent, irrespective of currency, place of payment or place of booking of the obligation) against any obligation owing by the Company to the Customer matured or contingent, irrespective of currency, place of payment or place of booking of the obligation), so that the net amount (“**Setoff Amount**”) shall be payable by the relevant Party.

If an obligation is unascertained or unliquidated, the Company may in good faith estimate the obligation and set off in respect of the estimate, subject to the relevant Party accounting for to the other Party when the obligation is ascertained or liquidated. If the obligations are in different currencies, the Company may convert the obligations at a market rate of exchange in the usual course of its business for the purpose of the set off.

17.2 If the resulting Setoff Amount is due:

(a) from the Customer, the Setoff Amount shall be withdrawn from the amount then standing in credit in the Cash Account and, if such amount is insufficient, the Company will notify the Customer of the outstanding amount and the Customer shall pay such amount immediately; or

(b) from the Company, the Company shall credit the net Setoff Amount to the Account.

## 18. Nominal holding services

18.1 The Customer hereby appoints the Company to act as a nominal holder of any Securities credited to the Accounts, pursuant to and on the terms and conditions of this Agreement.

18.2 Unless Securities are collected by the Company or a sub custodian for the Account of the Customer, the Customer will deliver or will cause the Securities to be delivered to the Company or as the Company may direct, at the Customer’s expense and risk, in the manner and accompanied by such documents, as the Company may require. The Company may refuse the delivery of any Assets for its custody when provided for by the Legislation.

18.3 The Company is authorized without reference to the Customer and in the absence of contrary Customer Instruction:

(a) to receive and collect, for the Account of the Customer or to the Customer’s order, all income, principal, distributions and net proceeds of sale with respect to the Assets and to take any action necessary and proper in connection with the same;

(b) to credit such income, principal, distributions and proceeds (including any Setoff Amount) to the relevant Account;

(c) to execute in the name of the Customer or to the Customer’s order such ownership and other certificates as may be required to obtain payment in respect of any of the Securities, to exchange interim or temporary documents of title to the Securities for definitive ones, or to surrender Securities at maturity or when called for redemption against payment therefore;

(d) to debit the Account with the purchase price of any Securities; and

- (e) to perform and carry out on the Customer's behalf or otherwise all acts which, in the opinion of the Company, registrar, sub custodian or nominal holder, are requisite or desirable to enable the Company or a sub custodian to implement any Customer Instructions or otherwise to perform the Company's duties and exercise the Company's rights under this Agreement.
- 18.4 Subject to Clause 18.5, the Customer may at any time, by giving a Customer Instruction in writing, request redelivery to it or third party to its order of any Assets held in the Account and the Company shall redeliver to the Customer (or procure the redelivery) (any such redelivery being expressly at the risk of the Customer) the Assets so requested, within three (3) Business Days of receipt of the such Customer Instructions, subject to the Company agreeing in its absolute discretion to release such Assets from the security and having the right to retain sufficient funds to comply with prior commitments in respect of any Customer Instructions and, or if necessary to apply such funds to the Account towards the satisfaction of any Fees and Expenses incurred by the Company in arranging such withdrawal from the Account and always provided that such obligations of the Company to redeliver any Assets (or procure the redelivery) shall be conditional upon the Company being satisfied that all of the Customer's obligations under the Agreement have been fully discharged.
- 18.5 Despite Clause 18.4 the Company shall be under no obligation to redeliver any Assets where the Company in its absolute discretion determines that such redelivery is forbidden or made impracticable by any applicable law, rule or regulation. In such an event the Company will notify the Customer and shall continue to hold such Assets until further notice.
- 18.6 The Company is authorized by the Customer to engage the services of any sub custodian by delegating to it any of the its duties under this Agreement as custodian in respect of all or any parts of the Assets on such sub custodian's terms of business from time to time. Holdings of any Assets by a sub custodian will be subject to any applicable laws, rules, regulations and customs including applicable rules of the sub custodian. The Customer agrees that the Company shall be entitled to grant to sub custodians liens or any other security interests over the Assets so held by such sub custodians. The Customer acknowledges and understands that the rights of the Company against sub custodians to which it delegates duties to under this Agreement may consist only of a contractual claim. The duties delegated here may also be sub delegated, in which case the Company may not have directly enforceable rights against the ultimate delegate.
- 18.7 Registrable Securities may be registered in the name of the Customer, the Company, a sub custodian or a nominee company. The Customer acknowledges and agrees that any registration of Securities in the name of the Company may mean that the Securities are not segregated from the assets of the Company and in the event of a default by the Company the Customer may not be as well protected. For each Transaction involving registrable Securities the Company (or sub custodian) shall effect or procure registration of such registrable Securities in the name of the Customer, or where appropriate in the absolute discretion of the Company, in the name of the Company or the sub custodian. The Company will where possible procure an extract from the relevant register once registration has been completed and provide a copy to the Customer. The Parties agree that all costs and expenses associated with the registration of Securities are the Parties agree Expenses for the purpose of this Agreement and are payable by the Customer from the Account.
- 18.8 The Company can appoint agents to effect registrations and in fulfilling its obligations such an agent may rely upon any document or other communication reasonably believed

by the Company or its agents to be genuine and correct; or any person regarding any matters which may reasonably be assumed to be within his or her knowledge or within his or her power to verify. The Company and the agents shall not be liable to the Customer for the consequences of such reliance.

## 19. Miscellaneous

- 19.1 This Agreement is made in the English and Russian languages and signed in two (2) originals of each language, one (1) original of each language is for each Party. In case of any discrepancies or inconsistencies between the English version and any translations of such English version into any other language, the English version will always prevail.
- 19.2 In this Agreement, any references to the Parties include their respective successors and permitted assigns. This Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns, as referred to in Clause 19.3 below. Nothing herein, express or implied, is intended to confer upon any Person or Entity, other than the Parties and their respective successors and permitted assigns, any rights, remedies, duties, obligations or liabilities under or by reason of this Agreement.
- 19.3 The Company shall be entitled to transfer or assign any or all of its rights, interests or obligations under this Agreement to an Affiliate or third party without the consent of the Customer providing such Affiliate shall have the requisite licenses, accreditation, skills and experience to provide to the Customer the services and transactions contemplated by this Agreement. The Company may delegate any of its functions under this Agreement to any Affiliate or third party without the consent of the Customer. The Customer shall not assign, charge or otherwise deal with any of its rights, interest or obligations under this Agreement without the prior written consent of the Company, such consent shall not be unreasonably be withheld or delayed.
- 19.4 This Agreement may only be altered, varied, amended or changed with the prior written consent of both Parties hereto, and upon the signature of duly authorized officers of the Parties. Once so altered, varied, amended, changed or modified, the same shall form an integral part of this Agreement.
- 19.5 Each Party hereby covenants and agrees with the other Party that at any time and from time to time, it will, upon the request and at the sole risk and cost of the other, do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, all such further acts, deeds, assignments, transfers, conveyances and assurances as may be required to ensure fulfillment and observance of all the provisions of this Agreement, and the transactions contemplated.
- 19.6 The rights and remedies of the Parties under this Agreement are cumulative, are in addition to, and not in substitution for any right or remedies provided by law. Any single or partial exercise by a Party of any right or remedy for default or breach of any term, covenant or condition of this Agreement does not waive, alter, affect or prejudice any other right or remedy to which such Party may be lawfully entitled for the same default or breach (and whether in whole or in part).
- 19.7 This Agreement, together with other ancillary documentation relating thereto (the "**Documents**"), constitutes the entire agreement between the Parties and supersedes all prior agreements, representations, warranties, confirmations, guarantees, statements, promises, information, arrangements or understandings, whether oral or written, express or implied, with respect to the subject matter hereof. Neither Party will be bound by or charged with responsibility for any oral or written agreements, representations, warranties,

confirmations, guarantees, statements, promises, information, arrangements or understandings not specifically set forth in the Documents. Each Party further acknowledges and agrees that, in entering into the Documents it has not in any way relied upon, and will not in any way rely upon, any oral or written agreements, representations, warranties, confirmations, guarantees, statements, promises, information, arrangements or understandings, express or implied, not specifically set forth in the Documents.

- 19.8 None of the terms and conditions of this Agreement will be treated as waived by any Party hereto, unless such waiver is in writing and signed by duly authorized representatives of such Party. The waiver by any Party of a breach of any provision of this Agreement will not operate or be construed as a waiver of any other provision of this Agreement or of any further breach of the provision so waived. No extension of time for the performance of any obligation or act hereunder will be deemed to be an extension of time for the performance of any other obligation or act.
- 19.9 Except as provided herein, the Parties will pay all of their own fees Expenses and costs relating to the negotiation and execution of this Agreement, the Documents, and all transactions contemplated by this Agreement, including, without limitation, the costs of their respective counsel, financial or other advisers and all fees Expenses and costs incurred in performing and complying with all conditions to be performed under this Agreement.
- 19.10 The illegality, invalidity or unenforceability to any extent of any provision of this Agreement or the Documents under the law of any jurisdiction will affect its legality, validity or enforceability in such jurisdiction to such extent only and shall not affect its legality, validity or enforceability under the law of any other jurisdiction, nor the legality, validity or enforceability of any other provision. This Clause 19.10 has no effect if the severance alters the basic nature of this Agreement, results in the unaffected provisions of this Agreement having a materially different economic effect, or is contrary to public policy.
- 19.11 This Agreement will become effective upon signing by or on behalf of both Parties hereto. This Agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original and such counterparts shall constitute but one and the same instrument.
- 19.12 The Parties may enter into additional agreements including but not limited to subscriptions agreements and participation agreements (“Further Agreements”). The Parties also agree that any Assets that relate to the Further Agreements may be held in the Account in accordance with the terms and conditions of this Agreement. The Parties expressly agree that in the event of any conflict between the terms of this Agreement and the Further Agreement, the Further Agreement shall prevail and shall control any transaction related to such Further Agreement. The Parties also agree that in the case of any setoff under this Agreement by the Company any Assets under the Further Agreement shall also be subject to the Company’s right of setoff under this Agreement and any notice requirements in the Further Agreement affecting such rights are expressly and explicitly waived.

**IN WITNESS WHEREOF**, this Agreement has been executed as a deed by being **SIGNED SEALED AND DELIVERED** by or on behalf of each of the Parties.

**On Behalf of the Customer:**

**Banking details:**

By:

Name:

Position:

Seal

**On Behalf of the Company:**

**Banking details:**

SB JSC HSBC Банк Казахстан

National Nomenclator of Businesses and Organisations Code 38766515

TIN 600900546845

BIC 190501949

By:

Name: **Michael Carter**

Position:

**Chairman of the Management Board**

Seal

**FEES OF SERVICES RENDERING**

Non-resident Individuals and Legal Entities

Name of Service	Measure Unit	Tariff
<b>Broker Services</b>		
<b>1. Sale/Purchase of Kazakhstani Securities</b>		
<b>1.1. Principal Trading/Dealer</b>		Net price
<b>1.2. Agency Trading/Broker:</b>		
• Sale/purchase of shares	per transaction	0.35% of trade amount/minimum 6000 tenge
• Sale/purchase of bonds, government bonds	per transaction	0.1% of trade amount/minimum 6000 tenge
• REPO transactions	per transaction	0.5% (difference between the opening volume of REPO and closing volume of REPO) commission is charged at closing of REPO operation/ minimum 1 000 tenge
<b>2. Sale/Purchase of Non-Kazakhstani Securities</b>	per transaction	0.25% of trade amount
<b>3. Conversion Services/Conversion of ADRs/GDRs and local securities</b>	for each ADR/GDR operation	0.01 USD/minimum 100 USD per conversion
<b>Nominal Holding Services</b>		
<b>4. Opening/closing of account</b>		Free of charge
<b>5. Maintenance of Account</b>	below 1 mln USD	0.15% yearly of nominal (purchase) price
	from 1 mln USD to 50 mln USD	0.1% yearly of nominal (purchase) price
	above 50 mln USD	0.07% yearly of nominal (purchase) price
<b>6. Providing Statement of Account</b>	once per month	Free of charge
	by request/per statement	6 000 tenge
<b>7. Receipt and transfer of dividends/return on financial instruments</b>		Free of charge
<b>8. Entry of Client Securities into nominal holding</b>		Free of charge
<b>9. Withdrawal of Securities from nominal holding</b>	per transaction	6 000 tenge
<b>10. Transfer of Securities within the system of nominal holding</b>	per transfer	3 000 tenge

**Other Services**

Company fee excludes charges and fees of the organizations that ensure the Company performance of broker and nominee functions with respect to transactions and assets of customers, including but not limited to the services of:

- Exchange or similar organization fees,
- Central depository, registrars, custodians and other accounting institutions,
- Banks and bank organizations.

The charges and fees above will be paid by Customer against (re-) issued Company invoices based on respective agreements, invoices and/or official rates of organizations above.

Any custom duties (such as Stamp duties and other), tax and collections on trades, deducted in accordance with legislature of the country, on the territory of which trades are held, must be paid separately by the Customer and is not the responsibility of the Company.

**This Schedule of Fees is governed exclusively by the terms and conditions of the Agreement for brokerage and nominal holding services.** Please, sign and seal below in order to acknowledge your acceptance of the above fees and commissions.

\_\_\_\_\_/\_\_\_\_\_  
 Authorised Signature [seal]

Date: \_\_\_\_\_, 2008

## **JSC "VISOR Capital"**

Kazakhstan, 050059, Almaty, Al Farabi Avenue, Business Center "Nurly Tau", Building 2A, 10<sup>th</sup> floor  
Telephone: 777 717, Fax: 777 718, E-mail: info@visocap.com

Client Order № \_\_\_\_\_

Schedule №2 to the Agreement

**Client:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
**Account №:** \_\_\_\_\_ **Authorized Trader:** JSC "VISOR Capital"  
**Sub account № in Central Depository:** \_\_\_\_\_ **Broker recommendation** \_\_\_\_\_  
**Client Order objective** \_\_\_\_\_

Date	Buy/Sell	Issuer name	Security Description	ISIN or NIN of security	Quantity	Type of Order*	Currency of security	Price of security	Trade Amount	Order expiry date

**\*Limit order** sale/purchase of securities on the basis of previously specified price

**Market order** sale/purchase of securities on the basis of market price

**Other orders**

**Comments:** Please inform the Company of any amendments to this Customer Instruction as soon as possible as set forth in the Agreement. The Company will execute the Customer Instruction accordingly unless otherwise instructed by the Company in a timely manner.

**This Customer Instruction is governed exclusively by the terms and conditions of the Agreement.**

**Signed for and on behalf of the Customer:**

\_\_\_\_\_  
**Authorized Signatory**

[corporate seal]

\_\_\_\_\_  
**Date**

**Accepted for and on behalf of the Company by:**

\_\_\_\_\_  
**Badayev D.E.**

**Trader's Signature**

\_\_\_\_\_  
**Date and Time of client order acceptance**

## JSC "VISOR Capital"

Kazakhstan, 050059, Almaty, Al Farabi Avenue, Business Center "Nurly Tau", Building 2A, 10<sup>th</sup> floor  
Telephone: 777 717, Fax: 777 718, E-mail: info@visocap.com

### Trade Confirmation Notice № \_\_\_\_\_

Schedule №3 to the Agreement

Client: \_\_\_\_\_ Market type \_\_\_\_\_  
Account №: \_\_\_\_\_ ( primary/secondary market)  
Sub account of Central Depository № : \_\_\_\_\_ Place of trade settlement \_\_\_\_\_  
Customer Instruction №: \_\_\_\_\_ ( KASE/Central Depository/Euroclear etc.)  
Customer Instruction date: \_\_\_\_\_

Trade date	Buy/Sell	Issuer name	Security Desc.	ISIN or NIN of security	Quantity	Price of security*	Currency of the Trade	Trade amount	Trade Value Date	Securities Delivery Date
Commission of Kazakhstan Stock Exchange (KZT):		Exchange Rate US\$/KZT		Commission of Kazakhstan Stock Exchange (US\$):		Broker's fee (KZT) *		Broker's fee (US\$) *		

\*Broker's fee is included in indicated Price

**Comments:** Please sign and fax this confirmation back to us as soon as possible as set forth in the Agreement. Please notify us **immediately** of any problems with the receipt or accuracy of this fax transmission.

This Trade Confirmation Notice is governed exclusively by the terms and conditions of the Agreement.

Signed for and on behalf of the Company:

Signed for and on behalf of the Client:

\_\_\_\_\_  
Zhandauletova S.M.

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Date

Managing Director of back office

Date

[corporate seal/m.n.]

## **RISK WARNINGS**

### **INVESTING IN THE REPUBLIC OF KAZAKHSTAN**

#### **INVESTMENT RISKS**

The Customer should be aware that investing in the Republic of Kazakhstan, the Russian Federation or any country in the current or former Commonwealth of Independent States (collectively, the "**CIS**"):

- carries with it significant risks many of which are not associated with a sophisticated western market;
- is highly speculative and may result in the loss of the entire investment; and
- is only suitable for sophisticated investors who fully understand and appreciate the risks involved and who can bear the loss of such investment.

Accordingly, the Customer should exercise great care in evaluating the risks involved and must decide for themselves whether, in the light of those significant risks, before entering into such investments whether the investment is appropriate.

Set out below is a summary of some of these risks although this list is not exhaustive, may become outdated in a relatively short period of time and there maybe other risks that the Customer should take into account in making a decision to invest.

#### **Political Risks**

Emerging from the break up of the USSR the Republic of Kazakhstan like many of the other CIS countries has undertaken significant and far reaching political, social and economic reforms seeking to create a multi party democratic system, representative government and a move towards a market economy. Real change has occurred rapidly and there remains the possibility that such reforms could be reversed, abandoned or interrupted for a variety of social, political and economic reason. There is the real possibility that investor protection regimes may not be honored and foreign investment policies encouraging capital flows into the CIS maybe changed, interrupted or abandoned. Further, there cannot be any assurances that any securities or the assets of the issuer of the securities will not be subject to nationalisation, requisition or confiscation by any authority, body or person.

#### **Economic risks**

Given the rapid move towards a free economy infrastructure development is generally less developed than in a western economy in particular telecommunications and transport systems an inefficient banking sector, professional education and development and its absence or limited development can significant hinder business development. Limited domestic savings, limited access to equity and high levels of external debt all impede the development of sophisticated capital markets.

#### **Taxation**

Tax law and practice are not clearly established and there is significant uncertainty as to the position of investors (local or international) in the markets of the CIS. Tax inspectorates have very wide powers but little experience in applying taxes in a way which investors would expect in more mature economies. It is possible therefore that the current interpretation of the law or practice may change or, indeed, that the law may be changed with retrospective effect. Further the Customer should be aware that the proceeds from any sale of securities or the receipt of any dividends and other income may be subject to tax levies, duties or charges imposed by countries of the CIS. Finally there is no guarantee that existing double taxation treaties or those negotiate in the past will prevail or that any amendments will not be retrospective.

#### **Legal and regulatory framework**

Despite early successes the CIS have yet to develop a sophisticated or professional legal and regulatory system necessary for the proper and efficient functioning of a modern, efficient and transparent capital market. As result there exists a very high degree of legal uncertainty as to the nature and extent of investor's rights and the ability to enforce those rights. Many legal rights recognized in the west such as the distinction between legal and beneficial rights do not exist in the CIS which can have significant consequences for a Customer's ownership and tax position. It is difficult to predict with any degree of certainty the outcome of judicial proceedings or even the quantum of damages which may be awarded following a successful claim. In the CIS, courts, arbitration courts and agencies may not consider themselves bound by precedents and so the Customer may find it difficult to pursue legal remedies or enforce judgments of foreign courts. Often such courts and the decision taken are also subject to external political and economic forces which further limit the certainty of any predictable outcome. There is also likely to be rapid change as new legislation is implemented and such legislation is often not widely disseminated.

### **Accounting standards**

Accounting standards and practices in the countries of the CIS may vary significantly from internationally accepted accounting standards

### **Securities Holders' rights**

Information disclosure relating to the business and ownership of an Issuer to security holders is minimal and far less extensive than in more sophisticated markets. Generally, Securities holders have little knowledge of, and less control over, the business decisions of management of the Issuer and have few and inadequate remedies for management transgressions committed on minority shareholders. Limited fiduciary duties to the company or the Securities holders as a whole, and laws preventing companies selling assets or otherwise dealing with assets at an undervalue are either non-existent or in the process of development or implementation. Further, often management is entrenched by the company's constituent documents and one should not assume that regulatory authorities have the ability or the will either by themselves or with the assistance of governments and the courts to enforce legislation to protect investor's interests.

### **Settlement procedures and Ownership Risks**

Generally, CIS capital markets and the associated dependent institutions are undeveloped which can give rise to technical and practical issues associated with settlement, clearing and registration of Securities transactions which may give rise to timing of payment and title issues. Risks may also arise in relation to local custody arrangements with a prevalent low level of control not associated with western markets

Securities, especially equity Securities, are usually registered in book-entry form only and are not evidenced by actual certificates. Title is therefore dependent on the register of stockholders being properly maintained and Customer may have to make payment on a purchase or delivery on a sale before receipt of Securities or, as the case may be, sale proceeds.

### **Market Liquidity**

Many of the Securities which Customer may invest in will not be traded on a stock exchange. There is therefore the risk that investments could not be easily liquidated and the valuation of investments will be more difficult.

### **Repatriation of Profits**

There can be no guarantee that all profits will be capable of being remitted to the Customer. Although CIS country specific legislation currently provides assurances of the rights of foreign investors to remit profits and dividends from their investments, such rights may be subject to restrictions at any time either formally or informally. The legislation may change or be reinterpreted to prevent repatriation.

### **Exchange Rates and Controls**

Securities in the CIS and companies based in the CIS are, with few exceptions, denominated in foreign currency and the value of investments measured in USD can fluctuate significantly due to volatile exchange rates and very high inflation rates. The transfer of funds in and out of the country and the convertibility of the relevant currency into other currencies may also be effected by inefficient banking practices. Exchange rate fluctuations may occur between the trade date for the transaction and the date on which Customer acquires the relevant currency to meet settlement obligations. Accordingly, the purchase price measured in the local currency may be greater than at the trade date.

It is also important to take care to ensure that all exchange control formalities are adhered to because of the operation of exchange controls affecting the transfer of funds in and out of the country and the convertibility of currency. Currency regulations are very frequently changing and it is possible that the ability of the Customer, the Company or investors in general, to convert local currency into hard currency may be significantly impaired.

### **Investment Restrictions**

Foreign investment in companies of the CIS is in certain cases, legally restricted, which can effect liquidity and prices of shares. Sometimes these restrictions are contained in constitutional documents of a company which may not be easily obtainable. The Company believes that the inability of the Customer under the contract to dictate the purchase of the instruments by the local Affiliate of the Company results in no imputable beneficial ownership but locally such an arrangement could be deemed to be an agency arrangement and the beneficial ownership of the instruments could be attributed to the Customer. The Customer acknowledges that such a treatment of the arrangements could have significant negative implications.

The Customer acknowledges that it is familiar with the risks inherent in purchasing investments in CIS Securities or related to CIS Securities, including, without limitation, the risks inherent in purchasing synthetic investments in CIS Securities, and that it accepts such risks. In particular the Customer understands that the governments of the countries of the CIS have, in many cases, a history of defaulting on its short-term RUB-denominated treasury bills and other RUB-denominated Securities and that the RUB has a history of instability and hyperinflation, all of which could lead to the loss of the entire value of investments.

### **Certain Fixed Income Risks**

The Customer acknowledges that fixed income Securities are subject to credit risk. Credit risk is the possibility that an issuer will fail to make timely payments of interest or principal. Some issuers may not make payments on debt Securities held, causing a loss. Or, an Issuer may suffer adverse changes in its financial condition that could lower the credit quality of a Security, leading to greater volatility in the price of the Security held. A change in the quality rating of a bond or other security can also affect the security's liquidity and make it more difficult for the Company to sell the Security. The lower quality fixed income Securities in which the Customer may invest are more susceptible to these problems than higher quality obligations. The Customer also acknowledges that fixed income Securities are subject to prepayment risk. The issuers of fixed income Securities held in the Portfolio may not be able to prepay principal due on the securities, particularly during periods of declining interest rates. The Company, if so requested by the Customer, may not be able to reinvest that principal at attractive rates, reducing income to the Portfolio. On the other hand, rising interest rates may cause prepayments to occur at slower than expected rates. This effectively lengthens the maturities of the affected securities, making them more sensitive to interest rate changes and the value of securities held more volatile.

The Customer acknowledges that lower rated debt securities "**junk bonds**" are subject to additional risks because the Issuers may fail to make payments of interest and principal. Part of the reason for this high risk is that, in the event of a default or bankruptcy, holders of lower rated debt Securities generally will not receive payments **until** the holders of all other debt have been paid. In addition, the market for lower rated debt Securities has in the past been more volatile than the markets for other Securities. Lower rated debt Securities are also often less liquid than higher rated debt Securities.

### **Environmental Risks**

Industrial pollution has gone unchecked in the CIS for decades with the result that there may be heavy financial penalties and clean-up costs imposed on polluting companies or other responsible Entities.

**Limitation of Liability**

No liability on the part of the Company or its Affiliates shall exist as a result of losses sustained or damage caused by a change of law, regulation or interpretation or the inconsistent or capricious application of any law or regulation by any relevant authority. No liability on the part of the Company or its Affiliates shall exist where the Company acts in accordance with reasonable commercial practice for western investment advisers operating in the CIS securities market.

**Acknowledgement of the Risks**

The Customer hereby acknowledges that the investments contemplated herein are highly volatile and relatively illiquid and that there is no guarantee of a return on the investment and no guarantee that a return of or repatriation of any of the invested amounts in a convertible currency will be possible. The Customer accepts each of the risks listed herein and acknowledges and accepts that all of these risks could lead to the loss of the entire value of the Customer's investments under this deed. The Customer has independently determined that transactions hereunder are appropriate for them.

Please, sign and seal below in order to acknowledge your acceptance of the above Risk Warnings.

—√\_\_\_\_\_ / \_\_\_\_\_ /

**Authorised Signature**

**Date:** \_\_\_\_\_, 2008

[seal]