
LOAN NUMBER 3093-KAZ

LOAN AGREEMENT
(Ordinary Operations)

(Small and Medium Enterprise Investment Program – Tranche 2)

between

JSC "ENTREPRENEURSHIP DEVELOPMENT FUND 'DAMU' "

and

ASIAN DEVELOPMENT BANK

DATED 29 October 2014

KAZ 44060

**LOAN AGREEMENT
(Ordinary Operations)**

LOAN AGREEMENT dated 29 October 2014 between JSC "ENTREPRENEURSHIP DEVELOPMENT FUND 'DAMU' " ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) The Borrower, the Government of the Republic of Kazakhstan and ADB have entered into a Framework Financing Agreement, dated 12 May 2011 (as amended, "FFA"), for the purposes of assisting the Borrower in financing projects under a Small and Medium Enterprise Investment Program ("Investment Program") through a multitranche financing facility to be provided by ADB;

(B) by a periodic financing request dated 26 August 2013 ("PFR") submitted by the Borrower and endorsed by the Republic of Kazakhstan as the guarantor for the Borrower ("Guarantor") pursuant to the FFA, the Borrower has applied to ADB for a loan in Dollars for the purposes of financing the project described in Section 3.01 of this Loan Agreement ("Project"), and such loan will be guaranteed by the Guarantor under a guarantee agreement to be signed between the Guarantor and ADB ("Guarantee Agreement"); and

(C) ADB has agreed to make a loan in Dollars to the Borrower from ADB's ordinary capital resources upon the terms and conditions set forth herein and in the Project Agreements to be signed between ADB and the respective PFIs;

NOW THEREFORE the parties hereto agree as follows:

ARTICLE I

Loan Regulations; Definitions

Section 1.01. All the provisions of the Ordinary Operations Loan Regulations Applicable to LIBOR-Based Loans Made from ADB's Ordinary Capital Resources, dated 1 July 2001 ("Loan Regulations"), are hereby made applicable to this Loan Agreement with the same force and effect as if they were fully set forth herein, subject, however, to the following modifications:

(a) The following term as defined under Section 2.01 (Definitions) of the Loan Regulations is deleted and the following is substituted therefor:

"(50) "Project Agreement" means each Project Agreement between ADB and a PFI."

- (b) Section 3.03 (Commitment Charge; Front End Fee) is deleted and the following is substituted therefor:

"Section 3.03. **Commitment Charge; Credit.**

(a) The Borrower shall pay a commitment charge on the unwithdrawn amount of the Loan at the rate and on the terms specified in the Loan Agreement.

(b) ADB shall provide to the Borrower a credit at the rate specified in the Loan Agreement, which credit shall remain fixed for the term of the Loan. ADB shall apply the credit against the interest payable by the Borrower."

- (c) Section 3.06 (Rebate) is deleted and the following is substituted therefor:

"Section 3.06. **Rebate.** (a) Following any announcement by ADB that the Fixed Spread applicable to new Loans shall be reduced, ADB shall provide a Rebate to any Borrower with an outstanding Loan on which a higher Fixed Spread is applicable. The amount of the Rebate shall be determined by multiplying (i) the difference between the Fixed Spread applicable to the outstanding Loan and the Fixed Spread that will be applied to new Loans (expressed as a percentage per annum), by (ii) the principal amount of the outstanding Loan on which the Borrower shall pay Interest for all interest periods commencing on and after the effective date of the lower Fixed Spread that will be applied to new Loans.

(b) Following any announcement by ADB that its Funding Cost Margin calculations with respect to any Loan Currency (or Approved Currency) in any Semester resulted in ADB achieving savings, ADB shall provide a Rebate to the Borrower. The amount of the Rebate shall be determined by multiplying (i) the Funding Cost Margin (expressed as a percentage per annum) by (ii) the principal amount of the Loan on which the Borrower shall pay interest for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated. ADB shall apply the amount of the Rebate against the interest payable by the Borrower for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated."

- (d) Section 3.07 (Surcharge) is deleted and the following is substituted therefor:

"Section 3.07. **Surcharge.** Following any announcement by ADB that the Fixed Spread applicable to new Loans shall be increased, any Borrower with an outstanding Loan on which a lower Fixed Spread is applicable shall pay ADB a Surcharge. The amount of the Surcharge shall be determined by multiplying (i) the difference between the Fixed Spread that will be applied to new Loans and the

Fixed Spread applicable to the outstanding Loan (expressed as a percentage per annum), by (i) the principal amount of the outstanding Loan on which the Borrower shall pay Interest for all interest periods commencing on and after the effective date of the higher Fixed Spread that will be applied to new Loans.

- (b) Following any announcement by ADB that its Funding Cost Margin calculations with respect to any Loan Currency (or Approved Currency) in any Semester resulted in ADB incurring additional costs, the Borrower shall pay ADB a Surcharge. The amount of the Surcharge shall be determined by multiplying (i) the Funding Cost Margin (expressed as a percentage per annum) by (ii) the principal amount of the Loan on which the Borrower shall pay interest for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated. ADB shall add the amount of the Surcharge to the interest payable by the Borrower for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated."
- (e) Section 4.04. (Temporary Currency Substitution) is deleted.
- (f) Section 6.03 (Application for Withdrawal) is deleted.
- (g) Section 7.02 (Insurance) is deleted.
- (h) The term "Project Executing Agency" appearing in Section 7.04(b), 9.01(d), 9.01(f), 9.01(k), 10.01(c) and 10.02(c) of the Loan Regulations shall be substituted by the term "PFI".
- (i) Paragraph (d) of Section 7.04 (Reports and Information) is deleted and the following is substituted therefor:
- " (d) Within three (3) months after the completion of the Project or such later date as may be agreed for this purpose between the Borrower and ADB, the Borrower shall prepare and furnish or caused to be prepared and furnished to ADB a report, in such form and in such detail as ADB shall reasonably request in writing, on the execution of the Project, the performance by the Borrower of its obligations under this Loan Agreement and the accomplishment of the purposes of the Loan."
- (j) Paragraph (a) of Section 7.07 (Negative Pledge) is deleted and the following is substituted therefor:
- " (a) If the Borrower shall create or permit the creation of any lien on any of its assets as security for any of its debt, the Borrower undertakes to expressly provide that such lien will ipso facto equally and ratably secure the payment of the principal of, and interest and other charges on, the Loan. If any statutory lien shall be created on any assets of the Borrower, the Borrower shall grant to ADB an equivalent lien satisfactory to ADB."

- (k) Paragraph (c) of Section 7.07 (Negative Pledge) is deleted.

Section 1.02. Wherever used in this Loan Agreement, the definitions set forth in the Loan Regulations are applicable to this Loan Agreement unless modified herein or the context otherwise requires. In addition, the following terms shall have the meanings respectively defined below:

- (a) "Consulting Guidelines" means the Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2013, as amended from time to time);
- (b) "EARF" means the environmental assessment and review framework for the Investment Program, including any update thereto, agreed between the Borrower and ADB and incorporated by reference in the FFA;
- (c) "EMP" means each environmental management plan for a Qualified SME Subproject, including any update thereto, prepared in accordance with the requirements of the EARF;
- (d) "ESMS" means an environmental and social management system for the Project, including any update thereto, prepared and submitted by each PFI in accordance with the requirements of the EARF and cleared by ADB;
- (e) "FFA" has the meaning given thereto in Recital (A) of this Loan Agreement;
- (f) "Final Repayment Date" in respect of the Loan means 15 October 2019;
- (g) "Goods" means equipment and materials to be financed out of the proceeds of an SME Loan, including related services such as transportation, insurance, installation, commissioning, training, and initial maintenance, but excluding consulting services;
- (h) "Guarantee Agreement" has the meaning given thereto in Recital (B) of this Loan Agreement;
- (i) "Guarantor" has the meaning given thereto in Recital (B) of this Loan Agreement;
- (j) "Investment Program" has the meaning given thereto in Recital (A) of this Loan Agreement;
- (k) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2012, as amended from time to time);
- (l) "NBK" means the National Bank of the Guarantor;
- (m) "PAM" means the project administration manual for the Investment Program agreed between the Borrower and ADB, as updated from time to time in accordance with the respective administrative procedures of the Borrower and ADB;

(n) "PFI" means a participating financial institution located in the territory of the Republic of Kazakhstan which satisfies the eligibility criteria set out in paragraph 3 of Schedule 2 to this Loan Agreement and to which the Borrower proposes to make a Subloan;

(o) "PFR" has the meaning given thereto in Recital (B) of this Loan Agreement;

(p) "Procurement Guidelines" means ADB's Procurement Guidelines (2013, as amended from time to time);

(q) "Project" has the meaning given thereto in Recital (B) of this Loan Agreement;

(r) "Project Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means the Borrower or any legal successor thereto acceptable to ADB, which is responsible for the carrying out of the Project;

(s) "Qualified SME Borrower" means a small and medium enterprise located in the Republic of Kazakhstan, which satisfies the eligibility criteria set out in paragraph 6 of Schedule 2 to this Loan Agreement and to which a PFI proposes to make an SME Loan, as such term is defined hereunder;

(t) "Qualified SME Subproject" means a project which satisfies the eligibility criteria set out in paragraph 7 of Schedule 2 to this Loan Agreement and to be carried out by a Qualified SME Borrower utilizing the proceeds of an SME Loan, as such term is defined hereunder;

(u) "Safeguard Policy Statement" or "SPS" means ADB's Safeguard Policy Statement (2009);

(v) "Safeguards Monitoring Report" means each report prepared and submitted by a PFI to the Borrower on the PFI's performance with regard to the ESMS, including any corrective and preventative actions;

(w) "SLA" means a loan agreement entered into by and between the Borrower and a PFI in relation to a Subloan, as such term is defined hereunder;

(x) "SME" means a small and medium enterprise;

(y) "SME Loan" means a loan or a financial lease made, or proposed to be made, to a Qualified SME Borrower by a PFI out of the proceeds of a Subloan, as such term is defined hereunder;

(z) "SMELA" means a loan agreement or financial lease agreement entered into by and between a PFI and a Qualified SME Borrower in relation to an SME Loan, as such term is defined hereunder;

(aa) "Statement of Utilization of Funds" shall have the meaning ascribed to it in the PAM;

(bb) "Subloan" means a loan made, or proposed to be made, to a PFI by the Borrower out of the proceeds of the Loan;

(cc) "Tenge" or the sign "T" each means the Kazakhstan tenge, the lawful currency of the Republic of Kazakhstan; and

(dd) "Works" means construction or civil works to be financed out of the proceeds of an SME Loan; including services such as drilling or mapping, and project related services that are provided as part of a single responsibility or turnkey contract, but excluding consulting services.

ARTICLE II

The Loan

Section 2.01. ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of one hundred twenty-two million Dollars (\$122,000,000).

(a) The Borrower shall relend all of the Loan proceeds to PFIs. To this end, upon effectiveness of the Loan Agreement, the Borrower shall submit signed applications for withdrawal to fund Subloans for each of the relevant PFIs.

(b) Each application for withdrawal shall contain, among other things, the following information:

- (i) the PFI to whom the Loan proceeds will be relent; and
- (ii) the amount requested to be withdrawn from the Loan Account.

Section 2.02. The principal amount of the Loan withdrawn from the Loan Account shall be repayable in full to ADB by 10 a.m. (Almaty time) on the Final Repayment Date.

Section 2.03. (a) The Borrower shall pay to ADB interest on the principal amount of the Loan withdrawn and outstanding from time to time at a rate for each Interest Period equal to the sum of: (i) LIBOR; and (ii) 0.60% as provided by Section 3.02 of the Loan Regulations less a credit of 0.20% as provided by Section 3.03 of the Loan Regulations.

(b) Interest and other charges on the Loan shall be payable to ADB semiannually by 10 a.m. (Almaty time) on 15 April and 15 October in each year, commencing on 15 April 2015.

Section 2.04. The Borrower shall pay a commitment charge of 0.15% per annum. Such charge shall accrue on the full amount of the Loan (less amounts withdrawn from time to time) commencing 60 days after the date of this Loan Agreement.

Section 2.05. (a) The Borrower may at any time request any of the following Conversions of the terms of the Loan in order facilitate prudent debt management:

- (i) a change of the interest rate basis applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding from a Floating Rate to a Fixed Rate, or vice versa; and
- (ii) the setting of limits on the Floating Rate applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding by the establishment of an Interest Rate Cap or Interest Rate Collar on said Floating Rate.

(b) Any conversion requested pursuant to subsection (a) hereinabove that is accepted by ADB shall be considered a "Conversion", as defined in Section 2.01(6) of the Loan Regulations, and shall be effected in accordance with the provisions of Article V of the Loan Regulations and the Conversion Guidelines.

Section 2.06. For each portion of a Subloan prepaid by a PFI under the relevant SLA, the Borrower shall make a corresponding prepayment under this Loan Agreement promptly in accordance with the provisions of Section 3.05 of the Loan Regulations. For the avoidance of doubt, any prepayment notice given by the Borrower and endorsed by the Guarantor in accordance with Section 3.05 of the Loan Regulations shall be irrevocable. ADB agrees to confirm to the Borrower an acceptable date of prepayment and the amounts that will become due and repayable under the Loan Agreement by 10 a.m. (Almaty time) on such date of prepayment not later than 15 days before such date of prepayment.

Section 2.07. All payment and repayment obligations of the Borrower are independent of the timely and due performance by PFIs of similar obligations under the SLAs, and shall be fulfilled by the Borrower solely in accordance with the provisions of this Loan Agreement. The Borrower shall indemnify ADB for any costs, expenses, charges or fees incurred as a result of the Borrower's failure to perform any of its payment or repayment obligations in a timely manner in accordance with this Loan Agreement. Such Indemnity amount shall be treated as a charge on the Loan which shall be payable by the Borrower upon demand by ADB.

ARTICLE III

Description of Project; Use of Proceeds of the Loan

Section 3.01. The Project for which the Loan is made is the financing by the Borrower of Qualified SME Subprojects through Subloans to PFIs and SME Loans to Qualified SME Borrowers in accordance with the terms of this Loan Agreement, the Project Agreements, relevant SLAs and SMELAs.

Section 3.02. (a) Except as ADB may otherwise agree, the proceeds of the Loan shall be used only for the purpose of the Project and shall be applied exclusively to the cost of Goods, Works and consulting services and other items of expenditure required to be carried out in Qualified SME Subprojects. For each withdrawal application submitted by the Borrower hereunder, the amount of ADB financing under the Project is 100% of the total amount requested by the Borrower under such withdrawal application.

(b) Except as ADB may otherwise agree, all Goods, Works and consulting services to be financed out of the proceeds of the Loan shall be procured in accordance with the provisions of Schedule 1 to this Loan Agreement.

Section 3.03. The Loan Closing Date for withdrawals from the Loan Account for the purposes of Section 9.02 of the Loan Regulations shall be one year and sixty (60) days from the date of this Loan Agreement or such other date as may be agreed between the Borrower and ADB.

ARTICLE IV

Subloans

Section 4.01. (a) The Borrower shall enter into an SLA with each PFI, which provides, among other things, for the relending of the proceeds of the Loan to such PFI for the carrying out of the Project, and the rights of the Borrower and ADB with respect thereto. Correspondingly, the Borrower shall ensure that such PFI enters into a Project Agreement with ADB.

(b) Each SLA shall be in the form and on terms and conditions acceptable to ADB, and shall be without prejudice to, and without limitation on, the obligations of the Borrower under this Loan Agreement. Subject to the foregoing, and except as ADB may otherwise agree, each SLA shall (i) provide that the principal repayment schedule for each Subloan shall match the principal repayment schedule for the portion of the principal amount of the Loan corresponding to such Subloan; (ii) have denomination in Dollars and a fixed market-based interest rate; and (iii) include as events of default the failure of the relevant PFI to comply with any obligation set forth in subsection (c) hereinbelow and paragraphs 4 and 5 of Schedule 2 to this Loan Agreement.

(c) In addition to the matters set forth in subsection (b) hereinabove, each SLA shall also provide that, within 30 calendar days of each PFI's receipt of the Subloan proceeds from the Borrower ("Swap Execution Period"), such PFI shall have executed, on terms and conditions acceptable to ADB, a currency swap with the NBK pursuant to which NBK shall have provided Tenge to such PFI in exchange for the Dollar proceeds of such Subloan; provided, however, that the foregoing shall not be required to the extent that such PFI has, no earlier than 30 days prior to the date of this Loan Agreement, executed such a currency swap with NBK on terms acceptable to ADB. Subject to the proviso in the foregoing sentence, in the event such currency swap has not been executed by such PFI within the Swap Execution Period, it shall be an event of default under the relevant SLA, and the Borrower shall prepay the portion of the principal amount of the Loan corresponding to such Subloan in accordance with the provisions of Section 2.06 above.

(d) If any currency swap for a Subloan referred to in subparagraph (c) hereinabove (whether entered into before or after the date of this Loan Agreement) is terminated prior to repayment of the Loan in full, (i) Damu shall promptly notify ADB of such termination and (ii) the applicable PFI shall have 30 days from the date of such termination to replace such currency swap with another currency hedging instrument (such as a new currency

swap, foreign exchange forward contract(s), other hedging instruments, etc.) on terms acceptable to ADB. In the event that such PFI fails to enter into such a replacement currency hedging instrument on terms acceptable to ADB within such 30 day period, Damu shall, at the written request of ADB, prepay in full the portion of the principal amount of the Loan corresponding to such Subloan in accordance with Section 3.05 of the Loan Regulations.

Section 4.02. (a) The Borrower shall promptly and effectively exercise its rights under each SLA and, whenever legally permissible, SMELA in accordance with the standards of a prudent lender and in such manner as to protect the interests of the Borrower and ADB and to accomplish the purposes of the Loan.

(b) No rights or obligations under the SLA shall be assigned, amended, abrogated or waived nor any modifications or changes to any SLA shall be made or otherwise agreed to by the Borrower without the prior consent of ADB.

ARTICLE V

Particular Covenants

Section 5.01. (a) The Borrower shall carry out the Project and conduct its business with due diligence and efficiency and in conformity with applicable sound banking, administrative, financial, and business practices.

(b) The Borrower shall, promptly as required, take all action within its powers to maintain its corporate existence, to carry on its operations and to acquire, maintain and renew all rights, properties, powers, authorization, licenses and privileges which are necessary in the carrying out of the Project or in the conduct of its business.

(c) In the carrying out of the Project and in the conduct of its business, the Borrower shall perform all the obligations set forth in Schedule 2 to this Loan Agreement.

Section 5.02. The Borrower shall furnish to ADB, or as the case may be shall cause to be furnished to ADB, all such reports and information as ADB shall reasonably request, as part of the reports and information referred to in Section 7.04(a) of the Loan Regulations, concerning the (a) administration, operations and financial condition of the PFIs; and (b) SLAs, Qualified SME Borrowers, Qualified SME Subprojects, and SME Loans. All reports and information provided to ADB by the Borrower or by the PFIs (at the request by the Borrower) for purposes of compliance with the eligibility criteria for the Qualified SME Borrowers and the Qualified SME Subprojects will be provided in reliance on the relevant Qualified SME Borrowers' representations and adequate due diligence by the PFIs concerned.

Section 5.03. (a) The Borrower shall (i) maintain separate accounts and records for the Project; (ii) prepare an annual consolidated Statement of Utilization of Funds for the Project in accordance with accounting standards acceptable to ADB; (iii) have such consolidated Statement of Utilization of Funds to be audited annually by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with international standards for auditing or the national equivalent acceptable to ADB; (iv) as part of each such audit, have the auditors prepare a report (which includes the auditors' opinion

on the consolidated Statement of Utilization of Funds, use of the Loan proceeds as well as on the use of the procedures for the imprest fund and statement of expenditures) and a management letter (which sets out the deficiencies in the internal control of the Project that were identified in the course of the audit, if any, as well as any significant weaknesses identified by the auditor based on a review of the Borrower's internal controls over PFI monitoring as outlined in the Borrower's "Manual on Monitoring of Programs" and attached to the audit terms of reference); and (v) furnish to ADB, no later than 6 months after the end of each fiscal year to which they relate, copies of such audited consolidated Statement of Utilization of Funds, audit report and management letter, all in the English language, and such other information concerning these documents and the audit thereof as ADB shall from time to time reasonably request.

(b) ADB shall disclose the annual audited consolidated Statement of Utilization of Funds and the opinion of the auditors thereto within 30 days of the date of their receipt by posting them on ADB's website.

(c) In addition to the annual audited consolidated Statement of Utilization of Funds referred to in subsection (a) hereinabove, the Borrower shall (i) provide its annual financial statements prepared in accordance with International Financial Reporting Standards; (ii) have its financial statements audited annually by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with international standards for auditing or the national equivalent acceptable to ADB; and (iii) furnish to ADB, no later than 1 month after approval by the relevant authority, copies of such audited financial statements in the English language and such other information concerning these documents and the audit thereof as ADB shall from time to time reasonably request.

(d) The Borrower shall enable ADB, upon ADB's request, to discuss the consolidated Statement of Utilization of Funds and the financial statements for the Borrower and its financial affairs where they relate to the Project with the auditors appointed by the Borrower pursuant to subsections (a)(iii) and (c) hereinabove, and shall authorize and require any representative of such auditors to participate in any such discussions requested by ADB. This is provided that such discussions shall be conducted only in the presence of an authorized officer of the Borrower, unless the Borrower shall otherwise agree.

Section 5.04. The Borrower shall cause PFIs to enable ADB's representatives to inspect, any Qualified SME Borrower, any Qualified SME Subproject, the Goods and Works, and any relevant records and documents maintained by the Borrower and the PFIs (at the request by the Borrower) concerning the Project.

Section 5.05. The Borrower shall promptly take all action, including the provision of funds, which shall be necessary on its part to enable the PFIs to perform its obligations under the Project Agreements, and shall not take or permit any action which would interfere with the performance of such obligations.

ARTICLE VI

Effectiveness

Section 6.01. The following are specified as additional conditions to the effectiveness of this Loan Agreement for the purposes of Section 10.01(f) of the Loan Regulations: (a) the SLAs, each in the form and substance acceptable to ADB, shall have been duly executed and delivered on behalf of, and shall have become legally binding upon, the relevant PFIs and the Borrower, and all conditions precedent to their effectiveness, other than, if applicable, a condition requiring the effectiveness of this Loan Agreement, shall have been fulfilled; and (b) each PFI has established as ESMS acceptable to ADB and appointed designated staff that are trained in implementing the ESMS for screening prospective Qualified SME Subprojects.

Section 6.02. The following is specified as an additional matter, for the purposes of Section 10.02(d) of the Loan Regulations, to be included in the opinion or opinions to be furnished to ADB: the SLAs between the Borrower and each of the PFIs referred to in Section 6.01 hereinabove have been duly authorized or ratified by, and executed and delivered on behalf of, the Borrower and each of these PFIs, and are legally binding upon the Borrower and these PFIs in accordance with its terms.

Section 6.03. A date 90 days after the date of this Loan Agreement is specified for the effectiveness of the Loan Agreement for the purposes of Section 10.04 of the Loan Regulations.

ARTICLE VII

Miscellaneous

Section 7.01. The Chairperson of Management Board of the Borrower is designated as representative of the Borrower for the purposes of Section 12.02 of the Loan Regulations.

Section 7.02. The following addresses are specified for the purposes of Section 12.01 of the Loan Regulations:

For ADB

Asian Development Bank
6 ADB Avenue
Mandaluyong City
Metro Manila 1550
Philippines

Facsimile Numbers:

+(632) 636-2444

+(632) 636-2424.

For the Borrower

JSC "Entrepreneurship Development Fund 'Damu' "
111 Gogol Street
Almaty, 050004
Kazakhstan

Facsimile Number:

+7(727) 278-0776.

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Loan Agreement to be signed in their respective names as of the day and year first above written and to be delivered at the principal office of ADB.

ASIAN DEVELOPMENT BANK

By  _____
ASEL CHYNGYSHEVA
Authorized representative

JSC "ENTREPRENEURSHIP DEVELOPMENT
FUND 'DAMU'"

By  _____
LYAZZAT Y. IBRAGIMOVA
Chairperson of the Management Board

SCHEDULE 1

Procurement of Goods, Works and Consulting Services

General

1. The Borrower shall cause the PFIs to ensure that all Goods, Works, and consulting services to be financed out of the proceeds of the Loan shall be procured in accordance with ADB procurement policy, which is embodied in relevant provisions of the Procurement Guidelines and the Consulting Guidelines; except that the requirement that the proceeds of ADB financing can be used only for procurement of Goods, Works and consulting services supplied from and produced in member countries of ADB is not applicable. The use by Qualified SME Borrowers of international competitive bidding procedures under the Project shall be encouraged where the amount of a Qualified SME Subproject investment is unusually large.

Industrial or Intellectual Property Rights

2. (a) The Borrower shall cause the PFIs to ensure that all Goods and Works procured by each Qualified SME Borrower (including without limitation all computer hardware, software and systems, whether separately procured or incorporated within other goods and services procured) do not violate or infringe any industrial property or intellectual property right or claim of any third party.

(b) The Borrower shall cause PFIs to ensure that all contracts entered into by each Qualified SME Borrower for the procurement of Goods and Works contain appropriate representations, warranties and, if appropriate, indemnities from the contractor or supplier with respect to the matters referred to in subparagraph (a) hereinabove.

3. The Borrower shall cause PFIs to ensure that all ADB-financed contracts entered into by each Qualified SME Borrower with consultants contain appropriate representations, warranties and, if appropriate, indemnities from the consultants to ensure that the consulting services provided do not violate or infringe any industrial property or intellectual property right or claim of any third party.

SCHEDULE 2

Execution of Project; Financial Matters

Implementation Arrangements

1. As the Project Executing Agency, the Borrower shall be responsible for overall implementation, including utilization and disbursement of the Loan proceeds. The Borrower shall ensure that the Project is implemented in accordance with the detailed arrangements set forth in the PAM. Any subsequent change to the PAM shall become effective only after approval of such change by the Borrower and ADB. In the event of any discrepancy between the PAM, any Project Agreement and this Loan Agreement, the provisions of the Loan Agreement shall prevail.

2. The Borrower shall cause each PFI to: (a) bear the credit risk associated with the SME Loans made by it to Qualified SME Borrowers under the Project; and (b) independently determine the creditworthiness of each Qualified SME Borrower and the terms and conditions of the related SME Loans, in accordance with international best practices for lending or otherwise providing credit through financial leasing to SMEs (includes determination of margins and associated fees, security taken and proper legal documentation).

Eligibility Criteria for PFIs

3. The Borrower shall cause each PFI to comply with the following eligibility criteria. In the event, however, of any non-compliance by such PFI with any of the following eligibility criteria, the Borrower shall cause such PFI to notify ADB of such non-compliance within the time period indicated in paragraph 2 of the Schedule to the respective Project Agreements:

- (a) comply fully with capital adequacy ratios and prudential limit guidelines set by the agency responsible for banking and financial supervision in Kazakhstan or have an agreed action plan to do so;
- (b) have a credit rating of at least "B-" issued by a credit rating agency, or have such other rating acceptable to ADB (provided that such rating shall not be two or more notches lower than the then current rating of the relevant PFI as of the date of this Agreement, unless the rating downgrade is an automatic downgrade as a result of the downgrading of the sovereign rating of the Guarantor),
- (c) be profitable for its most recently completed fiscal year, or have an agreed action plan to become profitable. For purposes of the foregoing, profitability refers to profit after tax;
- (d) have a ratio of non-performing loans (NPLs) less than 10%, or have an agreed action plan to reduce NPLs to that level. For purposes of the foregoing, non-performing loans shall mean loans overdue by more than 90 days and shall include, at a minimum, principle and accrued interest; and

Schedule 2

- (e) maintain a ratio of total capital to risk-weighted assets of not less than 12%, or have an agreed action plan to attain such ratio. For purposes of the foregoing, such ratio shall be calculated in accordance with Kazakhstan statutory requirements.

Compliance with the criteria set forth in subparagraph 3(a) hereinabove shall be confirmed based on the information reported on the English-language website of the agency referred to in subparagraph 3(a) hereinabove, provided, that, the Borrower shall cause each PFI to submit to ADB within 60 days of each 30 June and 31 December, an English language copy of all information required to be submitted by such PFI to such agency in order to permit such agency to determine compliance with such criteria for the period then ended. The Borrower shall cause each PFI to confirm compliance with the criteria set forth in subparagraphs 3(c), (d) and (e) hereinabove as indicated in subsection (c)(iii) of Section 3.06 of the respective Project Agreements.

4. Each SLA shall provide that it shall be an event of default under such SLA if the relevant PFI shall have either (i) failed to comply with the terms of any agreed action plan between such PFI and ADB in respect of attaining compliance with any of the eligibility criteria described in paragraph 3 above or (ii) failed to come to agreement with ADB on such an action plan within 60 days after ADB has become aware that such PFI has ceased to be compliant with any of the eligibility criteria described in paragraph 3. In the event that there is failure by a PFI to either (a) comply with the terms of any such action plan or (b) enter into any such action plan within the time period specified above, the Borrower shall inform ADB and the Borrower and ADB shall agree on the course of action for such PFI.

Change of Control of PFIs

5. Each SLA shall provide that it shall be an event of default under such SLA if any change in control (as such term shall be defined in the applicable SLA) of the relevant PFI will, in Damu's sole discretion, either (a) have a material adverse effect on such PFI's operations or financial performance, or (b) entail a change in such PFI's business strategy not conducive to achieving the objectives of the Investment Program. The Borrower shall, and shall cause each PFI to, promptly notify ADB of the occurrence of any change in control of such PFI and, if requested by ADB, the Borrower shall promptly exercise its rights under the applicable SLA in respect of such change in control.

Eligibility Criteria for Qualified SME Borrower

- 6. The Borrower shall cause PFIs to ensure that each Qualified SME Borrower:
 - (a) is a small and/or medium enterprise according to the definition stipulated in the Law on Private Entrepreneurship of the Republic of Kazakhstan; and
 - (b) is not engaged in any prohibited investment activity listed in the attachment to this Schedule.

Eligibility Criteria for Qualified SME Subproject

7. The Borrower shall cause PFIs to ensure that Qualified SME Subprojects shall be for activities that:

- (a) are not included in the list of prohibited investment activities set out in the attachment to this Schedule; and
- (b) comply with the environmental safeguards set out in paragraphs 10 to 12 of this Schedule.

SME Loans

8. The Borrower shall cause each PFI to ensure that:

- (a) each SME Loan:
 - (i) is used by a Qualified SME Borrower to (A) acquire fixed assets, (B) modernize existing fixed assets, (C) finance working capital, and/or (D) subject to subparagraph (b) below, finance existing loans with the specific purpose to acquire/modernize fixed assets and/or finance working capital;
 - (ii) is denominated in Tenge;
 - (iii) has a market-based interest rate; and
 - (iv) subject to subparagraph (b) below, has a repayment term as follows: (A) in the case of financing for working capital – up to 36 months; and (B) in the case of financing for acquisition and modernization of fixed capital assets – up to 84 months, *provided*, that such PFI shall be required to use its own funds to the extent the repayment term of such SME Loan extends beyond the principal repayment date of the Subloan to such PFI. For the avoidance of doubt, any principal amount of an SME Loan repaid may, subject to the terms of this subparagraph (a), be used by such PFI to make additional SME Loans;
- (b) (i) at any given time, no more than 15% of the aggregate amount of the Subloan to such PFI is applied to the financing of existing loans of such PFI for Qualified SME Subprojects originally made using funds other than the proceeds of the Loan and (ii) the remaining repayment term of any such existing loan shall not be more than 12 months at the time it is financed using the proceeds of the Subloan. For the avoidance of doubt, such PFI shall ensure that the eligibility criteria for those Qualified SME Borrowers and Qualified SME Subprojects (which includes the use of the ESMS to screen these Qualified Subprojects) have been met;

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- (c) at any given time, no Qualified SME Borrower or group of affiliated persons (as such term shall be defined in the applicable SLA) shall have outstanding borrowings, either individually from the PFI or collectively from all the financial institutions (including the PFI) to which the Borrower may lend money under the Investment Program for the same purpose as the SME Loan, of more than T550,000,000 using funds made available by ADB under the Investment Program;
- (d) such PFI uses its best efforts to cause that: (i) at least 50% of the aggregate principal amount of the SME Loans made by it under the Project are used by for investment purposes; and (ii) at least 40% of the aggregate principal amount of the SME Loans made by it under the Project are provided to SMEs located outside of Almaty and Astana cities; and
- (e) such PFI uses its best efforts to cause that: (i) at least 30% of the aggregate number of SME Loan applications received by such PFI under the Project, and (ii) at least 24% of the aggregated number of SME Loans made by such PFI under the Project, are from or to, as applicable, the following:
 - (A) SMEs with a minimum of 50% women ownership; or
 - (B) SMEs with management controlled by women.

Qualified SME Subprojects (Screening, Categorization, and Environmental and Social Assessment and Planning)

9. The Borrower shall cause the PFIs to ensure that before any proposed subproject is approved to be a Qualified SME Subproject for financing:

- (a) the PFIs have appointed designated staff for project implementation particularly for financial management and reporting, and monitoring and evaluation;
- (b) the ESMS is used to screen and categorize the significance of potential environmental, indigenous peoples or involuntary resettlement impacts associated with such subproject; and
- (c) an EMP is prepared for proposed subprojects as required pursuant to the ESMS.

10. The Borrower shall cause the PFIs to ensure that each proposed subproject does not involve any: (a) involuntary resettlement or indigenous peoples impacts within the meaning of the SPS; (b) environmental impacts which can be categorized as Category A, in each case within the meaning of the SPS; or (c) activity referred to in paragraph 7(a) of this Schedule.

11. Without limiting paragraph 10(a) of this Schedule, the Borrower shall cause the PFIs to ensure that in respect of any proposed subproject that involves the acquisition or

transfer of any interest in land, such acquisition or transfer is between willing parties and not under eminent domain.

Environment

12. The Borrower shall cause the PFIs to ensure that the preparation, design, construction, implementation, operation and decommissioning of each Qualified SME Subproject comply with (a) all applicable laws and regulations of the Republic of Kazakhstan relating to environment, health, and safety; (b) the ESMS; (c) the EARF; and (d) all measures and requirements set forth in the respective EMP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Human and Financial Resources to Implement Safeguards Requirements

13. The Borrower shall cause the PFIs to ensure that (a) necessary budgetary and human resources are made available to fully implement the ESMS; and (b) each Qualified SME Borrower makes available necessary budget and human resources to fully implement the EMPs as required.

Safeguards Monitoring and Reporting

14. The Borrower shall cause the PFIs to do the following:
- (a) submit semi-annual Safeguards Monitoring Reports to the Borrower for compilation and timely submission by the Borrower to ADB;
 - (b) if any unanticipated environmental and/or social risks and impacts arise during any Qualified SME Subproject implementation, promptly inform the Borrower and ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan; and
 - (c) report to the Borrower and ADB any actual or potential breach of compliance with the measures and requirements set forth in the EMP, promptly after becoming aware of the breach.

Disbursement

15. Except as ADB may otherwise agree, the Loan proceeds shall be disbursed in accordance with the Loan Disbursement Handbook.

Gender

16. The Borrower shall cause the PFIs to ensure that: (a) the gender action plan as referred to in Schedule 5 to the FFA is duly implemented under the Project; (b) adequate resources are allocated for the implementation of the plan; and (c) key gender outcome and output targets are monitored and achieved.

Labor Standards

17. The Borrower shall cause the PFIs to ensure that the core labor standards (as set out in the relevant conventions of the International Labor Organization) and applicable laws and regulations of the Republic of Kazakhstan, including workplace occupational safety norms, are complied with during Qualified SME Subproject implementation.

Good Governance and Anticorruption

18. The Borrower and PFIs shall comply with ADB's Anticorruption Policy (1998, as amended to date) and acknowledge that ADB, consistent with its commitment to good governance, accountability, and transparency, reserves the right to investigate directly, or through its agents, any possible corrupt, fraudulent, collusive, or coercive practices relating to the Project. The Borrower shall cause each PFI to: (a) ensure that all contracts financed by ADB utilizing the proceeds of the Loan include provisions specifying the right of ADB to audit and examine the records and accounts of the PFIs and the Qualified SME Borrowers as they relate to the Project; and (b) cooperate fully with any such investigation and to extend all necessary assistance, including providing access to all relevant books and records, for the satisfactory completion of any such investigation.

Anti-Money Laundering and Financing of Terrorism

19. The Borrower shall cause each PFI to ensure:
- (a) compliance with applicable laws and regulations of the Borrower on combating money laundering and financing of terrorism and that Loan proceeds are not used, directly or indirectly, in money laundering or financing of terrorism;
 - (b) implementation of internal control procedures to prevent violation of subparagraph (a) hereinabove; and
 - (c) that the Borrower and ADB are promptly informed if there is any violation or potential violation of subparagraph (a) hereinabove. In the event that ADB informs a PFI of its concern that there has been such an alleged violation, the PFI shall: (i) cooperate in good faith with ADB and its representatives so that ADB can determine whether such a violation has occurred; (ii) respond promptly and in reasonable detail to any query from ADB; and (iii) furnish documentary support for such response upon ADB's request.

PROHIBITED INVESTMENT ACTIVITIES LIST

- (a) production or activities involving harmful or exploitative forms of forced labor¹ or child labor²;
- (b) production of or trade in any product or activity deemed illegal under host country laws or regulations or international conventions and agreements or subject to international phaseouts or bans, such as (i) pharmaceuticals³, pesticides, and herbicides⁴, (ii) ozone-depleting substances⁵, (iii) polychlorinated biphenyls⁶ and other hazardous chemicals⁷, (iv) wildlife or wildlife products regulated under the Convention on International Trade in Endangered Species of Wild Fauna and Flora⁸, and (v) transboundary trade in waste or waste products⁹;
- (c) production of or trade in weapons and munitions, including paramilitary materials;
- (d) production of or trade in alcoholic beverages, excluding beer and wine;¹⁰
- (e) production of or trade in tobacco; (Footnote 10)
- (f) gambling, casinos, and equivalent enterprises; (Footnote 10)
- (g) production of or trade in radioactive materials¹¹, including nuclear reactors and components thereof;
- (h) production of, trade in, or use of unbonded asbestos fibers¹²;
- (i) commercial logging operations or the purchase of logging equipment for use in primary tropical moist forests or old-growth forests;
- (j) marine and coastal fishing practices, such as large-scale pelagic drift net fishing and fine mesh net fishing, harmful to vulnerable and protected species in large numbers and damaging to marine biodiversity and habitats; and
- (k) any activity prohibited by the law of the Republic of Kazakhstan.

¹ Forced labor means all work or services not voluntarily performed, that is, extracted from individuals under threat of force or penalty.

² Child labor means the employment of children whose age is below the host country's statutory minimum age of employment or employment of children in contravention of International Labor Organization Convention No. 138 "Minimum Age Convention" (www.ilo.org).

³ A list of pharmaceutical products subject to phaseouts or bans is available at <http://www.who.int>.

⁴ A list of pesticides and herbicides subject to phaseouts or bans is available at <http://www.pic.int>.

⁵ A list of the chemical compounds that react with and deplete stratospheric ozone resulting in the widely publicized ozone holes is listed in the Montreal Protocol, together with target reduction and phaseout dates. Information is available at <http://www.unep.org/ozone/montreal.shtml>.

⁶ A group of highly toxic chemicals, polychlorinated biphenyls are likely to be found in oil-filled electrical transformers, capacitors, and switchgear dating from 1950 to 1985.

⁷ A list of hazardous chemicals is available at <http://www.pic.int>.

⁸ A list is available at <http://www.cites.org>.

⁹ As defined by the Basel Convention; see <http://www.basel.int>.

¹⁰ This does not apply to Qualified SME Borrowers who are not substantially involved in these activities. Not substantially involved means that the activity concerned is ancillary to Qualified SME Borrower's primary operations. Not substantially involved with respect to alcoholic beverages (excluding beer and wine) and tobacco means that their sales do not comprise more than 30% of the relevant Qualified SME Borrower's average gross annual revenue.

¹¹ This does not apply to the purchase of medical equipment, quality control (measurement) equipment, and any equipment for which ADB considers the radioactive source to be trivial and adequately shielded.

¹² This does not apply to the purchase and use of bonded asbestos cement sheeting where the asbestos content is less than 20%.