

Linklaters CIS

27 July 2018

JSC KAZKOMMERTSBANK  
and  
JSC HALYK BANK  
and  
BNY MELLON CORPORATE TRUSTEE SERVICES LIMITED

## SECOND SUPPLEMENTAL TRUST DEED

relating to the  
U.S.\$750,000,000 5.50% Notes due 2022

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**THIS SECOND SUPPLEMENTAL TRUST DEED** is made on 27 July 2018 (this “**Deed**”)

**BETWEEN:**

- (1) **JSC KAZKOMMERTSBANK** (the “**Bank**”);
- (2) **JSC HALYK BANK** (the “**Substituted Obligor**”); and
- (3) **BNY MELLON CORPORATE TRUSTEE SERVICES LIMITED** (the “**Trustee**”, which expression, where the context so admits, includes any other trustee for the time being of this Second Supplemental Trust Deed).

**WHEREAS:**

- (A) JSC BTA Bank (“**BTA**”) and the Trustee entered into a trust deed dated 21 December 2012 (the “**Original Trust Deed**”) relating to the issuance of U.S.\$750,000,000 5.50% Notes due 2022 (the “**Notes**”) by BTA, as subsequently amended and supplemented by a supplemented trust deed dated 14 November 2014 between BTA, the Bank and the Trustee (the “**First Supplemental Trust Deed**” and, together with the Original Trust Deed, the “**Trust Deed**”).
- (B) Clause 13.2 of the Trust Deed provides that the Trustee may (subject as therein provided), without the consent of the Noteholders, agree to the substitution of the Substituted Obligor in place of KKB as the principal debtor under the Trust Deed and the Notes.
- (C) KKB has requested the Trustee to agree, pursuant to the provisions of Clause 13.2 of the Trust Deed, to the substitution of the Substituted Obligor in place of KKB as the principal debtor under the Trust Deed and the Notes.
- (D) The Trustee has agreed to the substitution of the Substituted Obligor in place of KKB as the principal debtor under the Trust Deed and the Notes on and subject to the terms of this Second Supplemental Trust Deed.
- (E) Accordingly, the parties hereto hereby wish to supplement the Trust Deed to substitute KKB with the Substituted Obligor with respect to the Notes.
- (F) This Second Supplemental Trust Deed is supplemental to, and should be read in conjunction with, the Trust Deed.

**THIS SECOND SUPPLEMENTAL TRUST DEED WITNESSES AND IT IS DECLARED** as follows:

## **1 RELATION TO THE TRUST DEED AND INTERPRETATION**

### **1.1 Relation to the Trust Deed**

This Second Supplemental Trust Deed constitutes an integral part of the Trust Deed. Except as expressly modified by this Second Supplemental Trust Deed, the provisions of the Trust Deed (including the Conditions) remain unchanged and in full force and effect.

### **1.2 Interpretation**

**1.2.1** Capitalised terms used in this Second Supplemental Trust Deed but not defined in this Second Supplemental Trust Deed shall have the meanings specified in the Trust Deed, and the rules of interpretation set out in the Trust Deed shall apply as if they were set out in full herein.

**1.2.2** Headings and sub-headings are for ease of reference only and shall not affect the construction of this Second Supplemental Trust Deed or the Trust Deed.

1.2.3 All references to “Clauses” or “Schedules” in this Second Supplemental Trust Deed shall refer to clauses or schedules in the Trust Deed.

1.2.4 “**Transfer Act**” means a transfer act between the Bank and the Substituted Obligor setting out the rights, obligations and liabilities of the Bank assumed by the Substituted Obligor in connection with the merger under the laws of Kazakhstan (*prisoedinenie*) of the Bank into the Substituted Obligor.

## 2 SUBSTITUTION

2.1 As of the Effective Date, the parties hereto agree and acknowledge that all of the rights of the Bank under or in respect of the Notes and the Trust Deed (the “**Assigned Rights**”) are hereby assigned absolutely and unconditionally, with full title guarantee, to the Substituted Obligor and that all of the obligations of the Bank under the Notes and the Trust Deed (the “**Transferred Obligations**”) shall be so transferred to the Substituted Obligor.

2.2 The Substituted Obligor shall assume the Assigned Rights and shall perform, undertake and discharge the Transferred Obligations as if the Substituted Obligor had at all times been the issuer of the Notes. In particular, but without prejudice to the generality of the foregoing, all payment and debt obligations owed by the Bank in relation to the Notes or otherwise under the Trust Deed, whether arising before, on or after the Effective Date, shall be assumed and owed by the Substituted Obligor.

2.3 The Trustee acknowledges that all of the rights against it and obligations owed by it under the Trust Deed shall, as of the Effective Date, be rights in favour of, and obligations owed to, the Substituted Obligor such that the Trustee shall be bound by the terms of the Notes and the Trust Deed as against the Substituted Obligor as if the Substituted Obligor had at all times been a party to the Notes and the Trust Deed in place of the Bank.

2.4 As of the Effective Date, the Substituted Obligor shall be deemed to be named as the principal debtor in place of the Bank under the Notes and under the Trust Deed, and the Notes and the Trust Deed shall be deemed to be amended in all respects as necessary to give effect to this substitution.

## 3 AMENDMENTS TO THE TRUST DEED AND THE CONDITIONS OF THE NOTES

3.1 With effect from the Effective Date, the Trust Deed and the Conditions shall be amended as follows:

3.1.1 All references in the Trust Deed and the Conditions to the Bank shall be construed as references to the Substituted Obligor.

3.1.2 The address of the Bank in Clause 17 of the Trust Deed (*Communications*) is hereby deleted in its entirety and replaced with the following address:

Any communication shall be in writing and in English and shall be by letter, email or fax: in the case of the Bank, to it at:

JSC Halyk Bank  
40 Al-Farabi Avenue  
Almaty 050059 (A26M3K5)  
Republic of Kazakhstan  
Fax: +7 727 259 0271

Attention: International Department

- 3.1.3 The first paragraph of the Conditions is hereby deleted in its entirety and replaced with the following text:

The U.S.\$750,000,000 5.50 per cent. notes due 2022 (the “**Notes**”, which expression includes any further notes issued pursuant to Condition 16 (Further Issues) and forming a single series therewith) of JSC Halyk Bank (the “**Bank**”) are (a) constituted by, and subject to, and have the benefit of a trust deed dated 21 December 2012 as amended and supplemented by the Supplemental Trust Deed dated 14 November 2014 and the Supplemental Trust Deed dated 27 July 2018 (as further amended or supplemented from time to time, the “**Trust Deed**”) between the Bank and BNY Mellon Corporate Trustee Services Limited, as trustee (the “**Trustee**”, which expression includes all persons for the time being appointed as trustee for the holders of the Notes (“**Noteholders**”) under the Trust Deed), and (b) the subject of an agency agreement dated 21 December 2012 as amended and supplemented by the Supplemental Agency Agreement dated 14 November 2014 and the Supplemental Agency Agreement dated 27 July 2018 (as further amended or supplemented from time to time, the “**Agency Agreement**”) between the Bank, the Trustee, The Bank of New York Mellon, as principal paying and transfer agent (the “**Principal Paying and Transfer Agent**”; which expression includes any successor or additional paying and transfer agents appointed from time to time in connection with the Notes), and The Bank of New York Mellon (Luxembourg) S.A. as registrar (the “**Registrar**”, which expression shall include any successor registrar appointed from time to time in connection with the Notes).

- 3.1.4 Condition 14(b) (*Notices: To the Bank*) is hereby deleted in its entirety and replaced with the following text:

Notices to the Bank will be deemed to be validly given if delivered to the Bank at 40 Al-Farabi Avenue, Almaty 050059 (A26M3K5), Kazakhstan and clearly marked on their exterior “International Department” (or at such other addresses and for such other attentions as may have been notified to the Noteholders in accordance with Condition 14(a)) and will be deemed to have been validly given at the opening of business on the next day on which the Bank’s principal offices, as applicable, are open for business.

## 4 REPRESENTATIONS, WARRANTIES AND AGREEMENTS

- 4.1 Each of the parties, other than the Trustee, hereto represents and warrants, as of the date of this Second Supplemental Trust Deed and as of the Effective Date (as fully as if made on such date), that it has the capacity, authority and power to enter into this Second Supplemental Trust Deed.
- 4.2 The Substituted Obligor represents and warrants, on the date of this Second Supplemental Trust Deed, immediately after the execution of this Second Supplemental Trust Deed and on the Effective Date (as if fully made on such date), to the Trustee that:
- 4.2.1 it is and will be solvent;
- 4.2.2 all governmental and regulatory approvals and consents necessary for its assumption of the obligations and liabilities as principal debtor under the Notes, the

Agency Agreement and the Trust Deed in place of the Bank have been obtained and are in full force and effect; and

**4.2.3** it is incorporated, domiciled and resident in the Republic of Kazakhstan.

**4.3** The Bank and the Substituted Obligor confirm to the Trustee on the date of this Second Supplemental Trust Deed and on the Effective Date (as fully as if made on such date), that no Potential Event of Default or Event of Default has occurred and is continuing or will occur, immediately upon the execution of this Second Supplemental Trust Deed.

**4.4** Each of the Bank and the Substituted Obligor hereto agrees that it shall, at the request and expense of the Substituted Obligor, do all such acts and things which the Trustee deems necessary or desirable to give effect to this Second Supplemental Trust Deed.

**4.5** This Second Supplemental Trust Deed shall be binding upon, and enure to the benefit of, each of the parties hereto and its successors.

## **5 RELEASE**

Upon the Effective Date and all times from and after the Effective Date, the Bank shall be released from any and all liabilities, covenants, obligations and duties under the Notes and under the Trust Deed.

## **6 EFFECTIVE DATE, STATUS OF THE TRUST DEED AND THE NOTES**

**6.1** The effective date of this Second Supplemental Trust Deed shall be the later of:

**6.1.1** the date of this Second Supplemental Trust Deed; and

**6.1.2** the date on which the Transfer Act is executed, as certified in writing to the Trustee, the Principal Paying Agent, the Transfer Agent and the Registrar by any two Authorised Signatories of each of the Bank and the Substituted Obligor.

**6.2** Save for the amendments to the Notes and the Trust Deed effected by this Second Supplemental Trust Deed, the Conditions and the Trust Deed shall remain in full force and effect, and the Notes and the Trust Deed, respectively, shall henceforth be read and construed as one document with this Second Supplemental Trust Deed.

## **7 GOVERNING LAW, JURISDICTION AND ARBITRATION**

**7.1** This Second Supplemental Trust Deed, including any non-contractual obligations arising out of or in connection with this Second Supplemental Trust Deed, shall be governed by and construed in accordance with English law.

**7.2** The Substituted Obligor has agreed that the process by which any Proceedings in England are begun may be served on it by being delivered to Hackwood Secretaries Limited of One Silk Street, London, EC2Y 8HQ or, if different, its registered office for the time being. If for any reason the Substituted Obligor does not have such an agent in England, it will promptly appoint a substitute process agent and notify in writing the Trustee of such appointment. If such person is not or ceases to be effectively appointed to accept service of process on behalf of the Substituted Obligor, the Substituted Obligor shall, on the written demand of the Trustee, appoint a further person in England to accept service of process on its behalf and, failing such appointment within 15 days, the Trustee shall be entitled to

appoint such a person by written notice to the Substituted Obligor. Nothing herein shall affect the right to serve process in any other manner permitted by law.

- 7.3** The provisions of Clause 20.2 (*Arbitration*), Clause 20.3 (*Trustee's Option*), Clause 20.4 (*Jurisdiction*), Clause 20.5 (*Appropriate Forum*), Clause 20.7 (*Consent to Enforcement*) and Clause 20.8 (*Waiver of Immunity*) of the Trust Deed shall apply to this Second Supplemental Trust Deed as if the same were repeated in full herein, mutatis mutandis.

## **8 MISCELLANEOUS**

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

A person who is not a party to this Second Supplemental Trust Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Second Supplemental Trust Deed.

### **8.2 Severability**

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

### **8.3 Counterparts**

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

### **8.4 Translations**

This Second Supplemental Trust Deed may be translated into the Kazakh or Russian language. In the case of any conflict or discrepancy between the English language version and any such translation, the English language version shall prevail.

**IN WITNESS** whereof this Second Supplemental Trust Deed has been executed as a deed on the date stated at the beginning.

JSC KAZKOMMERTSBANK

By:

Name:

Title:







JSC HALYK BANK )

By:

Name: UMUT B. SHAYAKHMETOVA

Title: CHAIRPERSON OF THE MANAGEMENT BOARD

**BNY MELLON CORPORATE TRUSTEE  
SERVICES LIMITED**

Acting by its two lawful attorneys:

Name:

Title:

MARCO THUO  
VICE PRESIDENT

Name:

Title:

Michael Lee

MICHAEL LEE  
AUTHORISED SIGNATORY

In the presence of:

Witness Name:

Signature:

ANTHONY EDET  


Witness Address:

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