
6 October 2010

PAYING AGENCY AGREEMENT

between

KAZAKHSTAN TEMIR ZHOLY FINANCE B.V.
as Issuer

and

THE BANK OF NEW YORK MELLON
as Principal Paying and Transfer Agent
and

THE BANK OF NEW YORK MELLON (LUXEMBOURG) S.A.
as Registrar

and

BNY CORPORATE TRUSTEE SERVICES LIMITED
as Trustee

U.S.\$700,000,000 6.375 per cent. Notes due 2020

issued by

KAZAKHSTAN TEMIR ZHOLY FINANCE B.V.

and unconditionally and irrevocably guaranteed by

JSC NATIONAL COMPANY KAZAKHSTAN TEMIR ZHOLY
JSC KAZTEMIRTRANS
and
JSC LOCOMOTIVE

WHITE & CASE
5 Old Broad Street
London EC2N 1DW

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This Agreement is made on 6 October 2010

BETWEEN:

- (1) **KAZAKHSTAN TEMIR ZHOLY FINANCE B.V.** (the “**Issuer**”);
- (2) **JSC NATIONAL COMPANY KAZAKHSTAN TEMIR ZHOLY, JSC KAZTEMIRTRANS** and **JSC LOCOMOTIVE** (each a “**Guarantor**” and together the “**Guarantors**”);
- (3) **THE BANK OF NEW YORK MELLON** (as the “**Principal Paying and Transfer Agent**”);
- (3) **THE BANK OF NEW YORK MELLON (LUXEMBOURG) S.A.** (as the “**Registrar**”);
and
- (4) **BNY CORPORATE TRUSTEE SERVICES LIMITED** (as the “**Trustee**”).

WHEREAS

- (A) The Issuer proposes to issue U.S.\$700,000,000 6.375 per cent. Notes due 2020 (the “**Notes**”).
- (B) The Issuer, incorporated in The Netherlands, has authorised the issue of the Notes by a resolution of the Board of Directors of the Issuer passed on 1 April 2010, 16 September 2010 and 30 September 2010.
- (C) Each of the Guarantors is incorporated in the Republic of Kazakhstan (“**Kazakhstan**”) and has authorised the giving of the guarantee in relation to the Notes (the “**Guarantee**”) pursuant to the Trust Deed (as defined below).
- (D) The Notes will be constituted by and will in all respects be subject to and have the benefit of, a trust deed dated 6 October 2010 (as amended or supplemented from time to time, the “**Trust Deed**”) and made between the Issuer, the Guarantors and the Trustee.
- (E) The Trust Deed provides that any Eligible Transferee (as defined in Condition 5(c)(i) (*Limitations on Disposals by each Guarantor*)) that in the future agrees to be bound under the Trust Deed as an Additional Guarantor (as defined therein) pursuant to Clause 5.9 (*Additional Guarantors*) of the Trust Deed is obliged to provide a guarantee in respect of the Notes, in which case such Additional Guarantor will, together with the Guarantors, jointly and severally unconditionally guarantee the Issuer’s obligations under the Notes. Any such Additional Guarantor will sign an amendment or supplement to the Trust Deed (in a form specified by the Trustee) effecting the giving of such further guarantee.
- (F) Any Additional Guarantor acceding to the Trust Deed will become a party to this Agreement by signing an amendment or supplement to this Agreement. The form of the amendment or supplement to this Agreement is to be specified by the Trustee, subject to the Trustee having been provided with such information as it may require in relation to any proposed Additional Guarantor prior to any amendment or supplement to this Agreement being executed.
- (G) The Notes will be in registered form. Notes sold (i) in offshore transactions in reliance on Regulation S (“**Regulation S**”) under the Securities Act of 1933, as amended (the “**Securities Act**”) and will be issued in minimum denominations of U.S.\$200,000 and integral multiples of U.S.\$1,000 in excess thereof and (ii) to qualified institutional buyers (“**QIBs**”) in reliance on Rule 144A under the Securities Act (“**Rule 144A**”) and will be issued in minimum denominations of U.S.\$ 200,000 and integral multiples of U.S.\$1,000 in excess thereof. The

Notes will be represented by (i) a registered global note certificate representing the Notes which are sold pursuant to Rule 144A, in the form or substantially in the form set out in Schedule 1, Part 2 (*Form of Restricted Global Note Certificate*) of the Trust Deed (the “**Restricted Global Note**”) and (ii) the registered global note certificate representing the Notes which are sold outside the United States in reliance on Regulation S, in the form or substantially in the form set out in Schedule 1, Part 1 (*Form of Unrestricted Global Note Certificate*) of the Trust Deed (the “**Unrestricted Global Note**” and, together, with the Restricted Global Note, the “**Global Note Certificates**”). The Global Note Certificates will be exchangeable for individual note certificates (each an “**Individual Note Certificate**” and, together with the Global Note Certificates, the “**Note Certificates**”) in the circumstances specified therein.

- (H) In accordance with the terms of Clause 13.2 (*Substitution*) of the Trust Deed, JSC National Company Kazakhstan Temir Zholy, may elect to be substituted in place of the Issuer as the principal debtor under the Trust Deed and the Notes (the “**Initial Substitution**”).
- (I) The Issuer, the Guarantors, the Registrar, the Principal Paying and Transfer Agent, and the Trustee wish to record certain arrangements which they have made in relation to the Notes.

IT IS AGREED as follows:

1. INTERPRETATION

1.1 Definitions

In this Agreement, the following expressions have the following meanings:

“**Agents**” means the Principal Paying and Transfer Agent, the Registrar and any Paying and Transfer Agents and “**Agent**” means any one of the Agents;

“**Business Day**” means any day on which banks are open for general business (including dealings in foreign currencies) in New York, London and in the city where the Specified Office of the Principal Paying and Transfer Agent is located;

“**Clearing Systems**” means Euroclear, Clearstream, Luxembourg and DTC;

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

“**Common Depositary**” means The Bank of New York Mellon, London Branch, in its capacity as common depositary for Euroclear and Clearstream, Luxembourg;

“**Conditions**” means the respective terms and conditions of the Notes (as scheduled to the Trust Deed and as modified from time to time in accordance with their terms), and any reference to a numbered “**Condition**” is to the correspondingly numbered provision thereof;

“**DTC**” means the Depository Trust Corporation, a New York Corporation;

“**Euroclear**” means Euroclear Bank S.A./N.V., as operator of the Euroclear System;

“**Guarantors**” means, prior to the Initial Substitution, the Guarantors and/or any Additional Guarantor(s) pursuant to Condition 7 (*Additional Guarantors*) and following the Initial Substitution, JSC Kaztemirtrans, JSC Locomotive and/or any Additional Guarantor(s) pursuant to Condition 7 (*Additional Guarantors*);

“**Holder**” of a Note means the person in whose name such Note is for the time being registered in the Register (or, in the case of a joint holding, the first named thereof) and “**Noteholder**” shall be construed accordingly;

“**Managers**” means The Royal Bank of Scotland plc, HSBC Bank plc and Barclays Bank PLC;

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

“**Principal Paying and Transfer Agent**” and “**Registrar**” include any successors thereto appointed from time to time in accordance with Clause 12 (*Changes in Agents*) and any of their respective Successors;

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

“**Regulations**” means the regulations concerning the transfer of Notes as the same may from time to time be agreed by the Issuer, the Registrar and the Trustee (the initial such regulations being set out in Schedule 1 (*Regulations concerning transfers and registration of Notes*));

“**Required Agent**” means any Paying and Transfer Agent (which expression shall include, for the purposes of this definition only, the Registrar) which is the sole remaining Paying and Transfer Agent with its Specified Office in any city where a stock exchange on which the Notes are listed requires there to be a Paying and Transfer Agent;

“**Specified Office**” means, in relation to any Agent:

- (a) the office specified against its name in Schedule 2 (*Specified Offices of the Agents*);
or
- (b) such other office as such Agent may specify in accordance with Clause 12.8 (*Changes in Specified Offices*);

“**Successor**” means, in relation to any person, an assignee or successor in title of such person who, under the law of its jurisdiction of incorporation or domicile, has assumed the rights and obligations of such person under this Agreement or to which under such laws the same have been transferred;

“**Trustee**” includes all persons for the time appointed trustee or trustees under the Trust Deed; and

“**U.S.\$**” and “**U.S. dollars**” denote the lawful currency for the time being of the United States.

1.2 **Clauses and Schedules**

Any reference in this Agreement to a Clause or a sub-clause or a Schedule is, unless otherwise stated, to a clause or a sub-clause hereof or a schedule hereto.

1.3 **Principal and Interest**

In this Agreement, any reference to principal or interest includes any additional amounts payable in relation thereto under the Conditions.

1.4 Terms defined in the Conditions and the Trust Deed

Terms and expressions used but not defined herein have the respective meanings given to them in the Conditions and the Trust Deed.

1.5 Statutes

Any reference in this Agreement to a statute, any provision thereof or to any statutory instrument, order or regulation made thereunder shall be construed as a reference to such statute, provision, statutory instrument, order or regulation as the same may have been, or may from time to time be, amended or re-enacted.

1.6 Headings

Headings and sub-headings are for ease of reference only and shall not affect the construction of this Agreement.

1.7 Singular and Plural

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

1.8 Amended Documents

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

2. APPOINTMENT OF THE AGENTS

2.1 Appointment

Each of the Issuer, the Guarantors and, for the purposes of Clause 8.5 (*Agents to act for Trustee*) only, the Trustee appoints each Agent as its agent in relation to the Notes for the purposes specified in this Agreement in each case acting at its Specified Office. The Agents shall act solely as agents of the Issuer and need have no concern for the interest of the Noteholders.

2.2 Acceptance of Appointment

Each Agent accepts its appointment as agent of the Issuer, the Guarantors and, in respect of Clause 8.5 (*Agents to act for Trustee*) only, the Trustee in relation to the Notes and agrees to comply with, and shall only be obliged to perform the duties expressed to be required of it by, this Agreement. The obligations of the Agents are several and not joint.

3. THE NOTES; AUTHENTICATION

3.1 The Global Note Certificates

On the Closing Date the Issuer shall deliver to the Registrar for authentication a duly executed Unrestricted Global Note representing the Notes sold in transactions outside the United States in reliance on, and in compliance with, Regulation S under the Securities Act, and a duly executed Restricted Global Note, representing the Notes sold pursuant to, and in reliance on, Rule 144A under the Securities Act. The Registrar (or its agent on its behalf) shall authenticate the Unrestricted Global Note and the Restricted Global Note and deliver them, in the case of the Unrestricted Global Note, to a depositary common to Euroclear and

Clearstream, Luxembourg and, in the case of the Restricted Global Note, to a custodian for DTC.

3.2 Limitations

Any transfer of interest in the Restricted Global Note shall be subject to the restrictions and limitations set out in the Rule 144A Legend. Any transfer of an interest in the Unrestricted Global Note during the Distribution Compliance Period shall be subject to the restrictions and limitations set out in the Regulation S Legend. No other restrictions and no certification requirements shall apply with respect to the transfer or exchange of (a) an interest in the Restricted Global Note for a further or other interest in the Restricted Global Note or (b) an interest in the Unrestricted Global Note for a further or other interest in the Unrestricted Global Note or (c) an interest in the Unrestricted Global Note for an interest in the Global Restricted Global Note after the Distribution Compliance Period. Such transfer or exchange shall be effected in accordance with the rules and procedures of DTC (or a successor depositary), Euroclear or Clearstream, Luxembourg, as applicable.

3.3 Availability of Individual Note Certificates

If the Issuer is required to deliver Individual Note Certificates pursuant to the terms of the Global Note Certificates, the Issuer (failing whom the Guarantors or any one or more of them) shall promptly arrange for a stock of Individual Note Certificates (unauthenticated and with the names of the registered Holders left blank but executed on behalf of the Issuer and otherwise complete) to be made available to the Registrar. The Issuer (failing whom the Guarantors or any one or more of them) shall also arrange for such Global Note Certificates and Individual Note Certificates as are required to enable the Registrar and the Principal Paying and Transfer Agent to perform their respective obligations under Clause 4 (*Exchanges of Global Note Certificates for Individual Note Certificates*), Clause 5 (*Transfers of Notes*) and Clause 6 (*Replacement Note Certificates*) to be made available to or to the order of the Registrar and the Principal Paying and Transfer Agent from time to time.

3.4 Authority to Authenticate

The Registrar is authorised by the Issuer to authenticate the Global Note Certificates and the Individual Note Certificates (if any) by the signature of any of its officers or any other person duly authorised for the purpose by the Registrar.

3.5 Duties of the Registrar and the Principal Paying and Transfer Agent

Each of the Registrar and the Principal Paying and Transfer Agent shall hold in safe custody all unauthenticated Global Note Certificates and Individual Note Certificates delivered to it in accordance with Clause 3.3 (*Availability of Individual Note Certificates*) and shall ensure that they are authenticated and delivered only in accordance with the terms hereof, of the Global Note Certificates (if applicable) and of the Conditions.

4. EXCHANGES OF GLOBAL NOTE CERTIFICATES FOR INDIVIDUAL NOTE CERTIFICATES

If the Global Note Certificates become exchangeable for Individual Note Certificates in accordance with its terms, the Registrar shall authenticate and deliver to each person designated by a Clearing System an Individual Note Certificates in accordance with the terms of this Agreement, the Trust Deed and the Global Note Certificates.

5. TRANSFERS OF NOTES

5.1 Maintenance of the Register

The Registrar shall maintain outside the United Kingdom a register (the “**Register**”) in respect of the Notes, which shall be kept at its Specified Office in accordance with the Conditions and be made available by the Registrar to the Issuer, any Guarantor, the Trustee and the other Agents for inspection. The Register shall show the aggregate principal amount, serial numbers and dates of issue of Note Certificates, the names and addresses of the initial Holders thereof and the dates of all transfers to, and the names and addresses of, all subsequent Holders thereof, all redemptions and cancellations of Note Certificates and all replacements of Note Certificates.

5.2 Registration of Transfers in the Register

The Registrar shall receive requests for the transfer of Notes in accordance with the Conditions and the Regulations and shall make the necessary entries in the Register.

5.3 Principal Paying and Transfer Agent to Receive Requests for Transfers of Notes

The Principal Paying and Transfer Agent shall receive requests for the transfer of Notes in accordance with the Conditions and the Regulations and assist, if required, in the issue of new Note Certificates to give effect to such transfers and, in particular, upon any such request being duly made, shall promptly notify the Registrar of:

- (a) the aggregate principal amount of the Notes to be transferred;
- (b) the name(s) and address(es) to be entered on the Register of the Holder(s) of the new Note Certificate(s) to be issued, in order to give effect to such transfer; and
- (c) the place and manner of delivery of the new Note Certificate(s) to be delivered in respect of such transfer,

and shall forward the Note Certificate(s) relating to the Notes to be transferred (with the relevant form(s) of transfer duly completed) to the Registrar with such notification.

5.4 Miscellaneous

Upon notification by the Issuer or any Guarantor of receipt of service of demands, requests, instructions, orders, judgements or awards, the Registrar shall (to the extent required by law) forthwith make such entries in the Register to give effect to such demands, requests, instructions, orders, judgments or awards.

6. REPLACEMENT NOTE CERTIFICATES

6.1 Delivery of Replacements

Subject to receipt of replacement Global Note Certificates and/or Individual Note Certificates (as the case may be), the Principal Paying and Transfer Agent shall, upon and in accordance with the written instructions of the Issuer (which instructions may, without limitation, include terms as to the payment of expenses and as to evidence, security and indemnity), complete, authenticate and deliver a Global Note Certificate or Individual Note Certificate which the Issuer has determined to issue as a replacement for any Global Note Certificate or Individual Note Certificate which has been mutilated or defaced or which has been or is alleged to have been destroyed, stolen or lost, *provided that* the Principal Paying and Transfer Agent shall not

deliver any Global Note Certificate or Individual Note Certificate as a replacement for any Global Note Certificate or Individual Note Certificate which has been mutilated or defaced otherwise than against surrender of the same and shall not issue any replacement Global Note Certificate or Individual Note Certificate until the applicant has furnished the Principal Paying and Transfer Agent with such evidence and indemnity as the Issuer and/or the Principal Paying and Transfer Agent may reasonably require and has paid such costs and expenses as may be incurred in connection with such replacement.

6.2 Replacements to be Numbered

Each replacement Global Note Certificate or Individual Note Certificate delivered hereunder shall bear a unique serial number.

6.3 Cancellation and destruction

The Principal Paying and Transfer Agent shall cancel and destroy each mutilated or defaced Global Note Certificate or Individual Note Certificate surrendered to it in respect of which a replacement has been delivered and report on such cancellation to the Issuer, Registrar and Trustee upon written request.

6.4 Notification

Upon written request therefor the Principal Paying and Transfer Agent shall notify the Issuer, each of the Guarantors, the other Agents, the Registrar and the Trustee of the delivery by it of any replacement Global Note Certificate or Individual Note Certificate, specifying the serial number thereof and the serial number (if any and if known) of the Global Note Certificate or Individual Note Certificate which it replaces and confirming (if such is the case) that the Global Note Certificate or Individual Note Certificate which it replaces has been cancelled and destroyed.

6.5 Legends on replacement Individual Note Certificates

The Principal Paying and Transfer Agent shall only deliver replacement Individual Note Certificates which, in the case of replacement Restricted Note Certificates, bear the Rule 144A Legend and, in the case of replacement Unrestricted Note Certificates, bear the Regulation S Legend unless otherwise agreed between the Issuer, the Guarantors, the Principal Paying and Transfer Agent, the Registrar and the Trustee.

7. PAYMENT TO THE PRINCIPAL PAYING AND TRANSFER AGENT

7.1 Issuer to pay Principal Paying and Transfer Agent

The Issuer (failing whom the Guarantors or any one or more of them) will, at least one Business Day before the date on which any payment in respect of the Notes becomes due, transfer or cause to be transferred to the Principal Paying and Transfer Agent such amount as may be required for the purposes of such payment. The Issuer (failing whom the Guarantors or any one or more of them) will procure that the bank through which such payment is to be made will supply to the Principal Paying and Transfer Agent by 3.00 p.m. (local time in the city of the Principal Paying and Transfer Agent's Specified Office) two business days in the city of the Principal Paying and Transfer Agent's Specified Office before the due date for any such payment an irrevocable confirmation (by tested telex or authenticated SWIFT message) of its intention to make such payment. In this Clause 7 (*Payment to the Principal Paying and Transfer Agent*), the date on which a payment in respect of the Notes becomes due means the first date on which the holder of a Note could claim the relevant payment by transfer to an

account under the Conditions, but disregarding the necessity for it to be a business day in any particular place of presentation.

7.2 Manner and Time of Payment

All sums payable to the Principal Paying and Transfer Agent hereunder will be paid in U.S. dollars and in immediately available or same day funds in accordance with Clause 7.1 (*Issuer to pay Principal Paying and Transfer Agent*) to such account with such bank in New York City or London, as the Principal Paying and Transfer Agent may from time to time notify to the Issuer and the Guarantors (the “**Account**”).

7.3 Moneys held by Principal Paying and Transfer Agent

The Principal Paying and Transfer Agent may deal with moneys paid to it under this Agreement in the same manner as other moneys paid to it as a banker by its customers except that (a) it may not exercise any lien, right of set-off or similar claim in respect of them and (b) it shall not be liable to anyone for interest on any sums held by it under this Agreement. No funds held by the Agents for the payment of any sum in respect of the Notes need to be segregated from other funds held by such Agents, except as required by law.

7.4 Application by Principal Paying and Transfer Agent

The Principal Paying and Transfer Agent shall (and is hereby authorised by the Issuer (or, as the case may be, the Guarantors) to) apply in accordance with Clause 8 (*Payments to Noteholders*) each amount paid to the Account and shall not be obliged to repay to the Issuer (or, as the case may be, any Guarantor) any such amount unless the claim for the relevant payment becomes void under Condition 13 (*Prescription*) in which event it shall, on condition that such payment has not already left the account of the Principal Paying and Transfer Agent or the Trustee, refund at the written request of the Issuer (or, as the case may be, the relevant Guarantor) or pursuant to its order such portion of such amount as relates to such payment by paying the same by credit transfer in U.S. dollars to such account with such bank in New York as the Issuer (or, as the case may be, the relevant Guarantor) has by notice to the Principal Paying and Transfer Agent specified for the purpose.

7.5 Failure to Pay

If the Principal Paying and Transfer Agent has not, by the due date of any payment in respect of the Notes under Clause 7.1 (*Issuer to pay Principal Paying and Transfer Agent*) received such payment unconditionally in full in U.S. dollars, it shall forthwith notify the Issuer, the Guarantors, the Trustee and any other Paying and Transfer Agent. If the Principal Paying and Transfer Agent subsequently receives such payment, it shall forthwith notify the Issuer, the Guarantors, the Trustee and any other Paying and Transfer Agent.

8. PAYMENTS TO NOTEHOLDERS

8.1 Payments by the Paying and Transfer Agents

Subject to the payments to the Account being duly made pursuant to Clause 7.1 (*Issuer to pay Principal Paying and Transfer Agent*) and subject to the receipt of the relevant information from the Registrar as provided in sub-clause 8.1(e), each Paying and Transfer Agent acting through its Specified Office shall make payments of principal, interest and additional amounts, if any, in respect of Notes in accordance with the Conditions and, so long as the Notes are evidenced by the Global Note Certificates, the terms thereof, *provided that*:

- (a) if any Global Note Certificate or Individual Note Certificate is presented or surrendered for payment to any Paying and Transfer Agent and such Paying and Transfer Agent has delivered a replacement therefor or has been notified that the same has been replaced, such Paying and Transfer Agent shall forthwith notify the Issuer, the Guarantors, the Trustee and (if such Paying and Transfer Agent is not the Principal Paying and Transfer Agent) the Principal Paying and Transfer Agent of such presentation or surrender and shall not make payment against the same until it is so instructed by the Issuer or the Guarantors or any one or more of them, as the case may be, (or, for the purposes of Clause 8.5 (*Agents to act for Trustee*) only, the Trustee) and the Principal Paying and Transfer Agent has received the amount to be so paid;
- (b) no Paying and Transfer Agent shall be obliged (but shall be entitled) to make such payments if:
 - (i) in the case of the Principal Paying and Transfer Agent, it has not received the full amount of any payment due to it under Clause 7.1 (*Issuer to pay Principal Paying and Transfer Agent*); or
 - (ii) in the case of any other Paying and Transfer Agent, it is not able to establish that the Principal Paying and Transfer Agent has received (whether or not at the due time) the full amount of any payment due to it under Clause 7.1 (*Issuer to pay Principal Paying and Transfer Agent*);
- (c) each Paying and Transfer Agent shall cancel each Note Certificate against presentation and surrender of which it has made full payment and shall deliver each Note Certificate so cancelled by it to, or to the order of, the Registrar;
- (d) notwithstanding any other provision of this Agreement, each Paying and Transfer Agent shall be entitled to make a deduction or withholding from any payment which it makes under this Agreement for or on account of any present or future taxes, duties or charges if and to the extent so required by applicable law, in which event such Paying and Transfer Agent shall make such payment after such withholding or deduction has been made and shall account to the relevant authorities for the amount so withheld or deducted;
- (e) at least ten days prior to each date on which a payment of principal or interest or any additional amounts (if any) are due in respect of the Notes, the Registrar shall notify the Principal Paying and Transfer Agent of the names and addresses of the Noteholders to whom payment is due, the amount of the payment to each such Noteholder and any applicable payment instructions. No Paying and Transfer Agent shall be liable for the failure to make any payment occasioned by any misinformation provided to it in this Clause 8.1(e); and
- (f) if the Principal Paying and Transfer Agent makes any payment in respect of the Notes on or after the due date therefore to Persons entitled thereto on the assumption that the corresponding payment by the Issuer has been or will be made to the Principal Paying and Transfer Agent and no such payment is made to the Issuer, the Issuer shall reimburse the Principal Paying and Transfer Agent for the relevant amount, and pay interest on such amount from the date on which the Principal Paying and Transfer Agent made such payment until the date of reimbursement of such amount, such interest to be at a rate which is two (2) percent per annum over the rate specified by the Principal Paying and Transfer Agent as reflecting its cost of funds and certified by the Principal Paying and Transfer Agent (which rate shall be expressed as a rate per annum and shall be calculated on the basis of the actual number of days elapsed in a 360-day year).

8.2 Exclusion of Liens and Commissions

No Paying and Transfer Agent shall exercise any lien, right of set-off or similar claim against any person to whom it makes any payment under Clause 8.1 (*Payments by the Paying and Transfer Agents*) in respect thereof, nor shall any commission or expense be charged by it to any such person in respect thereof.

8.3 Reimbursement by the Principal Paying and Transfer Agent

If a Paying and Transfer Agent other than the Principal Paying and Transfer Agent makes any payment in accordance with Clause 8.1 (*Payments by the Paying and Transfer Agents*):

- (a) it shall notify the Principal Paying and Transfer Agent of the amount so paid by it and the serial number and principal amount of each Note Certificate in relation to which payment of principal or interest was made; and
- (b) subject to and to the extent of compliance by the Issuer (or, as the case may be, the Guarantors) with Clause 7.1 (*Issuer to pay Principal Paying and Transfer Agent*) (whether or not at the due time), the Principal Paying and Transfer Agent shall pay to such Paying and Transfer Agent out of the funds received by it under Clause 7.1 (*Issuer to pay Principal Paying and Transfer Agent*), by credit transfer in U.S. dollars and in same day, freely transferable, cleared funds to such account with such bank in New York as such Paying and Transfer Agent has by notice to the Principal Paying and Transfer Agent specified for the purpose, an amount equal to the amount so paid by such Paying and Transfer Agent.

8.4 Partial Payments

If at any time and for any reason a Paying and Transfer Agent makes a partial payment in respect of the Global Note Certificates or any Individual Note Certificates presented for payment to it, such Paying and Transfer Agent shall endorse thereon a statement indicating the amount and the date of such payment. In addition, if, on any due date for payment, less than the full amount of any principal or interest is paid in respect of the Notes, the Registrar will note on the Register a memorandum of the amount and date of any payment then made and, if the Global Note Certificates or any Individual Note Certificates are presented for payment in accordance with the Conditions and no payment is then made, the date of presentation of the Global Note Certificates or (as the case may be) such Individual Note Certificates.

8.5 Agents to act for Trustee

At any time after any Event of Default (as defined in the Terms and Conditions) or any Potential Event of Default (as defined in the Trust Deed) has occurred and is continuing, each Agent shall, if so required by notice given by the Trustee to the Issuer, the Guarantors and the Agents (or such of them as are specified by the Trustee):

- (a) act thereafter, until otherwise instructed by the Trustee, as the agents of the Trustee in relation to payments and calculations to be made by or on behalf of the Trustee under the Trust Deed (save that the Trustee's liability for the indemnification of any of the Agents shall be limited to the amounts for the time being held by the Trustee on the trusts of the Trust Deed and available to the Trustee for such purpose) and thereafter to hold all Note Certificates and all sums, documents and records held by them in respect of the Notes on behalf of the Trustee; and/or

- (b) deliver up all Note Certificates and all sums, documents and records held by them in respect of the Notes to the Trustee or as the Trustee shall direct in such notice, *provided that* such notice shall not be deemed to apply to any document or record which any Agent is obliged not to release by any law or regulation.

9. EARLY REDEMPTION

9.1 Notice of Redemption

If the Issuer intends to redeem all or any of the Notes pursuant to Condition 9 (*Redemption, Purchase and Cancellation*) before their stated maturity date it shall, at least 14 days before the latest date for the publication of the notice of redemption required to be given to Noteholders as provided for in Condition 16 (*Notices*), give notice of its intention to the Agents and the Trustee stating the date on which such Notes are to be redeemed and the principal amount of Notes to be redeemed.

9.2 Redemption Notice

The Principal Paying and Transfer Agent shall publish, at the Issuer's (failing which the Guarantors' (or any one or more of them)) expense, the notice required in connection with such redemption. Such notice shall specify the date fixed for redemption, the redemption price and the manner in which redemption will be effected.

9.3 Redemption at the option of the Noteholders

Each Paying and Transfer Agent will keep a stock of notices (each, a "**Put Option Notice**") in the form set out in Schedule 3 (*Form of Put Option Notice*) and will make them available on demand to Noteholders. The Paying and Transfer Agent with which a Note Certificate is deposited pursuant to Condition 9.3(c) (*Redemption at the option of the Noteholders*) shall hold such Note Certificate on behalf of the depositing Noteholder (but shall not, save as provided below, release it) until the due date for its redemption pursuant to that Condition. On that date, subject as provided below, it shall present such Note Certificate to itself for payment of the relevant redemption moneys (including premium (if any) and interest accrued to such date) in accordance with the Conditions and shall pay such moneys in accordance with the Noteholder's directions given in the Put Option Notice. If such Note becomes immediately due and payable before that date, or if upon due presentation payment of such redemption moneys is improperly withheld or refused, such Note Certificate shall, without prejudice to the exercise of the Put Option, be returned to the Noteholder by uninsured first class mail (airmail if overseas) at the address given by the Noteholder in the Put Option Notice. At the end of the period for exercising the option in Condition 9.3(c) (*Redemption at the option of the Noteholders*), each Paying Agent shall within, where practicable two Business Days of receiving such information notify the Principal Paying and Transfer Agent of the principal amount of Notes deposited with it together with their certificate numbers and the Principal Paying and Transfer Agent shall promptly thereafter notify such details to the Issuer and each of the Guarantors.

10. MISCELLANEOUS DUTIES OF THE AGENTS

10.1 Cancellation

Each of the Issuer and any Guarantor may from time to time deliver to the Registrar Note Certificates for cancellation, whereupon the Registrar shall cancel the same and shall make the corresponding entries in the Register.

10.2 Notes in issue

As soon as practicable after receiving a written request therefor, the Registrar shall notify the Issuer, the Guarantors and the Trustee of the serial numbers and principal amount of any Note Certificates against surrender of which payment has been made and of the serial numbers and principal amount of any Note Certificates (and the names and addresses of the Holders thereof) which have not yet been surrendered for payment.

10.3 Forwarding of Communications

Each Agent shall promptly forward to the Issuer, the Guarantors and the Trustee a copy of any notice or communication addressed to the Issuer, the Guarantor (or any one or more of them) and the Trustee which is received by such Agent.

10.4 Maintenance of records

Each of the Agents shall maintain records of all documents received by it in connection with its duties hereunder and shall make such records available for inspection at all reasonable times by the Issuer, any Guarantor, the Trustee and the other Agents and, in particular the Registrar shall: (a) maintain a record of all Note Certificates delivered hereunder and of their redemption, payment, cancellation, mutilation, defacement, alleged destruction, theft, loss and replacement; and (b) make such records available for inspection at all reasonable times by the Issuer, any Guarantor, the Trustee and the other Agents.

10.5 Publication and Delivery of Notices

The Registrar shall, upon and in accordance with the written instructions of the Issuer, any Guarantor and/or the Trustee received at least ten days before the proposed publication date, arrange for the publication and delivery of any notice which is to be given to the Noteholders and shall supply a copy thereof to the other Agents, the Trustee, each stock exchange (if any) on which the Notes are then listed and each Clearing System. Such publication will be at the expense of the Issuer (failing whom any Guarantor).

10.6 Documents available for inspection

The Issuer (failing whom any Guarantor) shall provide to each Agent and the Trustee:

- (a) conformed copies of this Agreement and the Trust Deed (including the Conditions and the form of the Global Note Certificates and Individual Note Certificates); and
- (b) such other documents as may from time to time be required by the London Stock Exchange plc (or such other stock exchange upon which the Notes are listed or quoted from time to time) to be made available at the Specified Office of the Agent having its Specified Offices in London (or such other country as may be required by the rules of such other stock exchange).

Each of the Agents shall make available for inspection during normal business hours at its Specified Office the documents referred to above.

10.7 Forms of Proxy

The Registrar shall, at the request of the Holder of any Note, make available uncompleted and unexecuted Forms of Proxy in a form and manner which comply with the provisions of Schedule 3 (*Form of Put Option Notice*) to the Trust Deed. The Registrar shall keep a full record of completed and executed Forms of Proxy received by it and will give to the Issuer,

the Guarantors and the Trustee, not less than 24 hours before the time appointed for any meeting or adjourned meeting, full particulars of duly completed Forms of Proxy received by it in respect of such meeting or adjourned meeting.

11. TERMS OF APPOINTMENT

11.1 Rights and powers

Each Agent may, without incurring any liability, in connection with its services hereunder:

- (a) except as ordered by a court of competent jurisdiction or otherwise required by law and regardless of any notice of ownership, trust or any other interest therein, any writing on the Note Certificate relating to any Note by any person (other than a duly executed form of transfer) or any notice of any previous loss or theft thereof, but subject to sub-clause 8.1(a) (*Payments by the Paying and Transfer Agents*), treat the registered Holder of any Note as its absolute owner for all purposes and make payments thereon accordingly;
- (b) assume that the terms of the Global Note Certificates and each Individual Note Certificate as issued are correct;
- (c) rely upon the terms of any notice, communication or other document believed by it to be genuine; and
- (d) engage the advice or services of any lawyers or other experts whose advice or services it considers necessary and rely upon any advice so obtained (whether or not limited by a monetary cap or otherwise) and such Agent shall be protected and shall incur no liability as against the Issuer or any Guarantor in respect of any action taken, or permitted to be taken, not taken, in accordance with such advice and in good faith.

11.2 Extent of Duties

Each Agent shall only be obliged to perform the duties set out in this Agreement and the Conditions and no implied duties or obligations shall be read into this Agreement or the Conditions in respect of the Agents. No Agent shall:

- (a) be under any fiduciary duty or other obligation towards or have any relationship of agency or trust for or with any person other than the Issuer, any Guarantor and, for the purposes of Clause 8.5 (*Agents to act for Trustee*) only, the Trustee;
- (b) be responsible for or liable in respect of the legality, validity or enforceability of the Notes or any Note Certificate (other than in respect of authentication of Note Certificates by it in accordance with this Agreement) or any act or omission of any other person (including, without limitation, any other Agent); or
- (c) be liable to the Issuer or any Guarantor or any other party to this Agreement for any consequential loss (being loss of business, goodwill, opportunity or profit) arising out of any breach by such Agent of any of its obligations under this Agreement even if advised of the possibility of such loss or damage.

11.3 Freedom to Transact

Each Agent may purchase, hold and dispose of Notes and may enter into any transaction (including, without limitation, any depositary, trust or agency transaction) with any Holders of Notes or with any other party hereto in the same manner as if it had not been appointed as

the agent of the Issuer or the Guarantors in relation to the Notes and need not account for any profit.

11.4 **Communications by non-secure methods**

In no event shall the Agents be liable for any losses arising to it from receiving or transmitting any data from the Issuer, the Guarantors or their authorised representatives via any non-secure method of transmission or communication, such as, but without limitation, by facsimile or email.

The Issuer and the Guarantors accept that some methods of communication are not secure, and the Agents shall incur no liability for receiving instructions via any such non-secure method. The Agents are authorised to comply with and rely upon any such notice, instruction or other communications believed by it to have been sent by an authorised representative. The Issuer and the Guarantors shall use all reasonable endeavours to ensure that instructions transmitted to the Agents pursuant to this Agreement are completed and correct. Any instructions shall be conclusively deemed to be valid instructions from the Issuer and the Guarantors to the Agents for the purposes of this Agreement.

12. **CHANGES IN AGENTS**

12.1 **Resignation**

Any Agent may resign its appointment upon not less than 30 days' notice to the Issuer and the Guarantors (with a copy to the Trustee and, in the case of an Agent other than the Principal Paying and Transfer Agent or the Registrar, to the Principal Paying and Transfer Agent and the Registrar), *provided that*:

- (a) if such resignation would otherwise take effect less than 30 days before or after the maturity date or other date for redemption of the Notes or any interest payment date in relation to the Notes, it shall not take effect until the thirtieth day following such date; and
- (b) in the case of the Registrar, the Principal Paying and Transfer Agent or a Required Agent, such resignation shall not take effect until a successor has been duly appointed in accordance with Clause 12.4 (*Additional and Successor Agents*) or Clause 12.5 (*Agents may Appoint Successors*) and notice of such appointment has been given to the Noteholders.

12.2 **Revocation**

The Issuer and the Guarantors (acting together) may (with the prior written approval of the Trustee) revoke their appointment of any Agent by not less than 30 days' notice to such Agent (with a copy, in the case of an Agent other than the Principal Paying and Transfer Agent or the Registrar, to the Principal Paying and Transfer Agent and the Registrar), *provided that* in the case of the Registrar, the Principal Paying and Transfer Agent or any Required Agent, such revocation shall not take effect until a successor has been duly appointed in accordance with Clause 12.4 (*Additional and Successor Agents*) or Clause 12.5 (*Agents may Appoint Successors*) and previously approved in writing by the Trustee and notice of such appointment has been given to the Noteholders.

12.3 **Automatic Termination**

The appointment of any Agent shall terminate forthwith if: (a) such Agent becomes incapable of acting; (b) a secured party takes possession, or a receiver, manager or other similar officer

is appointed, of the whole or any part of the undertaking, assets and revenues of such Agent; (c) such Agent admits in writing its insolvency or inability to pay its debts as they fall due; (d) an administrator or liquidator of such Agent or the whole or any part of the undertaking, assets and revenues of such Agent is appointed (or application for any such appointment is made); (e) such Agent takes any action for a readjustment or deferment of any of its obligations or makes a general assignment or an arrangement or composition with or for the benefit of its creditors or declares a moratorium in respect of any of its indebtedness; or (f) an order is made or an effective resolution is passed for the winding-up of such Agent. If the appointment of the Registrar, Principal Paying and Transfer Agent or any Required Agent is terminated in accordance with the preceding sentence, the Issuer (failing whom any Guarantor) shall forthwith appoint a successor in accordance with Clause 12.4 (*Additional and Successor Agents*).

12.4 **Additional and Successor Agents**

The Issuer and the Guarantors (acting together) may (with the prior written approval of the Trustee) appoint a successor registrar or principal paying and transfer agent and additional or successor paying and transfer agents and shall forthwith give notice of any such appointment to the continuing Agents, the Noteholders and the Trustee, whereupon the Issuer, the Guarantors, the continuing Agents, the Trustee and the additional or successor registrar, principal paying and transfer agent or paying and transfer agent shall acquire and become subject to the same rights and obligations between themselves as if they had entered into an agreement in the form *mutatis mutandis* of this Agreement.

12.5 **Agents may Appoint Successors**

If the Registrar, the Principal Paying and Transfer Agent or any Required Agent gives notice of its resignation in accordance with Clause 12.1 (*Resignation*) and by the tenth day before the expiry of such notice a successor has not been duly appointed in accordance with Clause 12.4 (*Additional and Successor Agents*), the Registrar or (as the case may be) the Principal Paying and Transfer Agent or the Required Agent may itself, following such consultation with the Issuer and the Guarantors as is practicable in the circumstances and with the prior written approval of the Trustee, appoint as its successor any reputable and experienced financial institution and give notice of such appointment to the Issuer and the Guarantors, the remaining Agents, the Trustee and the Noteholders, whereupon the Issuer, the Guarantors, the remaining Agents, the Trustee and such successor shall acquire and become subject to the same rights and obligations between themselves as if they had entered into an agreement in the form *mutatis mutandis* of this Agreement.

12.6 **Release**

Upon any resignation or revocation taking effect under Clause 12.1 (*Resignation*) or 12.2 (*Revocation*) or any termination taking effect under Clause 12.3 (*Automatic Termination*), the relevant Agent shall:

- (a) be released and discharged from (i) its obligations under this Agreement (save that it shall remain entitled to the benefit of and be subject to Clause 11 (*Terms of Appointment*) and Clause 12 (*Changes in Agents*)); and (ii) all liabilities relating to any successor;
- (b) in the case of the Registrar, deliver to the Issuer and the Guarantors a copy, certified as true and up-to-date by an officer or authorised signatory of the Registrar, of the records maintained by it in accordance with Clause 5.1 (*Maintenance of the Register*); and

- (c) forthwith transfer all moneys and papers (including any unissued Note Certificates held by it hereunder and any documents held by it pursuant to Clause 10.6 (*Documents available for inspection*)) to its successor and, upon appropriate notice, provide reasonable assistance to its successor for the discharge of its duties and responsibilities hereunder.

12.7 Merger

Any legal entity into which any Agent or the Trustee is merged or converted or any legal entity resulting from any merger or conversion to which such Agent is a party shall, to the extent permitted by applicable law, be the successor to such Agent or, as the case may be, the Trustee without any further formality, whereupon the Issuer, the Guarantors, the other Agents, the Trustee and such successor shall acquire and become subject to the same rights and obligations between themselves as if they had entered into an agreement in the form *mutatis mutandis* of this Agreement. Notice of any such merger or conversion shall forthwith be given by such successor to the Issuer, the Guarantors, the Trustee, the other Agents and the Noteholders.

12.8 Changes in Specified Offices

If any Agent decides to change its Specified Office it shall give notice to the Issuer and the Guarantors (with a copy to the Trustee and the other Agents) of the address of the new Specified Office stating the date on which such change is to take effect, which date shall be not less than 30 days after the date of such notice. The Issuer (failing whom the Guarantors or any one or more of them) shall at its own expense not less than 14 days prior to the date on which such change is to take effect (unless the appointment of the relevant Agent is to terminate pursuant to any of the foregoing provisions of this Clause 12 (*Changes in Agents*)) on or prior to the date of such change) give notice thereof to the Noteholders.

13. INDEMNITY

13.1 By the Issuer and the Guarantors

The Issuer and each of the Guarantors will jointly and severally indemnify each Agent against any loss, liability, cost, claim, action, demand or expense (including, but not limited to, the costs of any lawyers or other experts and all properly incurred costs, charges and expenses paid or incurred in disputing or defending any of the foregoing) which it may incur or which anyone appointed by the Agent, or which may be made against it arising out of or in relation to or in connection with its appointment or the exercise of its functions, except such as may result from its wilful default, negligence or bad faith or that of its officers or employees. The indemnity set out in this Clause 13.1 shall survive the termination or expiry of this Agreement and the resignation or removal of any Agent.

13.2 Notwithstanding any provision of this Agreement to the contrary no Agent shall in any event be liable for any special, indirect, punitive or consequential loss or damage of any kind (including but not limited to lost profits), whether or not foreseeable, and whether or not such Agent is aware of, or such Agent has been advised of, the likelihood of such loss or damage and regardless of whether the claim for loss or damage is made in negligence, for breach of contract or otherwise.

14. COMMISSIONS, FEES AND EXPENSES

14.1 Fees

The Issuer (failing whom the Guarantors or any one or more of them) jointly and severally will pay to the Principal Paying and Transfer Agent the commissions, fees and expenses in respect of the Agents' services as separately agreed with the Principal Paying and Transfer Agent and neither the Issuer nor the Guarantors need concern itself with their apportionment between the Agents.

14.2 Costs

The Issuer (failing whom the Guarantors or any one or more of them) jointly and severally will also on demand by any Agent pay or discharge all costs, charges, liabilities and expenses properly incurred by the Agent(s) in the preparation and execution of the Agreement, and in the performance of their functions under this Agreement, including but not limited to legal and travelling expenses incurred by the Agent(s) in the negotiation or execution of the Agreement.

The Issuer (failing whom the Guarantors or any one or more of them) jointly and severally will also pay on demand all out-of-pocket expenses (including, but not limited to, legal, advertising and postage expenses) properly incurred by the Agents in connection with their services together with any applicable value added tax and stamp, issue, documentary or other taxes and duties.

The Agents shall have no obligation to act if it believes it will incur costs for which it will not be reimbursed.

14.3 Payments and Interest

The Issuer (failing whom the Guarantors or any one or more of them) jointly and severally will ensure that all the commissions, fees, costs, charges, liabilities and expenses incurred under this Clause 14 (*Commission, Fees and Expenses*), or otherwise, by the Agents are paid within 30 days of receipt of a written demand. After such period any amounts owing by the Issuer or any Guarantor to any Agent will carry interest from the date of demand at the rate of 2 per cent. per annum over the base rate of a U.K. clearing bank (as selected by the Principal Paying and Transfer Agent and notified to the Issuer and the Guarantors).

14.4 No Withholding

All payments to be made by the Issuer or any Guarantor under this Agreement shall be made free and clear of, and without any deduction for, any taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed under any applicable law by or within any relevant jurisdiction or any authority therein or thereof having the power to tax, unless such withholding or deduction is required by law. In such an event, the amount payable shall be increased to an amount which will result in the receipt by the Trustee, the Registrar and the Agents of such amount as would have been received by them had no such withholding or deduction been required. In the case of a

substitution of KTZ in place of the Issuer as well as the necessity of payments to be made by any Guarantor, each of the Trustee, Registrar and the Agents which are resident in countries that have concluded double tax treaties with the Republic of Kazakhstan shall provide tax residency certificates or other documents certifying residency of each of the Trustee, Registrar and the Agents as required by the legislation of the Republic of Kazakhstan provided, however, that a failure to procure such certificate or a delay in doing so shall not relieve the Issuer or any Guarantor from the obligation to pay the increased amounts referred to herein. The reasonable cost of providing such certificates will be borne by the Issuer, failing whom the Guarantors.

15. CURRENCY INDEMNITY

An amount received or recovered in a currency other than U.S. dollars (the “**Contractual Currency**”) (whether as a result of, or of the enforcement of, a judgment or order of a court of any jurisdiction, in the winding-up or dissolution of the Issuer or any Guarantor, as the case may be, or otherwise), by any of the Agents in respect of any sum expressed to be due to it from the Issuer or the relevant Guarantor, as the case may be, will only discharge the Issuer or the relevant Guarantor, as the case may be, to the extent of the Contractual Currency amount which the recipient is able to purchase with the amount so received or recovered in that other currency on the date of that receipt or recovery (or, if it is not practicable to make that purchase on that date, on the first date on which it is practicable to do so).

If that Contractual Currency amount is less than the Contractual Currency amount expressed to be due to the recipient under this Agreement, each of the Issuer and the Guarantors or any one or more of them jointly and severally will indemnify it against any loss sustained by it as a result. In any event, each of the Issuer and the Guarantors or any one or more of them jointly and severally will indemnify the recipient against the cost of making any such purchase.

16. NOTICES

16.1 Addresses for Notices

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

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

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

Kazakhstan Temir Zholy Finance B.V.
Prins Bernhardplein 200
1097 JB Amsterdam
The Netherlands]

Fax no.: +31 653172023
Attention: Wim G. Rieff

Fax no.: +7 7172 60 40 42
Attention: Almas M. Lepasbayev

Fax no.: +7 7172 93 02 01
Attention: Shagdarbek N. Zhaisanbayev

(b) **Guarantors:** if to the Guarantors, to them respectively at

(i) JSC National Company Kazakhstan Temir Zholy
6 Kunayev Street
Esil District
Astana
010000
Republic of Kazakhstan

Fax no.: +7 7172 60 43 02
Attention: Kanat K. Alpysbayev

(ii) JSC Kaztemirtrans
6 Kunayev Street
Esil District
Astana
010000
Republic of Kazakhstan

Fax no.: +7 7172 60 07 03
Attention: Denis P. Cherkashin

(iii) JSC Locomotive
6 Kunayev Street
Esil District
Astana
010000
Republic of Kazakhstan

Fax no.: +7 7172 60 03 03
Attention: Askar B. Maksutov

(c) **Principal Paying and Transfer Agent:** if to the Agent, to it at:

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

Fax: +44 20 7964 2536
Attention: Corporate Trust Administration

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

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

Fax: +44 20 7964 2536
Attention: Corporate Trust Administration

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

16.2 **Delivery**

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

16.3 **Notices to Noteholders**

Any notice required to be given to Noteholders under this Agreement shall be given in accordance with the Conditions; *provided, however, that*, so long as the relevant Notes are represented by a Global Note Certificate, notices to Noteholders shall be given in accordance with the terms of the Global Note Certificates.

16.4 **Notices in English**

All notices and other communications hereunder shall be made in the English language or shall be accompanied by a certified English translation thereof. Any certified English translation delivered hereunder shall be certified a true and accurate translation by a professionally qualified translator or by some other person competent to do so.

17. **LAW AND JURISDICTION**

17.1 **Governing Law**

This Agreement, including any non-contractual obligations arising out of or in connection with this Agreement are governed by, and shall be construed in accordance with, English law.

17.2 **Arbitration**

The Issuer and each Guarantor agrees that any claim, dispute or difference of whatever nature arising under, out of or in connection with this Agreement (including a claim, dispute or difference regarding its existence, termination or validity or any non-contractual obligations arising out of or in connection with this Agreement) (a “**Dispute**”), shall be referred to and finally settled by arbitration in accordance with the rules of the London Court of International Arbitration (“**LCIA**”) (the “**Rules**”) as at present in force and as modified by this Clause, which Rules shall be deemed incorporated into this Clause. The number of arbitrators shall be three, one of whom shall be nominated by the Issuer/Guarantors, one by the Trustee and/or the Agent(s) and the third of whom, who shall act as Chairman, shall be nominated by the two party-nominated arbitrators, provided that if the third arbitrator has not been nominated within 30 days of the nomination of the second party-nominated arbitrator, such third arbitrator shall be appointed by the LCIA court. The seat of arbitration shall be London, England and the language of arbitration shall be English. Sections 45 and 69 of the Arbitration Act 1996 shall not apply.

17.3 **Agent’s/Trustee’s Option:**

At any time before the Trustee and/or the Agent(s) have nominated an arbitrator to resolve any Dispute(s) pursuant to Clause 17.2 (*Arbitration*), the Trustee and/or the Agent(s), at their sole option, may elect by notice in writing to the Issuer and the Guarantors that such Dispute(s) shall instead be heard by the courts of England or by any other court of competent

jurisdiction, as more particularly described in Clause 17.4 (*Jurisdiction*). Following any such election, no arbitral tribunal shall have jurisdiction in respect of such Dispute(s).

17.4 **Jurisdiction.**

In the event that the Trustee and/or the Agent(s) serve a written notice of election in respect of any Dispute(s) pursuant to Clause 17.3 (*Agent's/Trustee's Option*), the Trustee and/or the Agent(s) and the Issuer and each Guarantor agrees, that the courts of England shall have jurisdiction to hear and determine any such Dispute(s) and, for such purposes, irrevocably submit to the jurisdiction of such courts. Subject to Clause 17.2 (*Arbitration*), nothing in this Clause shall (or shall be construed so as to) limit the right of the Trustee and/or the Agent(s) to bring proceedings (“**Proceedings**”) for the determination of any Dispute(s) in any other court of competent jurisdiction, nor shall the bringing of such Proceedings in any one or more jurisdictions preclude the bringing of Proceedings by any Manager in any other jurisdiction (whether concurrently or not) if and to the extent permitted by law.

17.5 **Appropriate Forum.**

For the purposes of Clause 17.4 (*Jurisdiction*), the Issuer and each Guarantor irrevocably waive any objection which it might now or hereafter have to the courts of England being nominated as the forum to hear and determine any Proceedings and agreed not to claim that any such court is not a convenient or appropriate forum.

17.6 **Power of Attorney**

If the Issuer is represented by an attorney in connection with the signing of the Agreement, and the relevant power of attorney is governed by and constructed in accordance with the laws of The Netherlands, it is hereby expressly accepted and acknowledged by the other parties to this Agreement that such laws shall govern the existence and extent of such attorney's authority, and the effects of the exercise thereof.

17.7 **Service of process**

Each of the Issuer and the Guarantors irrevocably appoints Bracewell & Giuliani (UK) LLP at 15 Old Bailey, London EC4M 7EF, as its authorised agent for service of process in England. Nothing in this Agreement shall affect the right to serve process in any other manner permitted by law.

17.8 **Consent to enforcement, etc.**

The Issuer and each Guarantor consents generally in respect of any Proceedings to the giving of any relief or the issue of any process in connection with such Proceedings, including (without limitation) the making, enforcement or execution against any property whatsoever (irrespective of its use or intended use) of any order or judgment that may be given in such Proceedings.

17.9 **Waiver of immunity**

To the extent that the Issuer or any Guarantor may in respect of any Proceedings or Dispute (as defined below) in any jurisdiction be entitled to claim for itself or its assets or revenues immunity from suit, from the jurisdiction of any court, from execution, attachment (whether in aid of execution of a judgment, before judgment or otherwise) or any other relief or other legal process and to the extent that such immunity (whether or not claimed) may be attributed

in any such jurisdiction to the Issuer or such Guarantor or its assets or revenues, the Issuer and each Guarantor have irrevocably agreed not to claim and have irrevocably waived such immunity to the fullest extent permitted now or hereafter by the laws of such jurisdiction in which such Proceedings or Dispute (as defined below) are commenced.

18. MODIFICATION; SUPPLEMENT

This Agreement may be amended by further agreement among the parties hereto and without the consent of the Noteholders and may be supplemented without the consent of the Noteholders so as to add Additional Guarantors to this Agreement.

19. RIGHTS OF THIRD PARTIES

A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of this Agreement.

20. COUNTERPARTS

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

21. LANGUAGE

This Agreement has been prepared and negotiated in English which shall be the governing language. In order to comply with internal requirements of the Guarantors, Kazakh and Russian versions of this Agreement may be prepared. In the event of any inconsistency between the Kazakh, Russian and English language versions, the English language version shall prevail to the extent of such inconsistency and the Kazakh and Russian versions shall be amended accordingly, without any act or approval by any party hereto, to reflect the meaning of the English version. The existence of multiple versions of this Agreement shall not be construed to create multiple obligations on the parties hereto.

AS WITNESS the hands of the duly authorised representatives of the parties hereto the day and year first before written.

SCHEDULE 1

REGULATIONS CONCERNING TRANSFERS AND REGISTRATION OF NOTES

1. Notes sold (i) in offshore transactions in reliance on Regulation S (the “**Regulation S Notes**”) are in the denomination of U.S.\$200,000 and integral multiples of U.S.\$1,000 in excess thereof and (ii) in reliance on Rule 144A (the “**Rule 144A Notes**”) are in the denomination of U.S.\$200,000 and integral multiples of U.S.\$1,000 in excess thereof.
2. Subject to paragraph 4 and paragraph 11 below, Notes may be transferred by execution of the relevant form of transfer under the hand of the transferor or, where the transferor is a corporation, under its common seal or under the hand of two of its officers duly authorised in writing. Where the form of transfer is executed by an attorney or, in the case of a corporation, under seal or under the hand of two of its officers duly authorised in writing, a copy of the relevant power of attorney certified by a financial institution in good standing or a notary public or in such other manner as the Registrar may require or, as the case may be, copies certified in the manner aforesaid of the documents authorising such officers to sign and witness the affixing of the seal must be delivered with the form of transfer. In this Schedule, “**transferor**” shall, where the context permits or requires, include joint transferors and shall be construed accordingly.
3. The Note Certificate issued in respect of the Notes to be transferred must be surrendered for registration, together with the form of transfer (including any certification as to compliance with restrictions on transfer included in such form of transfer) endorsed thereon, duly completed and executed, at the Specified Office of the Registrar or any Paying and Transfer Agent, and together with such evidence as the Registrar or (as the case may be) the relevant Paying and Transfer Agent may reasonably require to prove the title of the transferor and the authority of the persons who have executed the form of transfer. The signature of the person effecting a transfer of a Note shall conform to any list of duly authorised specimen signatures supplied by the Holder of such Note or be certified by a financial institution in good standing, notary public or in such other manner as the Registrar or such Paying and Transfer Agent may require.
4. No Noteholder may require the transfer of a Note to be registered during the period of 15 calendar days ending on the due date for any payment of principal or interest in respect of such Note.
5. No Noteholder which has executed a Form of Proxy in relation to a Meeting may require the transfer of a Note covered by such Form of Proxy to be registered until the earlier of the conclusion of the Meeting and its adjournment for want of a quorum.
6. The executors or administrators of a deceased Holder of a Note (not being one of several joint Holders) and, in the case of the death of one or more of several joint Holders, the survivor or survivors of such joint Holders, shall be the only persons recognised by the Issuer and each Guarantor as having any title to such Note.
7. Any person becoming entitled to any Notes in consequence of the death or bankruptcy of the Holder of such Notes may, upon producing such evidence that he holds the position in respect of which he proposes to act under this paragraph or of his title as the Registrar or the relevant Paying and Transfer Agent may require (including legal opinions), become registered himself as the Holder of such Notes or, subject to the provisions of these Regulations, the Notes and the Conditions as to transfer, may transfer such Notes. The Issuer, each Guarantor, the Registrar and the Paying and Transfer Agents shall be at liberty to retain any amount payable upon the Notes to which any person is so entitled until such person is so registered or duly transfers such Notes.

8. Unless otherwise required by him and agreed by the Issuer, the Guarantors and the Registrar, the Holder of any Notes shall be entitled to receive only one Note Certificate in respect of his holding.
9. The joint Holders of any Note shall be entitled to one Note Certificate only in respect of their joint holding which shall, except where they otherwise direct, be delivered to the joint Holder whose name appears first in the Register in respect of the joint holding.
10. Where there is more than one transferee (to hold other than as joint Holders), separate forms of transfer (obtainable from the Specified Office of the Registrar or any Paying and Transfer Agent) must be completed in respect of each new holding.
11. A Holder of Notes may transfer all or part only of his holding of Notes, *provided that* both the principal amount of Notes transferred and the principal amount of the balance not transferred are in denominations of U.S.\$200,000 in respect of Regulation S Notes and integral multiples of U.S.\$1,000 in excess thereof and denominations of U.S.\$200,000 and integral multiples of U.S.\$ 1,000 in excess thereof. Where a Holder of Notes has transferred part only of his holding of Notes, a new Note Certificate in respect of the balance of such holding will be delivered to him.
12. The Issuer, the Guarantors, the Principal Paying and Transfer Agent and the Registrar shall, save in the case of the issue of replacement Notes pursuant to Condition 13 (*Replacement of Notes*), make no charge to the Holders for the registration of any holding of Notes or any transfer thereof or for the issue of any Notes or for the delivery thereof at the Specified Office of any Paying and Transfer Agent or the Registrar or by uninsured post to the address specified by the Holder, but such registration, transfer, issue or delivery shall be effected against such indemnity from the Holder or the transferee thereof as the Registrar or the relevant Paying and Transfer Agent may require in respect of any tax or other duty of whatever nature which may be levied or imposed in connection with such registration, transfer, issue or delivery.
13. Provided a transfer of a Note is duly made in accordance with all applicable requirements and restrictions upon transfer and the Note(s) transferred are presented to a Paying and Transfer Agent and/or the Registrar in accordance with the Agency Agreement and these Regulations, and subject to unforeseen circumstances beyond the control of such Paying and Transfer Agent or the Registrar arising, such Paying and Transfer Agent or the Registrar will, within five business days of the request for transfer being duly made, deliver at its Specified Office to the transferee or despatch by uninsured post (at the request and risk of the transferee) to such address as the transferee entitled to the Notes in relation to which such Note Certificate is issued may have specified, a Note Certificate in respect of which entries have been made in the Register, all formalities complied with and the name of the transferee completed on the Note Certificate by or on behalf of the Registrar. For the purposes of this paragraph, “**business day**” means a day on which commercial banks are open for business (including dealings in foreign currencies) in the cities in which the Registrar and (if applicable) the relevant Paying and Transfer Agent have their respective Specified Offices.
14. Unless and until otherwise agreed between the Issuer, the Guarantors, the Principal Paying and Transfer Agent, the Registrar and the Trustee in accordance with applicable law, all Notes issued in substitution for or on transfer of Notes bearing the Rule 144A Legend, shall also bear the Rule 144A Legend and, prior to the expiry of the Distribution Compliance Period, all Notes issued in substitution for or on transfer of Notes bearing the Regulation S Legend shall also bear the Regulation S Legend.
15. The Agents may promulgate any other regulations that they may deem necessary for the registration and transfer of the Notes.

SCHEDULE 2

SPECIFIED OFFICES OF THE AGENTS

The Registrar

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

Telephone: +352 2452 5329
Fax: +352 2452 4204
Attention: Corporate Trust Administration

With a copy to:

The Trustee

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

Telephone: +44 20 7964 4277
Fax: +44 20 7964 2536
Attention: Corporate Trust Administration

The Principal Paying and Transfer Agent

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

Telephone: +44 20 7964 4277
Fax: +44 20 7964 2536
Attention: Corporate Trust Administration

SCHEDULE 3

FORM OF PUT OPTION NOTICE

KAZAKHSTAN TEMIR ZHOLY FINANCE B.V.

(a limited liability company incorporated in The Netherlands)

U.S.\$ 700,000,000 6.375 per cent. Notes due 2020

Guaranteed by

JSC NATIONAL COMPANY KAZAKHSTAN TEMIR ZHOLY

(a joint stock company organized in the Republic of Kazakhstan)

JSC KAZTEMIRTRANS

(a joint stock company organized in the Republic of Kazakhstan)

and

JSC LOCOMOTIVE

(a joint stock company established in the Republic of Kazakhstan)

By depositing the duly completed Notice (the “**Put Option Notice**”) with a Paying and Transfer Agent for the above referenced Notes (the “**Notes**”) the undersigned holder of such of the Notes as are surrendered with this Notice and referred to below irrevocably exercises its option to have such Notes redeemed on the Put Settlement Date (as defined in the terms and conditions relating to the Notes) (the “**Conditions**”).

This Notice relates to Note Certificates in the aggregate principal amount of U.S.\$[●] bearing the following serial numbers:

If the Notes referred to above are to be returned to the undersigned under Condition 9.3(c) (*Redemption at the option of the Noteholders*) of the Conditions they should be returned by post to:

Payment Instructions

Please make payment in respect of the above-mentioned Notes as follows:

- (a) by dollar cheque drawn on a bank in New York City mailed to the above address.
- (b) by transfer to the following dollar account in New York City:

Bank:

Branch Address:

Branch Code:

Account Number:

Signature of holder:

[To be completed by recipient Paying and Transfer Agent]

Received by:

[Signature and stamp of Paying and Transfer Agent]

At its office at:

On:

Notes

- (1) *The Conditions provides that Notes so returned will be sent by post, uninsured and at the risk of the Noteholder.*
- (2) *This Put Option Notice is not valid unless all of the paragraphs requiring completion are duly completed.*
- (3) *The Paying and Transfer Agent with whom the Notes are deposited will not in any circumstances be liable to the depositing Noteholder or any other person for any loss or damage arising from any act, default or omission of such Paying and Transfer Agent in relation to such Notes or any of them unless the loss or damage was caused by the fraud or gross negligence of such Paying and Transfer Agent or its offices or employees.*

SIGNATORIES TO THE AGENCY AGREEMENT

IN WITNESS whereof this Agreement has been entered on the date stated at the beginning.

KAZAKHSTAN TEMIR ZHOLY FINANCE B.V.
as Issuer

By:
Name:
Title:

By:
Name:
Title:

By:
Name:
Title:

By: .
Name: .
Title:

THE BANK OF NEW YORK MELLON
as Principal Paying and Transfer Agent

By:
Name:
Title:

THE BANK OF NEW YORK MELLON (LUXEMBOURG) S.A.
as Registrar

By:
Name:
Title:

BNY CORPORATE TRUSTEE SERVICES LIMITED
as Trustee

By:
Name:
Title:

JSC NATIONAL COMPANY KAZAKHSTAN TEMIR ZHOLY
as Guarantor

By:
Name:
Title:

JSC KAZTEMIRTRANS
as Guarantor

By:
Name:
Title:

JSC LOCOMOTIVE
as Guarantor

By:
Name:
Title: