***APPROVED***

***by the Resolution of the Asset Sales Commission***

***of NMC Tau-Ken Samruk JSC***

***dated \_\_\_2024 (Minutes No. )***

**TENDER DOCUMENTATION**

on the sale of participating interest in the charter capital of Tau-Ken Temir LLP

and Silicon mining LLP

**Terms and definitions used in the Tender Documentation:**

***Assets***mean Tau-Ken Temir LLP and Silicon mining LLP, and each separately the "**Asset**";

***Website*** means the website, where information regarding the Tender will be posted: [https://tks.kz](https://tks.kz/)

***Second Stage*** means the stage of the Tender, whereat Bid Proposals are to be submitted and processed, on the basis of which a Preferred Participant of the Tender is to be determined;

***Change of Control Date***means the date of state re–registration of the Assets with State-owned Corporation "Government for Citizens" NJSC in connection with the change of the participant from TKS to the Preferred Participant;

***SPA*** means a sale and purchase agreement of participating interest to be entered into by TKS with one of the Participants based on the results of the Tender, as per the form attached as Annex No. 3 hereto;

***Pledge Agreement*** means any of pledge agreements over a 100% participating interest, as well as overall fixed assets of the Assets, including the subsoil use rights, in favor of TKS (as a pledgee, to secure the performance of the Preferred Participant's obligations to pay the Purchase Price under the SPA in case of payment of the Purchase Price in installments or by parts (tranches));

***Participating Interest***means from 51% to 100% participating interest in the charter capital of each of the Assets;

***Group of Persons*** means any participant/shareholder, subsidiary, fellow subsidiary or any other legal entity, in which a Potential Participant or its participant/shareholder or its subsidiary holds directly or indirectly participating interests/shares, as well as individuals performing the functions of a sole executive body and/or holding participating interests/shares in the same legal entities in which the Potential Participant holds participating interests/shares;

***Notice of Tender*** means the official notice of holding the Tender, posted on the website and published in "Kazakhstanskaya Pravda" newspaper dated January 31, 2024.

***Other Consents*** mean other consents of the state bodies required for the acquisition of the Assets;

***Tender*** means a form of the sale of Participating Interests by an open two-stage tender, in accordance with the terms of the Tender Documentation and the Notice of Tender;

***Tender Documentation*** – this Tender Documentation;

***Tender Commission*** means the sectoral commission, which is a collective body, the members to which have been approved by a decision of the TKS CEO, and which is responsible for taking decisions, in accordance with the procedure established by the Rules, regarding the sale of the Participating Interests, asset restructuring, as well as coordinating and controlling such processes;

***Qualification Requirements*** means the qualification requirements to the Potential Participants and Participants, attached as Annex No. A to the Tender Documentation;

***Data Room*** means a virtual data room, the details of which will be provided to the Potential Participants in accordance with Annex No. 7 hereto;

***Due Diligence*** means the legal, financial and tax due diligence of the Assets;

***Competition Application*** means the set of documents given by the Participant for the Competition, formed in compliance with the Notice of bid, the set of documents on the Assets and other information given to the TKS which contains a thorough description of the terms and conditions for the acquisition of the Participating Interests for resolution acceptance of participant admittance to the Competition;

***Competitive Bid*** means a proposal made by a Participant as part of the Second Stage, drawn up in accordance with the Notice of Tender, the Tender Documentation, a set of documents on the Assets and other particulars, and which describes the terms and conditions for the acquisition of the Participating Interests, including the condition on the purchase price, drawn up in a form attached as Annex No. 6 hereto;

***Initial Price*** means KZT 4 600 000 000 (four billion six hundred million tenge) payable for a 100% participating interest in the charter capital of Tau-Ken Temir Limited Liability Partnership, and 100 000 000 tenge (KZT one hundred million tenge) for a 100% participating interest in the charter capital of Silicon mining Limited Liability Partnership;

***Independent Consultant***means KPMG Tax and Advisory LLP;

***Collateral*** means a guarantee contribution in cash, which secures the Competition Application, the Competitive Bid, and the performance of obligations under the SPA, to be provided by a person applying for the participation in the Tender before submitting his/her/its Competition Application in an amount and within the procedure provided for in the Notice of Tender and under a Security Deposit Agreement in a form attached as Annex No. D hereto;

***Set of Documents*** means documents to be submitted by Potential Participants in order to confirm their compliance with the Qualification Requirements, including, but not limited to:

a letter in a form attached as Annex No. 5 hereto with information about the entire structure of ownership of shares/participating interests of a Potential Participant, as well as the compliance with the Qualification Requirements, together with all documents to be provided along with this letter;

***First Stage*** means the stage of the Tender, whereat Competition Applications, including preliminary offers in respect of the subject of the Tender, are to be submitted and processed. Based on the results of this stage, the Tender commission makes a decision to qualify or disqualify persons for the Second Stage and approves the content and evaluation criteria of Competition Application Proposals;

***Preferred Participant*** means an individual or a legal entity or an association of legal entities, who/which is declared a Preferred Participant in accordance with the legislation of the Republic of Kazakhstan, the Rules and the Tender documentation;

***Potential Participant*** means an individual or a legal entity or an association of legal entities intending to participate in the Tender;

***Buyer (Purchaser)*** – means an individual or a legal entity or an association of legal entities incorporated for commercial activity, purchasing Assets;

***Purchase Price*** means a final price for the Participating Interests, as specified in the SPA;

***Rules*** mean the Rules for the transfer to the competitive environment of assets of National Welfare Fund "Samruk-Kazyna" Joint Stock Company and entities, more than fifty per cent. of the voting shares (participating interests) of which are owned directly or indirectly by Samruk-Kazyna JSC, as approved by Resolution No. 181 of the absentee meeting of the Board of Directors of Samruk-Kazyna JSC dated 14 December 2020, as amended as of 8 April 2021, Minutes No. 183, dated 30 September 2021, Minutes No. 187, Minutes No. 202 dated August 26, 2022, Minutes No. 219 dated June 20, 2023, Minutes No. 228 dated December 19, 2023

***Business Day*** means a day (except a Saturday, a Sunday or a public holiday, or weekends), on which commercial banks are open for normal banking activities in the City of Nur-Sultan and the City of Almaty;

***Sanctions Lists*** - means special sanctions lists, any sectoral sanctions (including, SDN, Specially Designated Nationals and Blocked Persons List (Office of Foreign Assets Control of the Department of Treasury of the U.S.), CAPTA (List of Foreign Financial Institutions Subject to Correspondent Account or Payable-Through Account Sanctions, NS-MBS (Non-SDN Menu-Based Sanctions List) administered by the Office of Foreign Assets Control of the Department of the Treasury of the U.S., and any other sanctions list, with extraterritorial effect, other than the Russian Sanctions Lists), other sanctions and sanctions restrictions, and being subject to any applicable laws or regulations relating to economic or financial sanctions or trade embargoes or related restrictive measures imposed or enforced from time to time by a sanctioning authority (e.g., (a) the UN Security Council; (b) the Government of the United States; (c) the Government of the United Kingdom; (d) the European Union; (e) the Government of the Republic of Kazakhstan; (f) relevant government departments and agencies of any of the above governments that apply sanctions, including the Office of Foreign Assets Control of the Department of Treasury of the U.S. and the United States Department of State;)

***Antimonopoly Approval*** means a consent of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan to economic concentration in connection with the acquisition of the Assets;

***Confidentiality Agreement*** means an agreement entered into by TKS and/or an Independent Consultant with Potential Participants, the form and content of which is to be determined by TKS, whereby a Potential Participant or a Participant becomes bound to keep confidential any information received in the course of getting familiar with the Assets (Annex No. 1 hereto);

***TKS*** means National Mining Company Tau-Ken Samruk JSC;

***Participant*** means an individual or a legal entity, or an association of legal entities, who/which submits a Competition Application within the established procedure for the participating in the Tender and admitted for the participating at the Second Stage within the procedure established by the Tender Documentation and the Rules;

# Particulars of the Tender

## The name of the Tender shall be: Open Two-Stage Tender for the sale from 51% to 100% participating interest in the charter capitals of NMC Tau-Ken Samruk JSC and a 100% participating interest in the charter capital of each of Tau-Ken Temir LLP and Silicon mining LLP by one lot with possibility of purchasing Participating Interest in any of the Assets only in the same value. For the avoidance of any doubt, the Tender will only be held jointly with respect to the both Assets, and not separately (that is the possibility of acquiring the Assets separately is excluded. A Potential Buyer has to acquire the Assets in one lot at the same time and with the same value of Participating Interest of each Asset).

## This Tender Documentation has been developed in accordance with the Rules.

TKS is the owner of the Participating Interests and based on the Tender results, intends to sell the Participating Interests on the terms acceptable to it.

The purpose of the Tender shall be to determine a target price and other conditions for the sale of Participating Interests, and a potential buyer of the Participating Interests. The SPA shall be subject to all necessary permits and approvals (including the Antimonopoly Approval and Other Consents, if applicable) having been obtained.



## The Tender may be canceled at the initiative of TKS before the Competition Application opening procedure. TKS may cancel the results of the Tender held if, at the time of accepting and examining the Competition Applications, or directly in the course of holding the Tender, any inconsistency with the provisions of the Rules occurs that affects or may affect the results of the Tender. If the Tender is cancelled, TKS shall publish an appropriate announcement in the media and on the Website.

## The Tender procedure arrangements shall be as shown on the scheme below:

## TKS shall have the right to independently determine the timing for holding the Due Diligence, the Tender and other procedures during the Tender. If Potential Participants/Participants apply to TKS with a written request to extend any of the stages of the Tender, such extension may only be granted if the total duration of the Tender does not exceed 120 (one hundred and twenty) Business days from the date of publication of the Notice of Tender.

# Confidentiality Agreement and Letter of Consent

##### 2.1. As from the moment of publication of the Notice of Tender, a Potential Participant willing to receive information about, and get familiar with, the Assets shall, before the Competition Application closing date referred to in paragraph 1.1 of Annex No. B hereto, sign and submit a letter of consent to tendering procedures in a form attached as Annex No. 2 hereto.

##### 2.2. A Potential Participant shall, before the Competition Application closing date referred to in paragraph 1.1 of Schedule B hereto, submit copies of its charter and a document confirming its registration as a legal entity (in case of a legal entity), his/her identity document or passport (in case of an individual) to TKS at 17/10 Building, 7th Floor, Syganak Street, 010000, Astana, Republic of Kazakhstan. Any documents issued by foreign organizations shall be submitted subject to the requirements set out in Clause 12.1 hereof. In order to gain access to the Data Room, a Potential Participant shall deliver a Confidentiality Agreement countersigned by him/her/it and, if applicable, affixed with its seal upon reviewing the Tender Documentation, as soon as possible after the date of the Notice of Tender.

# Provision of Information and Familiarization with the Assets

## The general rules for working in the Data Room are set out in Annex No. 7 hereto. In order to be able to get familiar with the Assets or documents related to the Assets, receive explanations regarding the Assets, the Tender Documentation and/or the Tender, a Potential Participant shall be required to:

#### 3.1.1. enter into a Confidentiality Agreement in accordance with the procedure provided for in Clause 2.2 hereof;

#### 3.1.2. sign and submit a letter of consent to tendering procedures in a form attached as Annex No. 2 hereto and in a manner provided for in paragraph 2.1 hereof;

#### 3.1.3. perform actions related to the use of the Data Room and familiarization with the Assets, as specified in Annex No. 7 hereto.

## A Potential Participant shall have the right to get familiar with the Assets by gaining access to the Data Room, obtaining explanations to any question regarding the Assets, as well as by way of the visual onsite inspection of the Assets, holding meetings with the management of the Assets, including conducting a Due Diligence after signing a Confidentiality Agreement. TKS and/or the Independent Consultant may schedule and hold meetings with all Potential Participants to answer their questions regarding the Assets. In such case, an invitation for such meeting with TKS shall be circulated to all Potential Participants.

TKS and/or the Independent Consultant shall develop and approve a schedule for holding meetings with Potential Participants, giving explanations, making visual onsite inspections of the Assets. Each of Potential Participants shall individually be notified of the time and place of a meeting and other information, as per the schedule. Before submitting his/her/its Competition Application, a Potential Participant shall conduct the Due Diligence and make a Security Deposit.

## A Potential Participant shall provide a Collateral solely in a form attached as Annex No. D hereto and may not change the terms thereof.

# Content of Competition Application

## An application for the participation in the Tender shall contain:

### a Competition Application completed and signed by a Potential Participant in a form attached as Annex No. 4 hereto;

### a document confirming the provision of a Collateral consistent with the conditions thereof, stated in the Notice of Tender and the Tender Documentation;

### a preliminary offer in respect of the Assets in a form attached as Annex No. 8 hereto, which shall contain a KZT price for the purchase of the Participating Interests equaling to at least the Initial Price (subject to Clause 4.2 hereof); his/her/its consent to the terms of sale of the Participating Interests specified in Clause 5.2 hereof; description of compliance with the evaluation criteria of the preliminary offer, including the minimum requirements of the evaluation criteria to preliminary offers, as well as other information according to the Tender Documentation;

### a Set of Documents;

### an original or a notarized copy of a power of attorney issued to the person(s) representing the interests of the Potential Participant for the right to sign a Competition Application and the documents contained therein, unless the Potential Participant is represented by its CEO who is authorized to act on behalf of the Potential Participant without a power of attorney, in accordance with its charter;

### a Confidentiality Agreement countersigned by a Potential Participant in a form attached as Annex No. 1 hereto, unless the Potential Participant has earlier executed a Confidentiality Agreement before submitting his/her/its Competition Application for the purposes of getting familiar with the Assets under Sections 2 and 3 hereof.

## A preliminary offer attached to the Competition Application under Sub-Clause 4.1.3 hereof may contain conditions for the installment payment or in parts (tranches) of the purchase price of the Participating Interests, the acquisition of Participating Interests before making full payment therefor, whereby the payment for the Participating Interests will be made in installments, rather than in full, within a certain period of time (deferred payment for the Participating Interests) (however, in this case, the installment mechanism of payment or payment in parts (tranches) for the Participating Interests shall apply to both Assets). At the same time, the proposed installment mechanism or payment in parts (tranches) shall be subject to the requirements specified in Annex No. 9 or Annex No. 10 to the Tender documentation respectively. When the purchase price is paid in installments or in parts (tranches), the amount of outstanding monetary obligations of a Preferred Participant under the SPA shall be subject to indexation at the refinancing rate established by the National Bank of the Republic of Kazakhstan. In case of payment in installments or in parts (tranches), the proposed Purchase Price shall not be lower than the Initial Price.

***A preliminary offer involving payment in installments or in parts (tranches)***  ***shall contain the main conditions of the proposed installment payment procedure in respect of the Participating Interests, including a table with a schedule and amounts of installments broken down by calendar months.***

## In case of a decision on the sale of Participating Interests by direct targeted sale, in accordance with paragraph 5.4 hereof, the Competition Application shall serve as an offer for the execution of the SPA on the following conditions:

##### 4.3.1. the purchase price of the Participating Interests is the price offered in the Competition Application (a preliminary offer to the Competition Application);

##### 4.3.2. other conditions for the acquisition of the Participating Interests correspond to the draft SPA;

##### 4.3.3. the Competition Application submission period is 6 (six) months from the date of declaring the Tender failed.

4.4. The SPA shall be deemed executed from the moment of receipt of a notice from TKS of the sale of the Participating Interests by direct targeted sale.

# Participating Interest Sale Terms and Competition Application Evaluation Criteria at the First Stage (minimum requirements to the offer evaluation criteria)

## The criteria for evaluating Competition Applications of Potential Participants (minimum requirements to the offer evaluation criteria) at the First Stage shall be the preservation of the Asset profiles in accordance with paragraph 1.1 of Annexes No. C1 and No. C2 hereto, as well as the consent to the conditions for the sale of the Participating Interests, as specified in Clause 5.2 hereof.

## The conditions for the sale of Participating Interests shall be as follows:

### an amount of the price for the Participating Interests stated by the Potential Participant in his/her/its preliminary offer attached to his/her/its Competition Application, according to Sub-Clause 4.1.3 hereof;

### Payment of the Purchase Price may be performed with one payment in installments or in parts (tranches) in accordance with the Regulations and Terms of the Tender documentation;

### in case of payment of the Purchase Price in installments or in parts (tranches), the total period of payment of the Purchase Price does not exceed 24 calendar months, and the amount of the first installment (tranche) equals to at least 30% of the Purchase Price.

### in case of purchase of the Assets on an installment payment basis or in parts (tranches), it is necessary to secure the obligations of the Preferred Participant to pay the Purchase Price by executing a Pledge Agreement of Participating Interests and all fixed assets of the Assets, including the subsoil use rights, subject to Annexes No. 11, No. 12 and No. 13, with the removal of encumbrances after the full payment of the Purchase Price;

### assuming investment obligations specified in Annexes No. C1 and No. C2 to the Tender Documentation;

### proper confirmation by Potential Participants of their compliance with the article 5.1 of the Tender Documentation and Qualification Requirements specified in the Annex No. A to the Tender Documentation;

### the Competition Application and all documents attached thereto meet the requirements of the Tender Documentation.

## If by the time of expiry of a period for submitting applications less than two Competition Applications are submitted, the Tender is declared failed.

If the Tender is declared failed, the Tender Commission shall decide whether to:

###  announce a new Tender. In such case, the previously defined conditions and criteria for evaluating proposals of Participants may also be revised and approved by a decision of the Tender Commission; or

### change the method of sale of the Assets.

## If only one person is admitted to the Second Stage based on the results of the Competition Application examination, the Tender shall be declared failed. In such case, the Assets can be sold to such one person by way of direct targeted sale in accordance with the Rules, on the terms not less favorable than those provided for in his/her/its Competition Application (preliminary offer), the Notice of Tender and a set of documents on the Assets, provided that such direct targeted has been pre-agreed and approved by the relevant corporate bodies of TKS and, if applicable, state bodies. At the same time, the Purchase Price shall not be less than the price indicated in the preliminary offer of such person included in his/her/its Competition Application.

## A Potential Participant shall provide a detailed description of a transaction financing mechanism in connection with the acquisition of the Assets, as well as documents confirming the Potential Participant's ability to finance the transaction in connection with the acquisition of the Assets (for example, such documents may include: a bank account statement, a decision of the credit committee of a bank which has agreed to provide financing, a bank guarantee, a guarantee issued by an individual or a legal entity, etc.). A Potential Participant may provide additional documents at the Second Stage of the Tender.

# Competition Application Amendment and Withdrawal

## A Potential Participant may, on or before the Competition Application closing date: 1) amend the submitted Competition Application; 2) withdraw his/her/its Competition Application before the Competition Application closing date, while remaining entitled to the refund of his/her/its Collateral.

## The withdrawal of a Competition Application shall be made by sending to TKS a notice in an optional form signed by a Potential Participant and, in case of a legal entity, affixed with its seal, if any.

## Any amendment to a Competition Application shall only be valid if submitted to TKS before the expiration of the Competition Application submission period. No Competition Application may be withdrawn upon the expiration of the Competition Application submission period.

# Examination of Competition Application

## Following the opening of envelops with Competition Applications submitted by Potential Participant, the members of the Tender Commission, as well as its secretary, shall sign a statement of the results of opening envelopes with Competition Applications submitted by Potential Participant.

## If any inconsistency is found, a Potential Participant may be notified thereof by telephone, e-mail or other means of communications specified in the Competition Application. The above means of communications shall be treated as legally valid and equivalent to paper documents signed by an authorized representative. Potential Participant shall eliminate the identified inconsistencies within the deadlines set by TKS. At the same time, it shall not be allowed to provide information or documents that change the content and/or conditions of the preliminary offer.

## When examining Competition Applications, the Tender Commission shall have the right to:

### request from Potential Participants any materials or and explanations required for the examination, evaluation and comparison of Competition Applications, as well as for the negotiation purposes;

### in order to clarify the information contained in a Competition Application, request the necessary information from the relevant government agencies, individuals or legal entities.

## The Tender Commission shall examine the Competition Applications, subject to the evaluation criteria for preliminary offers, the content of preliminary offers, the minimum requirements to the offer evaluation criteria.

## Based on the results of examination of the Competition Applications, the Tender Commission shall make a decision on whether the Potential Participants comply with the Qualification Requirements, on admission of applicants to the Second Stage, assigning the status of a Participant thereto, approve the content of and evaluation criteria for Competitive Bids. Following the examination of the Competition Applications, the members of the Tender Commission, as well as its secretary, shall sign a statement of the results of the Competition Applications examination.

## The Potential Participants whose Competition Applications are rejected shall be notified accordingly by TKS with stating reasons for such rejection.

## TKS shall send the respective notices to the Participants admitted to participate at the Second Stage, stating the date, place, time and method for submitting Competitive Bids to participate at the Second Stage, the Competitive Bids content and evaluation criteria. A notice shall be sent by registered mail return receipt requested, and copied by e-mail or addresses ***specified in a Competition Application. Such means of communications shall be treated as legally valid and equivalent to paper documents signed by an authorized representative.***

## ***If, based on the results of examination of all submitted Competition Applications, no person is admitted to the Second Stage, such Tender shall be declared failed, and the Tender Commission shall issue an appropriate decision and a statement to that extent***.

# Negotiation and Submission of Competitive Bids

## Before the date of submission of Competitive Bids set in the notices delivered under Clause 7.7 hereof, the representatives of TKS, including the Independent Consultant, may schedule meetings and negotiate with the Participants regarding the draft SPA, while TKS may either accept or reject any adjustment proposed by a Participant to the draft SPA.

## Before the date of submission of Competitive Bids set in the notices delivered under Clause 7.7 hereof, the Participants may send written requests for additional information to TKS and/or the Independent Consultant. TKS, in turn, shall provide an explanation to the requesting Participant, as well as to all other Participants admitted to the Second Stage of the Tender.

## Competitive Bids shall be accepted from the Participants admitted to the Second Stage in accordance with the notices sent under Clause 7.7 hereof.

## A Competitive Bid and all documents attached thereto shall be bound, the pages or sheets thereof numbered with the last page or sheet affixed with the Participant's signature and seal, if any. It shall be allowed to compile a Competitive Bid by dividing it into several folders, each being bound, numbered and affixed with the Participant's seal, if any. The Competitive Bid and all documents attached thereto shall be packed and put into a sealed envelope or several envelopes, if the Competitive Bid and the documents attached thereto consist of several folders. The sealed envelope(s) shall state on its (their) face:

8.4.1. full name and postal address of the person submitting the Competitive Bid;

8.4.2. full name and postal address of the organizer of the Tender;

8.4.3. the name of an asset involved in the Tender, in respect of which the Competitive Bid is submitted;

8.4.4. the inscription "DO NOT OPEN until: \_\_\_\_\_ \_\_\_ a.m./p.m. on \_\_\_ \_\_\_\_\_\_\_\_ 202\_  " *(to insert final dates and time for the submission of Competition Applications according to the notices sent under Clause 7.7 hereof)*.

## Each Participant may only submit one Competitive Bid.

## A Competitive Bid shall be drawn up by a Participant in a form attached as Annex No. 6 hereto.

## In addition to the documents specified in the notice under Clause 7.7 hereof, a Participant shall attach to his/her/its Competitive Bid documents confirming the sources of financing for the payment by the Participant of the purchase price for the Participating Interests. The Competitive Bid and all documents attached thereto shall be scanned and provided in an electronic copy on a data carrier to TKS via e-mail.

## A price offered by a Participant for the Participating Interests in his/her/its Competitive Bid shall not be lower than the price offered by the same Participant for the Participating Interests in his/her/its Competition Application submitted for the participation at the First Stage of the Tender.

## The Tender offer may contain conditions for the payment of the purchase price of the Participating Interests on an installment basis or in parts (tranches), the acquisition of Participating Interests before their full payment, whereby the payment for the Participating Interests will be made in parts, rather than in full, during a certain period of time (installment payment for the Participating Interests). At the same time, the proposed installment terms or payment in parts (tranches) must comply with the requirements specified in Annex No. 9 or Annex No. 10 to the Tender Documentation respectively.

The proposed price for the Participating Interests payable in installments or in parts (tranches) shall be determined by indexing the outstanding monetary obligations of the Buyer under the SPA at the refinancing rate set by the National Bank of the Republic of Kazakhstan. The proposed Purchase Price payable in installments or in parts (tranches) shall not be less than the Initial Price, or the purchase price indicated in the Competition Application (preliminary offer) submitted at the First Stage by the Participant.

The Competitive Bid involving payment in installments or in parts (tranches) shall contain the main conditions for the proposed installment payment procedure in respect of the Participating Interests, including a table with a schedule and amounts of installments broken down by calendar months.

# Examining Competitive Bids

## The members of the Tender Commission, as well as its secretary, shall sign a statement of opening envelops with Competitive Bids.

## When examining the Competitive Bids, the Tender Commission shall have the right to:

### request from the Participants any materials or explanations required for the examination, evaluation and comparison of the Competitive Bids;

### in order to clarify the information contained in the Competitive Bids, request the necessary information from the relevant government agencies, individuals or and legal entities, while the Participants shall assist TKS in obtaining such information.

## The Tender Commission shall examine the Competitive Bids on the basis of the Competitive Bid evaluation criteria specified in the notices under Clause 7.7 hereof.

## The Tender Commission shall decide on the selection of a Preferred Participant based on the results of the examination of Competitive Bids, taking into account the information about the Participants received during the examination of the Competition Applications or stated in a Competitive Bids, such as financial, organizational, managerial and other capabilities of the Participant. The Competitive Bid shall meet the criteria set out in the relevant notice of the Second Stage of the Tender. The members of the Tender Commission, a Preferred Participant (if any), as well as the secretary shall sign a statement of the results of examination of Competitive Bids based on the results of examination thereof.

## If, based on the results of examination of all submitted Competitive Bids, all Competitive Bids are rejected, such Tender shall be declared failed, and the Tender Commission shall issue a statement to that extent.

## A Participant whose Competitive Bid offers the highest price for the acquisition of the Assets, taking into account the terms of the installment plan or payment in parts (tranches) and the criteria for evaluating Competitive Bids, as specified in the notices sent under Clause 7.7 hereof, shall be declared as Preferred Participant. If the conditional prices under Competitive Bid are equal, the Participant who submitted his/her/its Competitive Bid first shall be declared as Preferred Participant.

# Rejection of Competition Applications and/or Competitive Bids

## Competition Applications and/or Competitive Bids may be rejected to on the following grounds:

### if a person who has submitted a Competition Application fails to execute a Confidentiality Agreement in accordance with the Tender Documentation;

### if persons or Competition Applications participating in the Tender do not meet the requirements of the Tender Documentation

### if a Potential Participant/Participant provided knowingly false information in the Tender Application and/or in the Tender bids;

### if the preliminary offer to the Competition Application or the Competitive Bid contains the purchase price of the Participating Interests which is lower than the Initial Price and/or the terms of payment of the proposed price for the Participating Interests in installments or in parts (tranches) do not comply with the Rules;

### in case of the failure to provide Collateral within the prescribed period before the date of submission of Competition Applications;

### if a Competition Application or a Competitive Bid is submitted after the Competition Application closing date deadline for their submission or in breach of the submission procedure provided for by the Tender Documentation;

### if the Competition Application is held as non-compliant with the requirements provided for in the Notice of Tender and/or the Tender Documentation;

### if a preliminary offer or documents attached thereto do not meet the requirements of the Notice of Tender and/or the Tender Documentation, including the minimum requirements, according to the criteria for evaluating preliminary offers and Competitive Bid specified in the Notice of Tender and/or in the Tender Documentation;

### if a price for the Participating Interests offered by a Participant in his/her/its Competitive Bid is lower than the price offered by such Participant in his/her/its Competition Application submitted at the First Stage of the Tender.

### if proposals/conditions contained in a Competition Application and/or in Competitive Bid and/or the terms proposed for the execution of the SPA are unacceptable to TKS.

# Execution of the SPA

## TKS shall execute the SPA with the Preferred Participant as read in Annex No. 3 to the Tender Documentation which shall be affixed by the seal (if any) and the signature of authorized persons of each of the parties, in a manner and within the time limits provided for by the Rules.

## The purchase price of the Participating Interests in the SPA shall be the price indicated in the relevant Competitive Bid or Competition Application in the case provided for in Clause 5.4 hereof.

## The SPA shall contain the obligations of the Preferred Participant to independently obtain authorizations and approvals required for the transfer of the Assets.

## In case of the purchase of the Assets by installments or in parts (tranches), the Preferred Participant shall enter into and/or ensure the entering into pledge agreements in with a form attached as Annex No. 11, No. 12 or No. 13. The terms and conditions of such pledge agreements may only be amended at the discretion of the TKS.

# Special Requirements to Documents Submitted for the Participation in the Tender

## If a Potential Participant, a Participant or a Preferred Participant submit any document issued by a foreign organization for the purpose of participating in the Tender or executing the SPA, he/she/it shall have to legalize and/or apostille such document in accordance with the procedure established by the legislation of the Republic of Kazakhstan.

## If a Potential Participant, a Participant or a Preferred Participant is not a resident of the Republic of Kazakhstan, he/she/it shall submit the same documents for participation in the Tender as residents of the Republic of Kazakhstan or documents containing similar information, or, if it is impossible to provide such documents, a corresponding letter of guarantee from such person in order to confirm the facts for which documents are required by the Tender Documentation.

## The validity period of Competition Application and Tender offer is terminated on the day of signing the Agreement with the Preferred Participant of the Tender.

## The Potential Participant, the Participants and the Preferred Participant shall bear all costs associated with their participation in the Tender. TKS and/or the Tender Commission shall not be required to reimburse such costs regardless of the results of the Tender or cancellation thereof.

## The Competition Applications, Competitive Bids and other documents submitted for the purpose of participating in the Tender or executing the SPA shall not contain any inserts between the lines, wipes or inscriptions, except in cases where it is necessary to correct grammatical or arithmetic errors.

## Competition Applications, Competitive Bids and other documents submitted for the purpose of participating in the Tender or executing the SPA shall be drawn up in the Russian or English language. However, the Competition Application may contain documents drawn up in another language, provided that they are accompanied by the accurate translation into Russian or English, in which case the translation into Russian or English shall prevail.

## If a Competitive Bid or any other document submitted for the purpose of participating in the Tender and/or executing the SPA contains a foreign element, it shall have the official confirmation of documents of foreign states (if any) for the proper recognition of their legal force (apostille, legalization) and/or legal opinions in respect of the documents containing elements of a foreign law (title documents, pledge agreements, etc.).

# Clarification and Amendment of the Tender Documentation

## A Potential Participant or a Participant may request the Independent Consultant to provide clarification of any of the provisions of the Tender Documentation within 7 (seven) Business Days before the expiration of the submission period for Competition Applications (in case of Potential Participants) or for Competitive Bids (in case of Participants). Within 3 (three) Business Days from the date of receipt of such request, TKS shall respond to the requesting person and post the information provided during the clarification on the Website for other Potential Participants and Participant without indicating the requesting person.

## In order to clarify questions on the Tender Documentation and/or the Tender, TKS and/or the Independent Consultant may schedule and hold meetings with Potential Participants and Participants who have questions, separately with each of them, with the publication of information provided during the explanations on the Website for other Potential Participants and Participants without specifying the requesting person.

## Contact details for queries regarding the Tender:

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***Annexes to the Tender Documentation:***

* *Annex No. A – Qualification Requirements*
* *Annex No. B – Competition Application Submission Procedure*
* *Annex No. C1 – Investment Obligations in relation to Tau-Ken Temir LLP*
* *Annex No. C2 - Investment Obligations in relation to Silicon mining LLP*
* *Annex No. D – Draft Security Deposit Agreement in respect of Tau-Ken Temir LLP and Silicon mining LLP*
* *Annex No. 1 – Draft Confidentiality Agreement;*
* *Annex No. 2 – Letter of Consent to the Tender Procedures in respect of Tau-Ken Temir LLP and Silicon mining LLP*
* *Annex No. 3 – draft Sale and Purchase Agreement in respect of a Participating Interest in the Charter Capital of Tau-Ken Temir LLP*
* *and Silicon mining LLP*
* *Annex No. 4 – Form of Competition Application*
* *Annex No. 5 – Letter containing the entire ownership structure in respect of Share/Participating Interest of a Potential Participant and confirming the compliance with the Qualification Requirements*
* *Annex No. 6 – Form of Competitive Bids*
* *Annex No. 7 – General rules for working in the Data Room and the procedure for familiarization with the Assets;*
* *Annex No. 8 – Form of Preliminary Offer;*
* *Annex No. 9 - Conditions for the acquisition of Participating Interests in installments and provision of a collateral*
* *Annex No. 10 – Terms of Purchase of Participant Interests in parts (tranches) and deposit of collateral*
* *Annex No. 11 – Form of Pledge Agreement from 51% to 100% participating interest in the charter capital*
* *Annex No. 12 Form of Property Pledge Agreement*
* *Annex No. 13 – Form of the Fixed Asset Pledge Agreement*

***Annex No. A***

***to the Tender Documentation***

**Qualification Requirements**

* 1. To participate in the Tender, a Potential Participant shall be an individual and/or a legal entity established in the Republic of Kazakhstan and/or registered outside the Republic of Kazakhstan, and, when submitting a Competition Application, confirm his/her/its compliance with the following Qualification Requirements:
		1. the applying person shall be eligible and legally capable;

in order to confirm the compliance with this Qualification Requirement, the following documents shall be provided:

*legal entities*: documents confirming its registration as a legal entity; in case of a member of an association of legal entities (consortium), such document in respect of each member of such consortium, as well as a consortium agreement;

*individuals*: his/her identity documents;

* + 1. the person shall not be involved in liquidation and/or bankruptcy and/or rehabilitation or any other proceedings under the legislation of the Republic of Kazakhstan or foreign legislation on bankruptcy

in order to confirm the compliance with this Qualification Requirement, the following documents shall be provided:

*legal entities and individuals (if applicable)*: a letter of guarantee on the absence of facts or grounds for being involved in bankruptcy and/or rehabilitation or other proceedings under the legislation of the Republic of Kazakhstan on bankruptcy. Such letter of guarantee from each member of such consortium shall be submitted;

* + 1. absence of outstanding or non-expunged criminal convictions for criminal offences under a sentence of a court of the Republic of Kazakhstan or any other state in respect of the Purchaser-Individual or the founders or ultimate beneficiaries or employees holding managerial positions of the Purchaser-Legal entity:

in order to confirm the compliance with this Qualification Requirement, the following documents shall be provided:

*legal entities and individuals:* a letter of guarantee on the absence of outstanding or non-expunged criminal convictions for criminal offences under a sentence of a court of the Republic of Kazakhstan or any other state in respect of the Purchaser-Individual or the founders or ultimate beneficiaries or employees holding managerial positions. Potential participant s of a consortium shall submit such letter of guarantee from each member of such consortium;

* + 1. not to be on the lists of unreliable taxpayers and bankruptcy lists published by the competent authorities of the country of incorporation of the Buyer and the Republic of Kazakhstan;

in order to confirm the compliance with this Qualification Requirement, the following documents shall be provided:

*legal entities and individuals:* a letter of guarantee from the Potential participant that he is not on the lists of unreliable taxpayers and bankruptcy lists published by the competent authorities of the country of incorporation of the Buyer and the Republic of Kazakhstan;

Potential participants of a consortium shall submit such letter of guarantee from each member of such consortium;

 1.5. no history of violation of the Law on Combating Money Laundering and Terrorism Financing

in order to confirm the compliance with this Qualification Requirement, the following documents shall be provided:

*legal entities and individuals:* a letter of guarantee from the Potential participant that he does not have a history of violation of the Law on Combating Money Laundering and Terrorism Financing

*individuals:* certificate on absence of non-expunged criminal conviction on property, economic, corruption offences, offences against the state and other offences.

Potential participant of a consortium shall submit such letter of guarantee from each member of such consortium;

 1.6. experience in metallurgy.

in order to confirm the compliance with this Qualification Requirement, the following documents shall be provided:

*legal entities and individuals:* description of experience of the Potential participant (or individual from the same group as the Potential participant) in the field of metallurgy; participants of the association of individuals and/or legal entities (consortiums) submit description of experience in the metallurgy in respect of one of the participants of the consortium. Documents shall be annexed to the experience description approving relevant experience, including but not limited to: agreements and acts of completed services (if applicable) signed by both parties, recommendation letters, employment record (if applicable).

 1.7. have the ability to fulfill the terms and conditions of the relevant Agreement and demonstrate the ability to acquire Participating Interests;

in order to confirm the compliance with this Qualification Requirement, the following documents shall be provided:

legal entities if purchasing Participating Interests without installments or by payments in parts (tranches);

1.8 separate/consolidated/combined financial statements as of the latest reporting date confirming that the net asset value (but not earlier than the end of the third quarter of 2023) or capitalization of the companies in respect of which such statements are prepared is not lower than the Initial Price. Such statements may be provided in respect of:

1.8.1. a Potential Participant or person(s) who is/are a participant(s) in the same Group of Persons with the Potential Participant

1.8.2. an organization, more than fifty percent of the voting shares (participating interests) of which are owned directly or indirectly by the Potential Participant. At the same time, a letter is attached from the organization whose reporting is provided, guaranteeing the provision to a Potential Participant of the amount required for the acquisition of Participating Interests;

1.8.3. an organization that directly or indirectly owns more than fifty percent of the voting shares (participating interests) of a Potential Participant. An organization, in respect of which such statements have been issued, shall attach a letter guaranteeing the provision to a Potential Participant of an amount required for the acquisition of the Participating Interests.

As an alternative to the above financial statements, the Potential Participant may provide documents/letters issued by banks or other financial organizations on the availability of funds in the accounts of a Potential Participant in an amount not less than the Initial Price, or documents/letters issued by banks or other financial organizations (including confirmation of an open credit line, an extract from the decision of the bank's credit committee) confirming the provision of funds to the Potential Participant in an amount not less than the size of the Initial Price.

If the Potential Participant is a participant in a consortium, it may demonstrate the ability to acquire the Participating Interests jointly with the consortium participants (the monetary criteria specified above can be calculated in total for all consortium participants).

*If the Potential Participant is a legal entity intending to purchase the Participating Interests in installments or in parts (tranches), according to the Tender Documentation:*

1.9. separate/consolidated/combined financial statements as of the latest reporting date (but not earlier than the end of the third quarter of 2023), confirming that the net asset value or capitalization of the companies for which such statements are prepared is not lower than the Initial Price. The statements referred to in this paragraph may be provided in respect of:

1.9.1. the Potential Participant;

1.9.2. organizations, more than fifty per cent. of voting shares (participating interests) of which are owned directly or indirectly by the Potential Participant. An organization, in respect of which such statements have been issued, shall attach a letter guaranteeing the provision to a Potential Participant of an amount required for the acquisition of the Participating Interests;

1.9.3. an organization that directly or indirectly owns more than fifty per cent. of voting shares (participating interests) in a Potential Participant. An organization, in respect of which such statements have been issued, shall attach a letter guaranteeing the provision to a Potential Participant of an amount required for the acquisition of the Participating Interests.

As an alternative to the above financial statements, a Potential Participant may provide documents/letters issued by banks, other financial organizations on the availability of funds in the accounts of a Potential Participant in an amount of at least 50% of the Purchase Price or documents/letters issued by banks, other financial organizations (including a bank guarantee, confirmation of an open credit line, an extract from the decision of the bank's credit committee) confirming the possibility of providing a Potential Participant with funds in the amount of at least 50% of the Purchase Price;

If the Potential Participant is a participant in a consortium, it may demonstrate the ability to acquire the Participating Interests jointly with the consortium participants (the monetary criteria specified above can be calculated in total for all consortium participants).

*individuals:* official documents issued by banks or other financial organizations that the Potential Participants has funds in the amount of not less than the Initial Price, or documents confirming the declaration of income in an amount of not less than the Initial Price for the last three years (in the amount for three years not less than the Initial Price);

*legal entities and individuals:* a detailed description of how the Potential Participant intends to finance the acquisition of Participating Interests under the SPA, the methods and structure of financing, by what means (own, raised, involving installments or not, etc.);

* + 1. the person does not have overdue tax arrears in the amount of more than 30% of the total assets of the Potential Participant during 1 (one) year preceding the Competition Application closing date specified in paragraph 1.1 of Annex No. B to the Tender Documentation;

in order to confirm the compliance with this Qualification Requirement, the following documents shall be provided:

*by legal entities and individuals*: a certificate on the absence (presence) of tax arrears issued after the date of publication of the Notice of Tender by the tax authority and/or other authorized body at the place of registration at any time of a month preceding the Competition Application closing date specified in paragraph 1.1 of Annex No. B to the Tender Documentation, and a letter of guarantee on the absence of overdue tax arrears in the amount of more than 30% of the total assets of the Potential Participant during a month preceding the Competition Application closing date specified in paragraph 1.1 of Annex No. B to the Tender Documentation. The participants of the consortia provide the specified documents in respect of all persons participating in the consortium;

* + 1. the person is not an inactive legal entity;

in order to confirm compliance with this Qualification Requirement, the following documents shall be provided:

*legal entities*: a letter of guarantee that the Potential Participant is not an inactive legal entity. A participant in a consortium shall provide such letter of guarantee from all participants in such consortium;

* + 1. the person is not a founder (participant), individual and (or) director of the organization, included in the list of organizations and individuals related to the terrorism finance and extremism in accordance with the legislation of the Republic of Kazakhstan;

in order to confirm the compliance with this Qualification Requirement, the following documents shall be provided:

*individuals:* a letter of guarantee that the Potential participant is not an individual – founder (participant) and (or) director of the organization, included in the list of organizations and individuals related to the terrorism finance and extremism in accordance with the legislation of the Republic of Kazakhstan;

* + 1. the person is not a resident of a state with preferential taxation according to a list approved in accordance with the legislation of the Republic of Kazakhstan (Order of the Minister of Finance of the Republic of Kazakhstan dated 8 February 2018 No. 142 "On Approval of the List of States with Preferential Taxation");

in order to confirm the compliance with this Qualification Requirement, the following documents shall be provided:

*legal entities and individuals*: a letter of guarantee that the Potential Participant is not a resident of a state with preferential taxation according to the list approved in accordance with the legislation of the Republic of Kazakhstan. A participant in a consortium shall provide such letter of guarantee in respect of all participants in such consortium. In addition to the specified letter of guarantee, the Potential Participant shall provide a document confirming its state registration (certificate of state registration (re-registration));

* + 1. the person is not included in special sanctions lists

 in order to confirm the compliance with this Qualification Requirement, the following documents shall be provided:

*legal entities and individuals* (if applicable): a letter of guarantee that neither the Potential Participant, its employees, nor any person in its ownership structure, including shareholders are not included in the sanction lists.

* + 1. the person is not a legal entity, the voting shares of which are owned by the Republic of Kazakhstan or legal entities, directly and indirectly owned by the “Fund of National Welfare “Samruk-Kazyna” Joint-Stock Company. Indirect ownership of the shares (participating interests) of the legal entity on the right of ownership or trustee management;

in order to confirm the compliance with this Qualification Requirement, the following documents shall be provided:

*legal entities:* a letter of guarantee that the voting shares/participating interests in the charter capital of the Potential Participant are not owned by the Republic of Kazakhstan, or that the Potential participant is not owned by the “Fund of National Welfare “Samruk-Kazyna” Joint-Stock Company, directly or indirectly; a letter in a form to the Tender Documentation disclosing the ownership structure in respect of shares/participating interests of the Potential Participant and each subsequent owner up to the ultimate owner. A participant in a consortium shall provide such documents in respect of all participants in such consortium.

* + 1. is not a Potential Participant (one of the consortium participants) associated with other Potential Participant (one of the consortium participants) as follows:

1.16.1. a Potential Participant is a shareholder/participant who owns at least 50% of the shares/participating interests of another Potential Participant;

1.16.2. a Potential Participant, at least 50% of the shares/participating interests of which owned by the shareholder/participant referred to in subparagraph 1.16.1 of Annex No. A to the Tender Documentation;

1.16.3. A Potential Participant, who directly or indirectly owns at least 50% of the shares/interests of the person specified in subparagraph 1.16.1. Annex No. A to the Tender Documentation;

1.16.4. A Potential Participant, at least 50% of whose shares/participating interests are directly or indirectly owned by the shareholders/participants referred to in subparagraph 1.16.3 of Annex No. A to the Tender Documentation;

in order to confirm the compliance with this Qualification Requirement, the following documents shall be provided:

*legal entities:* a letter of guarantee that (1) the Potential Participant does not submit more than one Competition Application or is not directly (indirectly) connected with other Potential Participants in accordance with this subparagraph of the Tender Documentation (2) the Potential Participant has received or will receive all corporate approvals, permits, authorizations, including from third parties, required to participate in the Tender; a letter in a form attached as Annex No. 5 to the Tender Documentation disclosing the ownership structure in respect of the shares/participating interests of the Potential Participant and each subsequent owner up to the ultimate owner. A participant in a consortium shall provide the specified documents in respect of all participants in such consortium.

* + 1. no bank account of the Potential Participant (personal or correspondent account to make payments under the transaction) are opened with banks or financial institutions that are included in:

1.17.1. the Consolidated List of persons, groups and entities subject to EU Sanctions or assets freeze regime

1.17.2. the Consolidated List of financial sanctions assets of the Office of Financial Sanctions Implementations in the UK

1.17.3. the above lists, SND, CAPTA, NS-MBS

1.17.4. if, after the date of execution of the SPA, any new sanctions act is adopted or any existing sanctions act is amended, or by virtue of an official explanation or decision of a competent state authority of the relevant jurisdiction, the scope of the current sanctions act expands or otherwise changes, and if the parties fail to reach agreement, TKS shall have the right to repudiate the Agreement unilaterally and claim compensation for direct and/or indirect losses incurred;

in order to confirm the compliance with this Qualification Requirement, the following documents shall be provided:

*legal entities and individuals*: a letter of guarantee that the bank accounts of the Potential Participant (own and correspondent accounts to make payments under the transaction) are with banks or financial institutions that are not included in the above lists.

* 1. Potential Participants shall confirm their compliance with the Qualification Requirements by providing the documentation specified in each specific subparagraph of paragraph 1 of Annex No. A to the Tender Documentation. If the issuance of any document to be provided in accordance with the requirements of the Tender Documentation is canceled/changed by the state authorities of the Republic of Kazakhstan, the Potential Participant shall provide a document in accordance with a new form of the document approved by the state authorities or, in case of full cancellation of the issuance of such documents, a corresponding letter of guarantee.

TKS shall have the right at any time to verify the information provided by Potential Participants and will verify by any possible means the validity of the representations and warranties provided by Potential Participants, including by comparing with information from open sources, sending requests to relevant organizations, and in such case the Potential Participants shall assist TKS in obtaining such information. TKS shall have the right to request any other information at any time for the purposes of the Tender, if necessary.

* 1. To confirm compliance with the Qualification Requirements, a Potential Participant shall provide a letter in a form attached as Annex No. 5 to the Tender Documentation, attaching, in addition to the documents listed in paragraph 1 of Annex No. A to the Tender Documentation, the following documents:
	2. an original or a notarized copy of a document on the appointment (election) of its CEO (in case of a consortium, the original or notarized copy of a document on the appointment (election) of the CEO of each legal entity participating in the consortium, as well as the original or notarized copy of a document confirming the right to sign the consortium agreement by an authorized person of each legal entity participating in the consortium);
	3. a notarized copy of the charter approved in accordance with the procedure established by law, for legal entities registered on the basis of the model charter – a copy of an application in the prescribed form for registration of a legal entity (in case of a consortium, a notarized copy of the charter of each legal entity participating in the consortium), a notarized copy of an extract from the register of shareholders, issued within 30 (thirty) calendar days before the date of submission of a letter of consent to the tender procedures;
	4. the failure to submit the letter, or the submission of the letter in a form that does not correspond to Annex No. 5 to the Tender Documentation, with all necessary documents, or the submission of an incomplete Set of Documents entails the refusal to confirm the compliance with the Qualification Requirements.

For the confirmation of compliance with the Qualification Requirements, a Potential Participant shall submit a letter in a form attached as No. 5 to the Tender Documentation with the detailed information regarding the entire structure of ownership of shares/participating interests of the Potential Participant in respect of its shareholders/participants and all subsequent owners, including the ultimate owner. ***The information shall be provided in relation to persons holding at least 10% of shares/participating interests in the charter capital.***

***Annex No. B***

***to the Tender Documentation***

**Competition Application Submission Procedure**

* 1. Potential Participants shall submit their Competition Applications for the participation at 17/10 Building, 7th Floor, Syganak Street, 010000, Astana, Republic of Kazakhstan, until 06:00 p.m. (by Astana time) on \_\_\_\_\_\_\_\_ 2024.
	2. A Competition Application and all documents attached thereto shall be bound with an indication of a number of sheets and sealed (if available) by a Potential Participant. It is allowed to compile a Competition Application by dividing into several folders, each folder bound, numbered and sealed (if available) by a Potential Participant. The Competition Application and all documents attached thereto shall be placed in an envelope or in several envelopes, if the Competition Application and the documents attached thereto consist of several folders. The envelope(s) shall contain on its face:

1.2.1. the name and address of the submitting person;

1.2.2. the name of the Tender, for which the Competition Application is submitted;

1.2.3. the instruction "DO NOT OPEN until: 06:00 p.m. on \_\_\_\_ 2024".

* 1. A meeting of the Tender Commission for opening envelopes with Competition Applications shall be held at 06:00 p.m. on \_\_\_\_ 2024.
	2. Each Potential Participant shall have the right to submit only one Competition Application.
	3. The Competition Application ad all documents attached thereto shall be scanned and provided in an electronic copy on a data carrier to TKS via e-mail.

***Annex No. C1***

***to the Tender Documentation***

**Investment obligations in relation to Tau-Ken Temir LLP**

1. For the purpose of executing the SPA, persons participating in the Tender, including Potential Participants/Participants/Preferred Participant, shall assume the following investment obligations in relation to the Asset:
2. ensuring that the Asset's business profile – production of metallurgy goods - is preserved for at least 5 (five) years from the date of execution of the SPA;
3. making no transaction with respect to the Participating Interest in result of which the right of ownership and/or management of Participating Interests is transferred without preliminary agreement of TKS within 2 (two) years after concluding the Agreement.

Upon expiry of the above term, in case the Buyer wishes to sell the Participating Interest in the Asset to a third party (hereinafter referred to as the Third Party), the Buyer will be obliged to notify TKS of such planned transaction at least one month prior to the planned sale to the Third Party. In this case, TKS shall be entitled to exercise its tag-along right and demand inclusion of its Participating Interest in the transaction on the same terms as those offered by the Third Party for the acquisition of the Participating Interest from the Buyer. TKS will be obliged to notify the Buyer of its intention to exercise its right to join the sale (tag-along right) within thirty (30) Business Days of receiving notice from the Buyer of the proposed transaction. The Buyer will not be entitled to dispose of the Participation Interest if TKS exercises its right under this clause and the Buyer's potential investor refuses to purchase the participation interest in the Asset owned by TKS simultaneously with the Buyer's Participation Interest.

1.3. restart production within 2 (two) years from the date of the Agreement;

1.4. repay the Asset's debt to TKS under the Repayable Loan Agreement No. 19 dated 11 March 2015 (hereinafter referred to as the Debt) in accordance with the following terms and conditions:

(a) Repayment Term:

- The Buyer shall repay the Debt by lump sum repayment within thirty (30) Business Days after the conclusion of the Agreement, in case of acquisition of more than 75% of the equity interest in the Asset; or

- The Buyer shall repay the Debt within a period of not more than 5 (five) years after the conclusion of the Agreement in case of acquisition of 51% to 75% (inclusive) of the participation interest in the Authorized Capital of the Asset or more than 75% of the participation interest in the Authorized Capital of the Asset, but with the transfer of some part of the participation interest in the Asset to the trust management of TKS, so that as a result TKS will own more than 25% of the participation interest in the Asset by right of ownership and/or trust management;

(b) Collateral:

In the event Buyer pays the Debt in other than a lump sum repayment, the Buyer must provide security acceptable to TKS for the Debt.

(c) Form of Repayment

As a proper discharge of Buyer's obligation to repay the Debt, the following options are acceptable:

(i) The Buyer shall, within ten (10) days of the execution of the Agreement, make a directed loan to the Asset and secure repayment of the Debt by the Asset on the dates as set forth above; or

(ii) The Buyer enters into an assignment agreement pursuant to which TKS transfers the right to claim the Debt to Buyer and Buyer pays a consideration equal to the amount of the Debt on the dates as set forth above.

2. Put option

2.1. If the Buyer acquires less than 100 % of the participation interest in the authorized capital of the Asset, then within a period not exceeding five years from the date of conclusion of the Agreement, TKS shall have the right to require the Buyer to repurchase the interest in the Asset remaining in its possession at a price not less than the Purchase Price, calculated per one per cent of the share in the authorized capital of the Assets under the Agreement, with indexation for the yield in the amount agreed between TKS and the Buyer, and the Buyer will be obliged to buy the said share from TKS within a period not exceeding 6 (six) months from the date of sending the relevant redemption request to TKS or within another period agreed between TKS and the Buyer.

3. Consequences of failure to fulfill the Investment Obligations

3.1 The Buyer's failure to fulfill one and/or several Investment Obligations specified in Sections 1 and 2 of Annex C1 shall entail the Buyer's liability in the form of penalties, fines and other types of liability to be stipulated in the Agreement in respect of each Investment Obligation.

***Annex No. C2***

***to the Tender Documentation***

**Investment obligations in relation to Silicon mining LLP**

1. For the purpose of executing the SPA, persons participating in the Tender, including Potential Participants/Participants/Preferred Participant, shall assume the following investment obligations in relation to the Asset:
2. ensuring that the Asset's business profile of production of metallurgy goods is preserved for at least 5 (five) years from the date of execution of the SPA;
3. making no transaction with respect to the Participating Interest in result of which the right of ownership and/or management of Participating Interests is transferred without preliminary agreement of TKS within 2 (two) years after concluding the Agreement.

1.3 Upon expiry of the above term, in case the Buyer wishes to sell the Participating Interest in the Asset to a third party (hereinafter referred to as the Third Party), the Buyer will be obliged to notify TKS of such planned transaction at least one month prior to the planned sale to the Third Party. In this case, TKS shall be entitled to exercise its tag-along right and demand inclusion of its Participating Interest in the transaction on the same terms as those offered by the Third Party for the acquisition of the Participating Interest from the Buyer. TKS will be obliged to notify the Buyer of its intention to exercise its right to join the sale (tag-along right) within thirty (30) Business Days of receiving notice from the Buyer of the proposed transaction. The Buyer will not be entitled to dispose of the Participation Interest if TKS exercises its right under this clause and the Buyer's potential investor refuses to purchase the participation interest in the Asset owned by TKS simultaneously with the Buyer's Participation Interest.

1.4. restart production within 2 (two) years from the date of the Agreement;

1.5. repay the Asset's debt to TKS under the Repayable Loan Agreement No. 39 dated 28 December 2016 (hereinafter referred to as the Debt) in accordance with the following terms and conditions:

(d) Repayment term:

- The Buyer shall repay the Debt by lump sum repayment within 30 (thirty) Business Days after the conclusion of the Agreement, in case of acquisition of more than 75% of the equity interest in the Asset; or

- The Buyer shall repay the Debt within a period not exceeding 5 (five) years after the conclusion of the Agreement in case of acquisition of 51% to 75% (inclusive) of the participation interest in the Authorized Capital of the Asset or more than 75% of the participation interest in the Authorized Capital of the Asset, but with the transfer of some part of the participation interest in the Asset to the trust management of TKS, so that as a result TKS will own more than 25% of the participation interest in the Asset by right of ownership and/or trust management;

(e) Collateral:

In the event that the Buyer pays the Debt in other than a lump sum repayment, Buyer must provide security acceptable to TKS for the Debt.

(f) Form of Repayment

As a proper discharge of Buyer's obligation to repay the Debt, the following options are acceptable:

(i) Buyer shall, within ten (10) days of the execution of the Agreement, make a directed loan to the Asset and secure repayment of the Debt by the Asset on the dates specified above; or

(ii) Buyer enters into an assignment agreement pursuant to which TKS transfers the right to claim the Debt to Buyer and Buyer pays a consideration equal to the amount of the Debt on the dates specified above.

2. Put option

2.1. If the Buyer acquires less than 100 per cent of the participation interest in the authorized capital of the Asset, then within a period not exceeding five years from the date of conclusion of the Agreement, TKS shall have the right to require the Buyer to repurchase the participation interest in the Asset remaining in its possession at a price not less than the Purchase Price, calculated per one per cent of the participation interest in the authorized capital of the Asset under the Agreement with indexation for the yield in the amount agreed between TKS and the Buyer, and the Buyer will be obliged to buy the said interest from TKS within a period not exceeding 6 (six) months from the date of sending the relevant redemption request to TKS or within another period agreed between TKS and the Buyer.

3. Consequences of failure to fulfill investment obligations

3.1. The Buyer's failure to fulfill one and/or several Investment Obligations specified in Sections 1 and 2 of Annex C2 shall entail the Buyer's liability in the form of penalties, fines and other types of liability to be stipulated in the Agreement in respect of each Investment Obligation.

***Annex No. D***

***to the Tender Documentation***

***Form***

***AGREEMENT ON PROVISION OF GUARANTEE DEPOSIT***

***Annex No. 1***

***to the Tender Documentation***

***Form***

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| **CONFIDENTIALITY AGREEMENT** | **СОГЛАШЕНИЕ О КОНФИДЕНЦИАЛЬНОСТИ** |
| This Confidentiality Agreement (hereinafter referred to as the "Agreement") is entered into in Almaty | Настоящее Соглашение о конфиденциальности (далее «Соглашение») заключено в г. Алматы |
| on **"\_\_\_" \_\_\_\_\_\_\_\_\_\_\_** 2024between: | «\_\_» \_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_ 2024 годамежду: |
| **[insert full name of the client]** (hereinafter the "Company" or "You"), incorporated under the laws of [Republic of Kazakhstan]or [name of the country], represented by [insert position, name of client's signatory], acting on the basis of the [Charter] or [a power of attorney #\_\_ dated\_\_], on the one hand, and | **[указать полное название клиента]** (далее «Компания» или «Вы»), зарегистрированным по законодательству [Республики Казахстан]или [название страны], в лице [должность, ФИО подписанта клиента], действующего на основании [Устава] или [доверенности №\_\_\_ от\_\_\_ ], с одной стороны, и |
| **KPMG Tax and Advisory** **Limited Liability Company**, incorporated and acting under the Laws of the Republic of Kazakhstan (hereinafter “KPMG”), represented by Partner, Dias Kalazhanov, acting on the basis of the power of attorney No T-230 dated 18.11.2022, on the other hand. Collectively referred to as the "Parties". | **Товариществом с ограниченной ответственностью «КПМГ Такс энд Эдвайзори»**, созданным и действующим по законодательству Республики Казахстан (далее – «КПМГ»), в лице Директора, Калажанова Диаса, действующего на основании доверенности № T-230 от 18.11.2022, с другой стороны. Совместно именуемые «Стороны». |
| In connection with your interest in a possible transaction involving Tau-Ken Temir LLP and Silicon mining LLP (together the "Assets"), you acknowledge that KPMG as well as JSC “NMC "Tau-Ken Samruk" (hereinafter the "Client") will be furnishing you with certain information which is either non-public, confidential or proprietary in nature and which may be disclosed either in written form, electronically or orally. This information together with analyses, compilations, forecasts, studies or other documents prepared by you, your agents, representatives (including, without limitation, lawyers, consultants and financial advisers), officers, directors or employees (together "Representatives") which contain or otherwise reflect such information directly or indirectly, in whole or in part, or your review of or interest in a possible transaction relating to the Assets (the "Transaction") is hereinafter referred to as the "Information". | В связи с рассмотрением Вами потенциальной сделки с участием ТОО “Tau-Ken Temir” и ТОО “Silicon mining” (вместе «Объекты»), вы подтверждаете, что КПМГ, также как и АО «НГК «Тау-Кен Самрук» (далее – «Клиент»), предоставят Вам определенную информацию, которая является либо непубличной, конфиденциальной либо является собственностью Клиента и может быть раскрыта как в письменной, электронной, так и устной форме. Эта информация вместе с анализами, компиляциями, прогнозами, исследованиями или другими документами, подготовленная Вами, Вашими агентами, представителями (включая, в том числе, адвокатов, консультантов и финансовых консультантов), должностными лицами, директорами и сотрудниками (вместе “Представители”), которая содержит или иным способом отражает данную информацию прямо или косвенно, в целом или частично, или Ваше рассмотрение или интерес в возможной сделке в отношении Объектов (далее “Сделка”), далее именуется Информацией. |
| In consideration of you being furnished with the Information, you agree that: | Принимая во внимание факт предоставления Вам Информации, вы подтверждаете, что: |
| 1. The Information will be kept confidential and will not without our prior written consent, except as provided in this paragraph and in paragraph 7 below, be disclosed either directly or indirectly by you or your Representatives in any manner, in whole or in part, and will not be used by you or your Representatives for any purpose other than the Transaction. Furthermore, you agree to disclose the Information only to those of your Representatives who need to know the Information for the purpose of evaluating the Transaction, who are informed by you of the confidentiality of the Information and who will agree to act in accordance with this confidentiality agreement ("Agreement"). You will ensure that all your Representatives to whom such disclosure is made will act in accordance with this Agreement as if each of them were a party hereto, and you agree that you will be responsible for any breach of this Agreement. You furthermore confirm that all your Representatives are and will be acting in this matter solely as advisor to you and not as agent or representative for any other person or entity.
 | 1. Информация будет храниться в конфиденциальной форме и не будет без нашего предварительного согласия, исключая случаи, указанные в этом параграфе и параграфе 7 ниже, раскрыта прямо и косвенно Вами или Вашими Представителями любым способом, целиком или частично, и не будет использоваться Вами или Вашими Представителями для иных целей, отличных от Сделки. Кроме того, Вы соглашаетесь раскрывать Информацию только тем Вашим Представителям, которым ее необходимо знать в целях оценки возможной Сделки, кто проинформирован Вами о конфиденциальности Информации, и кто будет согласен действовать в соответствии с данным соглашением о неразглашении конфиденциальной информации (далее “Соглашение”). Вы гарантируете, что все Ваши Представители, которым будет раскрыта эта Информация, будут действовать в соответствии с данным Соглашением, как если бы каждый из них был стороной Соглашения, и Вы соглашаетесь с тем, что будете ответственны за любое нарушение данного Соглашения. Вы, кроме того, подтверждаете, что все Ваши Представители действуют и будут действовать в данной ситуации исключительно как Ваши консультанты, а не как агент или представитель какого-либо другого физического или юридического лица.
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| 1. You agree that without our prior written consent you will not directly or indirectly disclose to any person or entity the fact that Information has been made available, that discussions or negotiations concerning a possible Transaction involving you and the Client are taking place or have taken place or any of the terms, conditions or other facts with respect to a possible Transaction, including, without limitation, the status thereof.
 | 1. Вы соглашаетесь, что без нашего письменного согласия, Вы не будете прямо или косвенно разглашать любому физическому или юридическому лицу факт наличия Информации, факт проведения обсуждений или переговоров по потенциальной Сделке с Вашим участием и участием Клиента или любые иные условия или иные факты, относящиеся к возможной Сделке, включая, в том числе, ее статус.
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| 1. In case of the disclosure of the Information KPMG may demand from you full reimbursement of losses, including lost profit, caused by the disclosure and use of the Information.
 | 1. В случае Вашего разглашения Информации КПМГ имеет право потребовать от Вас возмещения убытков, включая упущенную выгоду, понесенных в связи с разглашением и использованием Информации.
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| 1. You shall keep a record of all Information provided to you as well as the location of the Information. All copies of the Information, except for that portion of the Information which consists of analyses, compilations, forecasts, studies or other documents prepared by you or your Representatives, will be returned to us immediately upon our request and no copy thereof will be retained by you. That portion of the Information which consists of analyses, compilations, forecasts, studies or other documents prepared by you or your Representatives will be destroyed by you immediately upon our request and any non-written Information will continue to be subject to the terms of this Agreement.
 | 1. Вы обязуетесь вести регистрацию всей Информации, предоставленной Вам, а также, по мере возможности, вести учет ее местонахождения. Все копии Информации, кроме той ее части, которая содержит результаты проведенных анализов, компиляций, исследований или иные документы, подготовленные Вами или Вашими Представителями, будут незамедлительно возвращены нам по нашему запросу без сохранения каких-либо копий, выписок или иных форм полного или частичного воспроизведения хранящихся материалов у Вас. Информация, включая ту ее часть, которая содержит результаты проведенных анализов, компиляций, исследований или иные документы, подготовленные Вами или Вашими представителями, будут незамедлительно Вами уничтожены по нашему запросу, и любая Информация не в письменной форме будет продолжать являться предметом данного Соглашения.
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| 1. The term Information shall not include such portions of the Information which (i) are or become generally available to the public through no fault or action by you or your Representatives or (ii) are or become available to you on a non-confidential basis from a source which is not prohibited from disclosing such information to you by any obligation to us or the Client of which you may be aware after reasonable investigation.
 | 1. Настоящее Соглашение не распространяется на те части Информации, (i) которые явились или становятся публично известными не по Вашей вине и не в результате Ваших действий или действий Ваших Представителей; или (ii) которые поступают к Вам на неконфиденциальной основе из источника, которому не запрещено предоставлять такую информацию Вам на основе обязательств перед нами или Клиентом, о которых Вы можете узнать после надлежащего расследования.
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| 1. You understand and acknowledge that neither KPMG, nor the network of member firms of KPMG International Limited, the Client or any of their Representatives make any representation or warranty as to the accuracy or completeness of the Information, and agree that each of the above expressly disclaim any and all liability that may be based on the Information, errors therein or omissions therefrom. You agree that you are not entitled to rely on the accuracy or completeness of the Information and that you shall be entitled to rely solely on representations and warranties made to you by the Client in any definitive Agreement for the purpose of realizing the Transaction. You further agree that any document made available to you, or your Representatives will not constitute an offer unless explicitly stated therein.
 | 1. Вы понимаете и подтверждаете, что ни КПМГ, ни сеть компаний-членов «KPMG International Limited», ни Клиент, равно как и их Представители, не делают никаких заявлений и не дают каких-либо гарантий относительно точности или полноты Информации, а также соглашаетесь, что все из вышеназванных не принимают на себя обязательства, которые могут проистекать из Информации, а также из ошибок и упущений, содержащихся в ней. Вы подтверждаете, что Вы не будете располагать какими-либо правами в отношении точности или полноты Информации и Вы будете иметь право основываться только на заявлениях и гарантиях, данных Вам Клиентом в окончательном договоре для целей совершения Сделки. Вы также подтверждаете, что любые документы, предоставленные Вам или Вашим Представителям, не будут представлять собой оферту, если только это не будет оговорено отдельно в данных документах.
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| 1. In the event that you or anyone to whom you transmit the Information pursuant to this Agreement become legally compelled to disclose any part of the Information, the fact that Information has been made available, that discussions or negotiations are taking place or have taken place concerning the Transaction or any of the terms, conditions or other facts with respect to the Transaction, including the status thereof, you will promptly and before complying with any such requirement notify us in writing of the same and of the action which is proposed to be taken in response. You will furnish only that portion of the Information which is legally required.
 | 1. В случае если Вы или какое-либо лицо, которому Вы передаете Информацию в соответствии с настоящим Соглашением, становитесь юридически обязанными раскрыть любую часть Информации, факт наличия Информации, а также факт того, что обсуждения или переговоры имеют или имели место быть относительно потенциальной Сделки или любого из условий или других фактов в отношении Сделки, включая ее статус, Вы надлежащим образом незамедлительно до выполнения соответствующего требования уведомите КПМГ в письменной форме об этом и о действиях, которые предположительно будут предприняты в ответ. Вы предоставите только юридически требуемую часть Информации.
 |
| 1. You agree that neither KPMG nor the Client will be under any obligation to accept any offer or proposal which may be made by you or on your behalf in the course of any negotiations. Furthermore, you agree that neither KPMG nor the Client can be held responsible for any costs incurred by you for whatever reason in connection with a possible Transaction.
 | 1. Вы подтверждаете, что ни КПМГ, ни Клиент не будут нести обязательства принять какую-либо оферту или предложение, которые могут быть представлены Вами или от Вашего имени в ходе любых переговоров. В дополнение к этому Вы подтверждаете, что ни КПМГ, ни Клиент не несут ответственности за любые расходы, произведенные Вами по любым обстоятельствам в связи с возможной Сделкой.
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| 1. You agree not to engage in any contact of any kind, directly or indirectly, with the staff or Representatives of the Client concerning the business, operations, prospects or finances of the Client without prior written consent by KPMG, except for those contacts made in the ordinary course of business, for a period of 24 months following the signing of this Agreement.
 | 1. Вы обязуетесь не инициировать, не допускать и не участвовать в каких-либо контактах прямо или косвенно (за исключением контактов, устанавливаемых и поддерживаемых в процессе обычной хозяйственной деятельности) относительно деятельности Клиента, перспектив развития или состояния ее финансов с сотрудниками или Представителями Клиента без предварительного письменного согласия КПМГ в течение 24 месяцев после подписания данного Соглашения.
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| 1. You agree not to engage in any contact of any kind, directly or indirectly, in connection with or relation to a possible Transaction with other interested or potentially interested parties, regardless of their participation in any Transaction process.
 | 1. Вы обязуетесь не инициировать, не допускать и не участвовать в каких-либо контактах прямо или косвенно относительно Сделки с другими заинтересованными или потенциально заинтересованными лицами, независимо от их участия на любом этапе Сделки.
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| 1. You agree not to recruit employees of KPMG or the Client or to offer them Agreements of employment without KPMG’s or the Client prior written consent for a period of 24 months following the signing of this Agreement.
 | 1. Вы обязуетесь не нанимать сотрудников КПМГ или Клиента и не предлагать им трудовые договоры без предварительного письменного согласия КПМГ или Клиента в течение 24 месяцев с даты подписания данного Соглашения.
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| 1. No failure or delay by KPMG in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder.
 | 1. Никакое неосуществление или задержка в осуществлении КПМГ любого права, полномочия или привилегии по настоящему Соглашению не будут рассматриваться как отказ от них, равно как и любое единичное или частичное осуществление таких прав, полномочий или привилегий не будет исключать любое иное или последующее осуществление таких прав, полномочий или привилегий, предусмотренных настоящим Соглашением.
 |
| 1. Any changes or supplements as well as the consensual cancellation of this Agreement must be in writing and must explicitly refer to this Agreement.
 | 1. Внесение изменений или дополнений в Соглашение, равно как и его расторжение по взаимному согласию, должны быть оформлены в письменной форме и должны однозначно ссылаться на данное Соглашение.
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| 1. This Agreement shall cease to apply three (3) years from the date hereof except for the provisions of paragraph 6 which shall apply indefinitely.
 | 1. Данное Соглашение перестает действовать через 3 года после даты подписания, за исключением положений параграфа 6, который продолжает действовать без ограничений по времени.
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| 1. This Agreement shall be governed by and construed in accordance with the legislation of the Republic of Kazakhstan.
 | 1. Соглашение регулируется и подлежит толкованию в соответствии с законодательством Республики Казахстан.
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| 1. Any dispute which the parties fail to resolve within 3 months of the receipt by one of the parties of a proposal from the other party to settle the dispute shall be settled in Special Inter-District Economic court of Almaty.
 | 1. Спор, который стороны не смогли разрешить в течение 3 месяцев с момента получения одной из сторон предложения другой стороны об урегулировании спора, подлежит урегулированию в Специализированном межрайонном экономическом суде г. Алматы.
 |
| 1. This Agreement is drawn up in Russian and English language. In case of any discrepancy between the Russian and English text the Russian version shall prevail.
 | 1. Настоящее Соглашение составлено на английском и русском языках. В случае возникновения какого-либо противоречия, русская версия Соглашения имеет преимущественную силу.
 |
| 1. You shall maintain the same level of information protection to avoid disclosure or use of Information as you would reasonably maintain in respect of your own confidential information of the same level of importance.
 | 1. Вы будете соблюдать столь же высокую степень защиты информации во избежание разглашения или использования Информации, какую соблюдали бы в разумной степени в отношении своей собственной конфиденциальной информации такой же степени важности.
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| 1. The obligations contained in this Agreement shall terminate automatically when a new agreement is concluded between the parties, which will contain provisions governing or related to the protection of Information.
 | 1. Действие обязательств, содержащихся в настоящем Соглашении, прекращается автоматически при заключении между Сторонами нового соглашения, в котором будут содержаться положения, которые регулируют или относятся к вопросам защиты Информации.
 |
| 1. You shall be liable for the non-performance or improper performance of the terms of this Agreement.
 | 1. Вы несете ответственность за невыполнение или ненадлежащее выполнение условий настоящего Соглашения.
 |
| 1. You shall not acquire any title to the Information received under this Agreement.
 | 1. Вы ни в коем случае не приобретаете каких бы то ни было прав собственности на Информацию, полученную согласно настоящему Соглашению.
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| 1. In the event of the reorganization of one of the parties, all rights and obligations under this Agreement shall pass to its legal successor.
 | 1. В случае реорганизации одной из Сторон все права и обязанности по настоящему Соглашению переходят к ее правопреемнику
 |
| 1. The Company cannot transfer rights and obligations under this Agreement to third parties.
 | 1. Компанией не допускается передача своих прав и обязанностей по настоящему Соглашению третьим лицам.
 |
| 1. The Company shall be released from liability for the non-performance of its obligations under the Agreement in whole or in part if it provides a substantiation that this was caused by force majeure, i.e. extraordinary and unavoidable circumstances under these conditions (force majeure): fires, earthquakes, landfills and other natural disasters, epidemics, military actions, acts of the state authorities of the Republic of Kazakhstan (decisions, resolutions, etc.).
 | 1. Компания освобождается от ответственности за полное или частичное неисполнение обязательств по Соглашению, если предоставит обоснование того, что это было вызвано непреодолимой силой, т.е. чрезвычайными и непредотвратимыми при данных условиях обстоятельствами (форс-мажор): пожары, землетрясения, сели и прочие стихийные явления, эпидемии, военные действия, акты государственных органов Республики Казахстан (решения, постановления и т.д.).
 |
| 1. The Company is obligated to provide evidence to confirm force-majeure circumstances, specifically that due performance was impossible due to force-majeure circumstances.
 | 1. Компания обязана предоставить доказательства для подтверждения форс-мажорных обстоятельств, в частности, что надлежащее исполнение оказалось невозможным вследствие форс-мажорных обстоятельств.
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| 1. Any amendments and changes to this Agreement shall have legal force only if they are made in writing, signed by the authorized representatives of each Party and sealed by the Parties.
 | 1. Дополнения, изменения и поправки к настоящему Соглашению имеют юридическую силу только в том случае, если они оформлены в письменном виде, подписаны уполномоченными представителями каждой из Сторон и скреплены печатями Сторон.
 |
| 1. Notwithstanding the terms of this Agreement, the information transferred shall be confidential for 3 years from the date of its transfer. In the event of the termination of this Agreement, the Company shall bear civil liability for the disclosure of confidential Information within 3 years after the termination of this Agreement. In the event of the termination of the Agreement, the return of Information shall be made by the deadline established by the disclosing party.
 | 1. Безотносительно к условиям настоящего Соглашения передаваемая информация является конфиденциальной в течение 3 лет с даты ее передачи. В случаях прекращения действия настоящего Соглашения Компания несет гражданско-правовую ответственность за разглашение Конфиденциальной информации в течение 3 лет после прекращения действия настоящего Соглашения. В случаях прекращения действия Соглашения возврат Информации осуществляется в срок, установленный раскрывающей стороной.
 |
| 1. If a third party brings a claim or other legal action against the Company for the disclosure of any Information, the Company shall immediately notify KPMG and the Client and take all possible measures to prevent the disclosure of the Information.
 | 1. Если третья сторона возбудит иск или другое юридическое действие к Компании на предмет раскрытия какой-либо Информации, Компания немедленно уведомит об этом КПМГ и Клиента и примет все возможные меры для предотвращения разглашения Информации.
 |
| **KPMG** | **КПМГ** |
| KPMG Tax and Advisory LLC | ТОО "КПМГ Такс энд Эдвайзори" |
| Legal address:180, Dostyk avenue, Almaty, 050051, Republic of Kazakhstan | Юридический адрес:Республика Казахстан, г. Алматы, 050051 пр. Достык, 180 |
| Postal address:180, Dostyk avenue, Almaty, 050051, Republic of Kazakhstan | Почтовый адрес:Республика Казахстан, г. Алматы, 050051 пр. Достык, 180 |
| Phone: +7 (727) 298-08-98 | Телефон: +7 (727) 298-08-98 |
|  |  |
| **COMPANY** | **КОМПАНИЯ** |
| *[insert full name]* | *[указать наименование]* |
| Legal address: | Юридический адрес: |
| Postal address: | Почтовый адрес: |

SIGNATURES OF THE PARTIES / ПОДПИСИ СТОРОН |
| **KPMG / КПМГ** |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  Dias Kalazhanov / Калажанов Диас |
| Partner / Партнер |
|  |
| **Company / Компания** |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| \_\_\_\_\_\_\_\_\_\_\_\_ / \_\_\_\_\_\_\_\_\_\_\_\_ |
| \_\_\_\_\_\_\_\_\_\_\_ / \_\_\_\_\_\_\_\_\_\_\_  |

***Annex No. 2***

***to the Tender Documentation***

|  |  |
| --- | --- |
| *To:* | **NMC Tau-Ken Samruk JSC** |
| *From:* | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*(insert full name, BIN/IIN, registered address and location, contact details: phones, e-mail)* |

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *(insert full name)* hereby confirms that he/she/it is familiar with the terms of the open two-stage tender for the sale by NMC Tau-Ken Samruk JSC of a 51% (fifty one per cent) to 100% (one hundred per cent.) participating interests in the charter capital of Tau-Ken Temir LLP and a 51% (fifty one per cent) to 100% (one hundred per cent.) participating interest in the charter capital of Silicon mining LLP owned by NMC Tau-Ken Samruk JSC (*the "Tender"*), set out in the notice of tender dated \_\_\_ \_\_\_\_\_\_\_\_\_\_\_ 202\_\_, as well as with the provided tender documentation related to this tender.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *(insert full name)* expresses his/her/its consent to the tender procedures set out in the notice of tender dated \_\_\_ \_\_\_\_\_\_\_\_\_ 202\_\_\_, and in the tender documentation related to this tender, and the willingness to provided confirmation of his/her/its compliance with the Qualification Requirements specified in the tender documentation for the Tender posted on the website of NMC Tau-Ken Samruk JSC.

*Full name of the CEO authorized to sign this letter or a proxy (a power of attorney to be attached), signature, date, seal (if any)*

***Annex No. 3.***

***to the Tender Documentation***

***Form***

**SALE AND PURCHASE AGREEMENT**

**in respect of a [insert value] participating interest in the charter capital of Tau-Ken Temir LLP**

**Silicon mining LLP**

**between**

**National Mining Company Tau-Ken Samruk Joint Stock Company**

**(*Seller*)**

**and**

**[***insert name***]**

**(*Buyer*)**

[This document is a draft Sale and Purchase Agreement that the Seller proposes to execute with the Preferred Participant of the two-stage Tender for the sale of the Asset. The Seller reserves the right to revise the commercial provisions of the SPA (without changing the conditions set out in the notice) after agreeing on a Preferred Participant, depending on the conditions of the proposal received from the Preferred Participant]

***Annex No. 4***

***to the Tender Documentation***

**FORM OF COMPETITION APPLICATION**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter (collectively) the "Participant") hereby confirms his/her/its participation in the open two-stage tender for the sale (hereinafter referred to “Bids”) by NMC Tau-Ken Samruk JSC of a 51% to 100% participating interest in the charter capital of Tau-Ken Temir LLP, legal address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_; and Silicon mining LLP, legal address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *(hereinafter the "Assets")*.

1. Having reviewed the published notice of Tender dated \_\_\_\_\_\_\_\_\_\_\_\_\_ and having familiarized with the Rules for the transfer to the competitive environment of the assets of National Welfare Fund Samruk-Kazyna Joint Stock Company and organizations, more than fifty percent of the voting shares (participating interests) of which owned directly or indirectly by Samruk-Kazyna JSC *(hereinafter the "Rules"),*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*(Full name of an individual or the name of a legal entity and full name of its CEO or authorized representatives under a power of attorney)*

wishes to participate in the Tender that will be held on \_\_\_ \_\_\_\_\_\_\_\_\_ 20\_\_

at: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

*(insert the venue of the Tender)*

2. The Participant has made a security deposit (Security) for the participation in the Tender in the amount of 94 000 000 (KZT ninety four million) tenge [for residents of the Republic of Kazakhstan or equivalent sum in USD for non-residents of the Republic of Kazakhstan at the rate set by the National Bank of the Republic of Kazakhstan as of the date of payment] to the account of NMC Tau-Ken Samruk JSC *(hereinafter the "Company")*.

Account details\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

payment destination code\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

identification code\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

payment document No.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

payment document date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

3. The Participant hereby confirms his/her/its awareness that persons specified in the relevant paragraph of the Rules may not be registered as Participants.

4. The Participant hereby fully and unconditionally agrees that if it is found not meeting the requirements imposed on Participants, the Participant will be deprived of the right to participate in the Tender, and acknowledge the invalidity of the statement of Tender results and the relevant sale and purchase agreement signed by, or on behalf of the Participant.

5. If the Participant is declared a Preferred Participant, he/she/it hereby undertakes to sign a statement of Tender results on the date of holding thereof, unless another term is specified in the Rules or in the Notice of Tender, and to sign a sale and purchase agreement in respect of participating interest in the charter capital of Tau-Ken Temir LLP and Silicon mining LLP (hereinafter referred to as the “Agreement”) within the period stipulated by the statement of the Tender results or tender documentation on the terms determined during the Tender, tender documentation, notice of Tender, the circulated draft of the Agreement and the Competitive Bid or Competition Application of the Participant at the price and on the terms proposed by the Participant or which the Participant has agreed to during the Tender (directly or through its authorized representative).

6. The Participant hereby fully and unconditionally agrees that the amount of the Security Deposit (Security) paid by the Participant is not refundable and is retained by the Company in the following cases:

* + - refusal to participate in the Competition after the deadline for submitting applications for participation in the Competition;
		- by decision of the Competition Commission as provided for by the Rules, in case of violation of the Rules or in connection with violation of the procedure and conditions of the Competition, creation of obstacles or hindrance to the Competition, if there are documented grounds;

in case of failure to submit a Bid or a Competitive Bid within the established deadline;

* + - in case there is a Preferred Participant of the Tender. In this case, the amount of the guarantee contribution (Security) shall be offset against payment for the price of participation shares in accordance with the Agreement. If the amount of the Security is transferred in USD, then for the purposes of offsetting as payment for the price of participation shares this amount shall be converted into tenge at the exchange rate set by the National Bank of the Republic of Kazakhstan as of the date of signing of the Agremenet;
		- if the terms and conditions of the Bid or the Bid submitted by the Applicant knowingly did not meet the minimum requirements according to the criteria for evaluation of bids submitted in accordance with the provisions of the Rules of the Asset Realization Tender;
		- in case of refusal to sign the minutes on the results of the Tender or to sign the Agreement within the term established by Tau-Ken Samruk JSC;
		- in case of non-fulfillment or improper fulfillment of obligations under the Agreement.

7. The Participant confirms that if he/she/it is not admitted to the second stage of the Tender, the Company returns the Collateral amount within 3 (three) Business Days to the Participant's account from the moment the Company sends an official letter of refusal of admission to the second stage of the Bids

8. This application is a form of expression of the Applicant's full and unconditional consent to participate in the Tender on the terms and conditions set out in the Tender Documents, the Rules and the Tender Notice dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ published in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (sent to the Applicant \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_).

9. The Participant hereby confirms that no decision has been taken on its liquidation, no court order is issued to declare its bankruptcy and/or no bankruptcy proceedings or other similar procedures have been commenced, and no decision is taken to suspend its activities in accordance with the procedure provided for by the legislation of the Republic of Kazakhstan;

10. The Participant has been got familiar with all terms and conditions of the Tender as at the date of submission of this Competition Application, including, but not limited to, the conditions for the non-refund of the security deposit (Security) and agrees to all conditions of the Tender set out in the Tender Documentation, the notice of Tender and the Rules;

11. This Competition Application, together with a statement of Bids results, shall have the force of a Agreement valid until the execution of the Sale and Purchase Agreement.

12. If a decision is made to sell a 51 % to 100% participating interest in the charter capital of Tau-Ken Temir LLP and/or a 51% to 100% participating interest in the charter capital of Silicon mining LLP by way of direct targeted sale in accordance with Clause 5.4 of the Tender Documentation, this Competition Application shall serve an offer for the execution of a Sale and Purchase Agreement in respect of a 51% to 100% participating interest in the charter capital of Tau-Ken Temir LLP and/or a 100% participating interest in the charter capital of Silicon mining LLP on the following terms and conditions:

- the purchase price of [insert share value] participating interest in the charter capital of Tau-Ken Temir LLP and Silicon mining LLP shall be the price offered in this Competition Application (preliminary offer to the Competition Application);

- other terms of the Sale and Purchase Agreement of participating interest in the charter capital of Tau-Ken Temir LLP and Silicon mining LLP correspond to the draft agreements attached as Annexes No. 3 to the Tender Documentation;

- the offer acceptance period shall be 6 (six) months from the moment of declaring the Tender (First Stage) failed according to the Tender Documentation.

13. All capitalized terms used in this document shall be as defined in the Tender Documentation.

For a legal entity:

Name

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

BIN\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Full name of the CEO

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Phone (fax) number:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Bank details:

IIC\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

BIC \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of the bank

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Kbe\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attachments to the application:

1)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

For an individual:

Full name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

IIN\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Passport details \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Phone (fax) number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Bank details:

IIC\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

BIC \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of the bank \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Kbe\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attachments to the application:

1)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

3)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*(signature) (Full name of an individual or the name of a legal entity and full name of the CEO or authorized representative of a legal entity acting under a power of attorney)*

\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_20\_\_

*Seal here.*

Accepted on \_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_ at \_\_\_:\_\_\_ a.m./p.m..

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*(signature) (Full name of the person who accepted the application)*

***Annex No. 5***

***to the Tender Documentation***

|  |  |
| --- | --- |
| *To:* | **NMC Tau-Ken Samruk JSC** |
| *From:* | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*(full name of the person, BIN/IIN, address, location and registration, contact details: phones, e-mail)* |

In order to participate in the Tender, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *(insert the name of a legal entity or a full name of an individual)* intends to confirm his/her/its compliance with the Qualification Requirements set out in the Tender Documentation governing the procedure for holding the Tender.

1. Information regarding the entire ownership structure in respect of shares/participating interests \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *(name of the person) (provided in relation to the Potential Participant's shareholders/participants and all subsequent direct and indirect owners, including the ultimate owner[[1]](#footnote-2)):*
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *(insert the full name of owners of shares/ participating interests of the Potential Participant, the number of shares/participating interests in proportions among the holders thereof)*;
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *((insert the full name of owners of shares/ participating interests of the Potential Participant, the number of shares/participating interests in proportions among the holders thereof)*;
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *(etc. up to the ultimate owner)*;
1. The following documents are attached to this letter, in accordance with paragraph 3 of Annex No. A to the Tender Documentation for the Tender:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *(to attach and list documents specified in paragraph 3 of Annex No. A to the Tender Documentation)*

1. In confirmation of the compliance with the Qualification Requirements \_\_\_\_\_\_\_\_ *(name of a legal entity or full name of an individual)*, in accordance with paragraph 1 of Annex No. A to the Tender Documentation, attaches the following documents to this letter:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *(to attach and list documents specified in paragraph 1 of Annex No. A to the Tender Documentation)*.

4. The Participant confirms that all his/her/its particulars stated in this document and the documents attached hereto are true.

*Full name of the CEO authorized to sign this letter or a proxy (a power of attorney attached), signature, date, seal (if any)*

***Annex No. 6***

***to the Tender Documentation***

|  |  |
| --- | --- |
| *To:* | **NMC Tau-Ken Samruk JSC** |
| *From:* | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*(full name, BIN/IIN, address, location and registration, contact details: phones, e-mail)* |

**Competitive Bid**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter (collectively) the "Participant") hereby confirms his/her/its participation at the Second Stage of the open two-stage tender for the sale by NMC Tau-Ken Samruk JSC of a 51% to 100% participating interest in the charter capital of Tau-Ken Temir LLP, legal address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_; and Silicon mining LLP, legal address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *(the "Tender")*.

* + - 1. The Participant proposes to NMC Tau-Ken Samruk JSC to execute the Sale and Purchase Agreement of 51% to 100% of Participating Interests in the charter capital of Tau-Ken Temir LLP and Silicon mining LLP, attached to this Competitive Bid. The price offered by the Participant for the selling 51% to 100% of participating interests in the charter capital of Tau-Ken LLP and Silicon mining LLP shall be *[insert in words] tenge (KZT [insert in figures])*.

[*the following wording of this paragraph to be included in the Competitive Bid if the Participant intends to purchase in installments, according to Clause 8.10 of the Tender Documentation*]

The price specified in this paragraph is intended to be paid in installments in accordance with Clause 8. and Annex No. 9 to the Tender Documentation within the following procedure: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*list the main terms of the installment plan, including a table with a schedule and the amounts of installments broken down by calendar months and payment dates****, or with the provision of a free repayment schedule without the right to charge a penalty and/or other types of fines for prepayment***).

\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of the Participant*) guarantees, subject to the execution of the SPA therewith, to provide TKS with a pledge in accordance with Annex No. 9 to the Tender Documentation.

*[the wording of this clause below shall be included in the Bid if the Bidder intends to purchase by parts (tranches), pursuant to clause 8.9. of the Tender Documentation]*

Payment of the price specified in this clause shall be made in parts (tranches) in accordance with clause 8.9. and Annex No. 10 to the Bidding Documents in the following order: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (list the main terms of payment in parts (tranches), including a table with the schedule and amounts of payments broken down by calendar months and dates of payment.*

*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name of the Participant) guarantees to provide TKS with a pledge in accordance with Annex No. 10 to the Tender Documentation in case of conclusion of the Agreement with it*

* + - 1. This Competitive Bid, together with a statement of tender results, shall have the force of an agreement valid until the execution of the sale and purchase agreements in respect of 51% to 100% of participating interests in the charter capital of Tau-Ken Temir LLP and Silicon mining LLP.
			2. If the Participant is declared a Preferred Participant, this Competitive Bid shall serve as an offer for the execution of the sale and purchase agreements in respect of 51% to 100% of participating interests in the charter capital of Tau-Ken Temir LLP and Silicon mining LLP on the following terms and conditions:

- the purchase price of the Participating Interests in the charter capital of Tau-Ken Temir LLP and Silicon mining LLP shall be the price offered in this Competitive Bid;

- other terms of the of the sale and purchase agreements in respect of 51% to 100% of participating interests in the charter capital of Tau-Ken Temir LLP and Silicon mining LLP correspond to the draft SPA attached to this Competitive Bid;

- the offer acceptance period shall be 6 (six) months from the date of announcing the results of the Tender, according to the Tender Documentation.

4. All capitalized terms used in this document shall be as defined in the Tender Documentation.

The following documents shall be attached to this letter:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *(to attach and list documents according to the Tender Documentation)*

*Full name of the CEO authorized to sign this Competitive Bid or a proxy (to attach a power of attorney unless the power of attorney to sign this document has been already provided at the First Stage), signature, date, seal (if any)*

***Annex No. 7***

***to the Tender Documentation***

**General rules for working with the Data Room and the procedure for familiarizing with the Assets**

1. **Access and timing**
	1. Access to the Data Room will be provided to Potential Participants after signing the Confidentiality Agreement and will be available until \_\_:\_\_\_ a.m./p.m. on \_\_ \_\_\_\_\_\_202\_\_ (hereinafter the " *Data Room Operation Period*").
	2. To obtain the access rights, Potential Participants have to provide the following:
		1. information about the contact person, a coordinator on behalf of the Potential Participant, including his/her last name, first name, e-mail and phone numbers;
		2. a list of all team members of the Potential Participant who will assist in the familiarization with the Assets, including their surnames, first names, e-mail and phone numbers;
		3. perform the actions specified in Clause 3.1 of the Tender Documentation.
	3. The right of access to the Data Room will only be granted to the persons specified in paragraph 1.2 of this Annex No. 7 to the Tender Documentation. The transfer of the Data Room password/login to third parties is strictly prohibited.
2. **Contents of the Data Room**
	1. Further information can be added in the Data Room during the Data Room Operation Period. The new information will be available to all users in the Data Room.
	2. The documents in the Data Room will be presented in Kazakh, Russian or English. Document translation services will not be provided in the Data Room.
3. **Privacy**
	1. The terms of the Confidentiality Agreement apply to all information provided in the Data Room.
	2. Potential Participants must execute an appropriate NDA with persons, to whom information may be disclosed pursuant to the Confidentiality Agreement in respect of information obtained as a result of the familiarization with the Assets on the terms identical to the Confidentiality Agreement (Annex No. 1 to the Tender Documentation).
	3. The Parties (Potential Buyer, Independent Consultant and TKS) agree that, without the written consent, they will not directly or indirectly disclose to any individual or legal entity the fact of the availability of information, the fact of discussions or negotiations on a potential Transaction involving a Potential Buyer and TKS or any other conditions or other facts related to a proposed Transaction, including, *among other things*, the status thereof. The provisions of this paragraph apply equally to any information shared among the Parties.
4. **Questions/requests/inquiries**
	1. The option to ask questions and send requests for additional information (Q&A session) regarding the Assets will be available from the moment of execution of the Confidentiality Agreement until \_\_\_ \_\_\_\_\_\_\_\_\_ 202\_\_ (hereinafter the "**Request Submission Period**"). Questions/requests/inquiries shall be submitted through one contact person, the coordinator referred to in paragraph 1.2 of this Annex No. 7 to the Tender Documentation. Questions received after \_\_:\_\_ a.m./p.m. of Almaty time will be accepted for processing on the next Business Day. All answers to the received questions/inquiries/requests will be processed within 5 Business Days from the date of receipt thereof.

In the course of preparing questions, the following requirements must be met:

* 1. All questions/requests/inquiries should be placed in the Data Room in English, Russian or Kazakh.
1. All questions received from the coordinator of the Potential Participant specified in subparagraph 1.2.1 of this Annex No. 7 should be addressed to all of the following contact persons:

*Aidyn Jaxybayev*

Phone: +7 (727) 298 08 98

Mob.: +7 (707) 780 00 09

ajaxybayev@kpmg.kz

*Zhanibek Tokanov*

Phone: +7 (727) 298 08 98

Mob.: +7 (702) 695 61 91

ztokanov@kpmg.kz

* 1. Any request must contain a clear and understandable question regarding the Assets.
	2. In order to improve the efficiency of request processing, it is necessary to indicate the priority of the question being sent (High, Medium or Low).
	3. Each question/inquiry/request has to specify the area to which it relates (financial, legal or tax).
	4. The questions sent should contain a link to a specific folder in the Data Room, the name and page of relevant documents.
	5. In the absence of information or the possibility to provide an answer to the received question, the Potential Participant will be notified accordingly.
	6. The total number of questions from one Participant should not exceed 5 questions per one Business Day. The possibility to ask additional questions must be separately agreed with the contact persons specified in paragraph 4.2 of this Annex No. 7.
1. **Liability of the parties**
	1. The Independent Consultant shall not be liable for the completeness and accuracy of the information provided in the Data Room for Potential Participants.

***Annex No. 8***

***to the Tender Documentation***

|  |  |
| --- | --- |
| *To:* | **NMC Tau-Ken Samruk JSC** |
| *From:* | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*(full name, BIN/IIN, address, location and registration, contact details: phones, e-mail)* |

**Preliminary Offer**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter the "Participant") hereby provides, in accordance with Sub-Clause 4.1.3 of the Tender Documentation, a preliminary offer for the participation in an open two-stage tender for the sale by NMC Tau-Ken Samruk JSC of a 51% to 100% participating interest in the charter capital of Tau-Ken Temir LLP, legal address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_; and Silicon mining LLP, legal address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *(the "Tender")*..

1. The Participant wishes to acquire [insert value] % of the Participating Interests in the charter capital of Tau-Ken Temir LLP and Silicon mining LLP at a price equal to *[insert in words] tenge (KZT [insert in figures])* (not less than the Initial Price under the Tender Documentation).

[*the following wording of this paragraph is to be included in the preliminary offer if the Potential Participant intends to purchase in installments under Clause 4.3 of the Tender Documentation*]

The price specified in this paragraph is intended to be paid in installments in accordance with Clause 4.3 of the Tender Documentation, as well as according to Annex No. 9 to the Tender Documentation within the following procedure: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*list the main terms of the installment plan, including a table with a schedule and the amounts of installments broken down by calendar months and payment dates****, or with the provision of a free repayment schedule without the right to charge a penalty and/or other types of fines for prepayment***).

\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of the Potential Participants*) guarantees to provide TKS with a pledge in accordance with Annex No. 9 to the Tender Documentation before the date of execution of the SPA therewith.

*[the wording of this clause below shall be included in the Preliminary Bid if the Potential Bidder intends to purchase with payment in parts (tranches), in accordance with clause 4.3. of the Tenders Documentation]*

Payment of the price specified in this clause shall be made in parts (tranches) in accordance with clause 4.3. of the Tender Documentation. of the Tender Documentation, as well as according to Annex No.10 to the Tender Documentation in the following order: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *(list the main terms of payment in instalments (tranches), including including a table with the schedule and amounts of payments broken down by calendar months and dates of payment).*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *(name of the Bidder)* guarantees to provide TKS with a deposit in accordance with Annex No. 10 to the Tender Documentation in case of conclusion of the Agreement with it.

1. The Participant fully and unconditionally agrees with the conditions of the sale of 51% to 100% of participating interests in the charter capital of Tau-Ken Temir LLP and Silicon mining LLP, as specified in Clause 5.2 of the Tender Documentation.
2. In order to describe the compliance with the evaluation criteria of the preliminary offer, including the minimum requirements of the evaluation criteria to preliminary offers, the Participant assumes all investment obligations specified in Annexes No. C1 and No. C2 to the Tender Documentation and undertakes to preserve the business profiles of Tau-Ken Temir LLP and Silicon mining LLP.

*Full name of the CEO authorized to sign this Preliminary Offer or a proxy (a power of attorney to be attached), signature, date, seal (if any)*

***Annex No. 9***

***to the Tender Documentation***

**Conditions for the acquisition of Participating Interests on an installment basis and the provision of a Collateral**

The acquisition of the Participating Interests by payment in installments shall be subject to the following conditions:

* + 1. The Preferred Participant shall execute simultaneously with the transfer of the title of ownership for the Asset, shall execute (or ensure the conclusion) with the Seller over the Participating Interests, as well as all fixed assets of the Asset, including its subsoil use rights, to ensure the payment by the Preferred Participant of the Purchase Price specified in the relevant preliminary offer/Competitive Bid/SPA. The Preferred Participant may not propose payment for one Asset in a lump sum, and for another Asset in installments. The payment terms must be identical (i.e., if the Preferred Participant proposes to pay in installments for the Asset, such installment condition must apply to both Assets; and if the Preferred Participant proposes to pay in full for the Asset, then such a full payment condition applies to both Assets). The pledge over the Participating Interests to secure the payment of the Purchase Price is only allowed subject to the following conditions:

1.1. payment of at least [30%] of the total amount of the proposed Purchase Price for the Participating Interests within [ten (10)] Business Days from the date of signing of the SPA by both Parties and transfer the title to the Participating Interests to the Buyer in accordance with the terms of the SPA;

1.2. when pledging Participating Interests, it is not allowed to create a pledge over only a certain part of the Participating Interests. Any pledge shall only be created of all Participating Interests.

1.3. The Purchase Price for the Participating Interests shall be paid in favor of TKS in the amount of at least 30% of the total amount of the proposed Purchase price for the Participating Interests by \_\_\_ \_\_\_\_\_\_\_ 20\_\_;

* + 1. The date for payment of the last installment (in order to pay the entire amount of the Purchase Price for the Participating Interests), as part of the proposed payment for the Participating Interests on an installment basis, shall not fall beyond [24 (twenty-four)] months from the date of signing the SPA, that is, no payment of any part of the Purchase Price for the Participating Interests shall be made after the specified date.
		2. In order to determine the present value by the date of announcement of the Tender, the Preferred Participant shall fill in the installment payment table, which is given below. The text in Italics within the table is an explanation or an example for filling in the boxes.

|  |
| --- |
| **Schedule for the payment of the Purchase Price in installments** |
| **№** | **Payment date** | **KZT amount, without indexation** | **KZT amount, with indexation** | **Share of the total amount of the proposed Purchase Price (%)** | **Outstanding balance** |
| 1 | *[Date of first installment]* |  | *[No indexation applies to the first installment]* | *[First installment to be at least 30% of the total amount]*  |  |
| 2 | *[Date of the second installment]* |  | *[The amount to be indexed at the refinancing rate set by the National Bank of the Republic of Kazakhstan]* | *[XX%]* |  |
| 3 | *[…]* |  | *[…]* | *[…]* |  |
| 4 | *[The last installment shall not fall due beyond 24 months from the date of signing of the SPA]* |  | *[The amount to be indexed at the refinancing rate set by the National Bank of the Republic of Kazakhstan]* | *[XX%]* |  |
|  |  | ***[Total]*** | ***[Total]*** |  | ***[Total]*** |

6. All capitalized terms used in this document shall be as defined in the Tender Documentation.

***Annex No. 10***

***to the Tender Documentation***

**Terms and conditions of purchase of Participating Interests in parts (tranches) and deposit of collateral**

Acquisition of Participating Interests by payment in parts (tranches) may be made subject to the following conditions:

1. The Preferred Participant, **simultaneously with the transfer of the title** to the Asset, is obliged to conclude (or ensure conclusion) with the Seller of pledge agreements for the Participating Interests, as well as all tangible fixed assets of the Asset, including subsoil use rights, to ensure payment by the Preferred Participant of the Purchase Price specified in the relevant preliminary offer/Competitive Bid/Agreement. The Preferred Participant cannot offer to pay for one Asset in a lump sum and for another Asset in parts (tranches). The payment terms must be identical (i.e. if the Preferred Participant offers to pay for an Asset in parts (tranches), the condition on payment in parts (tranches) must apply to both Assets; and if the Preferred Participant offers to pay for an Asset in full, such condition on full payment applies to both Assets). Pledging of Participating Interests as security for payment of the Purchase Price is only possible if the following conditions are met:

1.1. payment of at least [30%] of the entire amount of the offered Purchase Price for the Participating Interests within [ten (10)] Business Days from the date of signing of the Agreement by both Parties and transfer of the Participating Interests to the ownership of the Buyer in accordance with the terms of the Agreement;

1.2. when pledging the Participating Interest, it is not allowed to pledge only a certain part of the Participating Interest. All Participating Interests must be pledged.

1.3 By "\_\_\_" \_\_\_\_\_\_\_ 20\_\_, the Purchase Price for the Participating Shares shall be paid in favor of TKS in the amount of at least 30% of the total amount of the proposed Purchase Price for the Participating Shares.

2. The deadline for the last payment (for the purpose of payment of the entire amount of the Purchase Price for the Participating Interest) under the proposed staged payment for the Participating Interest shall not be later than [24 (twenty-four)] months from the date of signing of the Agreement, i.e. payment of any part of the amount of the Purchase Price for which the Participating Interest is purchased shall not be made after that date.

3. For the purpose of determining the present value by the date of the announcement of the Tender, the Preferred Participant should complete the table of payments in parts (tranches) below. The text in italics inside the table is an explanation or example for filling in the fields.

|  |  |
| --- | --- |
|  | **Schedule for the payment of the Purchase Price in parts (tranches)** |
|  | **Payment date** | **KZT amount, without indexation** | **KZT amount, with indexation** | **Share of the total amount of the proposed Purchase Price (%)** | **Outstanding balance** |
| 1 | *[Date of first installment]* |  | *[No indexation applies to the first installment]* | *[First installment to be at least 30% of the total amount]*  |  |
| 2 | *[Date of the second installment]* |  | *[The amount to be indexed at the refinancing rate set by the National Bank of the Republic of Kazakhstan]* | *[XX%]* |  |
| 3 | *[…]* |  | *[…]* | *[…]* |  |
| 4 | *[The last installment shall not fall due beyond 24 months from the date of signing of the SPA]* |  | *[The amount to be indexed at the refinancing rate set by the National Bank of the Republic of Kazakhstan]* | *[XX%]* |  |
|  |  | ***[Total]*** | ***[Total]*** |  | ***[Total]*** |

6. All capitalized terms used in this document shall be as defined in the Tender Documentation.

***Annex No. 11***

***to the Tender Documentation***

**Pledge Agreement of [insert value] of Participating Interest in the charter capital**

between

**[Company 1]**

**(Pledgor)**

and

**National Mining Company "Tau-Ken Samruk" Joint Stock Company**

**(Pledgee)**

***Annex No. 12***

***to the Tender Documentation***

**Property Pledge Agreement**

by and among

**[Tau-Ken Temir LLP/Silicon mining LLP]**

**(Pledgor)**

and

**National Mining Company "Tau-Ken Samruk" Joint Stock Company**

**(Pledgee)**

and

**[Company 2]**

**(Obligor)**

***Annex No. 13***

***to the Tender Documentation***

**Fixed Asset Pledge Agreement**

by and between

**[Tau-Ken Temir LLP/Silicon mining LLP]**

**(Pledgor)**

and

**National Mining Company "Tau-Ken Samruk" Joint Stock Company**

**(Pledgee)**

1. The information is indicated in relation to persons holding at least 10% of shares/participating interests in the charter capital. [↑](#footnote-ref-2)