



In the Name of Allah, The Beneficent, The Merciful

MASTER WAKALA AGREEMENT FOR LEGAL ENTITIES

Between

CUSTOMER

(As the Muwakkil)

And

AL HILAL ISLAMIC BANK JOINT STOCK COMPANY

(As the Wakil)

DATED:

AL HILAL ISLAMIC BANK JOINT STOCK COMPANY



Contents

<u>Clause</u>	<u>Heading</u>
1)	Interpretation
2)	Conditions Precedent
3)	Wakala Terms and Conditions
4)	Implementation and Performance of each Investment Transaction
5)	Representations and Warranties
6)	Law and Jurisdiction
7)	General Provisions
8)	Termination

Schedule

First	Form of Wakil Offer and Muwakkil Acceptance
Second	Particulars of Communication
Third	Form of Early Termination by Muwakkil
Fourth	Conditions Precedent



THIS AGREEMENT is made on the **day of** **200[]**

BETWEEN:

- (1) CUSTOMER, whose registered office is at [] (the "**Muwakkil**"); and
- (2) "Al Hilal" Islamic Bank" JSC, whose registered office is at 36 Al-Farabi Avenue, Medeu District, Almaty, 050059, Republic of Kazakhstan (the "**Wakil**").

(Collectively referred to hereafter as the "**Parties**")

WHEREAS:

- (a) The Muwakkil acting in its capacity as principal wishes to appoint the Wakil to act as agent of the Muwakkil with respect to the investment of the Muwakkil's funds in Islamically acceptable transactions through and as part of the Wakala Pool.
- (b) All of the investment transactions will be made pursuant to the terms and conditions set out in this Agreement and in compliance with the rules and principles of the Islamic principles and law (the "**Shariah**") as interpreted by the Islamic Finance Principles Board of the Wakil (the "**Board**") as required under this Agreement.
- (c) In accordance with the banking legislation of the Republic of Kazakhstan, which applies to the Wakil, the Wakil's activity in accordance with this Agreement shall represent "*carrying out of agency activity when carrying out of the banking operations of the Islamic bank*".

IT IS HEREBY AGREED as follows:

1 **Definitions & Interpretation**

In this Agreement and in the Schedules the following terms and expressions shall mean:

Agency Fees: the amount due to the Wakil for carrying out the Investment Transaction as provided for in the Wakil Offer;

Anticipated Muwakkil Profit: the anticipated profit to be generated on the Investment Amount by the Wakil in relation to the Wakala Transaction for the Muwakkil as set out in the Wakil Offer;

Business Day: a day when the Muwakkil and the Wakil are open for general business;

Conditions Precedent: any of the conditions precedent set out in the Fourth Schedule;

Expiration Date: one year from the date of this Agreement;

Investment Amount: the amount invested in relation to an Investment Transaction;

Investment Date: the due date for payment of the Investment Amount as provided for in the Wakil Offer;

Investment Transaction: an individual transaction between the Muwakkil and the Wakil made



pursuant to Clause 4;

Maturity Date: the date on which the Maturity Proceeds are to be paid to the Muwakkil as provided for in the Wakil Offer;

Maturity Proceeds: the amount payable to the Muwakkil on the Maturity Date or as the case may be on a Termination Date which equals the Investment Amount plus the Wakala Profit (if any) after deducting the Wakil Incentive, if any;

Muwakkil Acceptance: a notice to be sent by the Muwakkil to the Wakil in the form set out in the First Schedule or in such other form as may have previously been agreed between the Muwakkil and the Wakil;

Termination Date: the date on which the Muwakkil terminates the Investment Transaction prior to the Maturity Date in accordance with Clause 8.2;

Wakala Assets: the assets of the Investment Transaction acquired by the Wakil through the Wakala Pool for and on behalf of the Muwakkil under this Agreement;

Wakala Expenses: the actual expenses and costs, in relation to the Investment Transaction, incurred by the Wakil for and on behalf of the Muwakkil in connection with the Investment Transaction;

Wakala Fees: the amount due to the Wakil for carrying out the Investment Transaction on behalf of the Muwakkil as provided for in the Wakil Offer;

Wakil Incentive: an amount that shall be payable to the Wakil by the Muwakkil calculated in accordance with Clause 4.7 and paragraph **Error! Reference source not found.** of the Wakil Offer;

Wakil Offer: a notice to be sent by the Wakil to the Muwakkil in the form set out in the First Schedule or in such other form as may have previously been agreed between the Muwakkil and the Wakil;

Wakala Pool: the Wakil's pool of treasury funds through which the Wakil shall carry out the Investment Transaction; and

Wakala Profit: means the profit payable to the Muwakkil under the Investment Transaction, after deduction of Wakala Expenses.

- 1.1 The Schedules to this Agreement form an integral part hereof.
- 1.2 References to Clauses and Schedules are references to clauses of and schedules to this Agreement.
- 1.3 The headings are inserted for convenience only and shall not affect the construction hereof.

2 **Conditions Precedent**

- 2.1 The Parties agree that this Agreement will only take effect once the Parties have confirmed in writing to each other that the concerned Party has either:
 - (a) Received all of the documentation required from the other Party in order to fulfill the



Conditions Precedent; or

- (b) Deferred the requirement for any such documentation from the other Party in order that it may be provided at a later date for the purposes of fulfilling the Conditions Precedent.

3 Wakala Terms and Conditions

3.1 The Muwakkil hereby appoints the Wakil to be the agent of the Muwakkil for the investment of the Muwakkil's funds through and as part of the Wakala Pool and authorises the Wakil to:

- (a) Enter into Islamically acceptable transactions on its own behalf and for the Muwakkil's account; and
- (b) Do all acts as fully as the Muwakkil could do itself with respect to such transactions through purchase agreements, sales agreements or other agreements.
- (c) Exercise on the Muwakkil's behalf all other related powers necessary to fulfill its obligations under this Agreement.

3.2 Unless otherwise provided by this Agreement, the rules and provisions of the Civil Code of the Republic of Kazakhstan that apply to a commission agreement ("*dogovor kommissiyi*") shall apply to this Agreement. The Wakil shall be acting as agent for the Muwakkil on a deal by deal basis.

3.3 The Wakil hereby accepts to act as agent of the Muwakkil and agrees with the Muwakkil that it shall, in performing its obligations under this Agreement, look after the interests of the Muwakkil and act dutifully and in good faith and shall administer any Investment Transaction with the same degree of care as it exercises with regard to similar transactions which it would administer on its own account. The Wakil shall have liability to the Muwakkil if it acts in bad faith or with reckless indifference to the Muwakkil's interest and shall compensate the Muwakkil in respect of all actual costs and expenses suffered or incurred by the Muwakkil as a consequence of the Wakil's failure to comply with any of the terms and conditions of this Agreement.

3.4 The Muwakkil as principal shall bear all the risks associated with the acts of the Wakil when the Wakil is acting as agent for the Muwakkil except those risks resulting from the Wakil acting in bad faith or with reckless indifference or in violation of the terms and conditions of this Agreement, in which case the Wakil will bear the risks.

3.5 The Wakil shall be entitled to the Wakala Fees specified in the Wakil Offer in respect of each Investment Transaction. The Wakil shall have the right to receive the Wakala Fees irrespective of the results of performance of the Investment Transactions.

3.6 In the event that Wakil wishes to purchase the Wakala Assets in connection with the Investment Transaction, the Wakil can purchase such Wakala Assets either on market price or the price agreed between the Parties at the time of sale subject to exchange of "Offer and Acceptance" between the Parties.

4 Implementation and Performance of each Investment Transaction

4.1 Prior to entering into an Investment Transaction, the Wakil shall agree the Anticipated Muwakkil Profit that the Muwakkil expects to achieve as a result of the Investment Transaction. In the event that the Anticipated Muwakkil Profit is not achievable at the start of the Investment Transaction,



then the Wakil will need to revert back to the Muwakkil to agree to invest at a lower rate, otherwise the Investment Transaction shall hereby be discharged hereunder. In the event of such discharge, the Wakil agrees to repay the Muwakkil the Investment Amount as soon as reasonably practicable.

- 4.2** On any Business Day during the usual business hours of the Parties, either Party may notify the other by telephone or any other media of its desire to enter into an Investment Transaction. The Wakil shall then send the Muwakkil a Wakil Offer.
- 4.3** If the Muwakkil is willing to enter into the proposed Investment Transaction, it shall send the Wakil a Muwakkil Acceptance.
- 4.4** The Muwakkil shall pay the Investment Amount to the account provided for in the Wakil Offer not later than the Investment Date.
- 4.5** Subject to Clause 4.4 above, once the Investment Amount has been paid to the Wakil and invested by the Wakil on the Muwakkil's behalf, the Wakil undertakes to pay the Maturity Proceeds based on the results of the investment to the Muwakkil on the Maturity Date free from any deductions, set off or withholdings of any kind (save for income tax which will be withheld if applicable) to such account as the Muwakkil shall have notified to the Wakil.
- 4.6** The Parties hereby notify each other that in accordance with their internal rules and procedures, all telephone calls made by or to the Parties concerning any proposed Investment Transaction may be tape recorded by the Parties. Accordingly, each Party:
- (a) Consents to the recording of the telephone conversations of trading, marketing and/or other personnel of the Parties and their officers, employees, agents and affiliates in connection with this Agreement or any potential Investment Transaction;
 - (b) Agrees to obtain any necessary consent of and give notice of such recording to such personnel (as aforesaid); and
 - (c) Agrees that recordings may be submitted in evidence in any proceedings relating to this Agreement or any Investment Transaction (accepted or otherwise).
- 4.7** If, on the Maturity Date or, as the case may be, on a Termination Date, the Wakala Profit after deduction of the Wakala Fees and exceeds the Anticipated Muwakkil Profit for each Investment Transaction, the Muwakkil hereby agrees to grant such excess amount to the Wakil as an incentive for each Investment Transaction (the "**Wakil Incentive**").
- 4.8** For the avoidance of doubt, the Wakil does not in any form guarantee the payment of the Anticipated Muwakkil Profit in the amount as quoted in the Wakil Offer and the realized Anticipated Muwakkil Profit may differ from the amount quoted in the Wakil Offer. The Muwakkil shall only be entitled to the Maturity Proceeds.
- 5** **Representations and Warranties**

- 5.1** Each Party hereby represents and warrants and at all times during the term of this Agreement shall be deemed to represent and warrant for the benefit of the other Party that:
- (a) it has the legal capacity to enter into this Agreement and any Investment Transaction



contemplated hereunder;

- (b) the execution by it of this Agreement has been duly authorized by the Party;
- (c) as of the date of this Agreement, this Agreement and each Investment Transaction contemplated hereunder will be binding and enforceable upon it and will not violate the terms of any other agreement to which it is a party; and
- (d) it has and will at all times maintain all authorizations, approvals, licenses and consents required to enable it lawfully to perform its obligations under this Agreement.

6 Law and Jurisdiction

- 6.1** This Agreement and the construction, performance and validity hereof shall be governed in accordance with the laws of Republic of Kazakhstan to the extent they are not inconsistent with the rules and principles of Shariah. In any case of such inconsistency, the principles of Shariah shall prevail as interpreted and approved by the Board.
- 6.2** The Parties hereto submit to the jurisdiction of the courts of Kazakhstan for the purpose of any proceedings arising out of or in connection with this Agreement.
- 6.3** To the extent that the Muwakkil may in any jurisdiction claim for itself or its assets immunity from suit, execution, attachment (whether in aid of execution, before judgment or otherwise) or other legal process and to the extent that in any such jurisdiction there may be attributed to itself or its assets such immunity (whether or not claimed) the Muwakkil hereby irrevocably agrees not to claim and hereby irrevocably waives such immunity in respect of its obligations under this Agreement.
- 6.4** The Parties hereby agree that the process by which any suit, action, or proceeding which may arise out of or in connection with this Agreement is begun may be served on the relevant Party by being delivered at the address specified for such in the Second Schedule (if any). Nothing contained herein shall affect the right to serve process in any other manner permitted by law.

7 General Provisions

7.1 Entire Agreement

This Agreement constitutes the entire agreement between the Parties. Each Party confirms that it has not relied upon any representation not recorded in this document inducing it to enter into this Agreement.

7.2 Severability

If any of the provisions of this Agreement are found to be illegal or unenforceable, the continuation in full force and effect of the remainder of them will not be prejudiced unless the substantive purpose of this Agreement is then frustrated, in which case either party may terminate this Agreement forthwith on written notice.

7.3 Waiver

No forbearance or delay by either Party in enforcing its respective rights will prejudice or restrict



the rights of that Party, and no waiver of any such rights or of any breach of any contractual terms will be deemed to be a waiver of any other right or of any later breach.

7.4 Amendments

This Agreement may be amended in writing with the prior written consent of both Parties.

7.5 Notices

- (a) Any notices or other documents to be given, served or sent hereunder or in connection herewith shall be in accordance with the Second Schedule and shall be deemed to have been served when received; and
- (b) Any notice received on a day which is not a Business Day for the addressee shall be deemed to have been given at its opening on the next succeeding Business Day.

7.6 Indemnity

The Parties hereby agree to compensate each other against all liabilities, costs, claims, losses, damages or expenses which either Party may suffer or incur as a result of acting upon any instructions received by fax under the signature of the other Party or a purportedly authorized officer or representative of that Party.

7.7 Languages

This Agreement has been executed in the Kazakh, English and Russian languages. If there is any discrepancy or inconsistency between the Kazakh, English or Russian versions, the Russian version shall prevail.

7.8 Assignment

- 7.8.1 The Wakil may at any time assign or transfer all or any of its rights and/or obligations under this Agreement.
- 7.8.2 The Muwakkil shall not have the right to assign or transfer any of its rights or obligations under this Agreement without the prior written consent of the Wakil.

7.9 Set off

- 7.9.1 The Wakil has the right to set-off its obligation to pay any amounts due to the Muwakkil against the Muwakkil's obligation to pay to the Wakil under this Agreement or any other agreement between the Wakil and the Muwakkil.
- 7.9.2 The Muwakkil shall not have the right to set-off its obligations under this Agreement against any of the Wakil's obligations to the Muwakkil under this Agreement or any other agreement between the Wakil and the Muwakkil without the prior written consent of the Wakil.

7.10 Consent to disclosure of banking secrets



- 7.10.1 The Muwakkil hereby provides its consent to the disclosure by the Wakil, its officers, employees, shareholder(s) and agents of any and all information which constitutes banking secrets in accordance with the banking legislation of the Republic of Kazakhstan:
- (a) to auditors, legal advisers and other professional advisers of the Wakil;
 - (b) to any third party in relation to the assignment or transfer (including the proposed assignment or transfer) of the Wakil's rights and obligations under this Agreement to such third party;
 - (c) to any bank or non-bank organisation in relation to withdrawal (including the proposed withdrawal) by the Wakil or in the Wakil's favour of moneys from any and all of the Muwakkil's bank accounts;
 - (d) to any governmental authority of a foreign country, which has the authority to supervise and regulate the Wakil and its shareholder(s), for the purposes of compliance by the Wakil and its shareholder(s) with the requirements of the applicable laws and regulations.
- 7.10.2 The Muwakkil hereby confirms that the consent contained in Clause 7.10.1 above was given in the premises (offices) of the Wakil at the time of presence of the Muwakkil (or its authorised representative) at such premises (offices).

7.11 Consent on personal data

The Muwakkil undertakes to provide to the Wakil from any and all individuals which information the Muwakkil provides to the Wakil (including those which data are required to be presented to the Wakil according to the requirements of the law of Republic of Kazakhstan imposed on the Wakil and Wakil's internal documents) a written consent for the collection, processing of personal data of such individual recorded on electronic, paper and (or) other material, including data that will (may) be provided in future, according to the list approved by the Wakil 's internal documents.

8 Termination

- 8.1** The Expiration Date shall be automatically extended by a further period or periods of one year each unless either Party notifies the other in writing not less than 30 days prior to any such expiry date of its wish not to extend the validity of this Agreement, in which case this Agreement shall expire upon the then forthcoming expiry date. No expiry or early termination (as the case may be) shall affect the rights and obligations of either Party hereunder in relation to any outstanding Investment Transaction upon which the conditions of this Agreement shall remain applicable until such Investment Transaction is completed.
- 8.2** If the Muwakkil wishes to terminate an Investment Transaction prior to the Maturity Date, the Muwakkil shall immediately send the Wakil a termination notice in the form set out in the Third Schedule.
- 8.3** If:
- (a) this Agreement is terminated by the Muwakkil prior to its expiry date in accordance with Clause 8.1 above; or



(b) an Investment Transaction is terminated pursuant to the Muwakkil's notice in accordance with Clause 8.2 above,

the Muwakkil agrees to pay to the Wakil the Wakala Fees for the relevant Investment Transaction that is terminated prior to its Maturity Date and to compensate the Wakil for all costs, damages and expenses suffered or incurred by the Wakil as a consequence of the early termination of the relevant Investment Transaction.

9 Interest Waiver:

9.1 The Parties recognize and agree that the receipt and payment of interest is not permitted under Shariah and accordingly agree that if any claims for amounts due under this Agreement to or from either Party are made in a court of law and that court, by applying the laws and regulations of its legal system, imposes an obligation to pay interest on the amounts being claimed, the Parties irrevocably and unconditionally expressly waive and reject any entitlement to recover such interest.

SIGNED by the Parties or their duly authorized representatives.

For and on behalf of

Al Hilal Islamic Bank JSC

Authorized Signature :	_____	Authorized Signature :	_____
Name :	_____	Name :	_____
Title :	_____	Title :	_____
Date :	_____	Date :	_____

for and on behalf of

CUSTOMER

Authorized Signature :	_____	Authorized Signature :	_____
Name :	_____	Name :	_____
Title :	_____	Title :	_____



Date : _____ **Date** : _____



THE FIRST SCHEDULE
Form of Wakil Offer and Muwakkil Acceptance

WAKIL OFFER

WAKIL OFFER

Date: _____

From: "Al Hilal" Islamic Bank" JSC

To: _____

Re: Master Wakala Agreement dated _____ (the "Master Agreement")

We refer to the Master Agreement (terms defined in which shall have the same meanings herein) and your instruction, in which you indicated your wish to deposit an amount with us for investment by us in Islamically acceptable transactions pursuant to the terms of the Master Agreement.

1. Investment Amount and Currency: _____ (in words)
2. Investment Date: _____
3. Maturity Date: _____
4. Wakala Fees: _____ (in words)
5. Anticipated Muwakkil Profit: _____ % (per annum)
6. Wakil Incentive: If the Wakala Profit after deduction of the Wakala Fees exceeds the Anticipated Muwakkil Profit, the Muwakkil hereby undertakes to grant such excess amount to the Wakil as the Wakil Incentive.

This offer is conditional upon receipt by us of the Investment Amount in cleared funds no later than the Investment Date. You shall be deemed to have accepted this offer if we do not receive any objection from you within 24 hours.

Name of authorized person of Wakil: _____

Title of authorized person of Wakil: _____

Signature of authorized person of Wakil: _____

Stamp

MUWAKKIL ACCEPTANCE

To:

1. We accept the above terms.
2. On the Investment date, please debit the Investment transaction from our account opened with Wakil.
Account No. _____
3. On the Maturity Date, please credit the Maturity Proceeds to our our account opened with Wakil
Account No. _____

Name of authorized person of Muwakkil: _____

Title of authorized person of Muwakkil: _____

Signature of authorized person of Muwakkil: _____

Stamp

Date: _____



THE SECOND SCHEDULE

Particulars of Communication

The Wakil

Al Hilal Islamic Bank JSC:

Attention: Treasury Department

Address: 36 Al-Farabi Avenue, Medeu District, Almaty, 050059 Kazakhstan

Fax : +[]

SWIFT : []

The Muwakkil

CUSTOMER:

Attention:

Postal Address:

Tel:

Fax:



THE THIRD SCHEDULE

Form of Early Termination by Muwakkil

NOTICE OF TERMINATION

Date:

To : AL HILAL ISLAMIC BANK JSC

From : CUSTOMER

Re: Master Wakala Agreement dated [](the "Master Agreement")

We refer to the Master Agreement (terms defined in which shall have the same meanings herein) and the Investment Transaction executed by effect of the Wakil Offer dated [] and the Muwakkil Acceptance dated [].

We hereby notify you of our wish to terminate the Investment Transaction effective immediately.

It is hereby understood and agreed by us that as a result of the termination the Wakil Incentive for the above mentioned Investment Transaction will now be adjusted to become any profit exceeding [] % per annum (after the deduction of the Wakala Fees).

Signed _____

WAKIL ACCEPTANCE OF NOTICE

To : CUSTOMER

From : AL HILAL ISLAMIC BANK JSC

We hereby agree to, accept and confirm the above terms.

Signed : _____

Date : _____



THE FOURTH SCHEDULE

Conditions Precedent

The Muwakkil shall provide to the Wakil, copies of the following documents that shall be certified as being true, complete and up to date:

- a) The constitutive and corporate documents of the Muwakkil including:
 - a. its Charter;
 - b. its Foundation Agreement (if applicable);
 - c. its Certificate of Registration or Re-Registration as a Legal Entity;
 - d. its VAT Registration Certificate (if applicable);
 - e. ID of an individual (applicable for individual entrepreneur);
 - f. Document, confirming registration as an individual entrepreneur (if applicable).
- b) A resolution of the Board of Directors (or as applicable, an approval by any other relevant authority) ratifying the terms and conditions of this Agreement and authorising a named person or persons to sign this Agreement and all other documents required in connection herewith;
- c) Specimen signature(s) of the person(s) authorised to sign such documents as referred to in paragraph (b);
- d) Such other documents as the Wakil may reasonably require.