

Boilerplate Clauses

Boilerplate Clauses form an integral part of the Agreement¹, and also define and contain the terms and conditions of the Agreement regarding:

- confidentiality;
- sanctions;
- anti-corruption provisions;
- force majeure;
- communications;
- applicable law and jurisdiction.

In the text of the clauses, Bereke Bank JSC (SB of Lesha Bank LLC (Public)) is referred to as the “Bank”, and the client/agent/counterparty of the Bank is referred to as the “Person”, and when mentioned jointly, as the “Parties”.

The provisions of the Boilerplate Clauses shall apply to the relations of the Parties by virtue of the corresponding reference in the Agreement. If the Agreement provides for other terms and conditions, the terms and conditions of the Agreement shall apply to the relations between the Parties.

The Agreement concluded between the Parties suggests that the Person:

1) has read and understood and agree with the Boilerplate Clauses in full, without any comments or objections;

2) agrees with the potential adverse effects of non-performance and/or improper performance of the Boilerplate Clauses;

3) agrees that the Bank independently determines the provisions of the Boilerplate Clauses and posts them on the Bank’s website <https://berekebank.kz> and can supplement/amend them unilaterally.

At the same time, the Bank shall notify of changes to the provisions no later than 5 calendar days before the changes come into force by posting information on the Bank’s website. Upon expiration of the specified period, the Parties shall accept the amended version;

4) shall not be entitled to refer to the absence of his/her signature on the Boilerplate Clauses as evidence that the Boilerplate Clauses were not received/read, understood and accepted by him/her.

1. CONFIDENTIALITY

1.1. The Parties exchange confidential information* in any form and undertake to maintain its confidentiality in accordance with the RK laws. Confidential information is used to ensure the good faith interaction of the Parties under the Agreement.

[**Confidential information* – any data and information, including personal data of the parties and/or other types of secrets protected by the RK laws, and other protected information in the Bank, which the Parties exchange by any means during the contractual relationship, regardless of whether such information or data is marked as confidential – any clear designation indicating the confidential nature of such data and information].

1.2. Information that is not Confidential is information that:

(1) is known from publicly available sources;

(2) is received from third parties, if the information has been received without breach of confidentiality;

In case of doubt, the information shall be considered confidential until the Parties agree or prove otherwise.

1.3. The Parties guarantee each other that:

¹ Agreement – an agreement/contract between the Bank and a Person that contains a reference to the Boilerplate Clauses.

(1) the transferred information does not violate the rights of third parties and/or the requirements of the RK laws, including the area of personal data protection, and has properly executed rights, permissions and consents (including the consent of personal data subjects);

(2) for an exchange of confidential information, such exchange will be carried out using measures of information protection;

(3) the Agreement, including the Boilerplate Clauses, shall not be interpreted (expressly or impliedly) as granting any rights to the intellectual property of the other Party (any patents, trademarks and intellectual property assets protected by copyright);

(4) no third party on behalf of a Party shall claim any rights to any name, logo, trademark, trade name, style or design owned by the other Party, or any confusingly similar names, logos, trademarks, trade names, styles or designs;

(5) will not use, apply or otherwise appropriate confidential information for their own needs or in their own interests or use any confidential information to the detriment of the activities of the disclosing Party.

1.4. The Parties shall:

(1) take measures necessary to maintain the confidentiality of information and protect it from unauthorized access, transfer and distribution;

(2) provide access to confidential information to a minimum number of persons – only those who are involved in the process of interaction between the Parties;

(3) not disclose the fact of providing confidential information or discussing such information, the conduct of negotiations between the Parties on the conclusion of the Agreement as well as the content of the Agreement;

(4) use Confidential Information only for the purposes of interaction between the Parties under the Agreement;

(5) disclose/transfer confidential information to third parties only with the consent of the disclosing Party.

Exception. No consent shall be required if the receiving Party discloses it:

(a) to its affiliates, persons who are or will be hired by the receiving Party to provide services to it (Third Parties), provided that such Third Parties guarantee compliance with the terms of confidentiality, and also provided that such disclosure and/or transfer of information does not violate the rights of third parties, including personal data subjects as well as the legal requirements;

(b) in cases stipulated by the RK laws and/or the country of registration of the transferring Party, including requests from courts or authorized bodies/persons.

1.5. Implications of a breach of confidentiality

Actual damage is subject to compensation in the following cases:

(1) the receiving Party shall compensate if the Party and/or Third Parties have violated the terms of confidentiality;

(2) The Party shall compensate if previously provided guarantees prove invalid;

(3) the disclosing Party shall compensate if, because of it, sanctions are imposed on the receiving Party for violating the personal data laws.

1.6. The Parties undertake to maintain confidentiality with respect to Confidential Information for the entire term of the Agreement and for 5 years after the termination of the Agreement.

After termination of the Agreement, at the request of the disclosing Party, the receiving Party is obliged, within 5 business days: (1) to return all documents to the other Party; (2) to delete electronic copies of documents and provide a document confirming the deletion.

The receiving Party shall not return documents or delete confidential information if this is impossible due to the need to retain confidential information for the purposes of (including without limitation) internal and external audits, inspections by authorized bodies, and other cases stipulated by the RK laws.

2. SANCTIONS CLAUSE

2.1. The Person warrants and guarantees that:

- (1) no Sanctions have been applied against the Person (its shareholders/participants, CEO, ultimate beneficiaries, counterparties)²;
- (2) the above-mentioned persons comply with the Sanctions regime.

2.2. In the event of application/threat of application of Sanctions to the Person, its shareholders/members, CEO, ultimate beneficiaries, or violation of the Sanctions regime by the said persons, the Bank shall be entitled to repudiate the Agreement by sending a notice 15 calendar days prior to the date of termination.

2.3. In the event that Sanctions are applied to the Bank, the Bank's performance of its obligations under the Agreement may be suspended/restricted, including certain banking operations made by the Person, or in the Person's favor, may be unavailable or the Bank has the right to refuse to perform them.

2.4. If the Bank provides services to the Person, then:

2.4.1. the Bank has the right, pursuant to Sanctions, to block/refuse operations made by the Person or in the Person's favor, and also to notify authorized bodies/persons of any such operations.

2.4.2. The Bank shall not be liable for the untimely execution of the transfer for the Person and/or the freezing of the Person's money/assets by the Bank's correspondent banks/intermediary banks/other organizations pursuant to Sanctions, including when the beneficiary of the operation is a sanctioned person.

2.5. To the extent set forth in this article, the Bank shall be released from liability for failure to perform and/or improper performance of obligations under the Agreement, for any adverse consequences.

3. ANTI-CORRUPTION CLAUSE

3.1. Under the Agreement, the Parties (their employees and representatives) shall:

3.1.1. Not be involved in any way in practices that may be considered corrupt³.

3.1.2. Inform each other of any situations that may lead to a conflict of interest or corrupt practices and assist in preventing them.

3.2. If a Party finds a violation of the said anti-corruption clause by the other Party, it must immediately notify the other Party in writing, providing evidence of the violation. The receiving Party shall review the notice and respond no later than 30 calendar days. If the Party does not agree with the notice, it must submit a written objection with evidence.

3.3. If the non-violation is not confirmed, the Party may terminate the Agreement unilaterally and out of court by sending a written notice.

3.4. These obligations shall extend to relations arising prior to the signing of the Agreement but related thereto.

4. FORCE MAJEURE

4.1. No liability shall be applicable for non-performance/improper performance of the Agreement due to the occurrence of force majeure events. These include

² Sanctions are financial and trade measures applied in cases of a combination of circumstances that require an immediate response to an internationally unlawful act or unfriendly act of one state or its governing bodies and officials that pose a threat to the interests and security of another state, a political and economic association that establishes special economic measures, and/or violates the rights and freedoms of its (their) citizens, for other political and economic reasons, providing for prohibitions and/or restrictions on the performance of actions in relation to a certain state and/or organizations and citizens as well as stateless persons permanently residing in the territory of a certain state, and/or imposing an obligation to perform certain actions. In the context of this document, we mean the Sanctions imposed by the UN, EU, USA, UK).

³ Corrupt practices include but are not limited to: giving/receiving a bribe, commercial bribery, mediation in bribery/commercial bribery, abuse of power, illegal remuneration, as well as other actions (inaction) for the purpose of obtaining or retaining unjustified benefits and advantages, or violating the requirements of anti-corruption legislation/applicable norms of international law governing corruption combating.

extraordinary and unavoidable events, riots, restrictions/prohibitions of any nature, epidemics/pandemics, software failures, power outages, damage to communication lines and other circumstances beyond the control of the Parties. No actions caused by the negligence or fault of the Party, as well as inaction, shall be deemed force majeure.

4.2. If such events arise:

- the deadline for obligations shall be extended for the duration of such events and be resumed after their cessation;
- the Parties shall immediately notify each other and provide evidence. Generally known events shall not require notification/proof;
- the Parties shall have the right to terminate the Agreement by mutual consent (the Party concerned shall send a notice) if the events continue for more than 30 calendar days.

5. COMMUNICATION

5.1. The Parties shall, unless otherwise expressly specified by the Agreement, send notices/communications to each other, among other things, by post, e-mail, Remote Banking System (*if technically feasible*). The format, type and method of notifications to the Person are determined by the Bank at its own discretion.

5.2. The Person provides the Bank with consent for the Bank to provide information and confirms that the Person is aware of the risk of unauthorized receipt by third parties of information sent by the Bank via open communication channels and accepts such risk.

5.3. Notifications that do not contain a banking secret are posted by the Bank at <https://berekebank.kz> and at the discretion of the Bank on the official pages of the Bank.

5.4. A notice sent shall be deemed to have been received by the other party:

- 1) when sent in person (by courier) – on the day of receipt as marked;
- 2) when sent by registered mail – on the 4th day after sending (according to the date of the document issued by the postal organization);
- 3) when sent as an SMS message/Push notification – on the day of sending;
- 4) when sent by e-mail – on the day of sending;
- 5) when sent via the Remote Banking System – on the day of sending.

6. APPLICABLE LAW AND JURISDICTION

6.1. The relations of the Parties under the Agreement shall be governed by the RK laws.

6.2. Any disputes and disagreements between the Parties concerning the execution of the Agreement shall be resolved through negotiations or by sending written claims. Claim review period:

- by the Bank within the timeframes established by the Bank's internal documents;
- by the Person, within 15 calendar days after the date of receipt.

6.3. Should the Parties fail to reach an agreement, the dispute, at the discretion of the Bank, shall be considered in court at the location of the Central Office or the branch of the Bank that entered into the Agreement.

Bereke Bank JSC (SB of Lesha Bank LLC (Public))

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