



**REGULATIONS ON AIFC ACTS**

**AIFC REGULATIONS No. 1 of 2017**

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Astana, Kazakhstan**

**(WITH AMENDMENTS AS OF 11 JANUARY 2019,  
WHICH COMMENCE ON 1 FEBRUARY 2019)**

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**AIFC REGULATIONS ON AIFC ACTS**



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### PART 1: GENERAL

1. **Name**

These Regulations are the *AIFC Regulations on AIFC Acts 2017*.

2. **Date of enactment**

These Regulations are enacted on the day they are adopted by the Governor.

3. **Commencement**

These Regulations commence on 1 January 2018.

4. **Legislative authority**

These Regulations are adopted by the Governor under article 4 of the Constitutional Statute and subparagraph 3-2) of paragraph 9 of the Management Council Resolution on AIFC Bodies.

5. **Application of these Regulations**

- (1) These Regulations apply within the jurisdiction of the AIFC.
- (2) However, these Regulations do not apply to an internal document of an AIFC Body.
- (3) In this section:

*internal document*, of an AIFC Body, means a document relating to the day-to-day operations of the AIFC Body or another AIFC body that does not bind or directly affect a Person other than an AIFC Body.

6. **Interpretation**

Schedule 1 contains definitions and other interpretative provisions used in these Regulations.

7. **The objectives of these Regulations**

The objectives of these Regulations include:

- (a) defining the system of Acting Law of the AIFC and AIFC Acts; and
- (b) providing certainty about the rights, liabilities and obligations of Persons in relation to civil and commercial matters arising in the AIFC; and
- (c) allowing Persons, in certain circumstances, to adopt the law of another Jurisdiction in relation to civil and commercial matters arising within the AIFC.



## PART 2: ACTING LAW OF THE AIFC

### CHAPTER 1–DEVELOPMENT, APPROVAL AND ADOPTION OF AIFC ACTS

#### 8. Hierarchy of Acting Law of AIFC

- (1) Correlation of legal force of Acting Law of the AIFC is construed in accordance with the following descending levels:
  - (a) paragraph 3-1 of article 2 of the Constitution of the Republic of Kazakhstan; and
  - (b) the Constitutional Statute; and
  - (c) the Management Council Resolution on AIFC Bodies; and
  - (d) Regulations; and
  - (e) Rules; and
  - (f) other Acts of relevant AIFC Bodies adopted to regulate specific issues.
- (2) An AIFC Act of a lower level (the *first AIFC Act*) must not be inconsistent with an AIFC Act of a higher level (the *second AIFC Act*), but the first AIFC Act must not be treated as inconsistent with the second AIFC Act merely because it has provisions that deal with a matter dealt with by the second AIFC Act, if the provisions of the first AIFC Act can be obeyed without contravening the second AIFC Act.

#### 9. Details and formalisation of AIFC Act

An AIFC Act must contain, or be published accompanied by, the following details:

- (a) an indication that it is an AIFC Act and of its form as an AIFC Act (for example, Regulations or Rules);
- (b) a unique name that indicates briefly the general subject matter of the AIFC Act;
- (c) the place and date of adoption of the AIFC Act; and
- (d) the registry number of the AIFC Act.

##### 9-1. Proposals for AIFC Acts

- (1) Before an AIFC Body adopts an AIFC Act, the AIFC Body must ensure that:
  - (a) each of the following documents has been prepared, and approved by it:
    - (i) a policy paper explaining, in non-technical language, the intended purpose and operation of the proposed AIFC Act and impact of the proposed AIFC Act on the approved annual and mid-term budgets of the AIFC, including estimates of its



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impact on the income and expenditure of the AIFC and of each AIFC Body that may be affected by the proposed AIFC Act (an *affected AIFC Body*);

- (ii) a draft of the proposed AIFC Act; and
  - (b) a copy of each of the documents has been provided to each other AIFC Body; and
  - (c) each other affected AIFC Body has been consulted about the proposed AIFC Act; and
  - (d) if the proposed AIFC Act may require an increase in the expenditure of the AIFC or of any AIFC Body, the increased expenditure has been approved by the AIFCA.
- (2) Failure to comply with subsection (1) in relation to an AIFC Act does not affect the validity or enforceability of the AIFC Act.

### 10. **Public consultations**

- (1) Before an AIFC Body adopts an AIFC Act, the AIFC Body must ensure that the proposed AIFC Act, and a policy paper explaining, in non-technical language, the intended purpose and operation of the proposed AIFC Act, are made available for public consultation for a period of at least 30 days.
- (2) Before adopting the proposed AIFC Act, the AIFC Body must consider the submissions made to it about the proposed AIFC Act during the public consultation period and must make the changes to the proposed AIFC Act that it considers desirable having regard to the submissions.
- (3) However, the Governor may, in writing, exempt an AIFC Body from the requirement under subsection (1) to make a proposed AIFC Act available for public consultation, or may approve a shorter period of public consultation for a proposed AIFC Act, if satisfied that the exemption or approval is justified in the interests of the AIFC.
- (4) Failure to comply with this section in relation to an AIFC Act does not affect the validity or enforceability of the AIFC Act.

### 11. **Approval by relevant state bodies and organisations**

Before an AIFC Body makes an AIFC Act, the AIFC Body must obtain the approvals of the state authorities and organisations of the Republic of Kazakhstan required by the Constitutional Statute.

### 12. **Powers to adopt AIFC Acts**

- (1) The Management Council has power to adopt AIFC Acts, by resolutions in the form of regulations and minutes, on the matters within its competence as stipulated by the Acting Law of the AIFC and to the extent specified by paragraph 3 of article 4 and article 10 of Constitutional Statute.
- (2) The Governor has power to adopt AIFC Acts, in the form of regulations, rules and orders, on the matters within the Governor's competence as stipulated by the Acting Law of the AIFC and to the extent specified by paragraph 3 of article 4 of Constitutional Statute or that are not within the



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competence of other AIFC Bodies in accordance with the Acting Law of the AIFC.

- (3) The AIFCA has power to adopt AIFC Acts, in the form of rules and other AIFC Acts, on the matters within its competence as stipulated by the Acting Law of the AIFC and to the extent specified by article 11 of Constitutional Statute.
- (4) The AFSA has power to adopt AIFC Acts, in the form of rules and other AIFC Acts, on the matters within its competence as stipulated by Acting Law of the AIFC and to the extent specified by article 12 of Constitutional Statute.
- (5) The Court has power to adopt AIFC Acts on matters of Court procedures that are not within the competence of other AIFC Bodies in accordance with the Acting Law of the AIFC.
- (6) The International Arbitration Centre has power to adopt AIFC Acts on matters of International Arbitration Centre procedures in accordance with Acting Law of the AIFC.

### CHAPTER 2–ENACTMENT AND REGISTRATION OF AIFC ACTS

#### 13. Registration of AIFC Acts

- (1) An AIFC Body must register the AIFC Acts adopted by it by numbering them.
- (2) However, the AIFCA must register the AIFC Acts adopted by the Management Council and the Governor.
  - (2-1) If an AIFC Body (other than the AIFCA) submits a proposed AIFC Act to the Management Council or the Governor for adoption, the AIFC Body must immediately inform the AIFCA.
  - (2-2) Failure to comply with subsection (2-1) in relation to an AIFC Act does not affect the validity or enforceability of the AIFC Act.
- (3) An AIFC Body must number the AIFC Acts of a particular kind adopted by it in a year as nearly as practicable in the order in which they are adopted.

#### 14. Commencement of AIFC Act

An AIFC Act commences on the date provided by the AIFC Act or, if no date is provided, on the day it is adopted.

### CHAPTER 3–PUBLICATION OF AIFC ACTS AND REGULATORY MATERIAL

#### 15. Publication of AIFC Acts and Regulatory Material

- (1) An AIFC Body may publish electronic versions of any AIFC Acts or Regulatory Material adopted by it, whether as originally adopted or as amended from time to time.
- (2) The AIFC Body may authorise any of these versions (or any format of any of these versions).

#### 16. Approved websites



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- (1) The Chief Executive Officer of an AIFC Body may approve websites for publication of AIFC Acts and Regulatory Material adopted by the AIFC Body.
- (2) An AIFC Body may enter into agreements or arrangements to ensure that users can authenticate an approved website or material on an approved website.

### 17. **Authorised electronic versions of AIFC Acts and Regulatory Material**

- (1) An electronic copy of any AIFC Act or Regulatory Material adopted by an AIFC Body is an authorised electronic version if:
  - (a) it is an electronic copy of a version authorised by the AIFC Body that is accessed at, or downloaded from, an Approved Website and is in a format authorised by the Chief Executive Officer, by notice published on the Approved Website; or
  - (b) it is an electronic copy of a version authorised by the AIFC Body and is in the format in which it is authorised.
- (2) It is presumed, unless the contrary is proved:
  - (a) that an internet site which reasonably appears to be an Approved Website for an AIFC Body is an Approved Website for the AIFC Body; and
  - (b) that an electronic copy of any AIFC Act or Regulatory Material accessed at, or downloaded from, an Approved Website for an AIFC Body and which reasonably appears to be authorised by the AIFC Body (however expressed) is an authorised electronic version of the AIFC Act or Regulatory Material; and
  - (c) that any other electronic copy of any AIFC Act or Regulatory Material which reasonably appears to be authorised by the AIFC Body (however expressed) is an authorised electronic version of the AIFC Act; and
  - (d) that an authorised electronic version of any AIFC Act or Regulatory Material which reasonably appears to be a version of the AIFC Act or Regulatory Material as originally adopted correctly shows the AIFC Act or Regulatory Material as originally adopted; and
  - (e) that an electronic version of any AIFC Act or Regulatory Material which reasonably appears authorised by the AIFC Body (however expressed) and to be a version of the AIFC Act or Regulatory Material as in force (however described) at any time or during any period correctly shows the AIFC Act or Regulatory Material as in force at that time or during that period.

### 18. **Notice of certain matters**

- (1) Proof is not required about:
  - (a) the adoption of any AIFC Act or Regulatory Material and the AIFC Body that adopted it; or
  - (b) the provisions of any AIFC Act or Regulatory Material, whether as originally adopted or



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- as in force from time to time; or
- (c) the commencement, amendment, repeal, modification, waiver or expiry (however described) of any AIFC Act or Regulatory Material; or
  - (d) amendments or other changes made under section 19; or
  - (e) the authorisation under this part of an electronic version of any AIFC Act or Regulatory Material; or
  - (f) whether a website is an Approved Website for an AIFC Body; or
  - (g) the publication of anything on an approved website for an AIFC Body.
- (2) The Court may inform itself of anything mentioned in subsection (1) in any way it considers appropriate.
- (3) However, the Court must consider whether any source that it intends to use appears to be a reliable source of information.
- (4) For subsection (3), an authorised electronic version of any AIFC Act or Regulatory Material is a reliable source of information.
- (5) This section does not limit any other provision of any AIFC Act.

### 19. **Preparation of AIFC Acts and Regulatory Material for publication**

- (1) In preparing an electronic version of any AIFC Act or Regulatory Material adopted by an AIFC Body for publication, the AIFC Body may:
- (a) make editorial amendments, and other textual amendments of a technical or formal nature; and
  - (b) make other editorial changes by way of format, layout, presentation or printing style.
- (2) However, this provision does not permit the making of any amendment of an AIFC Act or Regulatory Material that would change the legal effect of the AIFC Act or Regulatory Material.
- (3) For subsection (1), an *editorial amendment* is an amendment that:
- (a) updates or corrects a reference to, or to any provision of, any AIFC Act or Regulatory Material; or
  - (b) goes only to a matter of spelling, punctuation, or the use (or non-use) of conjunctives, disjunctives or capitals; or
  - (c) numbers or paragraphs (to any level) any provision, or changes the order of definitions or other provisions, of any AIFC Act or Regulatory Material; or
  - (d) changes the naming or numbering of a provision of any AIFC Act or Regulatory Material;



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or

- (e) replaces a reference to a provision of any AIFC Act or other instrument with a different form of reference to the provision; or
  - (f) changes the way of referring to or expressing a number, year, date, time, amount of money, quantity, measurement or any similar matter; or
  - (g) changes the form, layout or wording of any definition; or
  - (h) updates a reference to the heading of a provision of any AIFC Act; or
  - (i) omits the adopting words (however described) of any AIFC Act or Regulatory Material (including any signatures); or
  - (j) omits a provision of any AIFC Act or Regulatory Material that has expired or the operation of which is exhausted or spent; or
  - (k) inserts, omits or changes anything not forming part of any AIFC Act or Regulatory Material, including, for example, any table of contents (however described) or endnote; or
  - (l) is consequential on any other editorial amendment.
- (4) Any AIFC Act or Regulatory Material amended or otherwise changed under this section has effect for all purposes, on and after publication by the AIFC Body, as if the changes had been made by other AIFC Act or Regulatory Material of the same kind.



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### PART 3: INTERPRETATION OF AIFC ACTS

#### 20. Exercise of powers before commencement

- (1) This section applies to a power under a provision of an AIFC Act to make an appointment, adopt any rules or guidance, or do anything else, in the following situations:
  - (a) the power is given by a provision (the *authorising provision*), but the authorising provision has not commenced; or
  - (b) the power is given by a provision (the *authorising provision*) as amended by another provision (the *amending provision*), but either or both of the provisions have not commenced.
- (2) The power may be exercised at any time even though the authorising provision, or the authorising provision and the amending provision (or either of them), is not in force at the time.
- (3) For the exercise of the power, the authorising provision, or the authorising provision and amending provision, are taken to be in force at the time of the exercise of the power.
- (4) Also, anything else may be done under the power at any time for the purpose of bringing, or in relation to bringing, the authorising provision, the authorising provision as amended by the amending provision, or any other provision of the AIFC Act containing the provision or the AIFC Acts containing the provisions, into operation.
- (5) However, the exercise of the power under this section does not give a power or right, or impose an obligation on a Person, before the commencement of the relevant provision or provisions except so far as is necessary or convenient for the purpose of:
  - (a) bringing anything done under the power into effect; or
  - (b) bringing the AIFC Act containing the provision, or the AIFC Acts containing the provisions, fully into operation; or
  - (c) making that Act or those Acts fully effective at or after the commencement of the relevant provision or provisions.

#### 21. References in AIFC Acts

- (1) In an AIFC Act, a reference to an AIFC Act (the *relevant AIFC Act*) includes a reference to the following:
  - (a) the relevant AIFC Act as originally adopted, and as amended from time to time since it was originally adopted;
  - (b) if the relevant AIFC Act has been repealed and readopted (with or without changes) since the reference was made—the AIFC Act as readopted (or last readopted), and as amended from time to time since it was readopted (or last readopted);
  - (c) if a relevant provision of the relevant AIFC Act has been repealed and readopted (with or



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without changes) in another AIFC Acts since the reference was made—the AIFC Act in which the provision was readopted (or last readopted), as in force when the provision was readopted (or last readopted), and as amended from time to time since the provision was readopted (or last adopted).

- (2) In an AIFC Act, a reference to a provision of an AIFC Act includes a reference to the following:
  - (a) the provision as originally adopted, and as amended from time to time since it was originally adopted;
  - (b) if the provision has been repealed and readopted (with or without changes and whether in the AIFC Act or another AIFC Act) since the reference was made—the provision as readopted (or last readopted), and as amended from time to time since it was readopted (or last readopted).
- (3) To remove any doubt, if the name of an AIFC Act (the *first AIFC Act*) is amended (including by substitution), a reference in an AIFC Act to the first AIFC Act by its name before the amendment includes a reference to the first AIFC Act by its name as amended.

### 22. References to provisions of AIFC Acts

- (1) A reference in an AIFC Act to a Part, section or Schedule by number only, and without further identification, is a reference to the Part, section or Schedule of that number in AIFC Act.
- (2) A reference in a section or other division of AIFC Act to a subsection, paragraph, subparagraph, sub-subparagraph, Chapter, Division or section by number or letter only, and without further identification, is a reference to the subsection, paragraph, subparagraph, sub-subparagraph, Chapter, Division or section of that number or letter contained in the section or other division of AIFC Act in which that reference occurs.

### 23. Rules of interpretation

In an AIFC Act:

- (a) a reference to a *business day* is a reference to a normal working day in the AIFC; and
- (b) a reference to a *year*, without specifying the kind of year, is a reference to a calendar year according to the Gregorian calendar, that is, a period of 12 months beginning on 1 January.

### 24. Material that is part of AIFC Act

- (1) The following things in, or to, an AIFC Act are part of the AIFC Act:
  - (a) a heading to a provision; and
  - (b) an example or diagram; and
  - (c) a Schedule, Appendix, Dictionary or Glossary; and
  - (d) punctuation; and



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- (e) a provision number.
- (2) Guidance in whatever form in an AIFC Act is also part of the AIFC Act.
- (3) Despite subsection (2), Guidance in an AIFC Act is indicative of the view of the AIFC Body that adopted the AIFC Act at the time, and in the circumstances, in which it was given and is not binding.

### 25. **Effect of examples**

An example in an AIFC Act:

- (a) is not exhaustive; and
- (b) may extend, but does not limit, the meaning of the AIFC Act or the particular provision of the AIFC Act to which it relates.

### 26. **Material that is not part of AIFC Act**

- (1) The following things in, or to, an AIFC Act are not part of the AIFC Act:
  - (a) a footnote, endnote or other note; and
  - (b) a table of contents (however described), reader's guide or index.
- (2) Anything mentioned in subsection (1)(a) or (b) does not become part of an AIFC Act because it is amended or inserted by an AIFC Act.

### 27. **Effect of notes**

A note in or to an AIFC Act is merely explanatory.

### 28. **Application of definitions**

- (1) A definition in the Dictionary or Glossary to any AIFC Act applies to the entire AIFC Act, and only to the AIFC Act, unless the AIFC Act or any other AIFC Act provides for the definition to have a different application.
- (2) A definition in a section of an AIFC Act applies to the entire section, and only to the section, unless the AIFC Act provides for the definition to have a different application.
- (3) A definition in an AIFC Act applies except so far as the contrary intention appears.
- (4) If an AIFC Act defines a term, other parts of speech and grammatical forms of the term have corresponding meanings.
- (5) In this section:

***definition*** means a provision (however expressed):



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- (a) that gives meaning to a term; or
- (b) that limits or extends the meaning of a term.

*section* includes any provision corresponding to a section.

### 29. **Gender and number**

In an AIFC Act:

- (a) words indicating gender include every other gender; and
- (b) words in the singular include the plural and words in the plural include the singular.

### 30. **Meaning of *may* and *must***

- (1) In an AIFC Act, the word *may*, or a similar term, used in relation to a Function indicates that the Function may be Exercised or not Exercised, at discretion.
- (2) In any AIFC Act, the word *must*, or a similar term, used in relation to a Function indicates that the Function is required to be Exercised.

### 31. **Working out periods of time generally**

- (1) This section applies in working out a period of 1 day or longer for the purposes of an AIFC Act, whether the period is a period in the future or past.
- (2) A period of time described as starting (however described) at, on or with a stated day, act or event includes the stated day or the day of the stated act or event.
- (3) A period of time described as starting (however described) from or after a stated day, act or event does not include the stated day or the day of the stated act or event.
- (4) A period of time described as ending (however described) at, by, on or with, or as continuing to, a stated day, act or event includes the stated day or the day of the stated act or event.
- (5) A period of time described as ending (however described) before a stated day, act or event does not include the stated day or the day of the stated act or event.
- (6) A reference to a number of days between acts or events does not include the day when the acts or events happen.



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### 32. **Doing things for which no time is fixed**

- (1) This section applies if:
  - (a) under an AIFC Act, something must or may be done; but
  - (b) no time is provided to do the thing.
- (2) The thing must or may be done as soon as reasonably practicable and as often as needed.

### 33. **Continuing effect of obligations**

If, under a provision of an AIFC Act, an act is required to be done, the obligation to do the act continues until the act is done even if:

- (a) the provision required the act to be done within a particular period or before a particular time, and the period has ended or the time has passed; or
- (b) a Person has committed or been found to have committed a contravention of an AIFC Act, or a fine or other penalty has been imposed, in relation to the failure to do the act.

### 34. **Power to make instruments**

- (1) If an AIFC Act gives a power that can be exercised by making an instrument, the AIFC Act gives power to make the instrument.
- (2) If an AIFC Act gives power to make an instrument, the power may be exercised from time to time.

### 35. **Power to make instrument includes power to amend or repeal**

- (1) Power given under an AIFC Act to make an instrument includes power to amend or repeal the instrument.
- (2) The power to amend or repeal an instrument is exercisable in the same way, and subject to the same conditions, as the power to make the instrument.

### 36. **Instruments may have retrospective effect**

A provision of an instrument made under an AIFC Act may commence before the day the instrument is made if the provision does not operate to the disadvantage of a Person (other than the AIFC Body) by:

- (a) adversely affecting the Person's rights; or
- (b) imposing liabilities on the Person.

### 37. **Effect of delegations**

- (1) This section applies if a Person (the *appointor*) delegates Functions under an AIFC Act to another Person (the *delegate*).



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- (2) The delegate must exercise the delegation subject to any conditions, limitations or directions stated in the delegation.
- (3) All AIFC Acts apply to the delegate in the exercise of the delegation as if the delegate were the appointor.
- (4) Without limiting subsection (3), if the Exercise of a delegated Function by the appointor is dependent on the appointor's state of mind, the Function may be Exercised by the delegate on the delegate's state of mind.
- (5) Anything done by or in relation to the delegate in the exercise of the delegation is taken to have been done by or in relation to the appointor.
- (6) The delegation of a Function to the delegate does not prevent the delegator from Exercising the Function.
- (7) In this section:  
  
*state of mind* includes knowledge, intention, opinion, belief or purpose.

### 38. **Official Interpretation of AIFC Acts**

The Court has exclusive jurisdiction on the official interpretation of AIFC Acts.



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### PART 5: APPLICATION OF AIFC ACTS

#### CHAPTER 1—SCOPE AND APPLICATION

##### 39. **Limitation on scope of Part 5**

- (1) This Part does not apply to:
  - (a) rights and liabilities under negotiable instruments to the extent the rights and liabilities arise out of their negotiable character; or
  - (b) any question of capacity or authority of natural persons, bodies corporate or other entities; or
  - (c) any question of capacity or authority of an agent not appointed under a contract; or
  - (d) any rights or liabilities arising from the creation (however described) or winding up of a body corporate or other entity.
- (2) In relation to any matter that under these Regulations is governed by the law of another Jurisdiction, any rule of the law of that Jurisdiction applying the law of another Jurisdiction in relation to the matter must be disregarded.

##### 40. **Application**

- (1) Because, by virtue of article 4 of the Constitutional Statute, AIFC legislation is able to apply in the AIFC despite any Acting Law of Kazakhstan on civil or commercial matters, the rights and liabilities between Persons in any civil or commercial matter are to be decided according to the relevant law for the time being in force in the Jurisdiction chosen in accordance with subsection (2).
- (2) The Jurisdiction chosen is to be the Jurisdiction first ascertained under the following paragraphs:
  - (a) so far as there is a regulatory content, the AIFC Acts or any other law in force in the AIFC; failing which,
  - (b) the law of any Jurisdiction other than the AIFC expressly applying under any AIFC Act; failing which,
  - (c) the laws of a Jurisdiction as agreed between all the relevant Persons concerned in the matter; failing which,
  - (d) the laws of any Jurisdiction that appears to the Court or Arbitrator to be the Jurisdiction most closely related to the facts of and the Persons concerned in the matter; failing which,
  - (e) the Acting Law of Kazakhstan.

##### 41. **Submission to Jurisdiction**

- (1) The Court must decide any matter before it in accordance with the laws that may apply under



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section 40.

- (2) An Arbitrator must decide any matter before the Arbitrator in accordance with the laws that may apply under section 40.

### CHAPTER 2–APPLICABLE LAW OF CONTRACTS

#### 42. **Governing law**

The existence, validity, effect, interpretation and performance of a contract, or any term of a contract, including any requirements as to formality, must be decided by the law that governs it.

#### 43. **Effectiveness of express choice of governing law**

An express choice of a governing law in a contract is effective against all Persons affected by the choice.

#### 44. **Absence of express governing law**

If the parties do not specify the governing law of a Contract, the Contract is governed by the Acting Law of the AIFC.

#### 45. **Agency**

- (1) If an agent is appointed under a Contract, the capacity and authority of the agent is decided by the law that governs the Contract.
- (2) If an agent contracts on behalf of a principal, the rights and liabilities of the principal in relation to third parties is governed by the law that governs the Contract between the agent and the third party.

#### 46. **Governing law of right of subrogation**

If a Person (the *creditor*) has a contractual claim upon another (the *debtor*), and a third party has a duty to satisfy the creditor, or has in fact satisfied the creditor in discharge of that duty, the law that governs the contractual claim decides the extent to which the third Person is entitled to exercise against the debtor the rights that the creditor had against the debtor under the law governing the contractual claim.

### CHAPTER 3–SUBMISSION TO JURISDICTION IN CONTRACTS

#### 47. **Effectiveness of express submission to Jurisdiction or arbitration**

- (1) A submission to the court of a Jurisdiction in a Contract is effective.
- (2) A submission to arbitration in a Contract is effective.

### CHAPTER 4–TRUSTS

#### 48. **Recognition of Trusts**

- (1) A Trust is recognised as a Trust if it is:



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- (a) expressly constituted under the law of any Jurisdiction; or
  - (b) created by the law of any Jurisdiction.
- (2) The existence, validity and interpretation of a Trust expressly constituted under the law of another Jurisdiction is decided by the law under which the Trust is constituted.
- (3) For this section, the law under which a Trust is constituted or created is:
- (a) for a Trust mentioned in subsection (1)(a)—the law of the Jurisdiction stated in the instrument constituting the Trust; and
  - (b) for a Trust mentioned in subsection (1)(b)—the law of the Jurisdiction by whose law the Trust is created.



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### SCHEDULE 1: INTERPRETATION

#### 1. Definitions

In these Regulations:

*Acting Law of the AIFC* has the meaning given by article 4 of the Constitutional Statute.

*Acting Law of Kazakhstan* means a set of regulatory legal acts adopted by Kazakhstani public authorities in the established manner.

*AFSA* means the Astana Financial Services Authority.

*AIFC* means the Astana International Financial Centre.

*AIFCA* means the Astana International Financial Centre Authority.

*AIFC Acts* means Acts adopted by the AIFC Bodies.

*AIFC Bodies* has the meaning given by article 9 of the Constitutional Statute and the document entitled *The Structure of the Bodies of the Astana International Financial Centre* adopted by the Management Council on 26 May 2016.

*Approved Website*, for an AIFC Body, means a website that is approved under section 17(1)(a) (Authorised electronic versions of AIFC Acts and Regulatory Material) by the Chief Executive Officer of the AIFC Body.

*Arbitrator* means an arbitrator appointed by parties for the purpose of arbitrating matters between the parties.

*Constitution of the Republic of Kazakhstan* means Constitution of the Republic of Kazakhstan adopted on 30 August 1995 at the republican referendum.

*Constitutional Statute* means Constitutional Statute of the Republic of Kazakhstan dated 7 December 2015 entitled *On the Astana International Financial Centre*.

*Contract* includes futures contract or a commodity option.

*Court* means the Astana International Financial Centre Court.

*Exercise a Function* includes perform the function;

*Function* includes authority, duty and power.

*Governor* means the Governor of the Astana International Financial Centre.

*Guidance* means:

- (a) guidance adopted under, or contained in, any AIFC Act; or



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(b) a code of practice, standard or anything else adopted as guidance under any AIFC Act.

**International Arbitration Centre** means the Astana International Arbitration Centre.

**Jurisdiction** means any jurisdiction in any country.

**Management Council** means the Management Council of the Astana International Financial Centre.

**Management Council Resolution on AIFC Bodies** means *The Structure of the Bodies of the Astana International Financial Centre*, adopted by resolution of the Management Council on 26 May 2016, as amended by resolution of the Management Council, *The Amendments and supplementations to the Structure of the Bodies of the Astana International Financial Centre*, adopted on 9 October 2017.

**Person** includes any natural person or incorporated or unincorporated body, including a company, partnership, unincorporated association, government or state.

**Regulations** means Regulations adopted by the Management Council or Governor, and includes these Regulations.

**Regulatory Material** means any of the following:

- (a) a waiver or modification notice under an AIFC Act (or a notice revoking or varying such a notice);
- (b) guidance issued under an AIFC Act, other than guidance issued to a Person individually;
- (c) a form approved or otherwise prescribed (however described) under an AIFC Act;
- (d) an approval, notice, policy or other instrument made or issued (however described) under an AIFC Act, other than an instrument made for or issued to an a Person individually;

and includes any provision of any regulatory material.

**Rules** means Rules adopted by:

- (a) the Governor; or
- (b) the Board of Directors of the AIFCA, other than in relation to the regulation of financial services and operations of the AIFC related to financial services; or
- (c) the Board of Directors of the AFSA, in relation to the regulation of financial services and operations of the AIFC related to financial services.

**Trust** means the legal relationship created by a settler under which assets are placed under the control of a trustee for the benefit of a beneficiary or for a specific purpose.