

**On approval of a model agreement on creation of electric power with wholesale market entities included in the Register of Groups of Entities**

*Unofficial translation*

Order of the Minister of Energy of the Republic of Kazakhstan dated December 14, 2018 No. 511. Registered with the Ministry of Justice of the Republic of Kazakhstan on December 20, 2018 No. 17977.

*Unofficial translation*

In accordance with sub-paragraph 7-2) of Article 5 of the Law of the Republic of Kazakhstan dated July 9, 2004 "On Electric Power Industry", I hereby **ORDER**:

1. Approve the attached model agreement on creation of electric power with wholesale market entities included in the Register of Groups of Entities.

2. In accordance with the procedure established by the legislation of the Republic of Kazakhstan, the Department for Implementation of the State Policy in the Field of Electric Power Industry of the Ministry of Energy of the Republic of Kazakhstan shall:

1) ensure state registration of this order with the Ministry of Justice of the Republic of Kazakhstan;

2) within ten calendar days from the date of state registration of this order with the Ministry of Justice of the Republic of Kazakhstan, send its copies both in Kazakh and Russian languages to the Republican State Enterprise on the Right of Economic Management "Republican Center of Legal Information of the Ministry of Justice of the Republic of Kazakhstan" for official publication and inclusion into the Reference Control Bank of the Regulatory Legal Acts of the Republic of Kazakhstan;

3) place this order on the Internet resource of the Ministry of Energy of the Republic of Kazakhstan;

4) within ten working days after state registration of this order with the Ministry of Justice of the Republic of Kazakhstan, report to the Department of Legal Service of the Ministry of Energy of the Republic of Kazakhstan on performance of activities, stipulated by sub-paragraphs 1), 2) and 3) of this paragraph.

3. Control over the execution of this order shall be entrusted to the supervising Vice-Minister of Energy of the Republic of Kazakhstan.

4. This order shall come into effect upon expiry of ten calendar days after the day of its first official publication.

*Minister of Energy of the Republic of Kazakhstan*

*K. Bozumbayev*

Approved by  
Order No. 511 of the Minister  
of Energy of the

## **Model Agreement on Creation of Electric Power with Wholesale Market Entities included in the Register of Groups of Entities**

\_\_\_\_\_ " \_\_\_\_ " \_\_\_\_\_ 20 \_\_\_\_  
(place of execution of the agreement) (date of the agreement)

\_\_\_\_\_  
\_\_\_\_\_  
,  
(name of wholesale market entity, included in the Register of Groups of  
Entities (hereinafter referred to as the Register),  
residency, date of establishment, certificate of registration, date and number, registered by  
)  
hereinafter referred to as "the Entity", represented by

\_\_\_\_\_  
\_\_\_\_\_  
,  
(position, full name of the signatory of the agreement)  
acting on the basis of

\_\_\_\_\_  
\_\_\_\_\_  
(the charter, regulation, power of attorney No. \_\_\_\_ dated " \_\_\_\_ " \_\_\_\_\_ 20 \_\_\_\_)  
and \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
(authorized state body of the Republic of Kazakhstan executing  
administration in electric power industry)  
represented by \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
(position, full name)  
hereinafter referred to as "the Authorized Body", have entered into this agreement as  
follows.

### **Chapter 1. Subject-matter of the agreement**

The Entity shall be obliged to create electric power at its own expenses, by executing one of several of the following actions:

- 1) construction of a new electric capacity;
  - 2) expansion of own existing electric capacity;
  - 3) reconstruction or modernization of own existing electric capacity, which has been decommissioned or is subject to decommissioning in the coming seven-year period.
- 

— (name of the facility)

(hereinafter - the Energy Complex), as well as to put into service the Energy Complex in accordance with project documentation, developed according to the required technical, quality and operational specifications of generating units, re-commissioned, construction norms and regulations (hereinafter – SnIP) and provisions of this Agreement.

## **Chapter 2. Terms**

1. Date of commencement of the construction (expansion, reconstruction, modernization) of the Energy Complex shall be no later than \_\_\_\_ days after signing of this Agreement.
2. Date of commissioning of the Energy Complex: "\_\_\_" \_\_\_\_\_ 20\_\_.
3. Duration of construction (expansion, reconstruction, modernization) of the Energy Complex may be amended by additional agreement of the Parties.

## **Chapter 3. Amount of the Agreement**

4. The Entity shall determine the amount of the construction (expansion, reconstruction, modernization) of the Energy Complex independently.
5. The Entity shall determine procedure of financing of the construction (expansion, reconstruction, modernization) of the Energy Complex independently.

## **Chapter 4. Rights and Obligations of the Entity**

6. The Entity shall be eligible:
  - 1) to offer proposals to the Authorized Body on all issues of construction (expansion, reconstruction, modernization) of the Energy Complex;
  - 2) to enter into contracts with contracting organizations for execution of works under this Agreement.
7. The Entity shall be obliged:
  - 1) In case of assignment of receivables to the third party under this Agreement to receive preliminary a written consent of the Authorized Body;

2) to execute works in accordance with project documentation, SniP within time limits specified by this Agreement;

3) during the entire period of execution of works, to meet the requirements of the legislation of the Republic of Kazakhstan on architectural, urban and construction activities;

4) to inform the Authorized Body in writing within five working days on entering into a contractor agreement with contracting organizations. The information shall set out the subject matter of the contractor agreement, the name and address of contracting organizations;

5) to notify the Authorized Body in writing on occurrence of factors, which may influence on the time limits of completion of construction no later than 3 (three) working days after the Entity becomes aware of them;

6) to provide the Authorized Body upon its request with the information on the progress of works under this Agreement.

7) to enter into agreement on procurement of a service to maintain readiness of electric power with a sole procurer within thirty calendar days upon conclusion of this agreement.

## **Chapter 5. Rights of the Authorized Body**

8. The Authorized Body shall be eligible:

1) to monitor the process of construction and quality of performance of construction-installation works, meeting the time limits of their performance;

2) for the purposes of monitoring, to have free access to the temporary structures of the Entity, warehouses, to working territory of the construction.

## **Chapter 6. Force-Majeure**

9. Force-majeure circumstances shall be determined in accordance with the civil legislation of the Republic of Kazakhstan.

10. The maturity date under this Agreement shall be extended proportionally to the duration of force-majeure period, as well as the effect, resulting from these circumstances.

11. If the impossibility of the full or partial performance of obligations by the Parties under this Agreement, due to the occurrence of force majeure circumstances, exists for more than six months, then the Parties shall have the right to revise or terminate this Agreement.

## **Chapter 7. Quality Guarantee**

12. The Entity shall guarantee:

1) due quality of materials, constructions, equipment and systems employed, compliance with their project specifications, national standards and technical conditions, their provision with relevant certificates, technical passports, and other documents, certifying their quality;

2) quality of performance of works in accordance with project documentation and current norms, technical conditions and SnIP;

3) timely elimination of deficiencies and defects, detected during preliminary acceptance of the Energy Complex.

## **Chapter 8. Liability of the Parties**

13. In case of violation of labor safety rules at the Energy Complex, the Entity shall bear full material liability for all losses, resulting from such violations.

14. The Entity shall bear liability, as stipulated by the legislation of the Republic of Kazakhstan for noncompliance with labor safety rules during execution of construction-installation works.

15. The Entity shall provide employees with all safety facilities during execution of construction-installation works.

16. The Parties shall bear liability for nonperformance or improper performance of obligations under this Agreement in accordance with current legislation of the Republic of Kazakhstan.

## **Chapter 9. Termination of the Agreement**

17. This Agreement may be terminated unilaterally, upon agreement of the Parties or through legal proceedings.

18. If during execution of this Agreement it becomes evident that the Entity does not start execution of this Agreement within \_\_\_\_ calendar days upon expiry of the period, stipulated by this Agreement, the Authorized Body shall be eligible to terminate this Agreement unilaterally, without reference to the court.

## **Chapter 10. Confidentiality**

19. The parties shall be liable in the procedure, prescribed by the current legislation of the Republic of Kazakhstan, for non-compliance with protection of any information (data), specified by the Parties agreement, as well as any information (data), which has been disclosed to the Parties, in the process of execution of this Agreement.

## **Chapter 11. Dispute Settlement Procedure**

20. Disputes and controversies, which may arise during execution of this Agreement, shall be settled, as far as it is possible, through negotiations between the parties.

21. In case of impossibility to solve disputes through negotiations, the parties shall submit it for consideration to judicial bodies in accordance with current legislation of the Republic of Kazakhstan.

## Chapter 12. Final Provisions

22. This Agreement shall come into force upon signing by the Parties.

23. None of the Parties shall be eligible to transfer its rights and obligations under this Agreement to the third parties, without written consent of the other Party.

24. Upon signing of this Agreement, all preliminary arrangements, discussions and correspondence between the parties in regard of this Agreement shall lose force.

25. Any arrangement between the Parties, entailing new obligations, not stipulated by this Agreement shall be considered valid, if it is confirmed by the Parties in writing in kind of additional agreement to this Agreement.

26. In any matter not covered by this Agreement, the Parties shall be governed by the current legislation of the Republic of Kazakhstan.

27. This Agreement is made in \_\_\_\_ copies in Kazakh and Russian, having equal legal force for each of the Parties.

To the extent that the Entity is a foreign entity, the Agreement shall be executed in Kazakh and in the language, acceptable for the parties.

## Chapter 13. Legal Addresses, Details and Signatures of the Parties

| T h e   | E n t i t y | T h e   | A u t h o r i z e d | B o d y |
|---|-------------|---|---------------------|---------|
| (name of a legal entity or an individual by the type of the agreement)  |             | (the authorized body of the Republic of Kazakhstan, executing administration in electric power industry)                              |                     |         |
| (location country)  |             | (location country)  |                     |         |
| (city, p/o, street, house and office number, fax, telephone number)   |             | (city, p/o, street, house and office number, fax, telephone number)   |                     |         |
| (number of current or foreign currency account, name of the servicing bank, M F O ( s o r t c o d e ), IIN, payment destination code) |             | (number of current or foreign currency account, name of the servicing bank, M F O ( s o r t c o d e ), IIN, payment destination code) |                     |         |
| (position, full name of the person, signing the agreement, signature, IIN in case of an individual)                                   |             | (position, full name of the person, signing the agreement, signature, IIN in case of an individual)                                   |                     |         |