Temporary Regulation on Clearing in the RK
with amendments and additions as of 11.02.94. Prot. 4 and 31.03.95. Prot.5

General Section

1.1. Temporary Regulation on clearing regulates general approach in terms of arranging clearing and common rotation of documents in banks.
Having the variety of forms of property and variety of enterprises' activities under the terms of goods- money relationship development, Temporary Regulation on clearing proceeds from the principle that enterprises are free to choose the forms of settlement, stipulating them in the agreements and not interference of the bank with contractual arrangements of the enterprises.
Current Regulation also covers settlement documents being applied by physical persons and all legal entities irrespective of the form of property. Hereinafter referred to as "enterprises".
1.2. Settlement transactions are being performed by banks through the accounts opened by enterprises at banks. Bank keeps money resources of the enterprises on the accounts, credits given accounts, carries out orders of enterprises on money transfer and payment from the account and on conducting of other financial transactions provided for bank rules and agreement.
All payments from the accounts of the enterprises are being performed in sequence being determined by the manager of enterprise unless otherwise is stipulated by legislation.
Resources from the accounts of the enterprises are being written down on the instruction of the account owner.
1.3. Without instruction of the enterprise the writing down of the resources on the account is allowed only on the verdict of the Court, Arbitration Court, Tax Inspection and in other cases provided for Section 8 of given Temporary Regulation.
1.4. Following main forms of clearing are being recommended:
- payment order
- cheque
- letter of credit
- payment request-order
- accumulated request on settlement with transport and railway.

Forms of settlement among payer and receiver of the resources are being determined by agreement (contract, separate arrangements).
1.5. On agreement among enterprises on the basis of Act of Tally the offset of the mutual debts can be done among enterprises without bank participation. In this case order (cheque) for the amount of not offset liabilities and demands are being submitted to the bank in accordance with terms provided for Section 9 of given Regulation.
1.6. Mutual claims on settlements among payer and receiver of resources are being considered among them in established order without bank participation.
Claims to the bank associated with bank transactions are to be submitted to the bank that has committed violation.
Lodging complaint and suit does not stop transactions on the account.
1.7. In accordance with acting legislation settlements among enterprises as a rule are being conducted by commercial banks. Settlements among commercial banks are being arranged by the National Bank of the RK through its settlement centers established in oblasts, cities, districts where the banks' branches are located.
1.8. Rotation of documents in the commercial banks and settlement centers performing interbanks and interstate settlements is being organized in conformity with Regulation "On

Arranging Settlement among Banks through Corresponding Accounts within Republic with other States".

2. Procedure to Draw up Settlement Documents

2.1. Settlement documents are to correspond to requirements of standards and are to contain:
a) name of settlement document
b) number of settlement document, date, year, number of its issuing. Date is to be indicated by numbers, month - in words, year - by numbers. If settlement documents are being filled in by the computers, it is possible to indicate month by numbers;
c) name of bank-payer (headquarters), its number (together with name it is possible to have its firm name);
d) name of the payer, number of his account in the bank;
e) name of the receiver, number of his account in the bank, number of bank-receiver of resources.
It is possible to reduce rationally the name of the payer and receiver without complicating the work of the bank and clients;
f) designation of the payment. Together with text indication it is possible to use code indication;
g) amount of payment in numbers and in words;
h) first document has to contain the signature of the disposer of the credits and stamp of the enterprise irrespective of the way to issue settlement document.
If while paying off the goods VAD is being allocated, in this case in settlement document (order, request-order, register of cheques and register of accounts to withdraw resources from the letter of credit) the amount of VAD is to be indicated as separate line.
In payment order to transfer resources to the current accounts of initial trade union and public organizations and funds, voluntary societies and their reporting bodies as well as deposits of citizens opened in banks is being indicated the concrete purpose of payment (the nature of work that has been done, the name of rendered services or goods being purchased, ear-marked purpose of transferred resources).
2.2. Settlement documents are being accepted by bank with the view of executing provided that there is a stamp of the enterprise and two signatures (first and second) of the officials having the right to sign those documents to perform transaction on the accounts in bank. Signatures and stamp of the enterprise issuing settlement document are to be put on the original document.
Settlement documents on transactions being performed by branches, representative offices on behalf of legal entity are being signed by persons authorized by legal entity.
Settlement documents on transactions being performed by renters at family or individual rent, by businessmen without setting up legal entity are being accepted for execution if there is only one signature (without stamp), mentioned in the card with the sample of the signature.
2.3. Settlement documents are being accepted for execution irrespective of the amount in the settlement documents within the limits of the resources on the account.
Receiving of the documents from enterprises is being carried out during the day and depends on working hours of bank. The documents accepted by bank from the enterprise during working hours are being accepted through the balance of the bank at the same day.
2.4. Payment orders, payment request-orders, accumulated ordered are being issued as a rule, at the machine (typewriter, computer) one time under carbon paper or by means of making copies from the originals, produced at computers, at copy-machines in number of copies necessary for banks and all concerned parties.

2.5. Settlement cheques are being drawn manually by inks or by roll pen. Any corrections in settlement documents are prohibited.
2.6. Withdrawal from an account of the payer is being performed only on the ground of the first copy of settlement document or document sent by telefax with simultaneous sending of the first copy of settlement document to the bank of the buyer.

3. Settlements by Payment Orders

3.1. Payment order hereinafter referred to as "order" is an instruction of the enterprise to the servicing bank regarding transfer of resources from the account of the enterprise.
3.2. Payer submits an order on the forms of fixed type to the bank. (Appendix N1). In addition to the order the payer has to submit agreement, accounts and other documents, confirming ear-marked usage of the payment to the bank on its request for supervision (with future return).
3.3. Orders are valid within the period of ten days after the date of issuing (the day of issuing is not being taken into account).
3.4. Payment orders are being accepted for execution provided that there are resources on the account.
3.5. Having even and constant deliveries, settlements among suppliers and buyers can be done daily or in terms agreed upon between suppliers and buyers. The date of big payment is recommended to fix at the working day in the middle of payment period.
The amounts of each planned payment is fixed by parties for forthcoming month (quarter) proceeding from agreed upon periodicity of payment and from the volume of delivery (supply) or rendering services.
Having daily planned payments it is recommended to determine their amounts on the basis of splitting the amount of deliveries in a month to the number of working days in this month.
Having non stop cycle of production and sale of products, the amounts of planned payments can be reckoned proceeding from the number of calendar days in a month.
For each planned payment bank is given separate payment order.
Parties are committed on periodical basis but not less than once a month to clarify its calculations on the basis of factual shipment of goods and services for the expired period and to perform recalculations according to procedure stipulated by agreement. If there is a difference in calculation this difference can be transferred by separate order or to be taken into account at next payment.
It is necessary to have clarifications of payment at the period when the last payment of the month have been done with the view of having mutual minimum offset. (not more than one amount of one day shipment).
Having settlements by payment orders the buyer in the item "designation of payment" has to stipulate "planned payment on agreement of 19..." as well as the date of payment.
In addition budget entities have to indicate the ear-marked designation of transferred amounts.
Orders are being transferred to the bank at the day of payment deadline.
If there are no or not enough resources on the account of the payer and if it is not possible to grant credit to the payer, the payment order is not accepted by the bank. If resources emerge on the account, the planned payment is being transferred by the payer with regard of previously emerged debt.
3.6. Enterprises with non stop production for manufactured products are being settled by advanced payments. Advanced payments are being performed by payment orders.

Settlements by means of advanced payments are being performed by means of periodical transfer of resources according to time limits and in amounts stipulated by agreement. Parties are periodically but not less than once a month has to clarify their settlements on the basis of actual shipment of goods and services for the expired period of time and to perform recalculations in procedure provided for agreement. The difference can be transferred by separate order or can be taken into account at next payment.
It is necessary to have clarifications of payment at the period when the last payment of the month have been done with the view of having mutual minimum offset
3.7. On agreement among parties the payment by orders can be urgent, deferred and advanced.
Urgent payment can be done as following:
a) advanced payment, it means before the shipment of goods;
b) after shipment of goods, it means by the way of direct accept of goods;
c) partial payments at big transactions.
Advanced and deferred payments can have place within the framework of agreement without damage for financial situation of the parties.
3.8. Enterprises can perform transfer through the post-offices:
pensions, alimony, salaries, business trips expenditures, authors royalties;
to enterprises for the expenditures on salaries, for recruiting workers, procurement of agricultural products in places where there are no banks (and their branches).
While performing transfer of resources from the accounts through the post-offices, in the forms of remittance the transferor has to indicate the name of receiver, number of its account, name and number of bank where the account is, if resources are to be transferred to this account.
3.9.Post-office transferring resources in its post order has to indicate enterprise that will pay the remittance. The remittance of the receiver that is to be issued in one copy has to be attached to the order and has to be submitted to the post-office. The list of the receivers are attached to the remaining copies where it is stipulated: who will receive resources, for what purposes.

4. Payment by Cheques

4.1. At settlement by cheques the owner of cheque gives written instruction to credit body (bank) regarding transfer of certain amount of money indicated in the cheque to the account of receiver of money.
4.2. Cheques are being used by legal and physical person at performing settlements for goods and services. It is prohibited the settlements among physical persons.
It is not allowed to export cheque beyond Kazakstan.
4.3. The forms of cheques are manufactured on single sample (attachment N2).
Cheque is a security. The forms of cheques are the forms of strict accounts.
4.4. The security for cheque of cheque owner can be:
resources deposited by the owner of the cheque on separate account “Settlement cheque books and references” N722;
resources on appropriate account of cheque owner but not exceeding the amount warranted by the bank on agreement with cheque owner at issuing cheque. In this case bank can warranty to the owner of cheque the payment of cheques at the expense of banks if there is temporary absence of resources on his account. The amount of bank warranty within the limits of which it can pay cheques are being taken into account in bank-warrant on of-balance account N9925 “Warranty, Guarantee Issued by Bank”.

4.5. To get cheque enterprise has to submit application with its stamp in one copy to the bank with signatures of persons who have right to sign documents to perform transactions on the account of enterprise.
In application and in attached ticket the enterprise has to stipulate the number of the account from which the cheque will be paid: for issuing cheques with deposited resources on separate account "Settlement cheque books and references" N722 and for issuing cheques the paying of which is being performed within the limits of the resources on the account of the enterprise.
4.6. With the view of ensuring payment on cheques with deposited resources on the separate account "Settlement cheque books and references" N722 together with application on issuing cheques (Attachment N3) the payment order to deposit resources on the personal account of the cheque owner opened on separate account N722 is to be submitted. The amount of resources being withdrawal from the appropriate account is being credited on the this account.
4.7. Cheque has to be presented for payment to the bank within the period of 10 days without taking into account the day of its issuing.
4.8 Banks f the Republic of Kazakstan, before providing cheques to their clients (legal entities and natural persons) should fill in the cheques, declaring :
a) Name and location of commercial bank (firm designation can be stamped together with the name of the Bank) left upper side of cheque, in case of issuing by brunch bank - also the name of brunch and location in upper right side of the cheque;
b) Conventional ninedigital number of the bank, according to interbrunch turnover. Number of the bank should be filled in at the bottom of the page, in relevant section of earmarked. In case the brunch does not have correspondent subaccount in clearing-settlement centre or it has subaccount in commercial bank - put down in the cheque the number given to commercial bank or if it is agreed with the commercial bank- it 's number. In previous case, together with the name of the bank (see 4.8, a)) should be put down the name and location of relevant brunch of commercial bank;
c) Number of personal account of the drawer of the cheque . This number should be put down in relevant part of earmarked in lower part of the cheque, and also can be put down in the text of the cheque;
d) Name of legal entity or family name, first name, patronymic name of natural person, number of his account. This data should be put down in special zone in lower left part of the cheque;
e) Size limit of issue at the back side of the cheque. For this purpose, on the basis of declared cheque requirement and depositing amount the one cheque limit can be determined. On the back side of each cheque and in provided with them identification card bank shows the limit of one cheque.
4.9. Together with the cheques, bank should provide the client with an identification card (cheque card) due to attachement format N 4.
Cheque card has to contain:
on the face side:
a) name of the bank and its location;
b) name "cheque card N___";
c) name, family name of the physical person or name of the legal entity;
d) the signature of owner of cheque;
e) passport date of the owner of cheque for physical person;
f) number of account of the owner of cheque.
on the back side:

“We guaranty to pay the cheque drawing on us provided that following terms are observed:
a) cheque can be drawn for the amount not exceeding the sum mentioned on its back side and in cheque card;
b) the signature of owner of cheque must correspond to the sample of the signature put on the cheque card;
c) number of the account of the cheque owner, stipulated by cheque, has to correspond to number, mentioned on the cheque card;
d) identification of the owner of cheque is being performed by means of making comparison of his passport data with data mentioned in cheque card;
e) cheque has to be presented within the period of ten days from the day of its issuing;
f) cheque has to be honored in full amount for which it is issued without any fee.
Stamp and signature of responsible employee of the bank”.
4.10. Banks receive cheques from the owners of cheques with regard of item 4.17. In case when enterprise submits cheques directly (without the bodies dealing with collection) the compiling of registers (Attachment N5) is being executed by enterprise or bank on agreement among them.
4.11. Banks submit cheques to Clearing Centers (CC) of NBK to get payment only in case when other banks are payers with whom they do not have correspondent accounts. Branches of one bank perform calculations on honored cheques directly with each other passing by Clearing Centers.
4.12.Banks submit cheques received from enterprises to Clearing Centers of the NBK under the registers of fixed forms in 4 copies from which 1 and 2 copies together with debit advice note are being forwarded to Clearing Center servicing the bank of the payer; third one with cheque is kept by the CC servicing the bank of the supplier; and fourth copy is being given to the bank of supplier as a receipt on acceptance of cheques.
Register has to contain following information on cheque:
a) name of the bank-payer and its number and if necessary - number of bank where the correspondent subaccount of bank-payer has been opened (4.8 b);
b) number of account of cheque owner;
c) amount of cheque;
d) number of cheque.
4.13. Bank performs withdrawal of the resource on the basis of register of cheques coming from CC. Cheques are being kept by CC. Their copies can be demanded in the case of necessity.
4.14. Against the signature bank must inform the person about the procedure to fill in cheques as well as about responsibility in case of cheque loss or if it is stolen.
4.15. Enterprise accepting cheques is obliged:
a) to make sure that the amount of cheque does not exceed limited amount on the back side of cheque and in cheque card;
b) to make sure that the number of account of cheque owner indicated on cheque corresponds to number indicated in cheque book;
c) to make sure that passport data of cheque owner correspond to passport data indicated in cheque book;
d) to make sure that the signature of cheque owner in the cheque corresponds to the signature in cheque card.
4.16. On the back side of cheque received as a payment for goods and services, enterprise must put stamp and signature of responsible person.

4.17. In established order enterprise must submit accepted cheques to bank servicing given enterprise. In column N5 of enclosed document the number of accounts of cheque owners has to be indicated and in column N7 - name of the bank of payer and its number.
4.18. Cheques accepted by enterprise can not be endorsed.
4.19. Losses arising as a result of honoring lost or stolen cheque will be incurred by cheque owner unless it is proved that cheque has been honored on purpose.
4.20. Losses arising as a result of honoring cheque that does not correspond to requirements indicated in items 4.15 “b”, “c”, “d” will be incurred by enterprise received cheque as payment for goods and services.
4.21. CC of NBK accepting cheques from banks checks the correctness of filling in as well as their conformity with item 4.10 and performs honoring of cheques by means of following transfer of expenditures to the debit account of CC, servicing bank-payer.
4.22. Withdrawal of resources from the accounts of bank-payer is being performed by servicing CC at once on the basis of received at debit note of advice of cheque register.
4.23. CC of the NBK is responsible for losses incurred due to acceptance of wrong filling in of cheques.
4.24. It is prohibited to transfer cheques to suppliers by means of endorsement.
4.25. Invalid are following cheques:
presented when there are no resources on the account of the cheque owner if bank does not guarantee the honoring of cheques or when the amount guaranteed by bank is exceeded;
issued after the day when bank has sent notification about refusal to guarantee payment on cheques.
4.26. In those cases, when, at full usage of all checks, the amount of deposited funds would not still be consumed, the checks at the amount of non-consumed funds can be issued for the enterprise upon submitting an application. In case of refusal of an enterprise to obtain new checks, the enterprise submits to the bank an order to transfer non-consumed sums of deposited funds that account, from which these funds have been deposited.
4.27. In case of loosing checks, the enterprise submits to the banking institution, which issued checks, an application with indication of the numbers of non-consumed checks.

5. SETTLEMENTS BY CONSOLIDATED REQUIREMENTS

5.1. Centralized settlements for carriage of cargo by transportation companies with clients (consignor or consignee), and also for carriage cargo and transportation-expedition services between transportation companies can be made by consolidated requirements (Annex #6).
5.2. Amount of payments on penalties shall not be included into consolidated requirement.
5.3. Guaranteed certificate (annex #7) is issued to the client of transportation services by the servicing banking institution, which certifies:
- deposition by him from the corresponding account funds on the account “Settlement cheque-book and certificates” #722;
that the payment of services of transportation companies is carried out from the corresponding account of the client at temporary lacking funds on this account against banking guarantee.
Period of validity of the certificate is determined by the agreement between Parties.
5.4. If the bank guarantees payment on free requirement, the missing for its settlement sum is transferred on the account # 716 “Account, which have been not collected on banking guarantees”.

For the period of usage banking funds, transferred on the account # 716, the enterprise pays interests according to the established order.

6. SETTLEMENT BY LETTERS OF CREDIT

6.1. Letter of credit is a contingent liability of the bank, issued by the bank upon the client's order in favor of its contracting party according to the agreement, on which the bank, which opened a letter of credit (issued bank) can make to the supplier payment or give the authority to the other bank to make such payments at the condition of submitting documents to them, stipulated in the letter of credit and upon the execution of the other requirements of the letter of credit.

6.2. If the bank, drown up the letter of credit (issued bank), at the request of the payer (purchaser), transfers funds to the other bank of supplier, then in order to make payment upon implementation of all conditions, stipulated in the letter of credit, in the bank of supplier the separate balance account "Letters of credit" is opened.

For recording received to the banking institutions letters of credit, in the bank of payer out of balance account "Letters of credit to be paid" is opened.

Execution of the letter of credit in this case, payment on it, is made directly by the bank, which provides services for the supplier, after shipment of the cargo.

6.3. The following types of letters of credit can be opened:

- paid L/C (deposited) or unpaid L/C (guaranteed);
- revocable L/C or irrevocable L/C.

6.4. Paid L/C (deposited) are letters of credit at opening of which the issued bank transferred funds of the payer or submitted to him credit at the disposal of the bank of supplier (executive bank) on a separate balance account # 720 "Letters of credit" on the whole period of validity of liabilities of the issued bank.

Unpaid (guaranteed) L/C can be opened at the executive bank by the way of submitting to the executive bank the right to write off the whole sum of L/C from his account at the issued bank, if there are correspondent relations between these banks.

Applications of an enterprise on the issuing of unpaid (guaranteed) L/C are placed by the issued bank on the out-balance account # 9925.

6.5. Every L/C shall definitely indicate if it is revocable or irrevocable. If there is no such indication, L/C is considered to be irrevocable.

Revocable L/C can be changed or annulled by the issued bank without preliminary agreement with the supplier (e.g. in case of non-compliance with the terms, stipulated by the agreement, pre-schedule refusal of the issued bank to guarantee payments on L/C). All instructions on changing the terms of a revocable L/C the payer can give to the supplier only through the issued bank, which informs the bank of supplier (executive bank), and the latter informs the supplier. However, the executive bank has to pay off the documents, accordingly to the terms of L/C, submitted by the supplier and accepted by the bank of the supplier up to the receiving by the latter notification on changing or annulment of the L/C.

Irrevocable L/C is a definite undertaking of issued bank, confirmed by the executive bank in addition to the undertaking of the issued bank, to carry out payments on L/C at implementation of all its terms. Irrevocable L/C can not be changed or annulled without agreement of the supplier in favor of which it has been opened.

Supplier can pre-schedually refuse to use L/C, if this is stipulated by the terms of L/C.

6.6. L/C can be destined for the settlements only with one supplier.

6.7. Period of validity settlement procedure on L/C are determined in the agreement between payer and supplier.

Agreement shall also include:

- name of issued bank;
- type of L/C and the way of its usage;
- type of informing the supplier on opening L/C;
- complete list and precise characteristic of the documents, submitted by the supplier in order to receive funds on L/C;
- periods of submitting the documents after shipment of the goods, requirements for their registration. Other necessary documents and terms.

Opening by the issued bank guaranteed L/C is made upon the agreement with the purchaser and in accordance with the terms of correspondent relations with the other bank. Execution of such L/C by the bank of supplier is carried out according to the established procedure.

6.8. In order to open L/C the payer submits to the servicing bank (issued bank) an application on the forms (Annex #8), in which the payer shall indicate the following:

- number of the agreement, on which L/C is opened;
- period of validity of L/C (date and month of closing down L/C);
- name of the supplier;
- name of the bank, which executes L/C;
- place of execution of L/C;
- full and precise name of the documents against which the payments on L/C are made, period of their submission and registration procedure (full list can be indicated in the Annex to the application);
- type of L/C with indication in it the necessary data;
- for shipment of what kind of goods (providing services) L/C is opened, periods of shipment (providing services);
- amount of L/C.

6.9. Application on opening L/C is submitted in 5 samples, which are subject to:

First, is a memorial order and in case of documentary L/C is transferred to the out balance account # 9925 “Guarantees, warrantees, issued by the bank”.

Second sample of application on mail L/C is furnished with the off-print of heraldic stamp (in corresponding cases - also with transferred key) and transferred to the bank of supplier together with the third sample.

Third sample of an application on the telegraph L/C and at documentary L/C the second sample serves as the basis for compiling L/C telegram and for placing payments to compensate telegraph expenditure on personal account of the revenues of the bank.

Forth sample of an application on mail and second - on telegraph L/C is used as personal account on balance account “Letters of credit”.

Fifth sample of an application at mail L/C, and at documentary L/C - froth sample is given to the purchaser as a receipt.

At telegraph L/C the forth sample of an application, and at documentary - the third is issued to the purchaser as a receipt.

6.10. For receiving funds on L/C the supplier after shipment the goods, submits shipment and other stipulated by the terms of L/C documents to the servicing institution of the bank. Documents, confirming payments on the L/C, have to be submitted by the supplier to the bank before expiration of the period of L/C and confirm implementation of all the terms of L/C. At violating even one of these terms, the payments on L/C are not made.

bank of the supplier exercises control over the rightness of usage of the funds on L/C fro which the credit issuer pays him commissions at the amount of 0.1% from the sum of L/C. Sum of the commissions in the order for issuing L/C is indicated separately.

6.11. At making payment on L/C the bank of the supplier (executive bank) has to check observance by the supplier all the terms of L/C as well as rightness of forming a register of accounts, compliance of signature and stamp of the supplier on it to the declared samples.

If by the terms of L/C the acceptance of the authorized purchaser is stipulated, the availability of acceptance note and compliance of signature of the authorized submitted by him to the sample is checked.

Registers of accounts without indication on them the date of shipment, numbers of cargo transportation documents, numbers of mail receipts at shipping the goods through the enterprises of communication, numbers or dates of acceptance-surrended documents and type of transportation, by which the cargo has been shipped at acceptance of goods by the representative of the purchaser at the place of supplier, are not accepted for payment.

Register of accounts is submitted by the supplier to the bank in three samples, from which the first sample is used as a memorial order, the third is given to the supplier as a receipt in acceptance of the register of accounts, the second with the attachment of cargo-transportation documents and banking mark is sent to the issued bank for submitting to the payer and simultaneously reflection on the account “Letters of credit to be paid”.

Payment from L/C by cash is not permitted.

6.12. If by the terms of the L/C acceptance of authorized purchaser is stipulated, the mentioned persons have to submit the following to the aphorized bank:

- passport or the document, which can replace it;
- sample of (his, her) signature, if h bank does not have it (filled in at the bank on the card of signature samples);
- warrant or power of attorney, issued by the institution, which opened L/C.

On the registers of accounts or on cargo-transportation documents, accepted for the payment of L/C the authorized person makes the following record:

Accepted at the expense of L/C as of _____ # _____

Authorized _____ (name of the institution of a purchaser)

Signature _____ “___” _____ 199 .

6.13. Closing of L/C in the bank of supplier is made:

a) upon expiration of the period of L/C. On closing L/C the executive bank notifies the issued bank;

b) upon an application of the supplier on refusal of further usage of L/C before expiration of the period on the basis of the record of the supplier on the refusal of further expiration of L/C made on the register of accounts. Executive bank sends the notification to the issued bank.

Non-consumed sum is transferred to the bank of payer upon his order on the account, from which the funds have been deposited;

c) L/C, the sum of which is withdrawn completely or partially by the purchaser himself, are closed or reduced on the day of receiving information from the issued bank. Issued bank receives a notification on closing L/C.

6.14. All claims to the supplier, except those, which appeared at the fault of the bank, are considered by the Parties without participation of the bank.

7. SETTLEMENTS BY PAYMENT REQUIREMENTS-ORDERS

7.1. Payment requirement -order is a requirement of the supplier to the purchaser to pay on the basis of the sent to the servicing bank of a payer settlements and shipment documents cost of the shipped according to the agreement production, implemented works, provided services.

At settlements on the deliveries of the goods (property) for the Committee of national Security, cargo-transportation and other documents, according to the main (Special) terms of delivery or agreement, can be sent directly to the customers according to the special order, without bank involvement. Responsibility for this is placed on the supplier.

7.2. Payment requirement-orders are issued by the supplier on the form (Annex #9) and submitted to the bank of supplier together with the register in four samples. Bank of supplier, after checking the fullness of filling in all requisite elements. sends the requirement-order to the bank of purchaser, and the second sample with the mark of the bank is returned to the supplier. Bank of purchaser, upon receiving the requirement-order, makes a registration of them, stamps on all samples the date of receiving (above, on the right side) and transfers them to the payer fro acceptance.

7.3. Payer shall submit to the bank the payment requirement-order within three days since the day of its receiving to the bank of payer.

In case of necessity of telegraph of payment advice by the supplier on all samples of the requirement-order above there is a note “Payment has to be transferred by telegraph”. Payment requirement-order is accepted at the availability of funds on the account of payer.

7.4. Payer notifies the servicing bank within 3 days about the refusal to pay off the payment requirement-order fully or partially.

Requirements-orders together with attached shipment documents and notification on the refusal to pay off are returned directly to the supplier.

7.5. At the agreement to pay fully or partially the payment requirement-order the payer draws up it by the signature of the persons, authorized to dispose by the account and off-print of a stamp on all the samples and gives them to the servicing bank, from which:

- first serves as a basis fro withdrawal of the funds from the payer’s account and after completing the operation is placed to the document fro the bank;
- second is sent to the bank, which provides services to the supplier;
- third together with shipment documents is returned to the payer as a receipt of acceptance to the entry and making payment of goods, executed works, provided services.

In the column “Sum to be paid” the sum, subject to be withdrawn from the payer’s account shall be put down by numbers and in writing.

If due to lack of the space on the exterior side of the form of requirement-order the necessity of the name of the goods has appeared it could be done on the back side of the form, in this case this side is verified by signature and stamp as well as the exterior.

7.6. Bank has a right to take the accept requirement-orders with placing them into the card-index # 2, preliminary stipulated the acceptance procedure, payment and interest of fine collection into the agreement between the bank and client on a payment basis.

8. WITHDRAWAL OF FUNDS FROM THE ACCOUNTS OF PAYERS WITHOUT THEIR APPROVAL

8.1. Withdrawal of funds from the accounts of payers without their approval is made only upon the decision of the court, arbitrage, at the disposal of the bank, or in cases, stipulated by the current legislation on the basis of executive documents.

Executive documents, on the basis of which the withdrawal of funds is made, are:

a) order of the banks on collection:
- of computed interests for usage by the credits;
- crediting sums with mistakes;
- **from the account of the Guarantee unpaid loan debt;**

b) executive lists, issued by the court:;
c) orders of Arbitrage and departmental courts, arbitrage commissions;
d) executive records, made by the notary;
e) provisions, orders, resolutions of specially authorized state body, issued on the basis of the Resolution of the Cabinet of ministers of the RK in the sphere of environmental protection, sanitary-epidemiological supervision of the RK and also technical inspection of labor of the professional unions on placing penalty for breaking ecological norms;
f) orders of taxation bodies on collection arrears on taxes and other obligatory payments, and also penalties, fines and other sanctions, stipulated by the legislation;
g) sums of penalties and other sanctions, collected from the employer in accordance with the legislation;
h) order of the territorial road fund on collection of arrears and penalties for non-payment f taxes and excises, stipulated by the legislation;
i) certificates of the professional committees of enterprises on conducting into force in the compulsory order the decision of the commission on labor disputes as of the substance of the matter of labor dispute;
j) certificates of the trade-unions committees of the enterprises on collection of the sums and reimbursement of the damage, made on the fault of an enterprise to the worker or employee as a result of maiming or other damages of the health, connected with his work, and also cases of death of the worker or employee, happen as the result of maiming or other damage of health, connected with his work and happened due to the fault of the enterprise's administration;
k) insurance police of insurance company;
l) order of the customs bodies of the RK.

The orders on withdrawal of recognized by the debtor sum are recognized as equated with the executive documents.
Payment to the budget on the basis of payment orders of tax payers and collection orders of the tax bodies is carried out by the banks in the first and foremost order on the day of their submission to the bank. Bank has no right to delay implementation of the mentioned orders.
8.2. For collection of funds without payer's approval, the collector of funds submits to the bank a collection order on the form of the payment requirement-order with the attachment of the corresponding documents.
The purpose of payment is indicated in the collection order and reference to the legislative act, stipulated the right of withdrawal of such payments (its date, number and corresponding point) from the payer's account without his approval is made.
8.3. At withdrawal of excessively paid sums and penalties in collection order the date and number of corresponding act on breaking normative-technical documentation and contracting obligations (or certificates - on goods with concealed production defects, which have been returned by the population or other institutions to the trade institutions) are indicated, and at the returning the production also numbers of cargo-transportation documents are indicated. Reference to the number and date of the settlement document, according to which the production and packaging has been paid by the purchaser or act of identification of calculations is made in the collection orders on penalties for the delay of returning packaging, means of packaging, specialized containers, tare of equipment and also cost of lost means of packaging, specialized containers, tare of equipment.

Copies of the mentioned documents (except certificates) are obligatory attached to the collection order on withdrawal funds from the payer's account without his approval. Bank checks only the compliance of the attached documents on requisite elements, indicated in the order, but does not bear responsibility for its content.

8.4. In collection orders on the withdrawal funds from the accounts of the payer without his approval of excessively paid sums and penalties, cost of the means of packaging and specialized containers, tare-equipment the collector indicates the day since which the right on withdrawal of funds from the payer without his approval. Responsibility for the rightness of such instruction is beared by the collector.

Mentioned collection orders are accepted for collection at submitting to the bank not later than 2 months since the day of appearing the right of requirement.

8.5. Responsibility for the rightness of collection, and also references on the basis for withdrawal of funds without approval of the payer is placed on the collector. Banks are not considered on the substance of the matter objections of the payers against withdrawal of the funds from the accounts without their approval.

Issues, connected with the groundness of withdrawal of the funds from the account of the partner without his approval, are settled according to the claim procedure through the court bodies.

8.6. Collection orders fro withdrawal of funds from the accounts of one of the same city payers without their approvals are submitted by the collector on collection directly to the bank, where the payer has his account, and in case when payers live in different cities - to the bank, servicing the collector.

8.7. Bank, in which the payer has his account, accepts the executive documents only through the court executor at the court in the region of activity of which the bank is located in case of collection according to the executive documents in favor of the citizens.

8.8. Collection order is submitted in four samples.

Court executors submit to the banks the executive documents upon the collection order in two samples.

In those cases when the account of payer and account of court are located in different banks in one city, the collection order is submitted by the court executor in 3 samples.

If the payment is not subject to crediting on the court's account and upon the instruction of the court executor is crediting on the account of the collector, the court executor submits the collection order with the additional sample.

8.9. Withdrawal funds from the accounts of the payers without their approval is made by the banks only upon submission the original documents or their duplicates, but not copies. Decision or copy of decision of the court bodies does not replace the order of the court or executive list.

Decisions of arbitrage commission are executed , if they have inscription of the chairman of the commission on coming the division into force and off-print of a stamp.

8.10. Collection orders on withdrawal of the funds without approval of the payer are submitted to the bank according to the period of limitation order. Collector bears responsibility for doing it.

The following periods of limitation have been set up:

- on collection of arrears on taxes into the budget from legal entities without period of limitation;
- on executive lists, issued by the courts - one year;
- on executive subscriptions - one year;
- on orders of courts' bodies, decisions of arbitration court - tree months;
- on orders of withdrawal of the claim, recognized by the debtor - two months;

- on all other documents - 6 months.

On executive documents, submitted for collection in favor of natural persons, the period of limitation is 3 years, and on the trade unions committees of the enterprises - 3 months.

Into collection order on withdrawal funds from the supplier without his approval, except those, submitted with the orders of arbitrage court, decisions of the judge or executive subscriptions, made by the notaries, the collector indicates the day, since which the period of limitation is started. Collector is responsible for the rightness of this instruction.

The period of limitation is calculated:

- on the orders of arbitrage court - since the day of introducing decision or expiration of the period, established by the arbitrage court at the delay of execution of the decision;
- on disposals to write down the funds from the supplier without his agreement the sum on claims, recognized by the debtor - upon expiration of 20 days after receiving by the applicant the answer from the debtor on recognition of the claim;
- on executive subscriptions of the notary - since the day of writing a subscription;
- on executive lists - since the day of introducing the court's decisions into the legal force;
- on other documents - since the day of issuing a document.

Collection order on collecting the penalty has to be submitted to the bank not later, than 6 months since the day, when the collector has found himself or has been informed about the violation, on which penalty is collected. Collection order on collecting the penalty for the idle time at carriage by sea in the foreign information has to be submitted to the bank not later, than 1 year since the day of the month, in which the carriage has started or has to be started.

On the executive lists in favor of natural entities the period is calculated since the day of coming into force the court's decision, if in the executive list it is indicated, that the decision has been made with the prompt execution - since the day of introduction the decision. On the other executive documents in favor of natural entities the period is calculated since the day of compiling the document.

Acceptance of the documents by the bank after the period of expiration is allowed only at the submission of the copy of defining by the bodies of the court on restoration of the period of limitation. Copy has to be verified by the court, which made the definition.

Calculations and restoration of the period of limitation on their duplicates are made according got the same order as it would be done on the original documents.

Submission of the document for collection before the expiration of the period of limitation to the bank or court's executor interupts the period of limitation. in case of returning the document to the collector by the bank or by the court's executor the period of limitation is calculated again since the day of returning.

8.11. In the collection order on the writing down the sum, recognized by the debtor, the number and the date of answer of the debtor on recognition of the claim and also the character of the claim (settlements for goods-material values, penalty collection, etc.) are indicated.

8.12. Suspension or ceasing of collection is made only in the following cases:

a) on application of the collectors and bodies, issued the order on writing out;

b) at submission a special definition of the court and arbitrage bodies;

c) on the orders of investigation agencies on suspension of the collection in connection with bringing into action criminal case.

The date and number of the document, the collection on which has to be suspended or ceased have to be indicated in the orders, definitions and applications.

The document, the collection on which is ceased, has been returned to the collector.

8.13. In case of liquidation of an enterprise and its re-organization (merging, separation, extraction, annexation, transformation into other organizational-legal form) the payment of the executive and other settlement documents is made from the clearing or current account of an enterprise, on which the responsibility on the obligations of the initial payer is placed.
At the appeal of the enterprise on liquidation with creation the Liquidation Committee, the latter submits to the bank, in which the account of liquidating enterprise or liquidating committee, an application on the procedure and periods of conducting liquidation at expiration of which the writing down funds from the account without approval of liquidation committee is ceased.
Obligations on discharging banking loans are not transferred to the liquidation committee, the payments on these loans can be made by the bank in accordance with the pledge right.
At transforming earlier accepted documents to the liquidation committee, the bank informs the collector about it.
The same procedure is applied in the cases of liquidation of an enterprise without creation of the liquidation committee.
At liquidation of an enterprise the value of the deposit of the worker into the property of an enterprise (its successor) from the property, remained after settlements of an enterprise with the budget, banks and other creditors.
8.14. In case of privatization of the state or municipal enterprise the payment of settlement and executive documents of this enterprise is made by the purchaser of the enterprise since the moment of registration the agreement between them.
8.15. Suspension of operations on the accounts of enterprises in the bank is carried out only in cases of, stipulated by the legislative acts. In these cases the bodies, to which such authorities are granted, submit to the bank the corresponding documents with the reference on the legislative act with indication of its date, number and corresponding article, point, and also period of validity of this prescription.

9. Off-set of mutual requirements and obligations of an enterprise

10. Measures of enforcement

10.1. Measures of enforcement, stipulated by the Provisions on penalties for breaking the procedure of conducting non-cash settlements in the RK (Annex #10) are applied to the enterprises and banks, which break the rules of settlements.
10.2. Fine, for untimely payment of the delivered production, is charged at the amount of not less than 0,5% 1.5% from the sum of the past due payments for every day of delay and according to the procedure, stipulated by the agreement between the supplier (receiver) and purchaser (payer) and made by the purchaser (payer).
At the definition of the number of past due days the calendar days are taking into account.
If, according to the point 7.6. the bank makes record of the documents, which are in card-index #2, the fine is charged by the bank on the negotiated basis.

ANNEX # 10
Approved by the Board of the National state bank of the RK, as of October 19, 1992

Provisions on penalties for breaking the procedure of conducting non-cash settlements in the RK

1. Penalties, paid by legal and natural entities

1. Legal and natural entities, submitted settlement documents, formed in a wrong way, pay penalties at the amount of 0,1% from the sum, submitted for payment in favor of the bank.
2. For non-purposely usage of the issued credits, stipulated in the credit agreement, legal and natural entities pay penalties I favor of the bank at the amount of 25% from the sum of the credit with early return of the credit and payment of the interests on the credits.
3. For non-notifying the bank within 5-day period and, if the owner of the account is in other place - within 10 day-period, after receiving the extraction from the account on mistaken charged sums on the account, the owner of the account pays to the bank for each day of delay 0,5% of mistaken charged on the account sum, which does not belong to him.
4. For raising too high the volumes and cost of implemented construction-installation works (including equipment, included into the volume of investments, but in reality which has not be placed for installation), drafting-research, boring, geological-prospecting, repaire-constracting and starting-adjusted works in documents, which serve as the basis for obtaining monetary facilities, construction, assembling and other organizations, implemented the mentioned works, pay to the bank penalties at the amount of 10% of the sum, which has been raised too high.

II. Penalties, paid by the commercial banks and CC of the National bank of the RK

5. For untimely or made in a wrong way writing down the funds from the account of the owner, and also fro the delay of processing the settlement documents on crediting funds after the established periods (within 1 operating day, without taking into account their earnings to the bank) on the account of the owner due to the fault of a commercial bank or CC of the National bank of the RK, the latter pay in favor of the owner of the account the penalty in the amount of 0,5% from the sum of payments per each day of delay.
6. For untimely crediting (more, than 1 operation day, without taking into account the day of receiving them to the bank) funds on the accounts of the owner the commercial banks and CC of National bank pay in favor of the owner of the account a penalty at the amount of 0,5% from the untimely credited sum for every day of delay.
7. Commercial banks, submitted to the CC of the National bank, or CC of the National bank submitted to the commercial banks defect advice and their attachments, make payments in favor of the Party, which is waiting the advice, penalties at the amount of 0,1% from the sum of payments on the period of correction of the mistake.
8. Commercial banks or CC of the national bank at loss of settlement documents pay in favor of entities, submitted the settlement documents, penalty at the amount of 1000 rubles fro each lost document.
9. For issuing wrong extraction from the accounts of legal and natural entities the commercial banks pay the penalty in the amount of 5000 rubles in favor of the state budget.
10. For breaking the set up limit of the remainder of cash money in the cash office the commercial banks and all economic subjects pay in favor of the state budget penalty at the amount, which exceed the limit of the remainder funds in the cash office.