

AGREEMENT

On State (Municipal) Procurement

The Government of the Republic of Belarus, the Government of the Republic of Kazakhstan, and the Government of the Russian Federation, hereinafter referred to as the Parties,

confirming the intention to develop economic cooperation and expand trade and economic relations, and

realizing the need to harmonize the state and (or) municipal procurement legislations of the Parties on the basis of this Agreement; and

striving to pursue coordinated policy in the field of state and (or) municipal procurement,

have agreed on the following:

Article 1

Terms and Definitions

1. The terms used herein shall be defined as follows:

- 1) “Procurement” – state and municipal (if any) procurement shall mean purchase of goods, works, and services and other procurement by customers by means of the budget or other sources as provided for by the state and municipal procurement legislation of the Party, as well as relationships related to the performance of procurement agreements (contracts).
- 2) “Web portal” – a unified web portal on procurements (unified official website) shall mean an Internet (information system and electronic information resource) website of each Party providing a single point of access to and placement of procurement information, as well as a single point of access to electronic services (procurement) as may be provided by the legislation of a Party.
- 3) “Customer” shall mean a state body, a local government body, budget-funded organization including state and municipal agencies, as well as other entities determined by the procurement legislation of the Party, which are engaged in procurement under the procurement legislation of the Party. The Party shall have the right to exclude application of this Agreement with respect to state and municipal unitary enterprises and other legal entities having state or municipal share of participation in their procurement legislation. The procurement legislation of the Party may provide for establishment (functioning) of procurement organizing in compliance with the procurement legislation of the Party.
- 4) “Procurement information” shall mean a notice, documentation, or a draft procurement agreement (contract) forming an integral part of a notice and (or) documentation, protocols drawn up in the procurement process, information on procurement agreement (contract), the list of which is specified by the procurement legislation of the Party, as well as information on supplementary agreements to such agreement (contract) and acceptance reports on goods, works, and services. The procurement information shall be subject to mandatory placement on the web portal in a volume specified by the procurement legislation of the Party. Each Party shall have the right to expand in its legislation the list of necessary information on procurement to be placed on its web portal.
- 5) “National treatment” shall mean a treatment according to which, for the purpose of procurement of goods (works, services) originating from the territories of the Parties, each Party shall provide suppliers and potential suppliers of the Parties offering such goods, performing work, and

rendering services for procurement purposes, with treatment no less favorable than that granted to its national goods (works, services), to its suppliers and potential suppliers offering such goods, performing work, and rendering services. The country of origin of goods shall be determined according to the rules for determining the country of origin of goods applicable in the common customs territory of the Customs Union.

- 6) “Electronic trading platform operator” (electronic platform operator) shall mean a legal entity irrespective of its organizational legal form and form of ownership or a natural person engaged in entrepreneurship, which have undergone state registration under the legislation of a Party, own under the legislation of the Party an electronic trading platform (electronic platform), hardware and software for its operation, and (or) operate such platform.
 - 7) “Potential supplier” – a potential supplier (contractor, executor) shall mean a legal entity irrespective of its organizational legal form, form of ownership, location, and place of origin of the capital, or a natural person including individual entrepreneurs. Each Party shall have the right to limit, within the procurement legislation of the Party, the procurement participation of natural persons and (or) state bodies, local government bodies, and state-financed organizations including institutions of all states of the Parties.
 - 8) “Supplier” – a supplier (executor, contractor) shall mean an entity that is a party to a procurement agreement (contract).
 - 9) “Most favored nation treatment” shall mean providing goods (works, services) that originate from the territories of the states of the Parties, as well as suppliers and potential suppliers of the states of the Parties offering such goods, performing work and rendering services, with treatment no less favorable than that granted to goods (works, services) originating from the territory of third countries, as well as to third countries’ suppliers and potential suppliers offering such goods, performing work, and rendering services.
 - 10) “Third countries” shall mean states the governments of which are not parties hereto.
 - 11) “Electronic procurement form (format)” shall mean a procurement procedure carried out via Internet, a web portal, and (or) an electronic trading platform (electronic platform) using hardware and software.
 - 12) “Electronic trading platform (electronic platform)” shall mean an Internet website created for conducting procurement in the electronic form (format). It may be specified in the procurement legislation of a Party that the electronic trading platform (electronic platform) may be the website mentioned in subparagraph 2 of this paragraph.
2. Unless meaning other than established hereby arises from concepts and provisions of the legislation of a Party, in applying this Agreement there shall be no need to reconcile the legislation of the Party herewith.

Article 2

Scope of the Agreement

1. This Agreement shall apply to relationships in the field of procurement.
2. This Agreement shall not apply to procurement the information on which constitutes a state secret

(state secrets) under the legislation of the states of the Parties.

Article 3 Procurement Requirements

The legislation of a Party, as well as procurement, shall comply with this Agreement and meet the following requirements:

- 1) regulation of relationships in the field of procurement solely by the procurement legislation of a Party;
- 2) provision of optimal and effective expenditures of procurement by the Parties;
- 3) granting of national treatment;
- 4) granting of most favored nation treatment;
- 5) ensuring information openness and transparency of procurement conducted as well by the following:
 - creation by each Party of a web portal allowing full and free access to procurement information and ensuring the most extensive information retrieval;
 - posting of procurement regulatory legal acts of a Party on the web portal;
- 6) establishment of a limited number of electronic trading platforms (electronic platforms) to conduct procurement;
- 7) conducting procurement by methods specified in this Agreement;
- 8) ensuring unimpeded provision of electronic digital signature to potential suppliers for their participation in procurement conducted in the electronic format (form);
- 9) prohibition of inclusion into the procurement legislation of
- 10) a Party and into procurement provisions of any quantitatively immeasurable and (or) non-administrative requirements as to the suppliers and potential suppliers, as well as prohibition of any arbitrary access to procurements for potential suppliers;
- 11) prohibition of the denial of access of potential suppliers to procurements on the basis of their failure to submit documents and information not requested for by the procurement notice and (or) documentation;
- 12) prohibition of fixing procurement terms including procurement agreement (contract) terms that result in a limited number of suppliers and potential suppliers;
- 13) prohibition of unilateral repudiation of contractual obligations by customers and suppliers;
- 14) prohibition of changes in the terms of contractual obligations including changes in the procurement agreement (contract) price, except as otherwise provided for by the procurement legislation of a Party. The Parties shall seek to exclude from the legislation of their states provisions, allowing changes in the terms of contractual obligations including changes in the price of a procurement agreement (contract), specifying cases when such changes are permitted. At the same time, no change is allowed in the price of a procurement agreement (contract) based on changes in inflation, exchange rate and market value of goods, works, and services, and no reduction is allowed in the

amount of goods (volume of works and services) without a proportional decrease in the procurement agreement (contract) price;

- 15) prohibition of setting of evaluation criteria and procedures for bid evaluation and comparison that result in biased and (or) non-administrative election of a preferred bidder;
- 16) ensuring rights and legal interests of suppliers and potential suppliers;
- 17) formation (determination) of a national procurement supervision authority;
- 18) establishment of responsibility for violation of the procurement legislation of a Party;
- 19) development of competition and counteraction against corruption and other abuse in the field of procurement.

Article 4 National Treatment Specifics

In exceptional circumstances and for a period not to exceed 2 years, the Parties may unilaterally establish national treatment exceptions by the legislation of a Party.

In this case, a government body of a Party in charge of normative legal regulation in the field of procurement, or a national procurement supervision authority of a Party, or a supreme executive authority of the respective state, which establish national treatment exceptions, shall notify in writing the Customs Union Commission and other Parties about the establishment of such exceptions, justifying such establishment, in advance but no later than 15 calendar days prior to the introduction of such exceptions.

The notified Parties may address the notifying Party with a suggestion to hold consultations on establishing the exceptions pursuant to this Article.

A Party that establishes exceptions pursuant to this Article shall not deny another Party such consultations.

Within one year after any Party hereto passes a regulatory legal act on introducing national treatment exceptions, the Customs Union Commission shall have the right to decide on cancelling such exceptions established by such Party. Should the Customs Union Commission decide on cancelling the established national treatment exception, the Party having initiated the establishment of such exception shall in a two-month period ensure cancellation of the regulatory legal act establishing the exception. At the same time, if the Customs Union Commission decides on cancelling the national treatment exceptions, such national legal act shall become inapplicable.

Article 5

1. Procurement shall be conducted through any of the below:
 - 1) (open) tender;
 - 2) request for price offers (request for quotation) as may be provided by the procurement legislation of a Party;
 - 3) (public) auction;
 - 4) exchange trading as may be provided by the procurement legislation of a Party;

- 5) procurement from a single source, or procurement from a sole supplier (executor, contractor), or procurement based on specifics of placing a particular procurement order pursuant to an act of the Party, as may be provided by the procurement legislation of a Party.
2. The types of procurement specified in subparagraph 5 of paragraph 1 of this Article and those carried out without the procedures of paragraph 1 of this Article shall be conducted in compliance with Article 13 and the List of Appendix 1.

Article 6

Requirements for Suppliers and Potential Suppliers

The requirements established for suppliers and potential suppliers in compliance with the procurement legislation of a Party shall not contravene the provisions hereof.

The participation of potential suppliers in procurement may be restricted in compliance with the procurement legislation of a Party on the basis of information entered in the Register of unfair suppliers of the Party when maintaining such register is required by the procurement legislation of the Party and carried out by an authorized body of the Party. The participation of potential suppliers in procurement may as well be restricted by provisions of Article 15 hereof. No fee shall be charged for the participation of potential suppliers in procurement, except as otherwise provided by the procurement legislation of a Party.

The procurement legislation of a Party may specify the right or obligation of a customer engaged in procurement to set forth a requirement for potential suppliers to provide a procurement bid security, as well as a requirement for the security for the performance of a procurement agreement (contract).

The procurement legislation of a Party shall specify the amount of the procurement bid security and the amount of the security for the performance of the procurement agreement (contract). The amount of the procurement bid security shall not exceed 5 percent of the initial (maximum) price of the procurement agreement (contract), and the procurement agreement (contract) performance security shall not exceed 30 percent of the initial (maximum) price of the procurement agreement (contract), unless the procurement agreement (contract) provides for an advance payment. In the latter case, the amount of the procurement agreement (contract) performance security shall be no less than the amount of the advance. At the same time, the excess in the procurement agreement (contract) performance security shall not exceed 30 percent of the amount of the advance payment.

The procurement legislation of a Party shall set forth at least 2 methods (types) of securing the performance of procurement agreements (contracts).

Article 7

Goods (Works, Services) Requirements

The procurement and other related documents shall contain no requirements imposed on goods, works, and services that might limit the number of suppliers and potential suppliers, except for cases when goods being purchased are inconsistent with goods being used by the customer and there is a need to provide integrity of such types of goods, with no requirements allowed to be imposed on the producer of the goods.

Article 8

Tender

1. The customer shall conduct procurement by tendering in the electronic format (form) that *inter alia* provides for submitting tender bids in the form of electronic documents.

A potential supplier having offered the best terms of performing the procurement agreement (contract) shall be the winner of the tender procedure.

The procurement legislation of a Party may set forth tendering specifics caused by the need for confidentiality compliance in respect of information on potential suppliers to be observed until the end of the tender procedure.

2. The following requirements shall be taken into account in a tender procedure:

- 1) approval of the tender documentation;
- 2) appointment of the tender committee;
- 3) posting of a tender notice and documentation on the Web portal in terms specified by the procurement legislation of a Party, but no less than 20 days before the bid submission deadline. Should the customer amend the tender notice and (or) documentation, the bid submission period shall be extended so as to provide at least 15 days between the date of publishing (posting) the amendments on the Web portal and the bid submission deadline. At the same time, no amendments to the subject of the agreement (contract) shall be allowed;
- 4) explaining the provisions of tender documentation by the customer and publishing (posting) such explanations on the Web portal in the extent and timeframes and according to the procedure set forth by the procurement legislation of a Party;
- 5) submission of bids for participation in the tender in the form of electronic documents;
- 6) opening and (or) processing of bids for participation in the tender by the tender committee in order to select bids compliant with the procurement legislation of a Party and with the tender documentation, as well as publishing (posting) on the Web portal of respective reports on bid opening and (or) prequalification of potential suppliers, and (or) timely informing each potential supplier about the results of the bid opening and (or) admission (rejection) of such supplier in compliance with the procurement legislation of a Party;
- 7) evaluation and comparison of bids (offers) including price offers submitted in the form of electronic documents by potential suppliers admitted to the tender, as well as the determining of the winner of the tender procedure and publication (posting) of the tender evaluation report on the Web portal;
- 8) awarding of a procurement agreement (contract), pursuant to the tender results and in a timeframe set forth by the procurement legislation of a Party, under the terms specified in the tender bid of the potential supplier being a party to the procurement agreement (contract) and in the tender documentation, or declaring the tender void in compliance with the procurement legislation of the Party. The procurement legislation of the Party shall as well set forth the procedure and priorities for concluding a procurement agreement (contract) between a customer and a potential supplier proceeding from the need to award the agreement (contract) to a potential supplier who has offered the most favorable terms of performing the procurement agreement (contract), as well as the sequence of actions to be taken by the customer if the tender is declared void.

Article 9

Request for Price Offers (Request for Quotation)

1. Procurement by means of a request for price offers (request for quotation) shall be conducted if provided for by the procurement legislation of a Party, when the initial (maximum) price of a procurement agreement (contract) under the procurement legislation of a Party is not exceeded, including procurement of goods, works, and service according to the List of Appendix 2. In exceptional circumstances, the procurement legislation of a Party may define cases for conducting procurement by means of a request for price offers (request for quotation) independently from the initial (maximum) price of a procurement agreement (contract).
2. A potential supplier having offered the lowest procurement agreement (contract) price in compliance with the procurement legislation of a Party shall be deemed to be the winner of the request for price offers (request for quotation).
3. For conducting procurement by means of a request for price offers (request for quotation), a notice on its conduction shall be published (posted) on the Web portal within a timeframe set forth by the procurement legislation of a Party, but no later than 4 business days prior to the bid submission deadline for the request for price offers (request for quotation).
4. Each Party shall strive to transfer from a request for price offers (request for quotation) to predominantly holding auctions in the electronic format (form).

Article 10

Auction

1. Procurement by means of an auction shall be conducted in the electronic format (form) pursuant to the List of Appendix 2 hereto. At the same time, each Party shall have the right to establish in the procurement legislation of its state a wider range of goods, works, and services to be purchased by means of an auction.

A potential supplier having offered the lowest procurement agreement (contract) price shall be deemed to be the winner of the auction.

2. To participate in an auction, potential suppliers shall be subject to at least a 3-year mandatory accreditation on the Web portal and (or) the electronic trading platform (electronic platform) in compliance with the procurement legislation of a Party.
3. An auction shall be conducted taking into account the following requirements:
 - 1) approval of the auction documentation;
 - 2) appointment of the auction committee;
 - 3) posting of the auction notice and documentation on the Web portal and (or) the electronic trading platform (electronic platform) in compliance with the procurement legislation of a Party, but no less than 20 days before the bid submission deadline. Should the customer amend the auction notice and (or) documentation, the bid submission period shall be extended so as to provide at least 15 days between the date of publishing (posting) the amendments on the Web portal and (or) the electronic trading platform (electronic platform) and the bid submission deadline. At the same time, no amendments to the subject of the agreement (contract) shall be allowed. When the procurement legislation of a Party provides for an initial (minimal) price of a procurement agreement (contract) at which a fast-track auction becomes feasible, such legislation may set forth

an auction period shorter than as provided in this paragraph;

- 4) explaining the provisions of tender documentation by the customer and publishing (posting) such explanations on the Web portal and (or) electronic trading platform (electronic platform) in the extent and timeframes set forth by the procurement legislation of a Party;
- 5) submission of auction bids in the form of electronic documents to the Web portal and (or) electronic trading platform (electronic platform) in compliance with the procurement legislation of a Party;
- 6) evaluation of bids by the auction committee in order to select bids compliant with the procurement legislation of a Party and with the auction documents, under the condition of confidential treatment of information on potential suppliers until the end of the auction procedure (the evaluation of bids from the point of view of compliance of potential suppliers with the requirements of the procurement legislation of a Party and the auction documents shall be carried out after the action);
- 7) informing each potential supplier about admission (rejection) of such supplier to the auction and publishing (posting) the bid evaluation reports on the Web portal and (or) electronic trading platform (electronic platform) in compliance with the procurement legislation of a Party;
- 8) Holding the auction by lowering the initial (maximum) price of a procurement agreement (contract). Should the procurement agreement (contract) price be lowered during the auction down to zero, the auction for the right to conclude the procurement agreement (contract) shall proceed by raising the procurement agreement (contract) price if the procurement legislation of a Party so provides.
- 9) Publishing (posting) the auction report on the Web portal and (or) electronic trading platform (electronic platform) in compliance with the procurement legislation of a Party;
- 10) Awarding of a procurement agreement (contract), pursuant to the auction results and within a timeframe set forth by the procurement legislation of a Party, under the terms specified in the auction bid of the potential supplier being a party to the procurement agreement (contract) and in the auction documents, or declaring the auction void in compliance with the procurement legislation of the Party. The procurement legislation of the Party shall as well set forth the procedure and priorities for concluding a procurement agreement (contract) between a customer and a potential supplier proceeding from the need to award the agreement (contract) to a potential supplier who has offered the lowest price for the procurement agreement (contract), as well as the sequence of actions to be taken by the customer should the auction be declared void.

Article 11

Requirements for Committee Members

Natural persons self-interested in procurement results (including natural persons having submitted bids for a tender, auction, or request for price offers), employees of potential suppliers having submitted bids for a tender, auction, or request for price offers, or natural persons that can be influenced by potential suppliers (including natural persons who are potential suppliers' participants (shareholders), management executives, or creditors), as well as officials of a procurement supervision authority who exercise direct supervision over procurement shall not be members of the committee (including tender, auction, and request for price offers committees).

Article 12

Procurement by commodity exchange trading

The procurement of exchange commodities shall be conducted on a commodity exchange in compliance with the procurement legislation of a Party. In this case, the procurement legislation of the Party shall specify a limited number of commodity exchanges (or a single commodity exchange) to conduct such procurement including that of commodities listed in Appendix 2 hereto. The commodity for procurement at a commodity exchange shall be defined by the procurement legislation of the Party.

Article 13

Single-source procurement (procurement from a sole supplier (executor, contractor)) avoiding procedures of paragraph 1 of Article 5 hereof, and based on specifics of placing a particular purchase order pursuant to the act of a Party

If the procurement legislation of a Party provides for single source procurement (procurement from a sole supplier (executor, contractor)) avoiding procedures of paragraph 1 of Article 5 hereof, and based on specifics of placing a particular purchase order pursuant to the act of a Party, such procurement shall be conducted as specified in Appendix 1 hereto.

Should a Party pass a decision on expanding the list as per Appendix 1 hereto, or when a need arises to pass an act specified in paragraph 26 of the List of Appendix 1 hereto, a state authority of a Party in charge of legal regulation in procurement, or a national procurement supervision authority of a Party, or a supreme executive authority of the state of a respective Party shall notify in writing the Customs Union Commission and each Party timely, but no later than 30 calendar days before passing such decision or such act.

Should an act specified in paragraphs 11 and 12 of the List of Appendix 1 hereto be passed, a state authority of the Party in charge of legal regulation in procurement, or a national procurement supervision authority of a Party, or a supreme executive authority of the state of a respective Party having passed such act shall accordingly notify the Customs Union Commission and each Party no later than 30 calendar days after the date of such act.

Supplements made to the List of Appendix 1 hereto and acts passed pursuant to paragraphs 11, 12, and 26 of Appendix 1 hereto may be cancelled under the procedure of Article 4 hereof pertaining to cancellation of national treatment exceptions within 1 year after a Party establishes the national treatment. At the same time, the List of Appendix 1 hereto may be reduced and the acts passed pursuant to paragraphs 11, 12, and 26 of Appendix 1 hereto may be cancelled by each Party unilaterally in compliance with the procurement legislation of the Party.

Acts specified in paragraphs 11, 12, and 26 of Appendix 1 hereto shall be passed in exceptional circumstances. Their term of validity shall not exceed 2 years except for cases when the lead time required for performing procurement-related work and services is longer than 2 years.

Each Party shall have the right to set in the procurement legislation of its state a procedure for procurement specified in Appendix 1 hereto.

Article 14

Procurement Agreement (Contract)

The procurement agreement (contract) shall contain a mandatory provision of liability for failure to perform or improper performance of its obligations.

The procurement agreement (contract) shall contain a mandatory provision of a payment procedure and a procedure by which the customer accepts the procurement results based on their compliance, inter alia in quantity, completeness, volume, and quality, with provisions of such agreement (contract).

A Party shall publish (post) on its Web portal a procurement Register containing information on procurement agreements (contracts), supplementary agreements to such procurement agreements (contracts), and acceptance certificates on the procurement results the list of which is specified by the legislation of the Party.

The Parties shall strive to shift to procurement agreements (contracts) in the electronic format (form) and to enter the procurement agreements (contracts), supplementary agreements, payment data, and acceptance certificates based on procurement results into the Register of procurement agreements (contracts).

Article 15

Register of Unfair Suppliers

1. An authorized body of each Party shall have the right to form and keep the Register of unfair suppliers that includes information on suppliers, potential suppliers, and other entities deemed to be unfair in procurement of such Party.
2. The Register of unfair suppliers shall be formed and maintained in compliance with the procurement legislation of a Party and be published (posted) on the Web portal of such Party.
3. The Register of unfair suppliers shall include the following mandatory information, provided respective facts are available:
 - 1) on potential suppliers who have avoided entering into a procurement agreement (contract);
 - 2) on suppliers who have failed to perform or unduly performed their obligations under concluded procurement agreements (contracts).
4. The procurement legislation of a Party may provide for entering information on other entities deemed to be unfair in procurement into the Register of unfair suppliers of the Party.
5. The Register of unfair suppliers shall be formed in the case of validated information (proven facts) pursuant to paragraph 3 of this Article following the decision of a court and (or) a national supervision authority in compliance with the legislation of the Party.

Information specified herein shall be entered into the Register of unfair suppliers for a period set forth by the procurement legislation of a Party but not to exceed 2 years.
6. The procurement legislation of a Party may provide for the right (or obligation) of a customer of the Party to allow participation in procurement on the basis of information available in the Registers of unfair suppliers of such Party.
7. The legislation of a Party may establish the right or obligation of a customer of the Party to permit participation in procurement on the basis of information available in the Register of unfair

suppliers of the other Parties.

8. Any entity the information on which is included into the Register of unfair suppliers shall have the right to appeal against such inclusion in court.

Article 16

Ensuring Rights and Legal Interests of Procurement Entities

Each party shall take measures to prevent, detect, and suppress violation of the procurement legislation of its state.

The scope of rights and legal interests provided by this Article to procurement participants shall be determined by the procurement legislation of a Party.

For the purpose of ensuring the rights and legal interests of procurement participants and supervision over the compliance with the procurement legislation of a Party, each Party shall in compliance with its procurement legislation establish (determine) a national supervision authority the competency of which shall inter alia include the following:

supervision over procurement including that by audits;

processing of complaints and applications related to any action (failure to act) of the customers, procurement organizers, operators of electronic trading platforms (electronic platforms), Web portals (and of the Register of agreements (contracts)), commodity exchanges, committees, and other procurement entities violating the procurement legislation of its state. At the same time, any action (failure to act) of the customers, procurement organizers, operators of electronic trading platforms (electronic platforms), Web portals (Register of agreements (contracts)), commodity exchanges, committees, and other procurement entities taken prior to the procurement application deadline may be appealed against by any supplier independently of applying for procurement;

prevention and detection of violations of the procurement legislation of a Party and taking measures to suppress such violations including inter alia by means of a binding order to remedy violations of the procurement legislation of the Party and holding the offenders liable for such violations;

keeping the Register of unfair suppliers as provided for by the legislation of a Party.

Article 17

Implementation of the Agreement

1. This Agreement shall be implemented by stages:

1st stage (for the Russian Federation and the Republic of Belarus) – introduction of amendments to the legislations of the state of each Party aimed at bringing the legislation of the state of each Party in compliance herewith, installation of information systems providing procurement procedures in the electronic format in compliance herewith, and introduction of national treatment for the Russian Federation and the Republic of Belarus – by January 1, 2012;

2nd stage (for the Republic of Kazakhstan) – introduction of amendments to the legislations of the Party, bringing the legislation of the Party in compliance herewith, and installation of information systems providing procurement procedures in the electronic format in compliance herewith – by July 1, 2012;

3rd stage (for the Russian Federation, the Republic of Belarus, and the Republic of Kazakhstan) – introduction of national treatment for the states of all Parties – by January 1, 2014.

2. Each Party shall immediately inform the Interstate Council of the Eurasian Economic Community (the Supreme Governing Body of the Customs Union) about completion of each stage.
3. Should a Party fail to perform the obligations on implementing this Agreement, the other Parties shall have the right to apply to the Customs Union Commission for such issue to be discussed at the meeting of the Customs Union Commission. The Customs Union Commission shall take one of the following decisions subsequent to the results of such discussion:
 - 1) No facts of any breach of obligations on the implementation;
 - 2) Proven fact of breach of obligations on the implementation of this Agreement, and necessary correction of the breach by the Party.
4. If the Party to which the decision the Customs Union Commission as per subparagraph 2 of paragraph 3 of this Article applies fails to execute such decision within 2 months after the date of approval of such decision, each of the other Parties shall have the right to unilateral retaliatory measures pursuant to paragraph 5 of this Article.
5. The Parties shall have the right to refrain from extending the obligations hereunder to a Party (Parties) failing to perform its obligations hereof, immediately notifying about this the other Parties and the Customs Union Commission.

Article 18

Dispute Settlement

Disputes among the Parties as to the application of this Agreement shall be settled primarily through consultations and (or) negotiations of the Parties concerned, and if no agreement is achieved within 1 year after the date of an official written request for consultations and negotiations sent by one Party to the dispute to another Party to the dispute, any of the Parties to the dispute shall have the right to submit such dispute to the EurAsEC Court.

Article 19

Status of the Appendixes and Procedure for Amending this Agreement

1. This Agreement and its Appendixes may be amended by agreement of the Parties, and the amendments shall be documented in separate protocols of the Parties being an integral part hereof except for cases specified by paragraph 2 of this Article.
2. If a regulatory legal act of a Party unilaterally supplements the List as per Appendix 1 hereto, and the Customs Union Commission does not take a decision pursuant to Article 13 hereof to cancel such regulatory legal act, such supplement shall automatically become an amendment of Appendix 1 hereto and shall not need documenting in a separate protocol. Should supplements be made to the List of Appendix 1 hereto pursuant to this paragraph, the depository shall immediately notify all Parties about such supplements.

Article 20

Final Provisions

This Agreement shall come into force on the date the Interstate Council of the Eurasian Economic

Community (the Supreme Governing Body of the Customs Union) at the level of the heads of government takes a decision on its enactment, provided the depository will have confirmed the receipt from the Parties of notices on the completion of their domestic procedures required for the Agreement to come into force.

This Agreement shall remain open for accession of other states that become members of the Customs Union.

This Agreement shall not prevent the Parties from entering into international treaties in the field of procurement with states that are not parties hereto.

This Agreement was executed in the city of Moscow on December 9, 2010 in one original counterpart in Russian.

The original counterpart hereof shall be kept by the Integration Committee of the Eurasian Economic Community, which is its depository.

The depository shall forward a certified copy hereof to each Party hereto.

**On behalf of
the Government
the Republic of Belarus**
/Signature/

**On behalf of
the Government
the Republic of Kazakhstan**
/Signature/

**On behalf of
the Government
the Russian Federation**
/Signature/

**APPENDIX 1
to the Agreement on State
(Municipal) Procurement**

LIST

of cases of single source procurement, or sole supplier (executor, contractor) procurement, or based on specifics of placing a particular purchase order pursuant to the act of a Party, and procurement avoiding procedures as per paragraph 1 of Article 5 of this Agreement on State (Municipal) Procurement

I. Procurement

1. Services in water supply, drainage, sewage, heat supply, gas supply except for liquefied gas marketing, connection to engineering facilities at prices (tariffs) regulated by the legislation of a Party, power supply or electric power purchase and sale with a guaranteed power supplier, as well as purchase of goods, works, and services in the field of business of natural monopolies
2. Supply of cultural values including museum artifacts and collections, rare and valuable editions, manuscripts, archival documents including copies of historical, artistic, and other type of cultural significance meant for replenishing state museum, library, archival, cinema, photo, and other similar funds
3. Work in mobilization training
4. Work or services that can be accomplished solely by executive authorities in compliance with their powers or by their subordinate state institutions and state unitary enterprises the respective powers of which are established by regulatory legal acts of a Party
5. Procurement of specific goods, works, and services due to force majeure circumstances including emergency situations (emergency localization and (or) response), accidents, and necessary urgent medical intervention that render other time-consuming types of procurement inexpedient
6. Procurement of goods, works, and services by penal enforcement institution and enterprises from penal enforcement institution and enterprises producing such goods, performing such works, and rendering such services
7. Procurements recognized as failed according to the results of procurement procedures as provided for by the legislation of a Party
8. Communication services in the field of national defense, state security, and law enforcement
9. The ceiling (or the quarterly or annual volume limit) of transactions that may be set by the legislation of a Party and is required for a procurement from the single source (sole supplier (executor, contractor)), keeping in mind that the stated amount should not have a distinctive character (the Parties hereto strive for minimizing the mentioned threshold in order to maximally expand the access to procurement for potential suppliers)
10. Placing an arms and military equipment order with a sole supplier in compliance with the legislation of a Party
11. Specific procurement from a potential supplier identified by a decree or order of the President of a Party

12. Specific procurement from a potential supplier identified by an order of the supreme executive authority of a Party by decision or instruction of the President of the Party
13. Procurement of literature and artistic works of particular authors, except for procurement of movie projects for film service, performed by specific performers, and soundtracks by specific producers provided a single entity owns exclusive rights to such works, performances, and soundtracks
14. Subscription to specific periodical printed and electronic publications, as well as procurement of printed and electronic publications of particular authors, services in providing access to electronic publications supporting the operation of state and municipal educational institutions, state and municipal libraries, and state research organizations, from publishers of such printed and electronic publications provided such publishers own exclusive rights to the use of such publications
15. Placement of an order for visiting a zoo, theater, cinema, concert, circus, museum, exhibition, and a sporting event
16. Purchase of materials of exhibitions, seminars, conferences, meetings, forums, symposia, and trainings, as well as payment for the participation in such events
17. Purchase of teaching services from natural persons
18. Placement of an order by a theater, a concert institution including a concert group (dancing group, choral group, orchestra, music group), a broadcasting institution, a circus, a museum, a house of culture, a palace of culture, or a club, for the creation of literature or artistic works included into the list of orders placed with a sole supplier in compliance with the legislation of the state of each Party on state and municipal procurement, from a specific natural person or specific natural persons – script writers, performers, ballet masters, TV or radio presenters, designers, conductors, playwrights, animal trainers, circus act managers, composers, concertmasters, librettists, cameramen, video- and sound- recording engineers, writers, poets, film directors, tutors, sculptors, choreographers, choirmasters, or artists, or their performance
19. Procurement of services for the designer supervision over elaboration of design documents for capital construction sites, over construction, reconstruction, and overhaul of capital construction projects carried out by corresponding designers
20. Placement of an order for technical and designer supervision over work related to preservation of cultural heritage objects (a historical and cultural monuments) of the nations of the states of the Parties
21. Procurement of services related to sending an employee to a business trip (travel to and from the destination, accommodation renting, transport, catering), as well as covering of expenses on representation
22. Placement of an order for rendering services in support of visits of the heads of foreign states, heads of governments of foreign states, heads of international organizations, parliamentary delegations, government delegations, and delegations of foreign states (hotel, transport, computer facilities, catering)
23. Placement of an order for rendering services in support of offsite events carried out by the President of a Party, houses of the Legislative Assembly, supreme executive authority of a Party

(hotel, transport, computer facilities, catering)

24. Placement of an order for the supply of sports facilities, equipment, and outfits required for training of the Olympic and Paralympic sports teams of the states of the Parties and for the participation of the sports teams of the states of the Parties in Olympic and Paralympic games
25. Placement, with a sole supplier, of orders of penal institutions for the delivery of goods for state needs when such institutions purchase raw and other materials and components to manufacture goods, perform work, and render services for providing jobs for those convicted, on the basis of civil law agreements with legal entities, provided such institutions purchase the raw and other materials and components to manufacture goods, perform work, and render services by using funds provided for by such civil law agreements
26. Establishing, by a regulatory legal act passed by the supreme executive authority of a Party, of specifics for placing particular orders
27. Material assets sold from the state and mobilization material reserves
28. The need of a customer, organizer, or authorized entity having conducted procurement from a particular supplier, for an additional quantity of such goods, provided that the quantity of additionally purchased goods does not exceed 10 percent of the quantity of goods stipulated by the contract (the price for a unit of additionally supplied goods shall be estimated as the quotient of the initial contract price by the quantity of such goods stipulated by the contract).

II. Cases of single source procurement, or sole supplier (executor, contractor) procurement, or based on specifics of placing a particular purchase order pursuant to the act of a Party, and procurement avoiding procedures as per paragraph 1 of Article 5 of this Agreement, for the Russian Federation

29. Procurement of services for the apartment building management based on the choice of a managing organization selected by owners of the apartment building premises or by a local government body in compliance with the housing legislation, provided the apartment building premises are in private ownership and in state ownership or municipal ownership
30. Procurement of services for the maintenance, security, and servicing of one or several nonresidential premises transferred to a state or municipal customer for free use, provided such services are rendered to another entity or other entities using premises located in the same building as the premises transferred for free use and (or) operational management

III. Cases of single source procurement, or sole supplier (executor, contractor) procurement, or based on specifics of placing a particular purchase order pursuant to the act of a Party, and procurement avoiding procedures as per paragraph 1 of Article 5 of this Agreement, for the Republic of Kazakhstan

31. The need for procurement based on daily and (or) weekly demand for a period until the procurement results are summed up and the procurement agreement comes into force, provided such procurement is conducted within the 1st month of the year according to the list set forth by the

legislation of the Party. In this case, the procurement amount shall not exceed the quantity of goods, works, and services required to meet the customer's demand during the period of the procurement procedure, but for no longer than 2 months

32. Procurement of goods, works, and services for operational investigations
33. Procurement of environmental management rights
34. Procurement of services for training, retraining, and advanced training abroad
35. Procurement of services of rating agencies and financial services associated with salary transfer to the accounts of payees (natural persons) in cases when a natural person has selected a lending (banking) institution, as well as with transactions with available funds of natural persons
36. Procurement of services of specialized libraries for blind and visually impaired persons
37. Procurement of securities and equity shares in legal entities
38. Procurement of goods and services according to the election laws the list for the procurement of which by methods pursuant to this Appendix is provided by the procurement legislation of the Party
39. Procurement of goods, works, and services in compliance with international treaties of the Parties according to a list approved by the supreme executive authority of the Party, as well as within the framework of implementing investment projects financed by international organizations in which the Party participates
40. Procurement of works and services in designing, production, custody, and delivery of banknotes and coins of the national currency of the Party, as well as goods, works, and services involved in such designing and production
41. Procurement of goods, works, and services related to the use of monetary grants provided on a free-of-charge basis to the supreme executive authority of the Party, the National Bank of the Party, by states, governments of states, international and state organizations, foreign non-governmental public organizations and funds engaged in charity and international activity, as well as money allocated to co-finance such grants when agreements on such granting specify other procedures for procurement of goods, works, and services
42. Procurement of services related to a state educational order for natural persons (provided a natural person has selected an educational institution)
43. Procurement of services for providing the citizens of the states of the Parties with medical treatment abroad, as well as their transportation and medical escort services
44. Procurement of goods and services forming intellectual property, from an entity owning exclusive rights to such goods and services
45. Procurement of goods, works, and services by institutions of the states of the Parties located abroad and by separate subdivisions of customers acting on their behalf for the purposes of their business abroad
46. Procurement of services for information delivery by international media organizations

47. Procurement of goods, works, and services required for monetary activity and management of the National Fund of the Party
48. Procurement of goods, works, and services required for the protection and security of the President of the Party and other guarded officials and facilities meant for accommodating such guarded officials, as well as services for creating a video archive and providing information support to the activities of the President of the Party
49. Procurement of consulting and legal services for protecting and representing interests of the state or customers in international commercial arbitration and foreign courts
50. Procurement of property trust services from an entity determined by the legislation of the Party
51. Procurement of goods, works, and services from a specific entity determined by the laws of the Party (including the case when such entity is a state monopoly and is defined as a state monopoly by the law of the Party, and the case when work and services procured can be performed or rendered solely by the executive authorities by virtue of their powers, or by their subordinate state institutions, state (unitary) enterprises, legal entities one hundred percent of the voting shares (equity stake) of which belong to the state, the respective powers of which (all the aforesaid entities) are stipulated by regulatory legal acts of the Party
52. Procurement of statistics processing services
53. Procurement of property (assets) sold in auctions by bailiffs in compliance with the enforcement proceeding legislation of the state of each Party, such auctions being held in compliance with the bankruptcy and land legislations of the states of the Parties and in the event of state property privatization
54. Procurement of services rendered by lawyers to entities exempt from payment by the legislation of the states of the Parties
55. Procurement of goods for the state material reserve aimed at exercising regulatory influence on the market to the extent permitted by the legislation of the Party
56. Procurement of services for the storage of material assets of the mobilization reserve from an organization executing such mobilization order
57. Procurement of astronauts training and space flight arrangement services to the extent permitted by the legislation of the Party
58. Procurement of aircraft maintenance services rendered at specialized aircraft repair plants
59. Procurement of services for the manufacture of state and departmental decorations and accompanying documents, the Republic of Kazakhstan parliamentarian badges and accompanying documents, state verification marks, passports (including service and diplomatic ones), ID papers for the citizens of the Republic of Kazakhstan, residence permits for foreigners in the Republic of Kazakhstan, certificates for stateless persons, civil registration certificates, as well as procurement from suppliers determined by the supreme executive authority of the Republic of Kazakhstan of printed matter that needs special security level, according to a list approved by the supreme executive authority of the Republic of Kazakhstan

IV. Cases of single source procurement, or sole supplier (executor, contractor) procurement, or based on specifics of placing a particular purchase order pursuant to the act of a Party, and procurement avoiding procedures as per paragraph 1 of Article 5 of this Agreement, for the Republic of Belarus

60. Procurement of goods (works, services) in-house manufactured (when no subcontracting is used) by penal enforcement institutions, medical labor centers of the Ministry of Internal Affairs, occupational therapy workshops of the Ministry of Health, and organizations (when no subcontracting is used) in which disabled persons constitute at least 50 percent of the staff strength, as well as the Belhudozhpromysly Industrial Trading Association and its organizations (when no subcontracting is used) manufacturing artistic craft articles
61. Procurement of goods (works, services) for the purpose of providing state bodies and other organizations with presidential, governmental, operative and other types of special communications, and providing security for such communications in the states of the Parties and organizations of the states of the Parties located abroad
62. Procurement of property seized, arrested, confiscated or otherwise reversed to the government including property recovered for unfulfilled tax liabilities and unpaid penalties
63. Procurement of services for the apartment building management based on the choice of a managing organization selected by owners of the apartment building premises or by a local government body in compliance with the housing legislation, provided the apartment building premises are in private ownership and in state ownership or municipal ownership
64. Procurement of services for the maintenance, security, and servicing of one or several nonresidential premises transferred to a state or municipal customer for free use, provided such services are rendered to another entity or other entities using premises located in the same building as the premises transferred for free use and (or) operational management
65. The need for procurement based on daily and (or) weekly demand for a period until the procurement results are summed up and the procurement agreement comes into force, provided such procurement is conducted within the 1st month of the year according to the list set forth by the legislation of the Party. In this case, the procurement amount shall not exceed the quantity of goods, works, and services required to meet the customer's demand during the period of the procurement procedure, but for no longer than 2 months
66. Procurement of goods, works, and services for operational investigations
67. Procurement of environmental management rights
68. Procurement of services for training, retraining, and advanced training abroad
69. Procurement of services of rating agencies and financial services associated with salary transfer to the accounts of payees (natural persons) in cases when a natural person has selected a lending (banking) institution, as well as with transactions with available funds of natural persons
70. Procurement of securities or equity shares in legal entities
71. Procurement of services related to the election procedure the list for the procurement of which by

methods pursuant to this Appendix is provided by the procurement legislation of the Party

72. Procurement of goods, works, and services in compliance with international treaties of the Parties according to a list approved by the supreme executive authority of the Party, as well as within the framework of implementing investment projects financed by international organizations in which the Party participates
 73. Procurement of works and services in designing, production, custody, and delivery of banknotes and coins of the national currency of the Party, as well as goods, works, and services involved in such designing and production
 74. Procurement of goods, works, and services related to the use of monetary grants provided on a free-of-charge basis to the supreme executive authority of the Party, the National Bank of the Party, by states, governments of states, international and state organizations, foreign non-governmental public organizations, and funds engaged in charity and international activity, as well as money allocated to co-finance such grants when agreements on such granting specify other procedures for procurement of goods, works, and services
 75. Procurement of services for providing the citizens of the states of the Parties with medical treatment abroad, as well as their transportation and medical escort services
 76. Procurement of goods and services forming intellectual property, from an entity owning exclusive rights to such goods and services
 77. Procurement of services for information delivery by international media organizations
 78. Procurement of goods, works, and services required for monetary activity and management of the National Fund of the Party
 79. Procurement of goods, works, and services required for the protection and security of the President of the Party and other guarded officials and facilities meant for accommodating such guarded officials, as well as services for creating a video archive and providing information support to the activities of the President of the Party
 80. Procurement of consulting and legal services for protecting and representing interests of the state or customers in international commercial arbitration and foreign courts
 81. Procurement of statistics processing services
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**APPENDIX 2
to the Agreement on State
(Municipal) Procurement**

**Consolidated minimum list of goods, works, and services
for procurement through e-auctions**

1. Agricultural products, hunting products, services in agriculture and hunting, except for live animals, products and services related to game hunting, trapping, and breeding, and products of game hunting and trapping
2. Forestry and lumbering products, services for forestry and lumbering
3. Fishery, fish nursery, and fish farm products, services related to fishery
4. Coal, lignite, and peat
5. Crude oil and natural gas, services for their extraction, except engineering survey works
6. Metal ores
7. Stone, clay, sand, and other mineral raw materials
8. Food products and beverages

9. Tobacco goods and other tobacco industry products
10. Textile goods
11. Clothing, fur and fur goods except children's clothes
12. Leather and leather goods, saddler products, footwear
13. Timber, wood products, corks, straw and wicker goods except furniture
14. Cellulose, paper, cardboard, and products thereof
15. Graphic products and printed matter except advertising materials, pictures, drawings, printed photos, souvenir and gift sets (notebooks and organizers), voting bulletins for elections and referendums
16. Coke furnace products
17. Refined products, oil refinery and pyrolysis gas, products of gas and oil refineries
18. Organic and inorganic synthesis products
19. Rubber and plastic articles

20. Other nonmetallic mineral products except glass household and interior articles and ceramic non-constructional and non-fireproof articles
21. Metallurgical industry products
22. Metalworking products except machines and equipment (except nuclear reactors)
23. Machines and equipment not included into other groups except weapons, ammunition and parts thereof, explosive devices and explosives for the national economy

24. Office, bookkeeping and computer equipment
25. Electric motors and electric appliances not included into other groups
26. Equipment and appliances for radio, TV, and communications
27. Medical equipment and appliances, measuring instruments, photo- and motion picture equipment, watches
28. Motor vehicles, trailers, semitrailers, motor vehicle bodies, parts, and accessories, and garage equipment
29. Other transport except merchant and passenger vessels, military ships, aircraft, spacecraft, and aircraft equipment and parts
30. Finished products except jewelry and similar goods, musical instruments, games and toys, labor process teaching equipment, school teaching aids and equipment, art craft works, works of art, collectibles, exposed motion-picture films, and human, animal, and synthetic hair, as well as products thereof
31. Waste and scrap in a form suitable for use as a new raw material
32. Natural water and ice
33. Construction services and facilities including overhaul and maintenance, except extremely hazardous and highly technical capital construction facilities, artificial road structures used in motor ways, provided such exceptions are set forth by the procurement legislation of a Party and such facilities are comprehensively listed by the legislation of the Party
34. Trade, maintenance, and repair of motor vehicles and motorcycles
35. Wholesale and commission trade services except trade of motor vehicles and motorcycles
36. Retail services
37. Hotel and restaurant services
38. Land transport services except railroad, underground railroad, and pipeline transportation
39. Maritime transport services
40. Support and auxiliary transport services, tourism and excursion services except those rendered by travel and tourist agencies and other tourist assisting services
41. Communications except courier services with the exclusion of national post services, electrical communication services
42. Financial intermediation services except insurance and pension provision and services for bonded loan arrangement
43. Financial intermediation support services except evaluation services
44. Services related to real estate
45. Services for the maintenance and repair of office equipments, computers, and associated peripheral

equipment

46. Building cleaning services
47. Packing services
48. Sewage, waste removal, sanitary treatment and similar services
49. Housing and community services except services rendered by hairdresser's, beauty shops, and health and beauty centers, and funeral, burial, and cremation services
50. Services related to the processing industry except services for the production of coke, oil refinery products, and nuclear fuel, furniture fabrication services, and maintenance services for equipment unlisted herein.