



On approval of rules and conditions for the transfer payment for the shares of the national managing holding, national holding, the national company of state property not subject to privatization

Unofficial translation

Resolution of the Government Republic of Kazakhstan on September 13, 2011 № 1045.

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Pursuant to paragraph 4 of Article 114 of the Law of the Republic of Kazakhstan "On State Property", the Government of the Republic of Kazakhstan **hereby RESOLVES:**

Footnote. Preamble - as amended by Resolution № 831 of the Government of the Republic of Kazakhstan dated 17.10.2022 (shall be enforced ten calendar days after the date of its first official publication).

1. To confirm the accompanying rules and conditions for the transfer payment for the shares of the national managing holding, national holding, and the national company of state property not subject to privatization.

2. To declare invalid ruling The Republic of Kazakhstan dated December 31, 2004 № 1454 "On approval of the transfer of rights to national companies property not subject to privatization" (ACPP of the Republic of Kazakhstan, 2004, № 51, art. 678).

3. This Resolution comes into force after ten calendar days after its first official publication.

Prime Minister of the Republic of Kazakhstan

K. Massimov

Approved

Resolution of the Government
Republic of Kazakhstan
on September 13, 2011 № 1045

Terms & Conditions transfer in payment for the shares of the national managing holding, national holding, the national company of state property not subject to privatization 1. General Provisions

1. These Rules and conditions for the transfer of state property not subject to privatization (hereinafter referred to as the Rules) in payment of the shares of the national managing holding, national holding, national company have been developed pursuant to paragraph 4 of Article 114 of the Law of the Republic of Kazakhstan "On State Property" (hereinafter - the Law) and establish the procedure and conditions for the transfer of state property not subject to privatization (hereinafter - property) in payment of the shares of the national managing holding, national holding, national company (hereinafter -recipient) .

Footnote. Paragraph 1 - as amended by Resolution № 831 of the Government of the Republic of Kazakhstan dated 17.10.2022 (shall be enforced ten calendar days after the date of its first official publication).

1-1. This Regulation does not apply to the transfer of the seaports having the status of international importance, as payment for shares of the Recipient.

Footnote. Rules amended by adding paragraph 1-1, in accordance with the decision of the RK Government from 12.11.2012 number 1431 (Comes into force upon expiry of ten calendar days after its first official publication).

2. The subjects of the relations regulated by these Rules are the Government of the Republic of Kazakhstan (hereinafter - the Government), local executive body of the respective administrative-territorial unit (further - local executive body), the authority for State Property Management (hereinafter - the authorized body), or its territorial division, state bodies responsible for the ownership and use of the state stake in the national managing holding, national x Olding, national companies (hereinafter - the authorized body of the relevant sector) and recipients.

2. The procedure and conditions for the transfer of state property, not subject to privatization, in payment for the shares of the national managing holding, national holding, national companies

3. The state property, not subject to privatization, is transmitted to the payment of the shares to the recipients.

4. The payment of the shares transferred to the recipient:

- 1) property;
- 2) ownership and (or) use of property.

5. A decision on the transfer of republican property, or the rights of ownership and (or) use of this property is taken by the Government of the recipient.

6. The decision on the transfer of public property, or the rights of ownership and (or) use of this property to the recipient accepted the local executive body.

7. Preparation of the draft decision of the Government on the transfer of property is carried out by the authorized body of the corresponding industry in consultation with the competent authority.

Preparation of the draft decision of the Government on the transfer of property Joint Stock Company "Sovereign Wealth Fund" Samruk-Kazyna "is carried out authorized body.

8. Preparation of the draft decision of the local executive body of the transfer of property is carried out in consultation with the territorial division of the authorized body.

9. Following the decision to transfer the property to the recipient in accordance with paragraphs 5 and 6 of this Regulation within not more than thirty calendar days, issued an act of reception and transmission of property (transfer certificate) signed by the authorized officials of the transmitting and receiving sides and approved by supervisors.

Acceptance transmission (transfer certificate) made in the state and Russian, one copy for each of the parties involved in the design of the handover (transfer certificate).

10. When making a payment for the shares in the recipient's ownership and (or) use of property, the assessment of such a right be based on the size of payment for use of this property for the whole period of its use by the recipient.

11. The property is transferred to the ownership of the recipient, in exceptional cases, provided that the transfer of rights of ownership and (or) use of property entails the impossibility of further functioning of the recipient as an economic entity, the proper implementation of accounting of assets, the implementation of major investment projects related to the need for further disposal of the property, as well as the implementation of specific projects of particular social, economic importance for the state.

12. The property is transferred to the recipient in the authorized capital of the recipient with the condition of the subsequent transfer of the shares in the recipient's ownership of the Republic of Kazakhstan in the amount of the value of the transferred property.

13. Transfer of ownership and (or) to use the property as payment for shares of the recipient is carried out through the conclusion of the treaty, drawn up on the basis of contract between the authorized authority or local executive authority and receiver according to Appendix 1 hereto. The contract can be concluded in two or more third-party order.

14. The organization of work on the valuation of the transferred property in payment of the recipient's shares shall be carried out by the authorized body as required by the Law of the Republic of Kazakhstan "On valuation activity in the Republic of Kazakhstan" and the Law.

Footnote. Paragraph 14 - as amended by Resolution № 831 of the Government of the Republic of Kazakhstan dated 17.10.2022 (shall be enforced ten calendar days after the date of its first official publication).

Appendix
to the Rules and conditions
for the transfer as payment for shares of
the
national management holding, the national
holding,
the national company of state property
not subject to privatization

Model agreement for the transfer of rights of ownership and (or) use in payment for shares of the national management holding, national holding, national company of state property, not subject to privatization

(name of the state property, not subject to privatization)\

yr. _____ № _____ " ____ " _____ 20____.

(name of the authorized body for state property or local executive body of the corresponding administrative-territorial unit), further named “Owner”, represented by the head

(surname, name, patronymic (if any),

acting on the basis of the _____

Regulation on the Committee for state property and privatization of the Ministry of Finance of the Republic of Kazakhstan, approved by the order of the Minister of Finance of the Republic of Kazakhstan of “___” _____ 20___ №_____, or represented by the authorized person of local executive body of the corresponding administrative-territorial unit (further – local executive body)

(surname, name, patronymic (if any), acting on the basis

’
(the basis) and also on the basis of the Resolution of the Government of the Republic of Kazakhstan or local executive body of “___” _____ 20___ №___
“_____” (further – the Resolution)

on the one hand and _____

(name of the national management holding, national holding, national company),

further named “Recipient”, represented by the first executive

_____ on the other hand, jointly

(surname, name, patronymic (if any)

referred to as the “Parties”,

have contracted this model Agreement (further – agreement) as follows.

1. The subject of the Agreement

1. The subject of the Agreement is transfer of the rights of ownership and (or) use of the state property not subject to privatization

→ (name of the state property, for which the rights of ownership and (or) use is transferred in payment for shares of the recipient, located at the address:

’
(location and brief description of the property), further referred to as “Property”.

2. The owner, pursuant to the above resolution transfers, and the recipient takes over the rights of ownership and (or) use of the property from “ _____ ” _____ 20__ to “ _____ ” _____ 20____, for use for the purposes of

(intended purpose of the property)

3. Transfer of the rights of ownership and (or) use of the property shall not entail the transfer of ownership right to the transferred property.

2. General conditions

4. The transfer of property rights into possession and (or) use shall be executed under the deed of transfer (with the deed of transfer reflecting the actual state of property at the time of transfer), signed by authorized representatives of the Parties, and also approved by the owner and shall be an integral part of this agreement.

5. Signing of this agreement certifies that at the time of transfer of the rights of ownership and (or) use, the property is not pledged or otherwise encumbered by the rights of third parties, is not sold, is not under arrest and may not be claimed during the term of the agreement by any of the parties, unrelated to the agreement.

6. Control over the proper execution of this contract shall be exercised by the owner.

3. Rights and obligations of the Parties

7. The owner shall have the right:

1) by consent of the Parties to extend the term of this agreement, make amendments and additions to this agreement;

2) to notify the recipient in writing of the need to rectify breaches of the conditions of this agreement within the established term;

3) to demand termination of this agreement and recovery of losses, if the recipient defaults on this agreement terms;

4) to terminate unilaterally and demand indemnity if the recipient defaults on this agreement.

8. The recipient shall have the right to:

1) make proposals to the owner regarding the extension of the agreement term, making changes and additions or dissolution of the agreement;

2) demand from the owner the unrepresented rights of possession and (or) use the property in accordance with clause 1 of this agreement.

9. The owner is obliged:

1) to approve the deed of transfer within at least thirty calendar days from the date of signing this agreement and provide transfer of the rights of possession and (or) use of the property to the recipient under the deed of transfer;

2) not to obstruct the recipient's exercise of the right of ownership and (or) use of the property in the order established by the agreement;

3) check the intended use and safety of the property as required by the legislation of the Republic of Kazakhstan.

10. The recipient is obliged:

1) to use the accepted property exclusively for the purposes, stipulated by the agreement;

2) to maintain the property in proper order, not to commit actions that can damage or destroy the property;

3) to maintain the property in good working order, make current and major repairs at own expense;

4) in the event of breakdown of the property, and also parts thereof both through the fault of the recipient, and due to natural wear and tear to restore this property at own expense;

5) provide unimpeded access for inspection of the property and adjoining land sites to the authorized representatives of the owner, sanitary inspection services and other state bodies, monitoring compliance with the legislation and other standards, relating to the use and operation of the property;

6) within the established time to eliminate the breaches, indicated in the written notice of the owner in accordance with sub-clause 2) of clause 7 of this agreement;

7) from the date of termination or expiry of the agreement term, ensure the return of the property within thirty calendar days to the owner under the deed of transfer;

8) compensate damage to the owner as required by the civil legislation, in the event of return of the property in non-operational or damaged condition (with wear exceeding standard indicators).

4. Liability of the Parties

11. The Parties shall be liable for breach of obligations under this agreement in accordance with the legislation of the Republic of Kazakhstan.

12. The recipient shall be fully liable for ensuring the safety of property, fire and electricity safety, proper operation of technical means and engineering equipment, use of property for its intended purpose, and also consequences of improper performance of this agreement in accordance with the legislation of the Republic of Kazakhstan.

5. The term of the agreement, procedure and conditions for its amendment and early termination

13. This agreement shall take effect upon signing of this agreement by the Parties.

14. This agreement shall terminate upon expiry of the term, indicated in clause 2 of this agreement, excepting the extension of the term of this agreement by consent of the parties.

15. This agreement may be terminated by the owner unilaterally, and the property returned to the owner in the following cases:

- 1) if the accepted property is not used for its intended purpose or is misused;
- 2) failure to eliminate the violations, indicated in the owner's written notification;
- 3) if the recipient intentionally deteriorates the property significantly;

4) if the recipient does not make current and major repairs of the property within a reasonable time, the owner shall be entitled to demand early termination of this agreement only after affording an opportunity for the recipient to fulfill his obligation.

16. Early unilateral termination of the agreement shall not be permitted, excepting the cases, stipulated by this agreement.

17. Changes in the legal status, organizational-legal form of the Parties, or reorganization of one of the Parties do not change the essence of this agreement, and all the rights and obligations under this agreement shall pass to their successors, except for cases, when the Parties express a wish to dissolve the agreement, change it, or the rules of law require its re-execution. In this case, the Parties shall inform each other in writing of the change in the legal status after the fact of re-registration within fifteen calendar days.

6. Special provisions

18. Changes and additions to this agreement shall be made by signing an addendum to the agreement by the Parties. Changes and additions to this agreement shall take effect upon its signing.

7. Force majeure

19. For the purposes of this agreement "force majeure" shall mean the event, the proper performance of which has become impossible due to force majeure, i.e. extraordinary and unavoidable circumstances under the given conditions (natural disasters, military actions, state of emergency, etc.), entailing non-fulfillment or improper fulfillment of the terms of this agreement.

20. In the event of force majeure the recipient shall notify the owner in writing within five working days from the date of their occurrence, indicating the start date of this occurrence, and shall provide confirmation of the force majeure.

21. The deadline for fulfilling obligations under the concluded agreement shall be extended proportionally to the force majeure duration.

8. Dispute settlement procedure

22. Disputes between the Parties that may arise during the performance of this agreement shall be settled through negotiations, and if the consensus is not achieved –in court.

9. Details and signatures of the Parties

OWNER:

RECEPIENT:

The head _____

The head _____

(surname, name, patronymic
(if any), position)

(surname, name, patronymic
(if any), position)

(location, details)

(location, details)

(signature) Seal.

(signature) Seal.
