AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF MACEDONIA AND THE GOVERNMENT OF THE REPUBLIC OF KOSOVO CONCERNING THE ENCOURAGEMENT AND RECIPROCAL PROTECTION OF OF INVESTMENTS

Preamble

THE GOVERNMENT OF THE REPUBLIC OF MACEDONIA AND THE GOVERNMENT OF THE REPUBLIC OF KOSOVO hereinafter referred to as the "Contracting Parties"

Desiring to intensify economic cooperation to the mutual benefit of both States

Lntending to o create and mantain conditions for investments by investors of one Contracting Party in the territory of the other Contracting Party,

Aiming to encourage investors to respect internationally recognized corporate social responsibility standards and principles,

Recognizing the need to promote and protect foreign investments with the aim to foster the economic prosperity of both Contracting Parties, have agreed as follows:

Article 1. Definitions

For the purpose of this Agreement

1. The term "investment" shall mean any kind of asset invested by an investor of one Contracting Party in the terrotory of the other Contracting Party, in accordance with the laws and regulations of the Contracting Party in whose territory the investment is made and shall include in particular, though not exclusively:

a) Movable and immovable property, guarantees and property rights such as servitudes, mortgages and other rights under the law;

b) Shares in, stocks, debentures or any other form of participation in companies;

c) Claims to money and claims under a contract having financial value and loans directly related to a specific investment

d) Copyrights, trade marks, patents or other intellectual or industrial property rights, know-how and goodwill;

e) Any rights of a financial nature granted by law or agreement, such as concessions granted in accordance with applicable regulations governing the performance of activities including search, processing, extraction and exploitation of natural resources

2. The term "investor" shall mean any natural or legal person of one Contracting Party that invests in the territory of the other Contracting Party:

a) the term "natural person", shall with regard to eithe Contracting Party, mean any natural person who is a citizen of one of the Contracting Party to this Agreement;

b) The term "legal person" shall, refers with regard to either Contracting Party to any legal person including enterprises, companies, corporations, business associations and or organizations established or organized in accordance with the respective state legislation of either Contracting Party having their seat and their main activities in the territory of that Contracting Party.

3. The term "return" shall mean money yielded by investments, including in particular, profits, interests, dividends, royalties, any fees, capital gains and other current income.

4. The term "territory" shall mean:

a) With respect of Republic of Macedonia, the territory of the Republic of Macedonia including land, water and airspace, over which pursuant to international law it has jurisdiction or sovereign rights;

b) With respect of Republic of Kosovo, the territory of the Republic of Kosovo, over which pursuant to international law it has jurisdiction or sovereign rights;

5. Any alteration of the form in which assets are invested or reinvested shall not affect their qualification as investments provided that such alterations is not in conflict with the provisions of this Agreement and the legislation of the Contracting Party in whose territory the investment is made.

Article 2. Promotion and Admission of Lnvestments

1. Each Contracting Party shall promote in its territory, investments made by investors of the other Contracting Party and shall admit such investments in accordance with its laws and regulations.

2. When a Contracting Party admits and investment in its territory, it shall, in accordance with its laws and regulations, grant the necessary permits related to such investment.

Article 3. Protection and Treatment of Lnvestments

1. Each Contracting Party shall, within its territory, protect investments made in accordance with its laws and regulations by investors of the other Contracting Party and shall not impair by unreasonable or discriminatory measures the management, maintenance, use, enjoyment, extension, sale and liquidation of such investments.

2. Each Contracting Party shall, within its territory, ensure fair and equitable treatment of the investments of investors of the other Contracting Party. This treatment shall not be less favorable than that granted by each Contracting Party to investments made by its own investors or by investors of a third state.

3. If the domestic law of either Contracting Party, or obligations under international law existing at present or established hereafter between the Contracting Parties in addition to this Agreement contain a regulation, whether general or specific, entitling investments made by investors of the other Contracting Party to a treatmente more favourable than that provided by this Agreement, such regulation shall, to the extend that it is more favourable, prevail over this Agreement.

4. Provisions referred to in paragraphs 1, 2 and 3 of this Article shall not be construed so as to oblige one Contracting Party to extend to investors of the other Contracting Party the benefits of any treatment, preference of privilege resulting from membership in or association to any existing or future free trade area, economic, monetary or customs union, common market or existing or future convention on avoidance of double taxation or convention on other fiscal matters.

Article 4. Expropriation and Compensation

1. Neither of the Contracting Parties shall undertake measures of expropriation, nationalization or any other measure having the same effect against investments belonging to investors of the other Contracting Party (hereinafter "expropriation"). except when the measures are undertaken in the public interest, on a non-discriminatory basis, under due legal procedure, whereby, the investor shall receive effective and adequate compensation.

Such compensation shall represent the market value of the expropriated investment immediately before the expropriation or the impending expropriation becomes public knowledge. The amount of shall be settled in convertible currency and it shall be transferrable and paid without undue delay. The compensation shall also include the interest calculated on annual LIBOR basis from the date of expropriation until the date of payment.

2. Investors of either Contracting Party whose investments suffer losses due to war or other armed conflict, a state of national emergency, revolt, insurrection or riot in the territory of the other Contracting Party shall be accorded treatment, as regards restitution, indemnification, compensation or other settlement, which shall not be less favorable than that accorded to its own investors or to investors of any third state.

Resulting payments shall be transferable without any delay, in convertible and freely transferable currency.

Article 5. Transfer

1. Each Contracting Party, in whose territory investments are made by investors of the other Contracting Party, shall grant

those investors free transfer of the payments related to these investments, particularly of:

a) Capital and additional amounts necessary for maintenance and expansion of the investment;

b) Gains, profits, interests, dividends and other current income;

c) Funds for repayment of loans directly related to a specific investment, including interests according to valid contract and;

d) Royalties and fees;

e) Proceeds from total or partial sale or liquidation of an investment;

f) Compensations provided for in Article 4;

g) Earnings of nationals of one Contracting Party allowed to work in relation to investment in the territory of the other Contracting Party.

2. Transfers shall be made, without any delay, in a freely convertible currency, at the official exchange rate applicable on the date of the transfer, in accordance with the procedures established by the Contracting Party in whose territory the investment is made, provided that all financial obligations towards this Contracting Party have been fulfilled.

3. The Contracting Parties shall undertake to accord to transfers referred to in paragraphs 1 and 2 of this Article treatment no less favorable than that accorded to transfers originating from investments made by any third state.

Article 6. Subrogation

1. If one Contracting Party or its designated agency ("the first Contracting Party") makes a payment under a guarantee or contract of insurance given in respect of an investment in the territory of the other Contracting Party ("the second Contracting Party"), the second Contracting Party shall recognize:

a) The assignment to the first Contracting Party by law or by legal transaction of all rights and ciaims of the party indemnified, and

b) That the first Contracting Party is entitled to exercise such rights and enforce such claims by virtue of subrogation, to the same extent as the party indemnified.

2. In case of subrogation as defined in paragraph 1 of this Article, the investor shall not be entitled to require a claim, unless he is authorized to do so by the Contracting Party or its designated agency.

Article 7. Settlement of Disputes between One Contracting Party and an Investor of the other Contracting Party

1. Disputes between one of the Contracting Parties and an investor of the other Contracting Party shall be notified in writing, including detailed information, by the investor to the Contracting Party in whose territory the investment is made. Any dispute between a Contracting Party and an investor of the other Contracting Party should be settled by friendly agreement.

2. If the dispute cannot be settled amicably within six months from the date of the written notification, by which the other Contracting Party was informed about the subject of the dispute, the investor concerned may suggest, at his own choice, for the dispute to be submitted to:

- The competent court of the Contracting Party in whose territory the Investment is made;

- "ad hoc" court of arbitration established under the Arbitration Rules of Procedure of the United Nations Commission on International Trade Law (UNCITRAL);

- The International Center for Settling of Investment Disputes (ICSID), in accordance with the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, open for signature since 18.03,1965 in Washington DC, if both Contracting Parties signed this Convention.

3. Once the dispute has been submitted to the competent court of the Contracting Party or to international arbitration, the choice of one or the other procedure shall be definitive.

4. The arbitration decision shall be based on:

- The provisions of this Agreement;

- The national law of the Contracting Party in whose territory the investment is made, including the rules related to conflicts of law;

- The rules and the universally accepted principles of international law.

5. The arbitration decisions shall be final and binding on the parties to the dispute. Each Contracting Party shall undertake to execute the decisions in accordance with its national law.

Article 8. Settlement of Disputes between the Contracting Parties

1. Disputes between Contracting Parties regarding the interpretation and application of the provisions of this Agreement shall be settled by consultations and negotiations through diplomatic channels.

2. If both Contracting Parties cannot reach an agreement within six months after the beginning of the dispute between them, upon request by either Contracting Party, it shall be submitted to court of arbitration which shall be constituted as follows:

Each Contracting Party shall appoint one arbitrator and these two arbitrators shall appoint chairman who shall be national of a third state, maintaining dlplomatic relations with both Contracting Parties.

3. If one of the Contracting Parties has not appointed its arbitrator and has not followed the invitation of the other Contracting Party to make that appointment within two months, the arbitrator shall be appointed upon request by that Contracting Party by the President of the International Court of Justice.

4. If both arbitrators cannot reach an agreement about the choice of the chairman within two months after their appointment, he/she shall be appointed upon request by either Contracting Party by the President of the International Court of Justice.

5. If in the cases specified under paragraphs 3 and 4 of this Article, the President of the International Court of Justice is prevented from carrying out the said function, or if he/she is a national of either Contracting Party, the appointment shall be made by the Vice President, and if he/she is prevented or if he/she is national of either Contracting Party, the appointment shall be made by the most senior judge of the court who is not a national of either Contracting Party.

6. With regard to other provisions made by the Contracting Parties, the court shall determine its procedure. The court shall reach its decisions by a majority of votes.

7. The decisions of the court shall be final and binding on each Contracting Party.

8. Each Contracting party shall bear the costs of its own member of the court and its representation in the arbitration proceedings; the costs of the chairman and the remaining costs shall be bome in equal parts by the Contracting Parties. The court may, however, decide for a higher proportion of costs to be borne by one of the Contracting Parties and this decision shall be binding on both Contracting Parties.

Article 9. Consultations and Exchange of Information

1. Upon request by either Contracting Party, the other Contracting Party shall agree promptly to hold consultations on interpretation or application of this Agreement.

2. Upon request by either Contracting Party, information on the impact of laws, regulations, decisions, administrative practices or procedures or policies of the other Contracting Party may have on investments covered by this Agreement shall be exchanged.

Article 10. Additional Provisions

1. Nothing in this Agreement shall be construed to prevent any Contracting Party:

a) To undertake any actions which it considers as necessary for the purpose of protecting its essential security interests;

- Undertaken during war, armed conflict, or other emergency in that Contracting Party or in international relations; or

- Related to implementation of national policies or international agreements referring to non- proliferation of weapon;

b) To undertake any measure in line with its obligations under the United Nations Charter for maintenance of internatIonal peace and security; or

c) To undertake any measure necessary for maintenance of public order when there is genuine and sufficiently serious threat to one of the fundamental interests of society;

d) To undertake any measures related to balance of payments and external financial difficulties, as well as monetary and exchange rate policies.

2. Contracting Party's essential security interests may include interests deriving from its membership in a customs, economic or monetary union, a common market or a free trade area.

Article 11. Scope of Application

This Agreement shall apply to investments made in the territory of one of the Contracting Parties in accordance with its legislation by investors of the other Contracting Party after 17 October 2009, but shall not apply to any dispute raised or any claim concerning investments made before the entry into force of this Agreement.

Article 12. Final Provisions

1. This Agreement shall enter into force on the day of receipt of the second notification, confirming that both Contracting Parties completed their internal legal requirements for the entry into force of this Agreement.

2. This Agreement shall remain in force for an initial period of ten year. It shall be automatically renewed for consecutive periods of ten years unless, at least one year before expiration of any subsequent period, one of the Contracting Parties notifies, by written notice through diplomatic channels, the other Contracting Party of its intention to terminate the Agreement.

3. In case of termination of the present Agreement by written notice, the provisions referred to in Articles 1 to 12 shall continue to be effective for a fuither period of ten years with respect to the investments made or acquired prior to the date of its termination.

The notice of termination shall become effective one year after it has been received by the other Contracting Party.

IN WITNESS THEREOF, the undersigned, duly authorized thereto by their respective Governments signed this Agreement.

Done at Skopje on 22.01.2015 in two original copies each in Macedonian, Albanian, Serbian and English language, each text being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF THE REPUBLIC OF MACEDONIA

FOR THE GOVERNMENT OF THE REPUBLIC OF KOSOVO