AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KENYA AND THE GOVERNMENT OF THE STATE OF QATAR FOR THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the Republic of Kenya and the Government of the State of Qatar, hereinafter referred to as the "Contracting Parties";

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

Intending to create and maintain favorable conditions for investments by investors of One Contracting- Party in the territory of the other Contracting Party,

Recognizing the need to promote and protect these investments with the aim to foster the economic prosperity of both Contracting Parties,

Agreeing that fair and equitable treatment of investments is desirable in order to maintain a stable framework for investments and maximum effective utilization of economic resources,

Agreeing that these objectives can be achieved in accordance with the laws of the contracting parties; and

Having resolved to conclude an Agreement concerning the promotion and protection of investments;

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement and unless stated otherwise the following words and terms shall have the corresponding meanings

1. The term "Investor": means any natural or juridical person of one Contracting party:

a) The term "natural persons": means with regard to either Contracting Party to any natural person, who is a national of the Parties to this Agreement.

b) The term "juridical person"; means with regard to either Contracting Party, to any juridical person including enterprises, companies, corporations, firms or business associations constituted, or incorporated in accordance with the applicable law of that Contracting Party and having its main office in the territory of that same Contracting Party,

In addition, Qatar's "juridical person" includes government, official agencies, authorities, trusts and organizations established organized in accordance with the respective legislation of the State of Qatar, or of a third party in which the Investor, referred to above exercise, effective control.

2. The term "Investment' means any kind of asset invested by an investor of one Contracting Party in the territory of the other Contracting Party in accordance with the laws and regulations of the latter Contracting Party, and in particular, though not exclusively, shall include:

a) Movable and immovable property and any other property rights, such as servitudes, guarantees, mortgages, liens, pledges and similar rights;

b) Shares in stocks, debentures of a company or any other similar forms of participation in a company;

c) Rights to money or to any performance under contract having an economic value;

d) Intellectual and industrial property rights, such as, copyrights, trademarks, patents, technical processes, know-how and goodwill;

e) Any rights of economic nature granted by law or agreement, such as concessions to performance activities including those to search for, process, extract and exploit natural resources.

3. The term "Returns" means outcomes of the investment and money yielded by an investment and includes, in particular although not exclusively, profits, dividends, interest, capital gains, royalties and fees;

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

5. "Territory":

a) For the State of Qatar land, inland waters and territorial of the State of Qatar and their bed and subsoil and air space above them, and the economic zone and continental shelf, which is exercised by the State of Qatar's sovereign rights in accordance with the provisions of international law and domestic laws and regulations.

b) For the Republic of Kenya, the term "territory" means all the territory of Kenya including internal waters, territorial Waters and the seabed and subsoil of the territorial waters, and the air space above such territorial waters, exclusive economic zone and the continental Shelf, and the seabed and sub soil within such area, which has been or may hereafter be designated as an area over which Kenya has sovereign rights or jurisdiction for the purposes of exploring and exploiting natural resources in accordance with international law and Kenya's national laws and regulations.

Article 2. Scope of the Agreement

This Agreement shall, apply to all investors and investments made by investors of either Contracting Party in the territory of the other Contracting Party, accepted as such in accordance with its laws and regulations, whether made before or after the coming into force of this Agreement, but shall not apply to any dispute raised before the entry into force of this Agreement.

Article 3. Promotion and Protection of Investments

1. Each Contracting Party, as far as possible, shall encourage and create favorable conditions for Investors of the other Contracting Party to make investments in its territory, and admit such investments in accordance with its laws and regulations in force.

2. When Contracting Party shall have admitted an investment in-its territory, it shall grant in accordance with its laws and regulations the necessary permits in connection with such, an investment and with the carrying out of licensing agreements and contracts for technical, commercial or administrative assistance. Each Contracting Party shall, in accordance with its laws and regulations, whenever needed, endeavor to issue the necessary authorizations concerning the activities of consultants and other qualified persons of foreign nationality.

3. Investments made by investors of each Contracting Party shall at all times be accorded fair and equitable treatment and shall enjoy full protection and security in the territory of the other Contracting Party in accordance with the laws and regulations of each Contracting Party.

Neither, Contracting Party shall in any way impair by unreasonable or discriminatory measures the operation, management, maintenance, use, enjoyment or disposal of investments in its territory by investors of the other Contracting Party.

Article 4. Treatment of Investments

1. Each Contracting Party shall in its territory accord to investments and returns of investors of the other Contracting Party treatment which is fair and equitable and no less favorable than that which it accords to investments and returns its own investors or to investments and returns of investors of any third State, whichever is more favorable to the investor.

2. Each Contracting Party shall in its territory accord to investors of the other Contracting Party, as regards management maintenance, use, enjoyment or disposal of their investments, treatment which is fair and equitable and no less favorable than that which it accords to its own investors.

3. Each Contracting Party shall in its territory accord to investors of the other Contracting Party treatment no less favorable than that which accords to investors of any third party.

4. The treatment granted under paragraph 1 and 2 of this Article shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party and their investment the benefit of any treatment, preference

or privilege resulting from:

a) Its membership of an association with any existing or future free trade area, customs union, economic, common market, or monetary union or other, similar international agreements including other forms of, regional economic organization, or

b) Any international agreement or arrangement relating wholly or mainly to taxation or any domestic legislation relating wholly or mainly to taxation.

5. 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 contains a regulation, whether general or specific; entitling investments by investors of the other Contracting Party to a treatment more favorable than is provided for by this Agreement, such regulation shall, to the extent that it is more favorable, prevail over this Agreement.

6. Whenever the treatment accorded by the Contracting Party to the investors of the other Contracting Party, according to its laws and regulations or other provisions of specific contract or investment authorization or agreement is more favorable than that provided under this agreement, the most favorable treatment shall apply.

7. Each Contracting Party may, in accordance with its laws and regulations, grant incentives, treatment; preferences or privileges through special policies or measures to its own investors only for the purpose of promoting small and medium sized enterprises and infant industries in its territory, subject to the condition that these shall not significantly affect the investments and activities of the investors of the other Contracting Party.

Article 5. Expropriation and Compensation

1. Neither of the Contracting Parties shall take measures of expropriation, nationalization or any, other having the same effect against investments belonging to investors of the other Contracting Party (hereinafter: "expropriation") unless the measures are taken in the public interest, on a non-discriminatory basis and under due process of law and upon the payment of effective, adequate, and full compensation. Such compensation shall amount to the market value of the expropriated investment immediately before the expropriation or the impeding expropriation, became public knowledge; whichever is the earlier.

2. Such market value shall be expressed in freely convertible currency of the investor's choice, at the market rate of exchange prevailing for that currency on the valuation date. Compensation shall be paw without delay, be effectively realizable and transferable in a freely convertible currency as determined by the investor's 'choice. The compensation shall include also the interest calculated on the (6) six-month LIBOR, rate from the date of expropriation until the date of payment.

3. Where a Contracting Party expropriates the assets of a company which is incorporated or constituted under the law in force in any part of its own territory, and in which investors of the other Contracting party own shares, it shall ensure that the provisions of this article are applied so as to guarantee adequate, effective and full compensation on respect of their investment to such investors of the other Contracting Party who are owners of those shares.

4. Investors of either Contracting Patty who suffer losses of their investments in the territory of the other Contracting Party due to war or to, other armed conflict, a state of national emergency, revolution, insurrection or riot shall be accorded with respect to restitution, indemnification, compensation or other settlement, treatment which is no less favorable than that accorded to its own investors or to investors of any third state whichever is more favorable to the investor. Resulting payments shall be transferable without, delay in a convertible and freely usable currency of an investor's choice.

Article 6. Transfer

1. Each Contracting Party shall permit all funds of an investor and outcomes of an investment of the other Contracting Party related to an investment in its territory to be freely transferred and exported without delay and on a non- discriminatory basis. Such funds would include but not limited to:

a) Capital and additional capital amounts used to maintain and increase investment;

b) Returns;

c) Repayments of any loan including interest thereon, relating to the investment;

d) Proceeds from sales of their shares;

e) Proceeds received by investors in case of sale or partial sale or liquidation;

f) The earnings of natural persons of one Contracting Party or other personnel from abroad who work in connection with an investment in the territory of the Other Contracting Party;

g) Payments arising from investment dispute pursuant to Auricles (9) and (10) of this Agreement.

h) Compensation pursuant to Articles (5) and (7) of this Agreement.

2. Transfers under the present Agreement shall be made without delay in the original currency, or any other freely convertible currency, of an investor's choice at the market rate of exchange applicable on the date of transfer.

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

Article 7. Subrogation

1. Where one Contracting Party or, its designated agency has guaranteed any indemnity against non-commercial risks in respect of an investment by any of its investors in the territory of the other Contracting Party and has made payment to such investors in respect of their claims under this Agreement, the other contracting Party agrees that the first Contracting Party or its designated agency is entitled by virtue of subrogation to exercise the rights and assert the claims of those investors. The subrogated rights or claims shall not exceed the original rights or claims of such investors.

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 8. Denial of Benefits

Following notification, a Contracting Party may deny the benefits of this Agreement to:

1. An investor of the other Contracting Party that is a juridical person of such Contracting Party and to an investment of such investor if the juridical person is owned or controlled by investors of a third party and the Denying Contracting Party does not maintain diplomatic relations with the third party;

2. An investor of the other Contracting Party that is a juridical person of such other Contracting Party and to investments of that investor, if an investor of a non — Contracting Party owns or controls the juridical person and the juridical person has no substantive business operations in the territory of the other Contracting Party.

Article 9. Settlement of Disputes between a Contracting Party and an Investor of the other Contracting Party

1. Any dispute under the provisions of this Agreement, arising directly from an investment between one Contracting Party and an investor of the other Contracting Party shall be settled amicably between themselves.

2. Lf such disputes cannot be settled according to the provisions of Paragraph (1) of this Article within four (4) months from the date of request in writing for settlement, then the investor concerned may submit, at his own choice, the dispute for settlement to:

a) The competent court of the host Contracting Party for decision; or

b) The International Center for the Settlement of Investment disputes established under the Convention on the settlement of Investment disputes between States and Nationals of other States of March 18, 1965 done in Washington, D.C., if this Convention applicable to the Contracting Parties; or

c) An Ad Hoc Arbitral Tribunal.

Once the investor has Chosen one of the above mentioned ways of the settlement of dispute, he cannot follow the other two ways.

3. The Ad Hoc Arbitral Tribunal under paragraph (2) (c) shall be established as follows:

a) each Party to the dispute shall appoint one arbitrator, and the two arbitrators thus appointed, shall select by mutual - agreement a third arbitrator, who must be a citizen of a third country, and who shall act as the Chairman of the Tribunal. All the arbitrators must be appointed within two months from the date of notification by one Party to the other Party of its intention to submit the dispute to arbitration. b) if the periods specified in paragraph (3) (a) herein above have not been

respected, either Party, in the absence of any of other agreement, shall invite the Secretary General or Vice-Secretary General of the Permanent Court of Arbitration at The Hague to make the necessary appointments. c) the Tribunal shall follow the Arbitration rules of the United Nations Commission for International Trade Law (UNCITRAL), 1976. d) the Ad Hoc Arbitral Tribunal shall reach its decisions by a majority of vote. These decisions shall be final and legally binding upon the parties and shall, be enforced, in accordance with the International law or domestic law whichever is, favorable to the investor. The decisions shall be taken in conformity with the provisions of this Agreement, the laws of the Contracting Party to the dispute and the principles of international law. Unless otherwise decided by the Tribunal, in accordance with special circumstances, each party to the dispute shall bear the cost of its representation in the arbitral proceedings; the cost of the arbitrators and the remaining costs shall be borne in equal parts by the parties to the dispute. e) the Tribunal shall, interpret its award and give, reasons and bases of its decision at the request of either Party. Unless otherwise agreed by the Parties, the venue of arbitration shall be at the seat of the Permanent Court of Arbitration at The Hague (The Netherlands).

Article 10. Settlement of Disputes between the Contracting Parties

1. The two Contracting Parties shall strive with good faith and mutual cooperation to reach a fair and quick settlement of any dispute arising between them concerning interpretation or execution of this Agreement. In this connection the two Contracting Parties hereby agree to enter into direct objective negotiations to reach such settlement. If the disagreement has not been settled within a period of six (6) months from the date on which the matter was raised by either Contracting Party, it may be submitted at the request of either Contracting Party to an Arbitral Tribunal composed of three members.

2. Within a period of (2) two months from the date of receiving the said request each Contracting Party shall appoint one arbitrator, and the two arbitrators so appointed shall appoint, within a period of two months and with the approval of both Contracting Parties a national of a third country as Chairman of the Tribunal.

3. If within the periods specified in paragraph (2) of this Article the necessary appointments have not been made, either Contracting Party may, in the absence of any other agreement, invites the President of the International Court of Justice to make any necessary appointments. If the President is a national of either Contracting Party or otherwise prevented from discharging the said function, the Vice-President shall be invited to make the necessary appointments. If the Vice-President is a national of either Contracting Party or he too is prevented from discharging the said function the Member of the international Court of Justice next in seniority who is not a national of either Contracting Party shall be invited to make the necessary appointments.

4. The Arbitral Tribunal shall reach its decisions by a majority of votes. Such decisions shall be final and binding on both Contracting Parties. Each contracting Party shall bear the cost of its own member of the Tribunal and of its representation in the arbitral proceedings; the Cost of the Chairman and the remaining costs shall be borne in equal parts by the contracting Parties. The Tribunal may, however, decide that a higher proportion of costs shall be borne by one of the two Contracting Parties and this award shall be binding on both Contracting Parties. The tribunal shall determine its own procedures.

5. Unless agreed otherwise Contracting Parties, the venue of Arbitration shall be the seat of the Permanent Court of Arbitration at The Hague (The Netherlands).

6. All claims shall be submitted and all hearing session shall be completed, within a period of eight (8) months from the date the third member is appointed, unless otherwise, agreed. The Tribunal shall issue its decision within, two (2) months from the date of submitting the final claims or the date of closing the general sessions, whichever is later.

7. It shall not be permitted to submit a dispute to an Arbitral Tribunal pursuant to the provisions of this Article, if the same dispute was submitted to another Arbitral Tribunal pursuant to the provisions of Article (8) hereunder and which is still under hearing by that Tribunal.

Article 11. Entry and Sojourn of Personnel

A Contracting Party shall, subject to its laws and regulations relating the entry and sojourn of non-citizens, permit natural persons of the other Contracting Party and other persons appointed or employed by investors of the other Contracting Party to enter and remain in its territory for the purpose of engaging in activities connected with investments.

Article 12. Consultations

The Contracting Parties shall, at the request either Contracting Party, hold consultations for the purpose of reviewing the implementation of this Agreement and studying any issue that may arise from this Agreement. Such consultations shall be held between the competent authorities of the Contracting Parties in a place and at a time agreed on through appropriate channels.

Article 13. Entry Into Force

1. This Agreement, or any amendments thereof, shall enter into force on the latter date of receipt a written notification through diplomatic channels which either contracting party notifies the other that its internal, juridical requirements for the entry into force of this Agreement or its amendments have been fulfilled.

2. This Agreement may be amended by written agreement between the contracting parties.

Article 14. Duration and Termination

1. This Agreement shall remain in force for a period of ten (10) years and shall continue in force thereafter for similar period or periods unless, either Contracting Party notifies the other Contracting Party of its intention to denounce the Agreement through diplomatic channels. The notice of termination shall become effective one year after it has been received by the other Contracting Party.

2. With respect to investments made prior to the date, when the notice of termination of this Agreement become effective, the provisions of this Agreement shall continue to be effective for period of (10) ten years from the date of termination of this Agreement.

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

Done at Doha on this 13rd of 04 -2014 in original versions, in Arabic and English languages all texts being equally authentic.

For the Government of the Republic of Kenya

For the Government of the State of Qatar