AGREEMENT BETWEEN THE ROYAL GOVERNMENT OF CAMBODIA AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH FOR THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS

The Government of the People's Republic of Bangladesh and the Royal Government of Cambodia (hereinafter referred to as the 'Contracting Parties');

Desiring to create favourable conditions for the development of economic cooperation between them and in particular for investments by investors of one Contracting Party in the territory of the other Contracting Party;

Recognizing that the promotion and reciprocal protection of such investments will be conducive to the stimulation of business initiative and to the increase of prosperity in both Contracting Parties;

Being convinced that these objectives can be achieved without relaxing health, safety and environmental measures of general application as well as internationally recognized labour rights and in compliance with the domestic laws of the Contracting Parties in place;

Having resolved to conclude an agreement concerning the encouragement and reciprocal protection of investments;

Have agreed as follows:

Article 1. DEFINITIONS

For the purposes of this Agreement:

1. The term "investment" means every kind of asset in the territory of one Contracting Party subject to its laws and regulations that is owned or controlled directly or indirectly by investor of the other Contracting Party, and includes assets or rights consisting or taking the form of:

a) a company shares, stocks and other forms of equity participation, and bonds, debentures, and other forms of debt interests in a company, and other debts and loans and securities issued by any investor of a Contracting Party;

b) Claims to money and claims to any other assets or performance pursuant to a contract having an economic value;

c) intellectual property rights, including but not limited to copyrights, trademarks, patents, industrial designs and patterns and technical processes, know-how, trade secrets, trade names and goodwill;

d) any right conferred by law, contract or by virtue of any licenses or permits granted pursuant to law, including rights to prospect, explore, extract, or utilize natural resources, and rights to undertake other economic or commercial activities or to render services;

e) any other tangible and intangible, movable and immovable property, and any related property rights, such as leases, mortgages, liens and pledges.

Provided that such investments are not in the nature of acquisition of shares less than 10 percent of a company through stock exchanges which shall not be covered by this Agreement.

The term "investment" shall also apply to "returns" retained for the purpose of re-investment and to proceeds from "liquidation" as these terms are defined hereinafter.

Any change in the form in which assets or rights are invested or reinvested shall not affect their character as investments.

2. The term "investor" with respect to a Contracting Party shall mean:

a) natural persons deriving their status as nationals of a Contracting Party according to its laws;

b) corporations, firms, business partnerships incorporated or constituted under the law in force of a Contracting Party and having their registered offices together with substantial business activities in the territory of that Contracting Party.

3. The term “company” shall mean any legal entity, whether or not organized for the purpose of pecuniary gain, and whether privately or governmentally owned or controlled, which is constituted under the laws of a Contracting Party or is owned or effectively controlled by investors of a Contracting Party, and includes corporations, trusts, partnerships, sole proprietorships, branches, joint ventures, associations or other similar organizations.

4. The term “returns” shall mean amounts yielded by investments, irrespective of the form in which they are paid, and in particular, though not exclusively, include profits, interest, capital gains, dividends, royalties and management fees, technical assistance or other payments or fees.

5. The term “liquidation” shall mean any disposal effected for the purpose of completely or partly giving up an investment.

6. The term “territory” shall mean:

a) in case of “Cambodia”, the territory of Kingdom of Cambodia including all land territory, the territorial sea, its seabed and subsoil and airspace over which Cambodia has sovereign rights or jurisdiction in accordance with international and national law.

b) in case of “Bangladesh”, the territory of the People’s Republic of Bangladesh as defined in the Article 2 of the Constitution of the People’s Republic of Bangladesh and it shall also mean internal waters and territorial sea and the airspace above them as well as the maritime zones beyond the territorial sea, including the seabed and subsoil, over which Bangladesh exercises sovereign rights or jurisdiction under its national laws, which shall conform to international law for the purpose of exploration of the natural resources of such areas.

7. The term “freely convertible currency” shall mean any currency that the International Monetary Fund determines, from time to time, as freely usable currency in accordance with the Articles of Agreement of the International Monetary Fund and any amendment thereto.

Article 2. PROMOTION AND PROTECTION OF INVESTMENTS

1. Each Contracting Party shall encourage and create favourable conditions for investments of investors of the other Contracting Party in its territory, and shall admit such investment in accordance with its laws and regulation.

2. Investments of investors of a Contracting Party shall at all time be accorded fair and equitable treatment and shall enjoy full protection and security in the territory of other Contracting Party in a manner consistent with recognized principles of international law and the provisions of this Agreement. Neither Contracting Party shall in any way impair by unreasonable or discriminatory measures the management, maintenance, use, enjoyment or disposal of investments of investors in the territory of the other Contracting Party.

3. Each Contracting Party shall observe any obligation it may have entered into with regard to investments of investors of the other Contracting Party.

Article 3. TREATMENT OF INVESTMENTS

1. With respect to the use, management, conduct, operation, expansion and sale or other disposition of investments made in its territory by investors of the other Contracting Party, each Contracting Party shall accord treatment not less favorable than that it accords, in similar situations, to investments of its own investors or investors of any third Party whichever is most favorable to those investments.

2. However, the provisions of this Article shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party the benefit of any treatment, preference or privilege resulting from:

(a) any customs union, economic union, free trade area, monetary union, or any other form of regional economic arrangement or other similar international agreement, to which either of the Contracting Party is or may become a party;

(b) any international, regional or bilateral agreement or other similar arrangement or any domestic legislation relating wholly or mainly to taxation.

Article 4. ENVIRONMENT AND PUBLIC HEALTH

Investment objectives should be achieved without relaxing health, safety and environmental measures of general application. If the Contracting Party in whose territory the investment is made, suffers from a loss, destruction or damages with regard to its public health or life or the environment, including natural resources by the investor of the other Contracting Party, then the Contracting Party, suffering such loss, destruction or damage, shall be accorded adequate and effective compensation as per its laws and regulations, and if necessary as per international law, by the investor of the other Contracting Party.

Article 5. COMPENSATION FOR LOSSES

1. Investors of either Contracting Party whose investments suffer losses in the territory of the other Contracting Party owing to war, insurrection, or other similar events shall be accorded by other Contracting Party treatment no less favorable than that accorded to its own investors or to investors of any third Party, whichever is the most favorable treatment, as regards any measures it adopts in relation to such losses.

2. Without prejudice to paragraph 1 of this Article, an investor of one Contracting Party who in any of the situation referred to in that paragraph suffers a loss in the area of the other Contracting Party resulting from:

a) requisition of its investments or part thereof by the latter's forces or authorities, or

b) destruction of its investment or part thereof by the latter's forces or authorities, which was not required by the necessity of the situation,

shall be accorded restitution or compensation which in either case shall be prompt, adequate and effective and shall be freely transferable.

Article 6. EXPROPRIATION

1. (a) Investments made by investors of either Contracting Party in the territory of the other Contracting Party shall not be nationalised, expropriated, dispossessed or subjected to direct or indirect measures having effect equivalent to nationalisation, expropriation or dispossession (hereinafter collectively referred to as "expropriation") by the other Contracting Party except for a public purpose related to that Contracting Party and against prompt, adequate and effective compensation provided that such measures were taken on a non-discriminatory basis and in accordance with due process of law of general application.

(b) Such compensation shall amount to the actual value of the expropriated investments and shall be determined and computed in accordance with internationally recognized principles of valuation on the basis of the fair market value of the expropriated investment at the time immediately before the expropriatory action was taken or the impending expropriation became publicly known, whichever is earlier (hereinafter referred to as the "valuation date"). Such compensation shall be calculated in a freely convertible currency mutually agreed by the Contracting Party and the investor on the basis of the prevailing market rate of exchange for that currency on the valuation date and shall include interest at international market rate, however, in no event less than the prevailing 6 (six) months LIBOR-rate of interest or equivalent, from the date of expropriation until the date of payment.

2. For further certainty, expropriation shall include situations where a Contracting Party expropriates the assets of a company or enterprise that is incorporated or established under the laws in force in its own territory in which an investor of the other Contracting Party has an investment, including through the ownership of shares, stock, debentures or other rights or interests.

3. For the purposes of this Agreement, the term "expropriation" shall also include any interventions or regulatory measures by a Contracting Party such as the freezing or blocking of any lawful investment and its activities.

Article 7. TRANSFER OF CAPITAL AND RETURNS

1. Each Contracting Party shall subject to its laws and regulations, and after the execution of all tax obligation of the Contracting Party, in whose territory investments have been made, in line with Double Taxation Avoidance Agreement guarantee to investors of the other Contracting Party the free transfer payments in connection with an investment in and out of its territory including the transfer of:

a) the initial capital and any additional capital for the maintenance, management and development of investment;

b) returns;

c) payments under a contract including amortization of principal and accrued interest payments made pursuant to a loan agreement;

d) royalties and fees for rights referred to in paragraph 1 (c) of Article 1;

e) proceeds from the sale or liquidation of the whole or any part of the investments;

f) earnings and other remuneration of personnel engaged from abroad connected with the investment;

g) payments of compensation pursuant to Articles 4 and 5;

h) payments arising out of the settlement of disputes;

2. Transfers shall be made at the prevailing market rate of exchange in the host Contracting Party on the date of transfer for the currency to be transferred.

3. Notwithstanding paragraphs 1 and 2, any Contracting Party may prevent or delay a transfer through the equitable, non-discriminatory and good faith application of its laws and regulations relating to;

a) bankruptcy, insolvency, or the protection of the rights of creditors;

b) issuing, trading, or dealing in securities, futures, options, or derivatives;

c) criminal or penal offences and the recovery of the proceeds of crime;

d) financial reporting or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities;

e) ensuring compliance with order or judgments in judicial or administrative proceedings;

f) taxation;

g) social security, public retirement or compulsory savings schemes; and

h) severance entitlement of employees.

4. Notwithstanding paragraphs 1 and 2, a Contracting Party may in the event of serious balance of payments difficulties or a threat thereof, adopt restrictions on transfer of payments related to investments, the restrictions shall be equitable, non-discriminatory and applied in good faith so as to minimize the adverse effects on the free transfer of payments ensured by this Agreement.

Article 8. SUBROGATION

If a Contracting Party or its designated agency makes a payment to its own investors under a guarantee it has accorded in respect of an investment in the territory of the other Contracting Party, the latter Contracting Party shall recognize:

a) the assignment, whether under the law or pursuant to a legal transaction, of any right or claim by the investor to the former Contracting Party or to its designated agency; and

b) that the former Contracting Party or its designated agency is entitled by virtue of subrogation to exercise the rights and enforce the claims of that investor;

c) the rights or claims so subrogated shall not exceed the original rights or claims of the investor;

d) subrogation of the rights and obligations of the indemnified investor shall also apply to the transfer of payments affected in accordance with Article 5 of this Agreement.

Article 9. SETTLEMENT OF DISPUTES BETWEEN A CONTRACTING PARTY AND AN INVESTOR

1. Any dispute arising between a Contracting Party and an investor of the other Contracting Party in respect of an investment of the latter in the territory of the former shall, as far as possible, be settled amicably through consultations.

2. If these consultations do not result in a solution within six months from the date of request for settlement, either party to the dispute may submit the dispute, at its choice, for settlement to:

(a) the competent court of the Contracting Party in the territory of which the investment has been made; or

(b) the International Centre for the Settlement of Investment Disputes (ICSID) having regard to the applicable provisions of the Convention on the Settlement of Investment Disputes between States and Nationals of the Other States, opened for signature at Washington D.C on March 18, 1965; in the event Contracting Parties shall have become a party to this Convention; or

(c) an ad hoc arbitral tribunal which, unless otherwise agreed upon by the parties to the dispute, shall be established under the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL).

Each Contracting Party hereby consents to the submission of an investment dispute to international conciliation or arbitration.

3. The Contracting Party, which is a party to the dispute, shall, at no time whatsoever during the procedures involving investment disputes, assert as a defense its immunity or the fact that the investor has received compensation under an insurance contract covering the whole or part of the incurred damage or loss.

4. The arbitral decisions shall be final and binding on both parties to the dispute. Each Contracting Party shall execute them in accordance with its laws and the 1958 United Nations Conventions on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention), if the Contracting Parties are members of that Convention.

Article 10. SETTLEMENT OF DISPUTE BETWEEN THE CONTRACTING PARTIES

1. The Contracting Parties shall, as far as possible, settle any dispute concerning the interpretation or application of this Agreement through consultations.

2. If the dispute has not been settled within six months following the date on which such consultations or other diplomatic channels were requested by either Contracting Party and unless the Contracting Parties otherwise agree in writing, either Contracting Party may, by written notice to the other Contracting Party, submit the dispute to an ad hoc arbitral tribunal in accordance with the following provisions of this Article.

3. The arbitral tribunal shall be constituted as follows: each Contracting Party shall appoint one member, and these two members shall agree upon a national of a third State as Chairman of the arbitral tribunal to be appointed by the two Contracting Parties. Such member shall be appointed within two months, and such Chairman within four months, from the date on which either Contracting Party has informed the other Contracting Party that it intends to submit the dispute to an arbitral tribunal.

4. If the periods specified in paragraph 3 above have not been complied with, either Contracting Party may, in the absence of any other agreement, invite the President of the International Court of Justice to make the necessary appointments. If the President of the International Court of justice is a national of either Contracting Party or if he is otherwise prevented from discharging the said function, the Vice-President of the International Court of Justice shall be invited to make the necessary appointments. If the Vice-President of the International Court of Justice is a national of either Contracting Party or if he, too, is prevented from discharging the said function, the member of the International Court of Justice next in seniority who is not national of either Contracting Party shall be invited to make the necessary appointments.

5. The arbitral tribunal shall take its decision by a majority of votes. Such decision shall be made in accordance with this Agreement and such recognized rules of international law as may be applicable and shall be final and binding on both Contracting Parties. Each Contracting Party shall bear the costs of the member of the arbitral tribunal appointed by that Contracting Party, as well as the costs for its representation in the arbitration proceedings. The expenses of the Chairman as well as any other costs of the arbitration proceedings shall be borne in equal parts by the two Contracting Parties. However, the arbitral tribunal may, at its discretion, direct that a higher proportion or all of such costs be paid by one of the Contracting Parties. In all other respects, the arbitral tribunal shall determine its own procedure.

Article 11. RELATIONS BETWEEN CONTRACTING PARTIES

The provisions of this Agreement shall apply irrespective of the existence of diplomatic or consular relations between the Contracting Parties.

Article 12. APPLICATION OF OTHER RULES

If the legislation 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 rules, whether general or specific, entitling

investments by investors of the other Contracting Party to a treatment more favourable than is provided for by this Agreement, such rules shall to the extent that they are more favourable to the investor prevail over this Agreement.

Article 13. ENTRY INTO FORCE

1. This Agreement shall enter into force on the date of receipt of the last of the two notifications through diplomatic channels by which either Contracting Party notifies the other Contracting Party that its internal legal requirements for the entry into force of this Agreement have been fulfilled.

2. This Agreement shall apply to all 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 concerning an investment which arose, or any claim concerning an investment which was settled before its entry into force.

Article 14. DURATION, AMENDMENT AND TERMINATION

1. This Agreement shall remain in force for a period of ten years and thereafter it shall be deemed to have been automatically extended unless either Contracting Party gives to the other Contracting Party a written notice of its intention to terminate the Agreement. The Agreement shall stand terminated one year from the date of receipt of such written notice.

2. Notwithstanding termination of this Agreement pursuant to paragraph (1) of this Article, the Agreement shall continue to be effective for a further period of ten years from the date of its termination in respect of investments made or acquired before the date of termination of this Agreement.

3. This Agreement may be amended by written agreement between the two Contracting Parties. Any amendment shall enter into force when each Contracting Party has notified the other that it has completed all requirements for entry into force of such amendment.

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

Done at. ---------- on this ……. day of ----------, 2014 in two originals in the English language.

For and on behalf of the Government of the People’s Republic of Bangladesh

For and on behalf of the Royal Government of Cambodia