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

Signed at Seoul April 16, 1999

Entered into force May 16, 1999

The Government of the Republic of Korea and the Government of the State of Qatar (hereinafter referred to as "the Contracting Parties"),

Desiring to intensify economic cooperation between the two States,

Intending to create favourable conditions for investments by investors of one Contracting Party in the territory of the other Contracting Party on the basis of equality and mutual benefit, and

Recognizing that the promotion and protection of investments on the basis of this Agreement stimulates business initiative in this field,

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

(1) "investments" means every kind of asset invested by investors of one Contracting Party in the territory of the other Contracting Party and in particular, though not exclusively, includes:

(a) Movable and immovable property and any other property rights such as mortgages, liens, leases or pledges;

(b) Shares in, stocks and debentures of, and any other form of participation in a company or any business enterprise and rights or interests derived therefrom;

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

(d) Intellectual property rights including rights with respect to copyrights, patents, trademarks, trade names, industrial designs, technical processes, trade secrets and know-how, and goodwill;

(e) Business concessions having an economic value conferred by law or under contract, including concessions to search for, cultivate, extract or exploit natural resources.

Any change of the form in which assets are invested or reinvested shall not affect their character as an investment.

(2) "returns" means the amounts yielded by investments and, in particular, though not exclusively, includes profit, interest, capital gains, dividends, royalties and all kinds of fees.

(3) "investors" means any natural or juridical persons of one Contracting Party who invest in the territory of the other Contracting Party:

(a) The term "natural persons" means natural persons having the nationality of the former Contracting Party in accordance with its laws and regulations, and

(b) The term "juridical persons" means any legal entity such as companies, public institutions including government authorities, foundations, partnerships, firms, establishments, organizations, corporations associations incorporated or constituted with their seats in the territory of either Contracting Party in accordance with the laws and regulations of the

former Contracting Party.

(4)

(a) In respect of the Republic of Korea the term "territory" means the territory of the Republic of Korea and its maritime area including the seabed and subsoil adjacent to the outer limit of the territorial sea over which Korea exercises, in accordance with the international law, sovereign rights or jurisdiction for the purpose of exploration and exploitation of the natural resources of such area.

(b) In respect of the State of Qatar the term "territory" means the territory of the State of Qatar and its maritime area including the seabed and the continental shelf adjacent to the outer limit of the territorial sea over which Qatar exercises, in accordance with the international law, sovereign rights or jurisdiction for the purpose of exploration and exploitation of the natural resources of such area.

(5) "freely convertible currency" means the currency that is widely used to make payments for international transactions and widely exchanged in principal international exchange markets.

Article 2. Promotion and Protection of Investments

(1) Each Contracting Party shall encourage and create favourable conditions for investors of the other Contracting Party to make investments in its territory and shall admit such investments in accordance with its laws and regulations.

(2) 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.

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

Article 3. 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 favourable than that which it accords to investments and returns of its own investors or to investments and returns of investors of any third State.

(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 favourable than that which it accords to its own investors or to investors of any third State.

(3) The provisions of paragraphs (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 the benefit of any treatment, preference or privilege resulting from any international agreement or arrangement relating wholly or mainly to taxation, customs or economic union, a free trade area or regional economic organization.

Article 4. Compensation for Losses

(1) Investors of one Contracting Party whose investments suffer losses owing to war or other armed conflict, a state of national emergency, revolt, insurrection, riot or other similar situations in the territory of the other Contracting Party, shall be accorded by the latter Contracting Party treatment, as regards restitution, indemnification, compensation or other forms of settlement, no less favourable than that which the latter Contracting Party accords to its own investors or to investors of any third State. Resulting payments shall be freely transferable without undue delay.

(2) Without prejudice to paragraph (1) of this Article, investors of one Contracting Party who, in any of the situations referred to in that paragraph, suffer losses in the territory of the other Contracting Party resulting from:

(a) Requisitioning of their property by its forces or authorities; or

(b) Destruction of their property by its forces or authorities which was not caused in combat action or was not required by the necessity of the situation,

Shall be accorded restitution or adequate compensation no less favourable than that would be accorded under the same circumstances to an investor of the other Contracting Party or to an investor of any third State. Resulting payments shall be freely transferable without undue delay.

Article 5. Expropriation

(1) Investments of investors of one Contracting Party shall not be nationalized, expropriated or otherwise subjected to any other measures having effect equivalent to nationalization or expropriation (hereinafter referred to as "expropriation") in the territory of the other Contracting Party except for public purpose and against prompt, adequate and effective compensation. The expropriation shall be carried out on a non-discriminatory basis in accordance with legal procedures.

(2) Such compensation shall amount to the fair market value of the expropriated investments immediately before expropriation was taken or before impending expropriation became public knowledge, whichever is the earlier, shall include interest at the applicable commercial rate from the date of expropriation until the date of payment and shall be made without undue delay, be effectively realizable and be freely transferable. In both expropriation and compensation, treatment no less favourable than that which the Contracting Party accords to its own investors or to investors of any third State shall be accorded.

(3) Investors of one Contracting Party affected by expropriation shall have a right to prompt review by a judicial or other independent authority of the other Contracting Party, of their case and of the valuation of their investments in accordance with the principles set out in this Article and the law of the Contracting Party making the expropriation.

(4) Where a Contracting Party expropriates the assets of a company which is incorporated or constituted under its laws and regulations, and in which investors of the other Contracting Party participate or own shares or debentures, the provision of this Article shall be applied.

Article 6. Transfers

(1) Each Contracting Party shall guarantee to investors of the other Contracting Party the free transfer of their investments and returns. Such transfers shall include, in particular, though not exclusively:

(a) Net profit, capital gains, dividends, interest, royalties, fees and any other current income accruing from investments;

(b) Proceeds accruing from the sale or the total or partial liquidation of investments;

(c) Funds in repayment of loans related to investments;

(d) Earnings of nationals of the other Contracting Party who are allowed to work in connection with investments in its territory;

(e) Additional funds necessary for the maintenance or development of the existing investments;

(f) Amounts spent for the management of the investment in the territory of the other Contracting Party or a third State;

(g) Compensation pursuant to Articles 4 and 5.

(2) All transfers under this Agreement shall be made in a freely convertible currency, without undue restriction and delay, at the market exchange rate.

Article 7. Subrogation

(1) If a Contracting Party or its designated agency makes a payment to its own investors under an indemnity given in respect of investments 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 in that State, of any rights or claims from investors to the former Contracting Party or 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 those investors.

(2) The subrogated rights or claims shall not exceed the original rights or claims of the investor.

Article 8. Settlement of Disputes between an Investor of One Contracting Party and the other Contracting Party

(1) Any legal dispute arising directly out of an investment between an investor of one Contracting Party and the other Contracting Party shall be settled amicably between the parties concerned.

(2) If this dispute has not been settled within a period of six (6) months from the date at which it was raised in writing by one or other parties to the dispute, it shall be submitted, at the request and choice of investors 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 Settlement of Investment Disputes (ICSID) provided for by the Convention on the Settlement of Investment Disputes between States and Nationals of other States, done at Washington on March 18, 1965 if this Convention or the Additional Facilities Rules of the ICSID is applicable, or

(c) An ad hoc arbitral tribunal.

If the dispute is submitted in accordance with paragraph (2) of this Article to the competent court of the Contracting Party, the investor cannot at the same time seek international arbitration. If the dispute is filed for arbitration, the award shall be binding and shall not be subject to any appeal or remedy other than those provided for in the said Convention. The award shall be enforced in accordance with domestic law.

(3) The ad hoc arbitral tribunal specified 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 appoint by mutual agreement a third arbitrator, who must be a citizen of a third country, and who shall be designated as Chairman of the Tribunal by the two parties. All the arbitrators must be appointed within two (2) 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 the sub-paragraph (a) above have not been respected, either party, in the absence of any other agreement, shall invite the Secretary General of the Permanent Court of Arbitration at the Hague to make the necessary appointments.

(c) The tribunal shall reach its decisions by a majority of votes. These decisions shall be final and legally binding upon the parties and shall be enforced in accordance with the domestic law. They 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.

The tribunal shall set its rules of procedure in conformity with the Arbitration Rules of the United Nations Commission for International Trade Law (UNCITRAL). It shall interpret its award at the request of either party. Unless otherwise agreed by the parties, the venue of arbitration is the seat of the Permanent Court of Arbitration at the Hague (Netherlands).

(4) 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 state 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.

Article 9. Settlement of Disputes between the Contracting Parties

(1) Disputes between the Contracting Parties relating to the interpretation, application or termination of this Agreement shall be settled, if possible, by diplomatic channels.

(2) If the dispute has not been settled within a period of six 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.

(3) The said Tribunal shall be created as follows for each specific case: each Contracting Party shall appoint one arbitrator, and the two arbitrators thus appointed shall appoint by mutual agreement a citizen of a third country, who shall be designated as Chairman of the Tribunal. All the arbitrators must be appointed within two months from the date of notification by one Contracting Party to the other Contracting Party of its intention to submit the dispute to arbitration.

(4) If the period specified in paragraph (3) above has not been respected, either Contracting Party in the absence of any other agreement shall invite the President of the International Court of Justice to make the necessary appointments. If the President is a citizen of either Contracting Party, or if he is otherwise prevented from discharging the said function, the Vice-President, who is not a citizen of either Contracting Party shall make the necessary appointments. If the Vice-President is a citizen of either Contracting Party or if he is also prevented from discharging the said function, the member of the Court next in seniority who is not a citizen of either Contracting Party should make the necessary appointments.

(5) The Tribunal shall reach its decision by a majority of votes. These decisions shall be final and legally binding upon the Contracting Parties. They shall be taken in conformity with the provisions of this Agreement and the related principles of international law.

(6) The Tribunal shall set its own rules of procedure. It shall interpret its award at the request of either Contracting Party.

The venue of arbitration is the seat of the Permanent Court of Arbitration at the Hague (Netherlands).

(7) Unless otherwise decided by the Tribunal, each Contracting Party shall bear the cost of the arbitrator it has appointed 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.

Article 10. Application of other Rules

(1) Where a matter is governed simultaneously both by this Agreement and by another international agreement to which both Contracting Parties are parties, or by general principles of international law, nothing in this Agreement shall prevent either Contracting Party or any of its investors from taking advantage of whichever rules are more favourable to his case.

(2) If the treatment to be accorded by one Contracting Party to investors of the other Contracting Party in accordance with its laws and regulations or other specific provisions or contracts is more favourable than that accorded by this Agreement, the more favourable treatment shall be accorded.

(3) Either Contracting Party shall observe any other obligation it may have entered into with regard to investments in its territory by investors of the other Contracting Party.

Article 11. Application of the Agreement

The Agreement shall apply to all investments, whether made before or after its entry into force, but shall not apply to any dispute concerning investments which was settled before its entry into force.

Article 12. Entry Into Force, Duration and Termination

(1) This Agreement shall enter into force thirty (30) days after the date of signature.

(2) This Agreement shall remain in force for a period of fifteen (15) years and shall remain in force thereafter indefinitely unless either Contracting Party notifies the other Contracting Party in writing one year in advance of its intention to terminate this Agreement.

(3) In respect of investments made prior to the termination of this Agreement, the provisions of Article 1 to 11 of this Agreement shall remain in force for a further period of twenty (20) years from the date of the termination.

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

DONE in duplicate at Seoul on the 16th day of April 1999, in the Korean, Arabic and English languages, all texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF THE REPUBLIC OF KOREA

FOR THE GOVERNMENT OF THE STATE OF QATAR