

# **AGREEMENT**

## **Between the Government of the Kyrgyz Republic and the Government of the State of Qatar on mutual encouragement and protection of investments**

**Doha, dated December 8, 2014**

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

Wishing to develop economic cooperation for mutual benefit of both states;

Intending to create and maintain favorable conditions for investment by investors of the State of one Contracting Party in the territory of the State of the other Contracting Party;

Recognizing the need to promote and protect these investments, with a view to contributing to the economic prosperity of the States of the Contracting Parties;

Agreeing that in order to maintain a stable basis for investment and to stimulate the use of economic resources and improve living standards, a fair and equitable treatment of investment is desirable,

Have agreed on the following:

### **Article 1. Definitions**

For the purposes of this Agreement, unless otherwise indicated, the following expressions and terms have corresponding meanings:

1. The term "investor" applies to any natural or legal person of one of the contracting parties that invests in the territory of the other Contracting Party:

A) the term "natural person" applies to any of the Contracting Parties to any natural person who is a national of a State of one of the Contracting Parties;

B) the term "legal entity" applies to any of the Contracting Parties to legal entities, including enterprises, companies, corporations, firms or business associations established or organized in accordance with the applicable law of one Contracting Party and located in the territory of the same Contracting Party, Regardless of whether this legal entity was created for the extraction of profit and whether it is privately owned or state-owned or one control.

C) also "legal persons" include governments, official agencies, institutions, national welfare funds, trust funds and organizations founded or created in accordance with the national legislation of the States of the Contracting Parties or the Third Party over which the investor exercises control.

2. The term "investment" means all types of property values and assets invested by an investor of the state of one Contracting Party in the territory of the state of the other Contracting Party in accordance with the national legislation of the latter's state, in particular includes the following:

A) movable and immovable property and other property rights, such as easement, guarantee, pledge, mortgage, liability and similar rights;

B) shares, deposits and other forms of participation in the capital of commercial organizations;

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C) the right of claim for funds invested in the creation of economic values, or under contracts of economic value;

D) exclusive rights to objects of intellectual property (copyrights, patents, industrial designs, models, trademarks, service marks, technologies, information of commercial value, and know-how);

E) the right to carry out business activities, provided on the basis of law or contract, to carry out activities related to the exploration, development, extraction and exploitation of natural resources.

3. The term "income" means income received from investments, and includes, in particular, but not exclusively, profits, dividends, interest, capital gains, royalties and other payments.

4. The term "freely convertible currency" means a currency that is widely used in making payments of international transactions, in accordance with the classification of the International Monetary Fund.

5. The term "territory" with respect to:

A) The Kyrgyz Republic means land, inland waters and subsoil, airspace above it, which are subject to sovereignty and jurisdiction in accordance with the provisions of international law and the national legislation of the Kyrgyz Republic;

B) The State of Qatar means the land, internal and territorial waters of the State of Qatar, their deposits and subsoil, the airspace above it, including the economic zone and the continental shelf, which are subject to the sovereignty of the State of Qatar and jurisdiction in accordance with international law and national law The state of Qatar.

6. Any change in the form of investment or reinvestment should not affect their qualification as an investment, provided that this change is not inconsistent with the terms of this Agreement and the national legislation of the State of the Contracting Party in whose territory the investments are made.

7. The term "third party" applies to investors or States that are not Contracting Parties or parties to this Agreement.

## Article 2. Scope of the Agreement

This Agreement applies to all investors and investments made by investors of the state of each Contracting Party in the territory of the state of the other Contracting Party, in accordance with its laws and regulations, both before and after the entry into force of this Agreement.

This Agreement shall not apply to any disputes arising prior to the entry into force of this Agreement.

## Article 3. Promotion and Protection of Investments

1. Each Contracting Party shall, as far as possible, encourage and create favorable conditions for investors of the State of the other Contracting Party to invest in its territory and recognize such investments in accordance with the national legislation of the latter.

2. If one of the Contracting Parties recognizes investments in its territory, it provides, in accordance with legislation and regulations, the necessary permits relating to such investments and the implementation of licensing agreements and contracts in the field of technical, commercial or administrative assistance. Each Contracting Party shall, in accordance with legislation and regulations, as appropriate, make efforts to issue the necessary authorization documents concerning the activities of consultants and other qualified persons of foreign citizenship.

3. Investments and income of investors of the States of each Contracting Party carried out in accordance with the laws and regulations of the States of the Contracting Parties shall be granted a fair and equitable treatment, as well as full protection and security in the territory of the other Contracting Party.

4. Neither Contracting Party shall prevent, through unjustified or discriminatory measures, the implementation, management, use, disposition or liquidation of investments on its territory by investors of the State of the other Contracting Party.

## Article 4. Investment Regime

1. Each Contracting Party in its territory shall accord to investments and investors' income the States of the other Contracting Party a regime no less favorable than that accorded to its own investors and income or investors and to the

incomes of investors of a third party, whichever is more favorable to them investor.

2. Each Contracting Party in its territory shall provide to investors of the State of the other Contracting Party with respect to the management, maintenance, use, possession or disposition of its investments a fair and equal treatment that shall be no less favorable than that accorded to investors, which one is more favorable for local investors.

3. Each Contracting Party on its territory shall accord to investors of the other Contracting Party a regime no less favorable than that accorded to investors of any third party.

4. The regime provided for in paragraphs 1, 2 and 3 of this article shall not be construed as an obligation of one Contracting Party to extend to investors the States of the other Contracting Party or their investment the advantages of any regime, preferences or privileges arising from:

A) membership or participation in any of the existing or future customs union, common market or monetary union, or;

B) any international agreement or agreement relating entirely or in part to questions of taxation or national legislation concerning all or part of tax matters.

## **Article 5. Expropriations and Compensation**

1. Each of the Contracting Parties undertakes not to take any measures for expropriation, nationalization or any other measures with an equivalent effect on the investments of the State of the other Contracting Party (the "Expropriation"), except for taking measures in the public interest and, that such actions will be in accordance with the procedural norms of the law and will not be discriminatory, and will provide for proper and real compensation. The amount of such compensation should correspond to the market value of the expropriated investments immediately prior to the expropriation or from the moment when information about the forthcoming expropriation became publicly known, based on what happened earlier (hereinafter the "valuation date").

2. The specified amount of compensation must be assessed in freely usable currency at the investor's choice and is equivalent to the market exchange rate of that currency on the valuation date. Compensation must be paid promptly, in a timely manner and freely transferred to a convertible currency at the investor's option. Compensation should include interest at the established rate of £ IBOR for 6 months, from the time of expropriation to payment.

3. If a Contracting Party expropriates the assets of a legal entity that is registered in the territory of that party's state in accordance with the laws and regulations of the States of the Contracting Parties where the investor of the Contracting State has shares or participates, it shall be provided with the provisions of this article, which guarantee to such investors fair and appropriate compensation in respect of their investments.

4. In the event that investments made by investors of a state of any of the Contracting Parties have suffered losses as a result of war or other armed conflict, a state of emergency in the country, revolution, insurrection, riots in the territory of the state of the other Contracting Party, in respect of restitution, compensation, compensation no less favorable than that granted to domestic investors or investors of any Third Party.

5. Disbursements should be made immediately in freely usable currency at the investor's choice, in accordance with the market exchange rate.

## **Article 6. Transfers**

1. Each Contracting Party shall guarantee to investors of the State of the other Contracting Party the free transfer of funds originating from all investments in the territory of the latter and shall guarantee an immediate free transfer to the funds of the investor of the State of the other Contracting Party related to investments. Such funds may include, but are not limited to:

A) initial capital and additional capital amounts used to maintain and increase investment;

B) income;

C) payments on repayment of the loan, including any interest thereon related to investments;

D) proceeds from the sale of their shares;

E) income received by investors, after full or partial sale or liquidation;

F) earnings and remuneration of personnel of one of the Contracting Parties involved from abroad for investment activities

in the territory of the state of the other Contracting Party;

G) payments arising in the settlement of investment disputes;

H) compensation in accordance with Article 5 of this Agreement.

2. Transfers in accordance with this Agreement shall be effected without delay in freely convertible currency at the choice of the investor and at the market exchange rate in force at the date of transfer.

3. The Contracting Parties shall provide in the indicated clauses 1 and 2 of this article a regime no less favorable than that accorded to the transfer, investment, from any third party.

## **Article 7. Subrogation**

1. If one of the Contracting Parties or an agency designated by it has provided any financial guarantee against non-commercial risks with respect to the investments of one of its investors in the territory of the state of the other Contracting Party and paid damages to investors under this Agreement, the latter must recognize the rights of the first Contracting Party. By virtue of the principle of subrogation, to the rights of the investor, when payments under this guarantee were made by the first Contracting Party. Subrogation rights and claims should not exceed the original rights or claims of such investors.

2. In the case of subrogation, as defined in paragraph 1 of this article, the investor shall not be entitled to demand a claim if it is not authorized by the Contracting Party or the designated agency.

## **Article 8. Denial of Benefits**

By notification, the Contracting Party may deny the benefits provided under this Agreement:

1. The investor of the state of the other Contracting Party, which is

A legal person of that Contracting Party if such legal entity is owned or controlled by a third party investor and a Contracting Party refusing benefits does not maintain diplomatic relations with that state.

2. The investor of the state of the other Contracting Party, which is

A legal person of a Contracting Party if the third party investor owns or controls a legal entity and this legal entity does not carry out any business in the territory of the state of the other Contracting Party.

## **Article 9. Settlement of Disputes between One Contracting Party and an Investor of the other Contracting Party**

1. Any legal dispute between the Contracting Parties under the provisions of this Agreement relating to investments between one Contracting Party and the investor of the State of the other Contracting Party shall be settled through peaceful negotiations.

2. If such disputes can not be settled in accordance with paragraph 1 of this article within 3 (three) months from the date of application in writing, the investor may refer the dispute for consideration:

A) the competent court of the States of the Contracting Parties for the authorization, or;

B) the International Center for the Settlement of Investment Disputes established in accordance with the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, signed on March 18, 1965 in the city of Washington, if the Convention applies to Contracting Parties, or;

C) "Ad Hoc" Arbitral Tribunal

In the case where the investor chose one of the above methods of dispute settlement, he can not follow the other two methods.

3. The "ad hoc" arbitral tribunal specified in subparagraph "c" of paragraph 2 of this article shall be established as follows:

A) Each party to the dispute shall appoint one arbitrator and the two arbitrators so appointed shall, by mutual consent, appoint a third arbitrator, a citizen of a third State, to be appointed by the President of the Arbitral Tribunal by both Contracting Parties. All arbitrators must be appointed within two (2) months from the date of notification of one of the

Parties to the other Party of their intention to refer the dispute to arbitration.

B) If the terms specified in subparagraph "a" of this paragraph are not met, any Contracting Party shall invite the Secretary General or the Vice-Registrar of the Permanent Arbitration Court in The Hague who is not a national of either Contracting Party to make the necessary appointments.

C) The "ad hoc" arbitral tribunal shall take its decisions by a majority vote. These decisions are final and binding on both Contracting Parties. Decisions are made in accordance with the provisions of this Agreement and the laws of the states of the Contracting Parties. Decisions must be made accordingly in the following order: first, the provisions of this Agreement, and secondly, the principles of international law. Unless otherwise decided by the Arbitral Tribunal, in accordance with special circumstances, each Party to the dispute shall bear the costs of its representation in the arbitral proceedings; The value of the arbitrators, and the remaining costs shall be borne in equal shares by the Parties to the dispute.

D) The Arbitral Tribunal shall interpret its decision and provide its reasons and grounds upon the request of any of the Contracting Parties. Unless otherwise agreed by the Parties, the place of arbitration shall be The Hague, the Netherlands.

In view of the foregoing, the Arbitral Tribunal will follow the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL).

## **Article 10. Settlement of Disputes between the Contracting Parties**

1. The Contracting Parties shall endeavor in good faith and in mutual cooperation to achieve an equitable and expeditious resolution of any dispute that arises between the Contracting Parties concerning the interpretation or application of this Agreement by negotiation between the Contracting Parties.

In this regard, the Contracting Parties agree to engage in direct substantive negotiations to achieve such a settlement. If the dispute can not be resolved within six (6) months from the date of the filing of the application of any of the Contracting Parties, the dispute shall, at the request of any Contracting Party, be referred to the Arbitral Tribunal consisting of three members.

2. Within two (2) months after receipt of the said requirement, each of the Contracting Parties shall appoint one arbitrator and the two arbitrators so appointed shall be appointed by mutual agreement within two (2) months of the third arbitrator, the citizen of the third state, to be appointed chairman of the arbitral tribunal Court.

3. If an appointment has not been made during the period specified in paragraph 2 of this article, any of the Contracting Parties may, in the absence of any other arrangement, 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 a State of one of the Contracting Parties or if he is otherwise exempted from the above function, the Vice-President will be invited to make the necessary appointments. If the Vice-President is a citizen of one of the Contracting Parties, or if he is otherwise exempt from the above function, the oldest member of the International Court of Justice who is not a national of either Contracting Party shall be invited to make the necessary appointments.

4. The arbitral tribunal shall take its decisions by a majority of votes. Such decisions will be final and binding on both Contracting Parties. Each of the Contracting Parties will bear the costs associated with the activities of the respective member of the court designated by it. Expenses related to the activities of the Chairman, as well as other expenses, will be borne in equal shares by the Contracting Parties. However, the Arbitration Court may, by its decision, indicate that most of the costs must be paid by one of the Contracting Parties. In all other respects, the procedure of the Arbitration Court shall be determined directly by the court itself.

5. Unless otherwise agreed by the parties, the place of arbitration shall be The Hague, the Netherlands.

6. All claims must be submitted, and hearings must be completed within 8 (eight) months from the date of appointment of the third arbitrator, unless otherwise specified. The court issues its decision within 2 (two) months from the date of submission of final applications or the closing date of the general meeting, whichever is later.

7. It is not allowed to refer the dispute to the Arbitration Court in accordance with this article if the dispute was submitted to another Arbitration Court in accordance with Article 9 of this Agreement and is at the hearing.

## **Article 11. Entry and Stay of Personnel**

The Contracting Parties shall, in accordance with the national legislation of the States of the Contracting Parties, authorize the physical persons of the State of the other Contracting Party and other persons or workers employed by investors of the

State of the other Contracting Party to enter and remain in their territories for the purpose of participating in activities, Connected with investments.

## **Article 12. More Favorable Provisions**

1. If the national law of a State of one of the Contracting Parties, or existing obligations under international law, or future agreements between the Contracting Parties in addition to this Agreement, contain a provision stating that the general or specific investment rights of investors of the other Contracting Party grant a more favorable treatment Than provided for in this Agreement, such provision should, in cases where it is more favorable for the investor, prevail over announcement.
2. Whenever a regime granted to one Contracting Party by investors of the State of the other Contracting Party in accordance with the latter's national legislation or other provisions of a particular treaty, an investment agreement or agreement is more favorable than provided under this Agreement, Favorable regime.

## **Article 13. Entry Into Force**

1. This Agreement or any amendments thereto shall enter into force on the date of receipt of the last notification by the Contracting Party of the implementation of the domestic procedures necessary for the entry into force of this Agreement or amendments thereto.
2. This Agreement may be amended in writing by mutual agreement of the Contracting Parties.

## **Article 14. Duration and Termination**

1. This Agreement shall remain in force for a period of 10 (ten) years and shall remain in force for a similar or shorter period until one of the Contracting Parties notifies the other Contracting Party, not less than one (1) year, of its intention to terminate The operation of this Agreement.

The notice of termination shall become effective 1 (one) year after it has been received by the other Contracting Party.

2. With respect to investments made before the notice of termination of this Agreement comes into force, the provisions of this Agreement shall remain in force for 10 (ten) years from the date of termination of this Agreement.

In witness whereof the undersigned plenipotentiaries, by their Governments, have signed this Agreement.

Done at Doha on December 8, 2014, in two original copies, each in Kyrgyz, Arabic, Russian and English, all texts being equally authentic.

In case of disagreement in the interpretation or application of the provisions of this Agreement, the English text shall prevail.

For the Government of the Kyrgyz Republic

For the Government of the State of Qatar