

**AGREEMENT BETWEEN THE GOVERNMENT OF THE RUSSIAN FEDERATION AND THE GOVERNMENT OF THE REPUBLIC  
OF ZIMBABWE FOR THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS**

The Government of the Russian Federation and the Government of the Republic of Zimbabwe (hereinafter jointly referred to as the "Contracting Parties" and in singular as a "Contracting Party");

DESIRING to create favourable conditions for the realization of investments by the nationals of the State of one Contracting Party in the territory of the State of the other Contracting Party and to extend and intensify the economic relations between them;

RECOGNISING that the encouragement and reciprocal protection of investments under this Agreement will stimulate the flow of capital and contribute to the increase of a long term sustainable economic growth and development in the States of both Contracting Parties;

HAVE AGREED as follows:

## **Article 1. Definitions**

For the purpose of this Agreement:

1. "Investments" shall mean all kinds of assets invested by an investor of one Contracting Party in the territory of the other Contracting Party in accordance with the legislation of the latter Contracting Party and in particular, though not exclusively includes:

- i) movable and immovable property and any property rights;
- ii) shares, stocks and any other form of participation in the capital of a commercial organization, as well as debentures;
- iii) claims to money invested for the purpose of creating economic values or under contracts having an economic value, related to investments;
- iv) exclusive rights to intellectual property (copyrights, patents, industrial designs, models, trade marks and service marks, technologies, information having commercial value and know how);
- v) rights granted under law or contract, including rights to prospect, explore, extract, cultivate or exploit natural resources.

A change in the form in which assets are invested does not affect their character as investments, provided such change is not contrary to the legislation of the Contracting Party in whose territory the investment has been made;

2. "Investor" (with regard to either Contracting Party) shall mean any natural person, possessing the nationality of the State of either Contracting Party in accordance with its legislation, or legal entity incorporated or constituted in accordance with the legislation of that Contracting Party;

3. "Legislation of a Contracting Party" shall mean the laws and other regulations of the Russian Federation or the laws and other regulations of the Republic of Zimbabwe;

4. "Returns" shall mean the amount yielded by an investment and in particular, though not exclusively, includes profits, interest, capital gains, dividends, royalties and tees;

5. "Territory of a Contracting Party" shall mean:

- i) in respect of the Russian Federation: the territory of the Russian Federation as well as its respective exclusive economic zone and continental shelf defined in accordance with the Convention on the Law of the Sea (1982); and
- ii) in respect of the Republic of Zimbabwe: land, internal waters and the airspace above them over which the Republic of

Zimbabwe exercises sovereignty and jurisdiction in accordance with international law.

## **Article 2. Scope of Application**

This Agreement shall apply to all investments, which were made by investors of one of the Contracting Parties in the territory of the other Contracting Party after the date of signing thereof.

## **Article 3. Promotion of Investments**

Each Contracting Party shall endeavour to create favourable conditions for investors of the other Contracting Party to invest in its territory and shall, subject to its legislation, admit the investments of such investors.

## **Article 4. Protection of Investments**

Each Contracting Party shall in accordance with its legislation provide full protection and security, fair and equitable treatment on its territory to investments of investors of the other Contracting Party.

## **Article 5. National Treatment and Most-favoured-nation Treatment**

1. Neither Contracting Party shall in its territory subject investments or returns of investors of the other Contracting Party to treatment less favourable than that which it accords in like circumstances to investments or returns of its own nationals.
2. Neither Contracting Party shall in its territory subject investments or returns of investors of the other Contracting Party to treatment less favourable than that which it accords in like circumstances to investments or returns of investors of any third State.
3. Each Contracting Party shall reserve the right to apply and introduce exemptions of national treatment mentioned in paragraph 1 of this Article to foreign investors and their investments including reinvestments.

## **Article 6. Other Commitments**

If the provisions of the legislation of either Contracting Party or obligations under an international agreement 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 treatment more favourable than is provided for by this Agreement, such rules shall apply to the extent that they are more favourable.

## **Article 7. Exceptions**

1. The most-favoured-nation treatment granted in accordance with paragraph 2 of Article 5 of this Agreement shall not apply to benefits that the Contracting Party is providing or will provide in the future:
  - i) in connection with the participation in a free trade area, customs or economic union;
  - ii) on the basis of agreement meant to avoid double taxation or other arrangements on taxation issues,
  - iii) by virtue of agreements between the Russian Federation and the states which had earlier formed part of the Union of Soviet Socialist Republics.
2. Without prejudice to the provisions of Articles 8, 9 and 12 of this Agreement the Contracting Party is not committed to accord a more favourable treatment than the treatment granted by each Contracting Party in accordance with the Agreement establishing the World Trade Organization (the Agreement WTO) signed on April 15, 1994 including the obligations under the General Agreement on Trade in Services (GATS) and also in accordance with any other multilateral arrangements concerning the treatment of investments arrived at with the participation of the States of both Contracting Parties,

## **Article 8. Compensation for Losses**

Investors of one Contracting Party who suffer losses in respect of their investments in the territory of the other Contracting Party owing to war or other armed conflict, revolution, revolt, insurrection, riot or other similar circumstances shall be accorded by the latter Contracting Party, treatment as regards restitution, indemnification, compensation or other

settlement, no less favourable than that which that Contracting Party accords to its own investors or to investors of any third State, whichever is more favourable to the investors concerned.

## **Article 9. Expropriation**

1. Investments of investors of either Contracting Party shall not be nationalized, expropriated or subjected to measures having effect equivalent to nationalization or expropriation (hereinafter referred to as "expropriation") in the territory of the other Contracting Party, except when such measures are taken:

- i) for public interests;
- ii) in accordance with the procedure established by the legislation of the Contracting Party;
- iii) on non-discriminatory basis; and
- iv) against prompt, adequate and effective compensation,

2. The compensation mentioned in paragraph 1 of this Article:

- i) shall be based on the market value of the investment expropriated immediately before the expropriation or before the impending expropriation becomes public knowledge whichever is the earlier; and
- ii) shall be paid without undue delay in a freely convertible currency and be fully realizable. From the moment of the expropriation until the moment of the payment the amount of the compensation shall be subject to accrued interest rate at a commercial rate established on a market basis, but not lower than six months U.S. dollar credits LIBOR rate.

## **Article 10. Transfer of Payments**

1. Each Contracting Party shall with respect to investments, permit investors of the other Contracting Party, upon the fulfillment of all their tax obligations, the unrestricted transfer in freely convertible currency. Such transfers refer to, in particular, though not exclusively:

- i) investments of such investors and additional funds necessary for the expansion of these investments,
- ii) returns;
- iii) funds in repayment of loans and credits recognized by both Contracting Parties as investments, as well as accrued interest;
- iv) wages and other remunerations received by investor and natural persons of the other Contracting Party authorized to work in connection with investments in the territory of the former Contracting Party;
- v) the proceeds of a partial or total sale or liquidation of the investment; or
- vi) payments arising under Articles 8 and 9 of this Agreement.

2. Such transfers shall be made without delay in a freely convertible currency at the rate of exchange applicable on the date of transfer, in accordance with the legislation of the Contracting Party in whose territory the investments were made.

## **Article 11. Subrogation**

A Contracting Party or its designated agency having made payment to an investor based on a guarantee issued for non-commercial risks in relation to an investment in the territory of the other Contracting Party, shall be by virtue of subrogation, entitled to exercise the rights of the investor to the same extent as the said investor. Such rights shall be exercised in accordance with the legislation of the latter Contracting Party.

## **Article 12. Settlement of Investment Disputes between a Contracting Party and an Investor of the other Contracting Party**

1. Disputes between one Contracting Party and an investor of the other Contracting Party arising in connection with an investment of the investor in the territory of the former Contracting Party, including disputes relating to the amount, conditions and procedure of payment of a compensation in accordance with Articles 8 and 9 or to the procedure of transfer of payments set in Article 10 of this Agreement, shall be settled if possible by way of negotiations or consultations.

2. If a dispute cannot be settled by way of negotiations during a period of six (6) months starting from the date of the request of any party to the dispute about its settlement by way of negotiations it may be submitted at the choice of an investor for consideration to:

- i) a competent court or arbitration court of the Contracting Party in the territory of which the investments were made; or
- ii) an ad hoc arbitration court in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL); or
- iii) the International Centre for Settlement of Investment Disputes, created pursuant to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States opened for signature in Washington on March 18, 1965 for settlement of a dispute according to provisions of this Convention (subject to its entering into force for both Contracting Parties), or Additional Facility Rules of International Centre for Settlement of Investment Disputes (provided that the Convention did not enter into force for either Contracting Party or both).

3. An arbitration award shall be final and binding upon both parties to the dispute. Each Contracting Party shall ensure the enforcement of this award in accordance with its legislation.

### **Article 13. Settlement of Disputes between the Contracting Parties**

1. Disputes between the Contracting Parties concerning the interpretation or application of this Agreement shall be settled by way of negotiations.

2. If a dispute cannot be settled in such a way within six (6) months from the beginning of the negotiations, it shall be submitted upon the request of either Contracting Party to an arbitral tribunal,

3. An arbitral tribunal shall be constituted for each individual case, to this effect each Contracting Party appoints one member of the arbitration tribunal within two (2) months of the receipt of the request for arbitration. Those two members then shall select a national of a third state who on the approval of the two Contracting Parties shall be appointed as the Chairman of the arbitral tribunal within one (1) month from the date of the latter appointment of the other two members.

4. If within the time-limits specified in paragraph 3 of this Article the necessary appointments have not been made, either Contracting Party may, in the absence of any other agreement, invite the President of the International Court of Justice to make such appointments. If the President of the International Court of Justice is a national of the state of either Contracting Party or is otherwise unable to discharge 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 the state of either Contracting Party or is otherwise unable to discharge the said function, the member of the International Court of Justice who is not a national of the state of either Contracting Party next in seniority shall be invited to make the necessary appointments.

5. The arbitral tribunal shall render the award by a majority of votes. Such award shall be final and binding upon the Contracting Parties. Each Contracting Party shall bear the costs of activities of its own member of the court and of its representation in the arbitration proceedings; the costs related to the activities of the Chairman of the arbitral tribunal and other costs shall be borne in equal parts by the Contracting Parties. The tribunal may, however, in its award direct that a higher portion of costs shall be borne by one of the Contracting Parties and such award shall be binding on both Contracting Parties. The arbitral tribunal shall establish its own procedure independently.

### **Article 14. Amendments**

This Agreement may be amended in writing by the mutual consent of both Contracting Parties.

### **Article 15. Consultations**

The Contracting Parties shall consult at the request of either of them, on the matter concerning the interpretation or application of this Agreement.

### **Article 16. Entry Into Force, Duration and Termination**

1. Each Contracting Party shall notify the other Contracting Party in writing of the completion of its internal state procedures required for the entry into force of this Agreement. This Agreement shall enter into force on the date of the latter of the two notifications.

2. This Agreement shall remain in force for a period of fifteen (15) years. Upon expiration of this period it shall be automatically extended for subsequent periods of five (5) years unless one of the Contracting Party notifies the other Contracting Party in writing at least twelve months in advance of its intention to terminate this Agreement.

3. With respect to investments made prior to the date of termination of this Agreement and covered by it the provisions of all other articles of this Agreement shall continue in effect for a period of fifteen (15) years after the date of its termination.

Done at Harare, Zimbabwe this 7<sup>th</sup> day of October, 2012 in duplicate in the Russian and English languages, both texts being equally authentic.

(signature)

**FOR THE GOVERNMENT OF THE RUSSIAN FEDERATION**

(signature)

**FOR THE GOVERNMENT OF THE REPUBLIC OF ZIMBABWE**