AGREEMENT BETWEEN THE GOVERNMENT OF THE RUSSIAN FEDERATION AND THE GOVERNMENT OF THE REPUBLIC OF NAMIBIA ON MUTUAL PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the Russian Federation and the Government of the Republic of Namibia, hereinafter referred to as the Contracting Parties,

Desiring to intensify economic cooperation between the Russian Federation and the Republic of Namibia;

Intending to create and maintain favourable conditions for making investments by investors of the State of one Contracting Party in the territory of the State of the other Contracting Party;

Recognizing that the reciprocal encouragement and protection of investments on the basis of the present Agreement shall stimulate inflow of capital and contribute to development of mutually beneficial trade, economic, scientific and technical co-operation;

Intending to provide investors of the States of both Contracting Parties with reliable and effective legal means of protection of their rights and interests related to their investments;

Have agreed as follows:

Article 1. Definitions

For the purposes of the present Agn,ement:

1) The term "investments" shall mean all kinds of property 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 legislation of the State of the latter Contracting Party and includes in particular, though not exclusively:

a) movable and immovable property as well as property rights such as mortgages, pledges and liens;

b) shares, stocks and other forms of participation in the capital of organizations and enterprises;

c) claims to money invested for the purpose of creating economic values or under contracts having an economic value and related to investments;

d) exclusive rights to intellectual property including copyrights, patents, industrial designs, models, trade marks and service marks, technology, information having a commercial value and "know-how";

e) rights conferred by the legislation of the State of the Contracting Party or under contract to conduct business activity related in particular to exploration, development, extraction and exploitation of natural resources.

Any alteration or change of the form of investments shall not affect their qualification as investments under the present Agreement, provided that such change or alteration has been made in conformity with the legislation of the State of the Contracting Party in whose territory the investment has been made.

2) The term "investor" shall mean any natural or legal person of the State of either Contracting Party making investments in the territory of the State of the other Contracting Party in accordance with the legislation of the State of the latter Contracting Party;

a) "natural person" is any person who is a citizen of the State of a Contracting Party in accordance with its legistation;

b) "legal person" is any entity, whether public or private, established or constituted under the legislation of the State of a Contracting Party.

3) The term "returns" shall mean the amounts yielded from investments including, in particular, though not exclusively profit, dividends, interest, licence and other fees.

4) The term "territory" shall mean the territory of the Russian Federation or the territory of the Republic of Namibia as well as their respective exclusive economic zones and continental shelves defined in accordance with their national legislation and international law, including the United Nations Convention on the Law of the Sea of 10 December 1982.

5) The term "legislation" shall mean the laws and other regulations of the Russian Federation or the laws and other regulations of the Republic of Namibia.

Article 2. Encouragement, Admission and Protection of Investments

1. Each Contracting Party shall aspire to create favourable conditions for investors of the State of the other Contracting Party to make investments in the territory of the State of the former Contracting Party and admits such investments in accordance with the legislation of its State.

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

Article 3. Treatment of Investments

1. Each Contracting Party shall provide in the territory of its State fair and equitable treatment for the investments made by investors of the State or the other Contracting Party and shall not in any way impair by arbitrary or discriminatory measures the management, maintenance, enjoyment, use or disposal of such investments.

2. The treatment referred to in paragraph 1 of this Article shall not be less favourable than a treatment granted by a Contracting Party to the investments of investors of its own State or to investments of investors of any third State.

3. Each Contracting Parcy shall reserve the right to apply and to introduce, in accordance with the legislation of its State with respect to investments of investors of the State of the other Contracting Party any exemption from the treatment granted to the investments of investors of its own State rpferred to in paragraphs 1 and 1 of this Article, including but not exclusively by designating limited economic sectors only for the investments of investors of its own State for the purpose of promoting small and medium sized enterprises, provided that such exemptions shall not be applied and introduced on a discriminatory basis as compared with the treatment applied or introduced in respect of investments of investors of any third State.

4. The provisions of this Article related to the most-favoured-nation treatment shall not be construed as to oblige one Contracting Party to extend to the investments made by investors of the State of the other Contracting Party the benefits of any treatment, preference or privilege which are extended or may be extended in the future by the former Contracting Party:

a) in connection with its participation in a free trade area, customs union, monetary union, common market and any similar economic integration institutions or any international agreement resulting in such unions or institutions;

b) on the basis of agreements on avoidance of double taxation or other arrangements relating to the taxation issues.

5. Without prejudice to the provisions of Articles 4, 5 and 8 of the present Agreement, neither Contracting Party is committed by the present Agreement to accord a treatment more favourable than the treatment granted by that Contracting Party in accordance with its obligations under the Agreement establishing the World Trade Organization (the Agreement WTO) signed in April 15, 1994 including the obligations of the General Agreement on Trade in Services (GATS) and also in accordancee with any multilateral arrangements concerning the treatment of investments to which the States of both Contracting Parties are parties.

Article 4. Expropriation

1. Investments of investors of the State of one Contracting Party made in the territory of the State of the other Contracting Party and returns of such investors shall not be expropriated, nationalised, or subjected to any other measures having an effect equivalent to expropriation or nationalisation (hereinafter referred to as expropriation) except when such measures are carried out in the public interests and in accordance with the procedure established by the legislation of the State of the latter Contracting Party, when they are not discriminatory and entail payment of prompt, adequate and effective compensation.

2. The compensation referred to in paragraph 1 of this Article shall correspond to the fair market value of the expropriated investments calculated on the date immediately preceding the date of expropriation or the date immediately preceding the date when impending expropriation became public knowledge, whichever is the earlier. The compensation shall be paid without delay in freely convertible currency and, subject to Article 6 of the present Agreement, shall be freely transferred from the territory of the State of one of the Contracting Parties to the territory of the State of the other Contracting Party. From the date of expropriation until the date of actual payment of the compensation, the amount of the compensation shall be subject to accrued interest at a market-defined commercial rate.

Article 5. Compensation for Damage and Losses

1. Investors of the State of one Contracting Party whose investments and returns suffer damages or losses owing to war, other armed conflict, insurrection, revolution, riot, civil disturbance, a state of national emergency or any other similar events in the territory of the State of the other Contracting Party shall be accorded by the latter Contracting Party in respect of such damages or losses, as regards the restitution, indemnification, compensation or other settlements, a treatment no less favourable than that which the latter Contracting Party accords to investors of its own State or to investors of a third State, whichever investor considers as more favourable.

2. The events referred to in paragraph 1 of this Article shall not include natural disaster of the force major character which is beyond the reasonable control of the Contracting Party in the territory of whose State the investments are made.

Article 6. Transfer of Payments

1. Each Contracting Party shall guarantee to investors of the State of the other Contracting Party upon fulfillment by them of all their tax and debt obligations and subject to presenting to a competent authority a currency transfer report (in case it is required by tbe legislation of the State of the Contracting Party in whose territory the investments are being made), a free transfer abroad of payments related to their investments, and in particular:

a) initial capital or any additional amounts for the maintenance or extension of the investments;

b) returns;

c) funds in repayment of loans and credits recognized by both Contracting Parties as investments, as well as accrued interest;

d) proceeds from the partial or full liquidation or sale of investments;

e) compensation, indemnification or other settlements referred to in Articles 4 and 5 of the present Agreement;

f) wages and other remunerations received by investor and nationals of the State of the latter Contracting Party who have the right to work in the territory of the State of the former Contracting Party in relation to the investments;

g) payments resulting from the settlement of disputes pursuant to Article 8 of the present Agreement.

2. The transfer of payments referred to in paragraph 1 of this Article shall be made in a non-discriminatory manner, without delay, in a freely convertible currency at the market rate of exchange applicable on the date of the transfer pursuant to the foreign exchange legislation of the State of the Contracting Party in whose territory the investments are made.

3. In case of serious balance of payments difficulties, either Contracting Party may limit temporarily, for a maximum period of twelve months, in an equitable sale of investments of investors of the State of the other Contracting Party and to prescribe transfer of such proceeds by instalments. In case of such a delay in transfer at the investor's request, amounts not transferred shall be paid without delay into a banking account in freely convertible currency and shall accrue interest at a market-defined commercial rate.

Article 7. Subrogation

If a Contracting Party or its designated agency, whether public or private, has granted to the investor of its State a financial guarantee of protection against non-commercial risks with respect to investments of such investor in the territory of the State of the other Contracting Party, and makes payment under such guarantee, the other Contracting Party shall recognize acquirement by the fonner Contracting Party or its designated agency by virtue of subrogation of all rights and claims of the investor. The former Contracting Party or its designated agency shall assert the same rights and claims as those of the investor from whom such rights and claims were acquired. Such rights and claims shall be exercised in accordance with the provisions of the present Agreement and the legislation of the State of the Contracting Party in whose territory the

investments are made.

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

1. Disputes between one of the Contracting Parties and an investor of the State of the other Contracting Party arising in connection with the investments of the investor in the territory of the State of the former Contracting Party, including but not exclusively disputes relating to the amount, conditions and procedure of payment of compensation in accordance with Articles 4 and 5 of the present Agreement or to the procedure of transfer of payments set out in Article 6 of the present Agreement, shall be settled, as far as possible, amicably through negotiations.

2. When the dispute cannot be settled amicably through negotiations during a period of six months starting from the date of receipt of a written request by any party to the dispute about its settlement through negotiations the dispute may be submitted at the choice of the investor for consideration:

a) to a competent court of the State of the Contracting Party in whose territory the investments are made, or

b) to an ad hoc arbitration court in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL), or

c) to the International Centre for Settlement of Investment Disputes, established pursuant to the Convention on the Settlement of Investment Disputes between States and Nationals of other States, signed in Washington D.C. March 18, 1965 for settlement of the dispute according to the provisions of the Convention (provided it entered into force for States of both Contracting Parties), or according to Additional Facility rules of the International Centre for Settlement of Investment Disputes (provided that Convention didn't enter into force for either of the States of the Contracting Parties or both ofthem).

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

Article 9. Settlement of Disputes between the Contracting Parties

1. Disputes between the Contracting Parties concerning interpretation or application of the present Agreement shall be settled, as far as possible, amicably through consultations or negotiations between the Contracting Parties.

2. If the dispute cannot be settled amicably through consultations or negotiations between the Contracting Parties within six months from the date of receipt of a written request by either Contracting Party for consultation or negotiations it shall, upon the request of either Contracting Party, be submitted for consideration by an arbitrate tribunal.

3. The arbitrate tribunal shall be constituted for each individual case for which purpose each Contracting Party shall appoint one member of the arbitrate tribunal within two months from the date of the receipt by either Contracting Party of the request for arbitration. Those two members of the arbitrate tribunal shall then select a national of a third State who upon approval of the two Contracting Parties, shall be appointed Chairman of the arbitrate tribunal within two months from the date of the appointment of the latter of the two members of the arbitrate tribunal.

4. If within two months as 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 between the Contracting Parties, invite the President of the lnternational 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 also 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 next in seniority who is not a national of the State of either Contracting Party and not otherwise prevented from discharging the said function shall be invited to make the necessary appointments.

5. The arbitrate tribunal may at any stage of the arbitrate proceedings propose to the Contracting Parties that the dispute be settled amicably.

6. The arbitrate tribunal shall reach its decision by a majority of votes. Such decision shall be final and binding upon the Contracting Parties. Each arbitrate tribunal and of its representation in the arbitration proceedings. Costs related to the activities of the Chairman of the arbitrate tribunal and other costs shall be borne in equal parts by the Contracting Parties. The tribunal may however, in its decision direct that a higher portion of costs shall be borne by one of the Contracting

Parties and such decision shall be binding upon both Contracting Parties. The arbitrate tribunal shall determine its own rules of procedure independently.

Article 10. Consultations

Either Contracting Party may propose to consult on any matter affecting the interpretation or application of the present Agreement. The consultations shall be held on the proposal of one of the Contracting Parties at a place and at a time agreed upon between the Contracting Parties through the diplomatic channels.

Article 11. Application of the Agreement

The present Agreement shall apply to investments made by investors of the State of one of the Contracting Parties in the territory of the State of the other Contracting Party beginning from January 1, 1992, but shall not apply to the disputes and claims concerning investments arising out of events which occurred before its entry into force.

Article 12. Amendments

The present Agreement may be amended by mutual written consent of the Contracting Parties. Any amendment to the present Agreement shall enter into force after each Contracting Party has notified in writing the other Contracting Party that it has completed all internal state procedures required for the entry into force of such amendment.

Article 13. Entry Into Force and Duration of the Agreement

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

2. The present Agreement shall remain in force for an initial period of fifteen years. Thereafter, it shall be automatically extended for subsequent periods of five years unless one of the Contracting Parties notifies in writing the other Contracting Party, no less than six months prior to the end of the corresponding period, of its intention to terminate the present Agreement.

3. In respect of investments falling within the scope of application of the present Agreement made prior to the date of termination of the present Agreement, the provisions of the present Agreement shall remain in force for the further period of fifteen years from the date of termination of the present Agreement.

Done at Windhoek on 25 June 2009 in duplicate, each 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 NAMIBIA