AGREEMENT BETWEEN THE GOVERNMENT OF HUNGARY AND THE GOVERNMENT OF GEORGIA FOR THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS

The Government of Hungary and the Government of Georgia (hereinafter referred to as the "Contracting Parties",

Desiring to intensify economic cooperation to the mutual benefit of both Contracting Parties, and promote investments of investors of one Contracting Party in the territory of the other Contracting Party, and

Affirming the Contracting Parties' adherence to international law;

Seeking to ensure that investment is consistent with the protection of health, safety and the environment, the promotion and protection of internationally and domestically recognised human rights, labour rights, and internationally recognised standards of corporate social responsibility;

Desiring to promote investment that contributes to the sustainable development of the Contracting Parties;

Aiming to secure an overall balance of rights and obligations between investors and the host state;

Being aware that the promotion and reciprocal protection of investments, according to the present Agreement, stimulates the business initiatives in this field;

Bearing in mind that, in light of the judgment of the Court of Justice of the European Union in Achmea (C-284/16), this Agreement should be terminated in the event of Georgia's accession to the European Union,

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

1. The term “investment” shall comprise every kind of asset invested by an investor of one Contracting Party in the territory of the other Contracting Party in accordance with the laws and regulations of the latter and shall include, in particular:

a. movable and immovable property as well as any other rights in rem such as mortgages, liens, pledges and similar rights;

b. shares, stocks and debentures of companies or any other form of participation in a company;

c. bonds, loans and other financial and debt instruments of an enterprise;

d. futures, options and other derivatives;

e. claims to money or to any performance having an economic value which are directly related to an investment;

f. intellectual and industrial property rights, including copyrights, trade marks, patents, designs, know-how, trade secrets, geographical indications, trade names and goodwill which are directly related to an investment;

g. any right conferred by law or under contract and any licenses and permits pursuant to law, including the concessions to search for, extract, cultivate or exploit natural resources.

Any alteration of the form in which assets are invested shall not affect their character as investment on condition that this alteration is made in accordance with the laws and regulations of the Contracting Party in the territory of which the investment has been made.

In order to qualify as an investment for the purposes of the present Agreement, an asset must have the characteristics of an

investment, including such characteristics as a certain duration, the commitment of capital or other resources, the expectations of gain or profit, and the assumption of risk. The arbitration award or any order or judgement rendered with regard to the covered investment shall not be considered as investment for the purposes of the present Agreement.

For greater certainty:

“claims to money” does not include claims to money that arise solely from:

(i) commercial transactions for the sale of goods or services by a natural person or an enterprise in the territory of a Contracting Party to a natural person or an enterprise in the territory of the other Contracting Party, or

(ii) the extension of credit in relation to such transactions.

2. The term “investor” shall mean any natural or legal person of one Contracting Party that has made an investment in the territory of the other Contracting Party.

a. The term “natural person” shall mean any individual having the citizenship of either Contracting Party in accordance with its laws.

b. The term “legal person” shall mean with respect to either Contracting Party, any legal entity incorporated or constituted in accordance with its laws and; having its central administration or engaged in substantive business activities in the territory of one Contracting Party.

3. The term “returns” shall mean amounts yielded by an investment and in particular, includes profits, interest, capital gains, dividends, royalties or fees.

4. The term “territory” shall mean:

a. in the case of Hungary, the territory over which Hungary exercises, in conformity with international law, sovereignty, sovereign rights or jurisdiction;

b. in the case of Georgia, the territory defined by Georgian legislation, including land territory, its subsoil and the air space above it, internal waters and territorial sea, the sea bed, its sub-soil and the air space above them, in respect of which Georgia exercises sovereignty, as well as the contiguous zone, the exclusive economic zone and continental shelf adjacent to its territorial sea, in respect of which Georgia may exercise its sovereign rights and/or jurisdiction in accordance with the international law.

5. The term “freely convertible currency” means a currency that is widely used to make payments for international transactions and widely exchanged in principal international exchange markets provided it is not contrary to the regulations of either of the Contracting Parties, and how the International Monetary Fund determines the scope of freely convertible, or freely usable currency.

Article 2. Promotion and Protection of Investments

1. Each Contracting Party shall encourage and promote in its territory investments made by the investor of the other Contracting Party and shall admit such investments in accordance with its laws and regulations.

2. Each Contracting Party shall accord in its territory to investments of the other Contracting Party and to investors with respect to their investments fair and equitable treatment and full protection and security in accordance with paragraphs 3 and 4.

3. A Contracting Party breaches the obligation of fair and equitable treatment referenced in paragraph 2 through a measure or aseries of measures that constitute:

a. denial of justice in criminal, civil or administrative proceedings; or

b. fundamental breach of due process in judicial and administrative proceedings; or

c. manifest arbitrariness; or

d. targeted discrimination on manifestly wrongful grounds, such as gender, race or religious belief; or

e. harassment, coercion, abuse of power or similar bad faith conduct.

A breach of another provision of this Agreement or any other international agreement cannot be established as claim for

breach of this article.

The fact that a measure breaches domestic law does not, in and of itself, constitute a breach of this Article; a Tribunal must consider whether a Contracting Party has acted inconsistently with the obligations in paragraph 2.

4. For greater certainty, "full protection and security" refers to the Contracting Party's obligation to ensure the physical security of investors and investments.

Article 3. Investment and Regulatory Measures

1. The Contracting Parties reaffirm the right to regulate within their territories to achieve legitimate policy objectives, such as

a. to secure compliance with laws and regulations that are not inconsistent with this Agreement;

b. the protection of environment including climate change, human, animal, or plant life, public health, social services, public education, safety, public security, public morals, or maintenance of public order;

c. to regulate the conservation of living or non-living exhaustible natural resources; or

d. to ensure social or consumer protection, privacy and data protection, or promotion and the protection of cultural diversity.

2. The mere fact that a Contracting Party regulates, including through a modification to its laws and regulations, in a manner which may negatively affect an investment or interferes with an investor?s expectations of profits, does not necessarily amount to a breach of an obligation under this Agreement.

3. For greater certainty and subject to paragraph 4, a Contracting Party?s decision not to issue, renew or maintain a subsidy

a. in the absence of any specific commitment under law or contract to issue, renew or maintain that subsidy; or

b. in accordance with terms or conditions attached to the issuance, renewal or maintenance of the subsidy, shall not constitute a breach of the provisions of this Agreement.

4. For greater certainty, nothing in this Agreement shall be construed as preventing a Contracting Party from discontinuing the granting of a subsidy or requesting its reimbursement or as requiring that Contracting Party to compensate the investor therefore, where such measure is necessary in order to comply with international obligations between the Contracting Parties or has been ordered by a competent court, administrative tribunal or other competent authority of similar nature.

Article 4. National and Most-Favoured-Nation Treatment

1. Each Contracting Party shall in its territory accord to an investor of the other Contracting Party and to an investment, treatment not less favourable than the treatment it accords, in like situations to its own investors and their investments with respect to the conduct, operation, management, maintenance, use, enjoyment and sale or disposal of their investments in its territory.

2. Each Contracting Party shall in its territory accord to investors of the other Contracting Party and their investments treatment no less favourable than that it accords, in like situations, to investors of a third country or to their investments with respect to the operation, conduct, management, maintenance, use, enjoyment and sale or disposal of their investments in its territory.

3. For greater certainty, treatment referred to in paragraph 2 shall not encompass the dispute resolution mechanism or any undertakings concerning the contractual obligations of the host state as provided in this or other international agreements. Substantive obligations in other international investment treaties and other trade agreements do not in themselves constitute "treatment", and thus cannot give rise to a breach of this Article, absent measures adopted or maintained by a Contracting Party pursuant to those obligations.

4. The National Treatment and Most-Favoured-Nation Treatment provisions of this Agreement shall not apply to advantages accorded by a Contracting Party pursuant to its obligations as a member of a customs, economic, or monetary union, a common market or a free trade area.

5. 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, or to the investments or returns of investments of such investors the benefit of any treatment, preference or privilege, which may be extended by the former Contracting Party by virtue of any international agreement or arrangement relating wholly or mainly to taxation.

6. Nothing in this Agreement shall prevent a Contracting Party from exercising its rights and fulfilling its obligations deriving from its membership in any existing or future economic integration agreement, such as free trade area, customs union, common market, economic and monetary union, including the European Union.

7. The provisions of this Article shall not apply to government procurement by a Contracting Party or a state owned enterprise.

Article 5. Compensation for Losses

1. When investments of investors of either Contracting Party suffer losses owing to war, armed conflict, a state of national emergency, revolt, insurrection, riot or other similar events in the territory of the other Contracting Party, they shall be accorded by the latter Contracting Party treatment, as regards restitution, indemnification, compensation or other settlement, not less favourable than that which the latter Contracting Party accords to its own investors or to investors of any third State whichever is more favourable.

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

a. requisitioning of their investment or a part thereof by its forces or authorities;

b. destruction of their investment or a part thereof 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 by the Contracting Party, in whose territory the losses occurred, restitution or compensation.

Article 6. Expropriation

1. Investments of either Contracting Party shall not be subject to nationalisation, direct or indirect expropriation, or any measures having equivalent effect (hereinafter referred to as “expropriation”) in the territory of the other Contracting Party except for a public purpose. The expropriation shall be carried out under due process of law, on a non-discriminatory basis and shall be accompanied by provisions for the payment of prompt, adequate and effective compensation. Such compensation shall amount to the fair market value of the investment expropriated immediately before expropriation or impending expropriation became publicly known or when the expropriation took place, whichever is earlier, and shall be made without delay, be effectively realizable and be freely transferable in a freely convertible currency. In case of delay it shall include interest at a commercially reasonable rate from the date of expropriation to the date of actual payment.

2. The investor affected shall have a right, to prompt review of its claim and of the valuation of its investment under the law of the expropriating Contracting Party, by a judicial or other independent authority of that Contracting Party, in accordance with the principles set out in this Article.

3. For the purpose of this Agreement:

a. direct expropriation occurs when an investment is nationalised or otherwise directly expropriated through formal transfer of title or outright seizure.

b. indirect expropriation results from a measure or series of measures of a Contracting Party having an equivalent effect to direct expropriation, in that it substantially deprives the investor of the fundamental attributes of property in its investment, including the right to use, enjoy and dispose of its investment, without formal transfer of title or outright seizure.

4. The determination of whether a measure or series of measures by a Contracting Party, in a given specific situation, constitutes an indirect expropriation requires a case-by-case, fact-based inquiry that considers, among other factors:

a. the economic impact of the measure or series of measures, although the sole fact that a measure or series of a measure of a Contracting Party has an adverse effect on the economic value of an investment does not establish that an indirect expropriation has occurred,

b. the duration of the measure or series of measures by a Contracting Party,

c. the character of the measure or series of measures, notably their object and content.

5. For greater certainty, except in the rare circumstance when the impact of a measure or series of measures is so severe in light of its purpose that it appears manifestly excessive, non-discriminatory measures by a Contracting Party that are

designed and applied to protect legitimate policy objectives, such as the protection of public health, social services, public education, safety, environment including climate change, public morals, social or consumer protection, privacy and data protection, or the promotion and protection of cultural diversity, or to secure the payment of taxes or other contributions or penalties, do not constitute indirect expropriation.

6. This Article does not apply to the issuance of compulsory licences granted in relation to intellectual property rights, or to the revocation, limitation or acquisition of intellectual property rights to the extent that such issuance, revocation, limitation or acquisition is consistent with the Agreement on Trade-Related Aspects of Intellectual Property Rights in Annex 1C to the WTO Agreements ("TRIPS Agreement").

Article 7. Transfers

1. The Contracting Parties shall permit all transfers related to investments and returns. The transfers shall be made in a freely convertible currency and in accordance with the laws and regulations of the Contracting Party where investments were made without any restriction and undue delay. Such transfers shall include in particular:

a. capital and additional amounts to maintain or increase the investment;

b. returns as defined in paragraph 3 of Article 1 of this Agreement;

c. the amounts required for payment of expenses which arise from the operation of the investment, such as payment of royalties and license fees or other similar expenses;

d. payments in connection with contracts, including loan agreements;

e. proceeds of the total or partial sale or liquidation of the investment;

f. the wages or other similar earnings of natural persons engaged from abroad, in connection with an investment, subject to the laws and regulations of the Contracting Party, in which the investment has been made;

g. compensations owed pursuant to Articles 5 and 6 of this Agreement;

h. payments arising out of settlement of a dispute under Article 13 of this Agreement.

2. The transfers shall be made after the investor fulfilled all of its related financial obligations according to the laws and regulations in force of the Contracting Party in the territory of which the investment was made.

3. Nothing in this Article shall be construed to prevent a Contracting Party from delaying or preventing a transfer by applying measures in an equitable and non-discriminatory manner and not in a way that would constitute

a disguised restriction on transfers, in accordance with its laws and regulations relating to:

a. taxation;

b. bankruptcy, insolvency or protection of the rights of creditors;

c. issuing, trading or dealing in securities;

d. criminal or penal offences;

e. financial reporting or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities; and

f. the satisfaction of judicial or administrative judgements or decisions.

4. For the purpose of this Agreement, exchange rates shall be the rate published – in accordance with the laws and regulations of the Contracting Party, which has admitted the investment – by the financial institution effecting the transfer unless otherwise agreed. Should such rate not exist the official rate has to be applied unless otherwise agreed.

Article 8. Taxation

1. Nothing in this Agreement shall affect the rights and obligations of either Contracting Party under any tax convention. In the event of any inconsistency between this Agreement and any such tax convention, the tax convention shall prevail to the extent of the inconsistency.

2. Article 4 (National and Most-favoured-Nation Treatment) and Article 7 (Transfers) shall not apply to an advantage accorded by a Contracting Party pursuant to a tax convention.

3. Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on trade and investment, nothing in this Agreement shall be construed to prevent the adoption, maintenance or enforcement by a Contracting Party of any measure aimed at ensuring the equitable or effective imposition or collection of taxes that:

a. distinguishes between taxpayers, who are not in the same situation, in particular with regard to their place of residence or with regard to the place where their capital is invested; or

b. aims at preventing the avoidance or evasion of taxes pursuant to the provisions of any tax convention or domestic fiscal legislation.

4. For the purpose of this Article:

a. “residence” means residence for tax purposes;

b. “tax convention” means a convention for the avoidance of double taxation or any other international agreement or arrangement relating wholly or mainly to taxation that either Contracting Party to this Agreement is party to.

Article 9. Subrogation

1. If a Contracting Party or its designated agency makes a payment to its own investors under a guarantee or insurance it has accorded against non-commercial risks 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 in that country, of any right or claim by the investor to the former Contracting Party or its designated agency, as well as,

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 and shall assume the obligations related to the investment.

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

Article 10. Corporate Social Responsibility

1. Each Contracting Party reaffirms the importance of internationally recognized standards, guidelines and principles of Corporate Social Responsibility, that have been endorsed or are supported by that Contracting Party.

2. Each Contracting Party shall encourage the uptake of responsible business conduct by companies and investors in line with internationally recognised principles and guidelines of Corporate Social Responsibility and shall encourage enterprises operating within its territory or subject to its jurisdiction to voluntarily incorporate these standards, guidelines and principles into their business practices and internal policies.

3. The Contracting Parties commit to exchanging information and, as appropriate, cooperating on promoting responsible business practices.

Article 11. Investment and Environment

1. The Contracting Parties reaffirm the importance of the right of each Contracting Party to determine its sustainable development policies and priorities, to establish its own standards of environmental protection, consistently with internationally recognized standards and agreements on environmental protection, that have been endorsed or are supported by that Contracting Party, and shall effectively implement the Paris Agreement under the United Nations Framework Convention on Climate Change, done at Paris, on 12 December 2015.

2. The Contracting Parties shall not encourage investment by weakening or reducing the levels of protection afforded in their domestic environmental laws.

3. The Contracting Party shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from, such legislation as an encouragement for an investment in its territory.

Article 12. Investment and Labour

1. The Contracting Parties reaffirm the importance of the right of each Contracting Party to determine its sustainable development policies and priorities, to establish the levels of domestic labour protection it deems appropriate. Such levels, laws and policies shall be consistent with each Contracting Party's commitments to international labour standards and agreements, that have been endorsed or are supported by that Contracting Party.

2. The Contracting Parties shall not encourage investment by weakening or reducing the levels of protection afforded in their domestic labour legislation.

3. The Contracting Party shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from such legislation in order to encourage investment in its territory.

4. Each Contracting Party is committed to effectively implement the ILO Conventions it has ratified.

Article 13. Settlement of Investment Disputes between a Contracting Party and an Investor of the other Contracting Party

1. This Article applies to legal disputes between an investor of one Contracting Party and the other Contracting Party arising out of the covered investment of the former in the territory of the latter Contracting Party. Such dispute shall concern an alleged breach of an obligation of the Contracting Party under this Agreement, which caused loss or damage to the investor of the other Contracting Party.

2. Any dispute shall, if possible be settled amicably and be subject to negotiations between the parties to the dispute.

3. The negotiations start on the date when the disputing investor of one Contracting Party requests negotiations in a written notification of dispute from the other Contracting Party. In order to facilitate the amicable settlement of the dispute, the written notice shall specify the name and the address of the investor, the factual, and presumed legal basis of the claims and the relief sought.

4. If any dispute between an investor of one Contracting Party and the other Contracting Party cannot be thus settled within a period of six months following the date of the written notification of dispute, the investor shall be entitled to submit the dispute either 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) pursuant to the applicable provisions of the Convention on the Settlement of Investment Disputes between States and Nationals of other States opened for signature at Washington D.C. on 18 March 1965, in the event both Contracting Parties are parties to this Convention; or

c. an ad hoc arbitral tribunal established under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL), as amended in 2010. The parties to the dispute may agree in writing to deviate from these Arbitration Rules; or

d. an arbitral tribunal established under the Rules Governing the Additional Facility for the Administration of Proceedings by the Secretariat of the International Centre for Settlement of Investment Disputes ("Additional Facility Rules of ICSID"), provided that either the disputing Contracting Party or the Contracting Party of the investor, but not both, is a party to the Convention on the Settlement of Investment Disputes between States and Nationals of other States, opened for signature at Washington D. C. on March 18, 1965; or

e. any other form of dispute settlement agreed upon by the parties to the dispute.

5. Once a dispute has been submitted to one of the fora mentioned in paragraph 4 a.–e., that election shall be final and the investor shall have no recourse to the other dispute settlement fora listed in paragraph 4 a.–e.

6. If any dispute between an investor of one Contracting Party and the other Contracting Party cannot be thus settled within a period of six months following the date on which the written notification was made in accordance with paragraph 3 of this Article, and the disputing investor intends to submit the dispute to one of the fora listed in paragraph 4 a.–e., the latter shall notify in writing the other Contracting Party of its intention to submit the dispute at the very latest simultaneously to submitting the dispute to one of the fora.

7. An investor may submit a dispute as referred to in paragraphs 1–3 to arbitration in accordance with paragraph 4 only if not more than three years have elapsed from the date on which the investor first acquired, or should have first acquired, knowledge of the alleged breach and knowledge that the investor has incurred loss or damage.

8. When rendering its decision, the tribunal shall apply this Agreement as interpreted in accordance with the Vienna Convention on the Law of Treaties, and other rules and principles of international law applicable between the Contracting Parties. For greater certainty, the domestic law of the Contracting Parties shall not constitute part of the applicable law. In case of Hungary, the term “domestic law” comprises the law of the European Union.

9. The tribunal referred to in paragraph 4 b.–e. shall not have jurisdiction to determine the legality of a measure, alleged to constitute a breach of this Agreement, under the domestic law of a Contracting Party. For greater certainty, in determining the consistency of a measure with this Agreement, the tribunal may consider, as appropriate, the domestic law of a Contracting Party as a matter of fact. Any meaning given to domestic law by the tribunal shall not be binding upon the courts or the authorities of that Contracting Party.

10. The respondent party may, no later than thirty (30) days after the establishment of the tribunal, or before the first meeting, whichever is earlier, file an objection that a claim or any part thereof is manifestly without legal merit. The objection may relate to the substance of the claim, the jurisdiction, or the competence of the tribunal. The respondent party shall specify as precisely as possible the basis for the objection. The tribunal, after giving the parties to the dispute an opportunity to present their observations on the objection, shall, at its first session or promptly thereafter, issue a decision or award on the objection, stating the grounds thereof. The tribunal shall assume the facts alleged by the claimant to be true, and may also consider any relevant facts not in dispute. On receipt of the objection under this paragraph, the tribunal shall suspend the proceedings on the merits and establish a schedule necessary for considering the objection and the further conduct of the proceeding. The decision of the tribunal shall be without prejudice to the right of a respondent party to object in the course of the proceeding, to the legal merits of a claim and without prejudice to the tribunal’s authority to address other objections as a preliminary question.

11. Without prejudice to the tribunal’s authority to address other objections as a preliminary question or to the right of a respondent party to raise any such objections at any appropriate time, the tribunal shall address and decide as a preliminary question any objection by the respondent party that, as a matter of law, a claim, or any part thereof, is not a claim for which an award in favour of the investor may be made, even if the facts alleged by the investor were assumed to be true. The tribunal may also consider any relevant facts not in dispute. Such an objection shall be submitted to the tribunal as early as possible, and in any event not later than the expiration of the time limit fixed for the filing of the counter-memorial or statement of defence. On receipt of an objection under this paragraph, and unless it considers the objection manifestly unfounded, the tribunal shall suspend any proceedings on the merits, establish a schedule for considering the objection consistent with any schedule it has established for considering any other preliminary question, and issue a decision on the objection, stating the grounds thereof.

12. The award shall be final and binding on the parties to the dispute and shall be executed in accordance with the laws and regulations of the Contracting Party in the territory of such execution is sought, and the applicable norms of international law.

13. The arbitral tribunal may award only: (a) a judgement whether or not there has been a breach by the respondent Party of any substantive obligation under this Agreement, and (b) one or both of the following remedies, only if there has been such a breach: (i) monetary damages including applicable interest; and (ii) restitution of property, in which case the award shall provide that the respondent may pay monetary damages including any applicable interest, in lieu of restitution.

14. Unless the disputing parties agree otherwise the place of arbitration shall be in a country that is a party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York, on 10 June 1958.

15. Upon entry into force of an international agreement providing for a multilateral investment tribunal, which may include a multilateral appellate mechanism applicable to disputes under this Agreement, the relevant parts of this Agreement shall cease to apply subject to the agreement of both Contracting Parties. The rules of the multilateral dispute settlement mechanism shall not be applicable to disputes already submitted pursuant to Article 13, unless agreed otherwise by the disputing parties.

16. The provisions of the Article 13 (Settlement of Investment Disputes between a Contracting Party and an Investor of the other Contracting Party) and Article 15 (Settlement of Disputes between the Contracting Parties) shall not apply to the Article 10 (Corporate Social Responsibility), Article 11 (Investment and Environment) and Article 12 (Investment and Labour).

Article 14. Impartiality and Independence of Arbitrators

1. Arbitrators shall be independent of and not be affiliated with or take instructions from any organisation, disputing party or any government with regard to any matter addressed in o the dispute. They shall not participate in the consideration of any disputes that would create a direct or indirect conflict of interest. In addition, unless the disputing parties agree otherwise, upon appointment, the Arbitrators shall refrain from acting concurrently as counsel or as party-appointed expert

or witness in any pending or new investment dispute under this or any other international investment treaty, involving the same measures, the same or related disputing parties, or the same provisions of the same treaty Arbitrators shall comply with the Code of Conduct as set out in Annex I in disputes arising out of Article 13.

2. If a disputing party considers that an arbitrator does not meet the requirements set out in paragraph 1 or in Annex I (Code of Conduct), it may invite the Secretary General of the ICSID to issue a decision on the challenge to disqualify such arbitrator. Any notice of a challenge shall be submitted to the Secretary General of the ICSID within 15 days after the constitution of the tribunal was communicated to the disputing party, or within 15 days of the date on which the relevant facts came to the knowledge of the disputing party that proposed the challenge, if the relevant facts could not have reasonably been known at the time of the appointment of the challenged arbitrator.

3. The notice of challenge shall state the grounds on which the challenge is based. Any arbitrator may be challenged in any event before the proceeding is declared closed, if circumstances exist that give rise to justifiable doubts as to the arbitrator's impartiality or independence on the basis of the Code of Conduct as set out in Annex I. The challenge shall be notified to all other parties, to the arbitrator who is challenged and to the other arbitrators.

4. When an arbitrator has been challenged by a disputing party, all disputing parties may agree to the challenge. The arbitrator may also, after the challenge, withdraw from his or her office. In neither case does this imply acceptance of the validity of the grounds for the challenge. The other disputing party and the challenged arbitrator shall file their statement presenting their position and supporting documents within 15 days after the notice of the challenge.

5. If the other disputing party has not expressed its consent to the challenge or the challenged arbitrator fails to resign within 15 days from the date of the notice of the challenge, the disputing party may request the Secretary General of the ICSID to issue a founded decision on the challenge.

6. The Secretary General of the ICSID shall issue the decision within forty-five (45) days after receiving submissions from the disputing parties and the challenged arbitrator. If the Secretary General of the ICSID admits the challenge, a new arbitrator shall be appointed.

7. The proceeding shall be suspended upon the filing of the notice of the challenge until a decision on the challenge has been made, except to the extent that the disputing parties agree to continue the proceeding.

Article 15. Settlement of Disputes between the Contracting Parties

1. Disputes between the Contracting Parties concerning the interpretation or application of this Agreement shall, if possible, be settled through consultation or negotiation.

2. If the dispute cannot be thus settled within six months, it shall upon the request of either Contracting Party, be submitted to an Arbitral Tribunal of three members, in accordance with the provisions of this Article.

3. The Arbitral Tribunal shall be constituted for each individual case in the following way. Within two months from the date of the receipt of the request for arbitration, each Contracting Party shall appoint one member of the Tribunal. These two members shall then select a national of a third State who shall be appointed the Chairman of the Tribunal (hereinafter referred to as the "Chairman"). The Chairman shall be appointed within three months from the date of appointment of the other two members.

4. If within the periods specified in paragraph 3 of this Article the necessary appointments have not been made, a request may be made to the President of the International Court of Justice to make the appointments. If the President happens to be a national of either Contracting Party, or if the President is otherwise prevented from discharging the said function, the Vice-President shall be invited to make the appointments. If the Vice-President also happens to be a national of either Contracting Party or is prevented from discharging the said function, the member of the International Court of Justice next in seniority who is not a national of either Contracting Party shall be invited to make the appointments.

5. The Arbitral Tribunal shall reach its decision by a majority of votes.

6. The Tribunal shall issue its decision on the basis of the provisions of this Agreement, as well as of the universally accepted principles of international law.

7. Subject to other provisions made by the Contracting Parties, the Tribunal shall determine its procedure.

8. Each Contracting Party shall bear the cost of its own arbitrator and its representation in the arbitral proceedings; the cost of the Chair and the remaining costs shall be borne in equal parts by both Contracting Parties. The Arbitral Tribunal may make a different regulation concerning the costs.

9. The decisions of the Tribunal are final and binding for each Contracting Parties.

Article 16. Transparency

1. The “UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration” as adopted by the United Nations Commission on International Trade Law on 10 July 2013 shall apply to international arbitration proceedings initiated pursuant to Article 13. Nothing in this Article requires a Contracting Party to make available to the public or otherwise disclose during or after the proceedings, including the hearing, confidential or protected information within the meaning of Article7(2) of UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration, or information the disclosure of which is protected under its domestic law, or which it considers to be contrary to its essential security interests.

2. Each Contracting Party shall endeavour to publish, or otherwise make publicly available, its laws and regulations of general application as well as international agreements which may affect the investments of investors of the other Contracting Party in the territory of the former Contracting Party.

3. Nothing in this Agreement or the applicable arbitration rules shall prevent the exchange of information between the European Union and Hungary, or vice versa, which relates to international arbitration proceedings initiated pursuant to Article 13 (Settlement of Investment Disputes between a Contracting Party and an Investor of the other Contracting Party).

Article 17. Applicability of this Agreement

This Agreement shall apply to investments made in the territory of one Contracting Party in accordance with its laws and regulations by investors of the other Contracting Party prior to as well as after the entry into force of this Agreement, but shall not apply to any dispute or claim relating to an investment which arose or which was settled before the entry into force of this Agreement.

Article 18. Consultations

Upon request by either Contracting Party, the other Contracting Party shall agree to consultations on the interpretation or application of this Agreement. Upon request by either Contracting Party, information shall be exchanged on the impact that the laws, regulations, decisions, administrative practices or procedures, or policies of the other Contracting Party may have on investments covered by this Agreement.

Article 19. General Exceptions

1. Nothing in this Agreement shall prevent a Contracting Party from adopting or maintaining measures for prudential reasons, including for:

a. the protection of investors, depositors, policy-holders or persons to whom a fiduciary duty is owed by a financial service supplier; and

b. ensuring the integrity and stability of a Contracting Party’s financial system.

Where such measures do not conform with the provisions of this Agreement, they shall not be used as a means of avoiding the Contracting Party’s commitments or obligations under the Agreement. Nothing in this Agreement shall be construed as requiring a party to disclose information relating to the affairs and accounts of individual customers or any confidential or proprietary information in the possession of public entities.

2. a. Nothing in this Agreement shall be construed to prevent a Contracting Party from adopting or maintaining measures that restrict transfers where the Contracting Party experiences serious balance of payments difficulties, or the threat thereof, and such restrictions are consistent with paragraph b.

b. Measures referred to in paragraph a. shall be equitable, neither arbitrary nor unjustifiably discriminatory, in good faith, of limited duration and may not go beyond what is necessary to remedy the balance of payments situation. A Contracting Party that imposes measures under this Article shall inform the other Contracting Party forthwith and present as soon as possible a time schedule for their removal. Such measures shall be taken in accordance with other international obligations of the Contracting Party concerned, including those under the Marrakesh Agreement Establishing the World Trade Organization, done at Marrakesh, on April 15 1994 and the Articles of Agreement of the International Monetary Fund.

3. Nothing in this Agreement shall be construed:

a. to prevent any Contracting Party from taking any actions that it considers necessary for the protection of its essential security interests

(i) relating to the traffic in arms, ammunition and implements of war and to such traffic and transactions in other goods, materials, services and technology undertaken directly or indirectly for the purpose of supplying a military or other security establishment,

(ii) taken in time of war or other emergency in international relations, or

(iii) relating to the implementation of national policies or international agreements respecting the non-proliferation of nuclear weapons or other nuclear explosive devices; or

b. to prevent any Contracting Party from taking action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

4. Subject to the requirement that such measures are not applied in a manner that would constitute arbitrary or unjustifiable discrimination between investments or between investors, Article 4 (National and Most-Favoured-Nation Treatment) and Article 7 (Transfers) shall not be construed to prevent a Contracting Party from adopting or enforcing measures necessary:

a. to protect public security or public morals or to maintain public order (3);

b. to protect human, animal or plant life or health (4);

c. to ensure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement including those relating to:

(i) the prevention of deceptive and fraudulent practices or to deal with the effects of a default on contracts;

(ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts;

(iii) safety.

(3) The public security and public order exceptions may be invoked only where a genuine and sufficiently serious threat is posed to one of the fundamental interests of society.

(4) The Contracting Parties understand that the measures referred to in subparagraph b. include environmental measures necessary to protect human, animal or plant life or health.

Article 20. Denial of Benefits

1. A Contracting Party may deny the benefits of this Agreement to an investor of the other Contracting Party that is a legal person and to investments of that investor, if natural or legal persons of a third state or that of the denying Contracting Party own or control the investor or investments and:

a. the investor has no substantial business activities in the territory of the Contracting Party under whose law it is constituted, or

b. the denying Contracting Party adopts or maintains measures with respect to that third state that prohibit transactions with such investor and its investments or that would be violated or circumvented if the benefits of the Agreement were accorded to the investments of that investor, or

c. the denying Contracting Party does not maintain diplomatic relations with that third state.

2. The benefits of this Agreement shall be denied to natural persons with double nationality of which one is of the host State.

Article 21. Final Provisions, Entry Into Force, Duration, Termination and Amendments

1. The Contracting Parties shall notify each other through diplomatic channels that their internal procedure requirements for the entry into force of this Agreement have been complied with. This Agreement shall enter into force sixty (60) days

after the receipt of the last notification.

2. This Agreement shall remain in force for a period of ten years and afterwards shall continue to be in force unless, either Contracting Party notifies in writing the other Contracting Party of its intention to terminate this Agreement. The notice of termination shall become effective one year after it has been received by the other Contracting Party but not earlier than the expiry of the initial period of ten years.

3. In respect of investments made prior to the termination of this Agreement, the provisions of this Agreement shall continue to be effective for a period of ten years from the date of termination.

4. This Agreement may be amended by written agreement between the Contracting Parties. Any amendment shall be integral part of the Agreement and enter into force under the same procedure required for entering into force of the present Agreement.

5. This Agreement shall, in any event, be automatically terminated as a whole and cease its effects if and on the date Georgia becomes a Member State of the European Union.

IN WITNESS WHEREOF, the undersigned duly authorized have signed this Agreement.

DONE in duplicate at Budapest, this 19th day of July 2024, in the Hungarian, Georgian and English languages, all texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

Annex I. CODE OF CONDUCT FOR MEMBERS OF TRIBUNALS APPOINTED UNDER THE AGREEMENT BETWEEN THE GOVERNMENT OF HUNGARY AND THE GOVERNMENT OF GEORGIA FOR THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS

1. Definitions

For the purpose of this Code of Conduct, the following definitions apply:

– “member” means a person who has been appointed to serve as a member of a tribunal established pursuant to the applicable provisions of Article 13 paragraph 4 of the Agreement between the Government of Hungary and the Government of Georgia for the promotion and reciprocal protection of investments (the “Agreement”);

– “assistant” means a person, working under the direction and control of a member, who assists the member, conducts research, or supports him or her in his or her duties;

– “candidate” means a person who is under consideration for appointment as member.

2. Governing Principles

Any candidate or member shall avoid impropriety and the appearance of impropriety, and shall observe high standards of conduct so that the integrity and impartiality of the dispute settlement proceeding is preserved.

3. Disclosure Obligations

1. Prior to confirmation of their appointment as members under Article 13 of this Agreement, the disputing parties or the appointing authority shall provide a candidate a copy of this Code of Conduct. Candidates shall disclose to the disputing parties any past or present interest, relationship or matter that is likely to affect their independence or impartiality, or that might reasonably be seen as creating a direct or indirect conflict of interest, or that creates or might reasonably be seen as creating an appearance of impropriety or bias. To this end, candidates shall make all reasonable efforts to become aware of any such interests, relationships or matters. The disclosure of past interests, relationships or matters shall cover at least the last five years prior to a candidate becoming aware that he or she is under consideration for appointment as member in a dispute under this Agreement.

2. Following their appointment, members shall at all times continue to make all reasonable efforts to become aware of any interests, relationships or matters referred to in Article 3 paragraph 1 of this Code of Conduct. Members shall at all times disclose such interests, relationships or matters throughout the performance of their duties by informing the disputing

parties and the Contracting Parties. They shall also communicate matters concerning actual or potential violations of this Code of Conduct to the disputing parties and the Contracting Parties.

4. Independence, Impartiality and other Obligations of Members

1. In addition to the obligations established pursuant to Articles 2 and 3 of this Code of Conduct, members shall:

a. get acquainted with this Code of Conduct;

b. be and appear to be, independent and impartial, and avoid any direct or indirect conflicts of interest;

c. not take instructions from any organisation or government with regard to matters before the tribunal for which they are appointed;

d. avoid creating an appearance of bias and not be influenced by self-interest, outside pressure, political considerations, public clamour, loyalty to a Contracting Party, disputing party or any other person involved or participating in the proceeding, fear of criticism or financial, business, professional, family or social relationships or responsibilities;

e. not, directly or indirectly, incur any obligation, or accept any benefit, enter into any relationship, or acquire any financial interest that would in any way interfere, or appear to interfere, with the proper performance of their duties, or that is likely to affect their impartiality;

f. not use their position as a member to advance any personal or private interests and avoid actions that may create the impression that others are in a special position to influence them;

g. perform their duties thoroughly and expeditiously throughout the course of the proceeding, and with fairness and diligence;

h. avoid engaging in ex parte contacts concerning the proceeding;

i. consider only those issues raised in the proceeding and which are necessary for a decision or award and not delegate this duty to any other person.

2. Members shall take all appropriate steps to ensure that their assistants are aware of, and comply with, Articles 2 and 3, Article 4 paragraph 1 and Articles 5 and 6 of this Code of Conduct mutatis mutandis.

5. Obligations of Former Members

1. Former members shall avoid actions that may create the appearance that they were biased in carrying out their duties or derived advantage from the decisions or awards of the tribunal.

2. Unless the disputing parties agree otherwise, former members shall undertake that for a period of three years after the end of their duties in relation to a dispute settlement proceeding under this Agreement they shall not:

a. become involved in any manner whatsoever in investment disputes related to same measures, the same or related parties, or the same provisions of this Agreement;

b. act as party-appointed member, legal counsel or party-appointed witness or expert of any of the disputing parties, in relation to investment disputes under this or other bilateral or multilateral investment treaties.

3. If the Secretary General of the ICSID is informed or becomes otherwise aware that a former member is alleged to have acted inconsistently with the obligations established in Article 5 paragraph 1 and 2, or any other part of this Code of Conduct while performing the duties of member of a tribunal in an investment dispute under this Agreement, it shall examine the matter, provide the opportunity to the former member to be heard, and after verification, inform:

a. the professional body or other such institution with which the former member is affiliated;

b. the Contracting Parties;

c. the disputing parties in the specific dispute;

d. any other relevant international court or tribunal.

4. The Secretary General of the ICSID shall make its decision public to take the actions referred in subparagraphs 3a.–3d. above, together with the reasons thereof.

6. Confidentiality

1. No member or former member shall at any time disclose or use any non-public information concerning a proceeding or acquired during a proceeding, except for the purposes of that proceeding, and shall not, in any case, disclose or use any such information to gain personal advantage or advantage for others or to adversely affect the interest of others.

2. Members shall not disclose an order, decision, or award or parts thereof prior to adoption or publication.

3. Members or former members shall not at any time disclose the deliberations of the tribunal, or any views of other members forming part of the tribunal, except in an order, decision or award.

4. Members shall not make a public statement regarding the merits of a pending tribunal proceeding.

7. Expenses

Each member shall keep a record and render a final account of the time devoted to the procedure and of the expenses incurred, as well as the time and expenses of their assistants.