AGREEMENT BETWEEN THE GOVERNMENT OF MALAYSIA AND THE GOVERNMENT OF THE SYRIAN ARAB REPUBLIC FOR THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS

The Government of Malaysia and the Government of the Syrian Arab Republic hereinafter referred to singularly as "Party" and collectively as "the Parties";

Desiring to expand and strengthen economic and industrial cooperation on a long term basis, and in particular, to create favourable conditions for investments by investors of one Party in the territory of the other Party;

Recognising the need to protect investments by investors of the Parties and to stimulate the flow of investments and individual business initiative with a view to promoting the economic prosperity of the Parties;

Have agreed as follows:

Article 1. Definitions

1. For the purpose of this Agreement:

(a) "investments" means every kind of asset and in particular, though not exclusively, includes:

(i) movable and immovable property and any other property rights such as mortgages, liens or pledges;

(ii) shares, stocks and debentures of companies or interests in the property of such companies;

(iii) a claim to money or a claim to any performance having financial value;

(iv) Intellectual property rights, including rights with respect to copyrights, patents and utility models, industrial designs, trademarks and service marks, geographical indications, layout designs of integrated circuits, trade names, trade secrets, technical processes, know-how and goodwill;

(v) business concessions conferred by law, or under contract, including concessions to search for, cultivate, extract, or exploit natural resources;

(b) "investors" means the following persons who invest in the territory of the other Party within the framework of this Agreement:

With regard to Malaysia:

(i) any natural person possessing the citizenship of or permanently residing in the territory of a Party in accordance with its laws; or

(ii) any corporation, partnership, trust, joint-venture, organisation, association or enterprise incorporated or duly constituted in accordance with applicable laws of that Party;

With regard to the Syrian Arab Republic:

(i) natural persons who have nationality of one of the two states in accordance with its laws and regulations; or

(ii) juridical persons or other economic entities established in accordance with the laws and regulations of one party and domiciled in the territory of that Party.

(c) "territory" means:

With respect to Malaysia -

(i) the territories of the Federation of Malaysia;

(ii) the territorial waters of Malaysia and the sea-bed and subsoil of the territorial waters, and the airspace above such areas over which Malaysia has sovereignty; and

(iii) any area extending beyond the limits of the territorial waters of Malaysia, and the seabed and subsoil of any such area which has been or may hereafter be designated under the laws of Malaysia and in accordance with international law as an area over which Malaysia has sovereign rights or jurisdiction for the purposes of exploring and exploiting the natural resources, whether living or non-living.

With respect to the Syrian Arab Republic -

(i) the term Syria means in accordance with international law, the territories of the Syrian Arab Republic including its internal waters, territorial sea, the subsoil thereof and the airspace above them to which Syria has sovereign rights and other maritime areas to which Syria has the rights to exercise sovereign rights for the purposes of exploration, exploitation and conservation of natural resources.

(d) "freely usable currency" means any currency that is widely used to make payments for international transactions and widely traded in the international principal exchange markets.

2. (a) The term "investments" referred to in paragraph 1(a) shall only refer to all investments that are made in accordance with the laws, regulations and national policies of the Parties.

(b) Any alteration of the form in which assets are invested shall not affect their classification as investments, provided that such alteration is not contrary to the approval, if any, granted in respect of the assets originally invested.

Article 2. Promotion and Protection of Investments

1. Each Party shall, subject to the laws, rules, regulations and national policies from time to time in force in each Party, encourage and create favourable conditions for investors of the other Party to invest in its territory and admit such investments.

2. Investments of investors of either Party shall at all times be accorded fair and equitable treatment and shall enjoy full protection and security in the territory of the other Party.

Article 3. Most-favoured-nation Provisions

1. Investments made by investors of either Party in the territory of the other Party shall receive treatment which is fair and equitable, and not less favourable than that accorded, in like circumstances, to investments made by investors of any third State.

2. The provisions of this Agreement relative to the granting of treatment not less favourable than that accorded to the investors of any third State shall not be construed so as to oblige one Party to extend to the investors of the other the benefit of any treatment, preference or privilege resulting from:

(a) any existing or future customs union or free trade area or a common market or a monetary union or similar international agreement or other forms of regional cooperation to which either of the Parties is or may become a party or the adoption of an agreement designed to lead to the formation or extension of such a union or area within a reasonable length of time; or

(b) any international agreement or arrangement relating wholly or mainly to taxation or any domestic legislation relating wholly or mainly to taxation.

3. For greater certainty, this Article shall not apply to procedures regarding Settlement of Investment Disputes between a Party and an Investor of the Other Party which are available in other agreements to which either Party is a party.

Article 4. Compensation for Losses

Investors of one Party whose investments in the territory of the other Party suffer losses owing to war or other armed conflict, revolution, a state of national emergency, revolt, insurrection or riot in the territory of the latter Party shall be accorded by the latter Party treatment, as regards restitution, indemnification, compensation or other settlement, no less favorable than that which the latter Party accords to investors of any third State.

Article 5. Expropriation

Neither Party shall take any measures of expropriation or nationalization against the investments of an investor of the other Party except under the following conditions:

(a) the measures are taken for a lawful or public purpose and under due process of law;

(b) the measures are non-discriminatory;

(c) the measures are accompanied by provisions for the payment of prompt, adequate and effective compensation. Such compensation shall amount to the market value of the investments affected immediately before the measure of dispossession became public knowledge, and it shall be freely transferable in freely usable currencies from the Party. Any unreasonable delay in payment of compensation shall carry an interest at prevailing commercial rate as agreed upon by both parties unless such rate is prescribed by law. The interest to be imposed shall be in accordance with the laws, procedures and policies of the expropriating Party.

Article 6. Transfer

1. Each Party shall, in accordance with the applicable national laws and Party's commitments under the Articles of Agreement of the International Monetary Fund, allow without any unreasonable delay the transfer in any freely usable currency:

(a) the net profits, dividends, royalties, technical fees, interest arid other current income, accruing from any investment of the investors of the other Party;

(b) the proceeds from the total or partial liquidation of any investment made by investors of the other Party;

(c) funds in repayment of borrowings/loans given by investors of one Party to the investors of the other Party which the Parties have recognised as investment; and

(d) the net earnings and other compensations of national of one Party who are employed and allowed to work in connection with an investment in the territory of the other Party.

2. The exchange rates applicable to such transfer in paragraph 1 of this Article shall be the rate of exchange prevailing at the time of remittance.

3. The Parties undertake to accord to the transfer referred to in paragraph 1 of this Article a treatment as favourable as that accorded to the transfer originating from investments made by investors of any third State.

Article 7. Settlement of Investment Disputes between a Party and an Investor of the other Party

1. Any dispute between a Party and an investor of the other Party that has incurred loss or damage by reason of or arising out of an alleged breach of any rights conferred by this Agreement, shall as far as possible, be settled by the parties to the dispute in an amicable way.

2. If the dispute cannot be settled within six (6) months from the date on which the dispute has been notified by either party, it shall be submitted upon request and choice of the investor of the Party:

a) to the competent court of the Party which is a party to the dispute; or

b) to the International Center for Settlement of Investment Disputes (ICSID) established by the Washington Convention of 18 March 1965 on the Settlement of Investment Disputes between States and Nationals of other States in case the Parties are parties to this Convention; or

c) to an international ad hoc arbitral tribunal established under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL); or

d) to the Kuala Lumpur Regional Centre for Arbitration (KLRCA).

Each Party gives its consent to the submission of disputes to conciliation or arbitration set out in subparagraphs (a), (b) (c), or (d). Such consent is conditional upon the submission of the disputing investor's written waiver of its right to initiate or continue any proceedings before the courts or administrative tribunals of either Party, or other dispute settlement procedures, any proceedings with respect to any measure alleged to constitute a breach of any rights conferred by this

Agreement with respect to the investment of the disputing investor.

3. The award shall be final and binding on the parties to the dispute. Each Party shall ensure the recognition and enforcement of the award in accordance with its relevant laws and regulations.

4. Neither Party shall, in respect of a dispute which one of its investors shall have submitted to arbitration in accordance with paragraph 2 of this Article, give diplomatic protection, or bring an international claim before another forum, unless the other party shall have failed to abide by, and comply with, the award in such dispute. Diplomatic protection, for the purposes of this paragraph, shall not include informal diplomatic exchanges for the sole purpose of facilitating a settlement of the dispute.

Article 8. Settlement of Disputes between the Parties

1. Disputes between the Parties concerning the interpretation or application of this Agreement should, if possible, be settled through diplomatic channels.

2. If a dispute between the Parties cannot thus be settled, within six (6) months it shall upon the request of either Party be submitted to an arbitral tribunal.

3. Such an arbitral tribunal shall be constituted for each individual case in the following way. Within two months of the receipt of the request for arbitration, each Party shall appoint one member of the tribunal. Those two members shall then select a national of a third State who on approval by the Parties shall be appointed Chairman of the tribunal. The Chairman shall be appointed within two (2) 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, either Party may, in the absence of any other agreement, invite the President of the International Court of Justice to make the necessary appointments. If the President is a national of either Party or if he is otherwise prevented from discharging the said function, the Vice-President shall be invited to make the necessary appointments. If the VicePresident is a national of either Party or if he too 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 Party shall be invited to make the necessary appointments.

5. The arbitral tribunal shall reach its decision by a majority of votes. Such decision shall be binding on both Parties. Each Party shall bear the cost of its own member of the tribunal and of its representation in the arbitral proceedings; the cost of the Chairman and the remaining costs shall be borne in equal parts by the Parties unless otherwise decided by the tribunal. The award of the tribunal shall be binding on both Parties. The tribunal shall determine its own procedure.

Article 9. Subrogation

If a Party or its designated agency makes a payment to any of its investors under a guarantee it has granted in respect of an investment, the other Party shall, without prejudice to the rights of the former Party under Article 7, recognise the transfer of any right or title of such investors to the former Party or its designated agency and the subrogation of the former Party or its designated agency to any right or title.

Article 10. Confidentiality

Each Party shall undertake to preserve the confidentiality and secrecy of documents, information and other data received from other Parties during the negotiation and implementation of this Agreement or any other agreement made pursuant to this Agreement. The Parties agree that the provision of this Article shall continue to be binding for a period to be agreed upon between the Parties, notwithstanding termination of this Agreement.

Article 11. Protection of Intellectual Property Rights

1. The protection of intellectual property rights shall be enforced in conformity with the respective national laws and regulations of the Parties and with international agreements signed by the Parties.

2. The usage of the name, logo and/or official emblem of any of the Parties on any publication, documents and/or paper is prohibited without the prior written approval by either Party.

Article 12. Application to Investment

This Agreement shall apply to all investments made by investors of either Party in the territory of the other Party in

accordance with its laws, regulations or national policies, whether made before or after the entry into force of this Agreement, but shall not apply to any dispute concerning an investment that arose or any claims that was settled before its entry into force.

Article 13. Amendment

This Agreement may be amended by mutual consent of the Parties at any time after it is in force. Any alteration or modification of this Agreement shall be done without prejudice to the rights and obligations arising from this Agreement prior to the date of such alteration or modification until such rights and obligations are fully implemented.

Article 14. Entry Into Force. Duration and Termination

1. This Agreement shall enter into force thirty (30) days after the later date on which the Governments of the Parties have notified each other that their constitutional requirements for the entry into force of this Agreement have been fulfilled. The later date shall refer to the date on which the last notification letter is sent.

2. This Agreement shall remain in force for a period of ten (10) years, and shall continue in force for other similar periods, unless terminated in accordance with paragraph 3 of this Article.

3. Either Party may by giving one (1) year written notice to the other Party, terminate this Agreement at the end of the initial ten (10) year period or anytime thereafter subject to a six (6) months written notification.

4. With respect to investments made or acquired prior to the date of termination of this Agreement, the provisions of all of the other Articles of this Agreement shall continue to be effective for a period of ten (10) years from such date of termination.

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

Done in duplicate at Kuala Lumpur, Malaysia this 7 January 2009 in Arabic, Bahasa Malaysia and the English languages, all texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF MALAYSIA

TAN SRI MUHYIDDIN YASSIN

MINISTER OF INTERNATIONAL TRADE AND INDUSTRY

FOR THE GOVERNMENT OF THE SYRIAN ARAB REPUBLIC

DR. AMER HUSNI LUTFI

MINISTER OF ECONOMY AND TRADE