AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF AZERBAIJAN AND THE GOVERNMENT OF THE STATE OF KUWAIT FOR THE PROMOTION AND MUTUAL PROTECTION OF INVESTMENTS

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

Wishing to develop economic cooperation between them and, in particular, to create favorable conditions for investments by investors of one Contracting Party in the territory of the other Contracting Party;

Recognizing that the promotion and reciprocal protection of investments will result in the stimulation of business initiative and the enhancement of prosperity in both Contracting Parties,

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

1. The term "Investment" means any type of property acquired or controlled 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 Contracting Party, and includes property or rights in the following forms:

a. a company, or shares, stocks, and other forms of equity participation, as well as bonds and other forms of debt interests in a company, as well as loans and credits granted by any investor of a Party, and securities;

b. cash, cash equivalents, or claims to cash, or claims to economic value under a contract or in respect of an asset;

c. intellectual property rights, including, but not limited to, copyrights, trademarks, patents, industrial designs, technical processes, know-how, trade secrets, trade names, and goodwill;

d. rights granted by law, contract, or in accordance with legislation by license and permit, including rights for the exploration, production, processing, and exploitation of natural resources, as well as rights for the conduct of economic or commercial activities or the provision of services;

e. any tangible and intangible, movable and immovable property, and any property rights such as lease, mortgage, pledge, usufruct;

The term "Investment" shall also apply to 'proceeds' and "dissolution" proceeds, as defined below, held for the purpose of reinvestment.

Any change in the form of investment or reinvestment of the property shall not affect its character as an investment.

2. The term "Investor"

a) "Natural person"

1) In relation to the Republic of Azerbaijan: any person who, in accordance with the laws of the Republic of Azerbaijan, is its citizen or permanently resides in its territory;

2) in relation to the State of Kuwait: a person who is a citizen of the State of Kuwait in accordance with the applicable laws of the State of Kuwait.b) a Contracting Party;

c) any legal person, such as institutions, development funds, and agencies, established or created in accordance with the laws and regulations of that Contracting Party, and other entities and companies duly incorporated.

3. The term “Company” means any entity, including any enterprise, corporation, joint venture or other association, and any branch or subsidiary of such an entity, of any form of ownership, incorporated in accordance with applicable laws, whether or not for the purpose of making a profit.

4. The term “Income” means amounts derived from an investment and specifically, but not limited to, includes profits, dividends, interest, royalties, capital appreciation, and any other such payments related to the investment.

5. “Liquidation” means any form of winding up or winding down of an enterprise, whether with or without the purpose of transferring all or part of its assets.

6. “Territory” means:

a. In relation to the Republic of Azerbaijan: the territory of the Republic of Azerbaijan over which the Republic of Azerbaijan exercises its sovereign rights and jurisdiction in accordance with its national laws and international law, including the relevant sector of the Caspian Sea.

b. In relation to the State of Kuwait:

the territory of the State of Kuwait, including any area beyond its territorial waters which is or may be designated as an area over which the sovereign rights or jurisdiction of the State of Kuwait may be exercised in accordance with its laws and with international law.

7. The term “freely usable currency” means any currency which is from time to time designated as a freely usable currency by the International Monetary Fund in accordance with the Articles of Agreement of the International Monetary Fund and any amendments thereto.

8. The term “without delay” means the time normally required to complete the necessary procedures for the transfer of payments. Such time shall commence on the day the request for the transfer is received and shall in no event exceed one month.

9. “Receiving Party” means the country in which the investment is made.

Article 2. Reception and Promotion of Investments

1. Each Party shall receive and promote investments of investors of the other Party in its territory in accordance with its laws and regulations.

2. Each Party shall ensure the granting, in its territory, of all necessary permits, approvals, authorizations, and licenses for investments received in its territory, to the extent and under the conditions prescribed by its laws and regulations.

3. The Parties may consult with each other in such manner as they deem appropriate for the purpose of promoting and facilitating investment in their respective territories.

4. Each Party shall, in accordance with its laws and regulations concerning the entry, stay, and work of natural persons, allow leading work personnel employed in connection with investment in its territory, including senior management and technical personnel, to enter, temporarily reside, and work in its territory, shall give fair and appropriate consideration to their applications, regardless of their nationality and citizenship. The same regime shall apply to the immediate family members of such key business personnel in respect of their entry into and temporary stay in the territory of the receiving Party.

5. Neither Party shall apply, in respect of investments of investors of the other Party, requirements for the acquisition of materials, means of production, operations, transport, marketing of products, shall not apply mandatory measures or other similar discriminatory or unreasonable regulations in relation to the investments of investors of the other Party.

Article 3. Protection of Investments

1. With respect to the investments and returns of the investors of either of the Contracting Parties, a fair and equitable treatment shall be accorded in the territory of the other Contracting Party, in conformity with the generally recognized principles of international law and the provisions of this Agreement, and their g their full protection and security shall be fully ensured. Neither Party shall, under any circumstances, by measures based on coercion or discrimination, impede the use, management, operation, expansion, or sale and/or other disposition of investments.

2. Each Party shall promptly publish or otherwise make public its court decisions, as well as its international treaties. judicial decisions, as well as its international treaties, promptly publish or otherwise make public.

3. Each Party shall provide effective means for the consideration of investment-related claims and for the enforcement of rights. Each Party shall provide its courts, administrative tribunals and bodies and other judicial authorities, as well as the right to designate persons to bring claims and enforce rights in relation to investments in accordance with applicable laws and regulations.

4. Neither Party shall require or restrict the purchase, transportation, or processing in any form of fuel or means of production, or materials, energy, the implementation of mandatory measures that could require or restrict the purchase, transportation, or processing in any form of materials, energy, or fuel, or production means, or that could restrict the marketing of products within or outside its territory, or to impose as a condition the implementation of any other measures that would have the effect of discriminating against the investments of investors of another Party in favor of investments of its own investors or investors of a third State.

Furthermore, investments in the territory of the receiving Party shall not be subject to claims that would impair their operation or interfere with their use, management, conduct of operations, expansion, sale, or other disposition.

5. The investments of investors of either of the Contracting Parties shall not be subject to sequestration, expropriation, or any other similar measures in the receiving Contracting Party, except where such measures are taken in accordance with due legal process, the accepted norms of international law, and the relevant provisions of this Agreement.

6. Each Party shall fulfill any obligation it may assume in its territory in connection with the investments of investors of another Party.

Article 4. Treatment of Investments

1. Each Contracting Party shall, in its territory, allow the use, management, conduct, in connection with the use, operation, management, development, expansion, sale, or other disposition of investments of investors of the other Contracting Party in its territory, shall apply no less favorable treatment than the treatment it applies, under similar circumstances, to investments of its own investors or of investors of any third State (whichever is more favorable for the investor).

2. However, the provisions of this Article shall not be construed as obliging a Contracting Party to extend to investors of the other Contracting Party any advantage, privilege, or immunity arising from any customs union, economic union, or free trade area to which either of the Contracting Parties is a party or may become a party.

a) any customs union, economic union, free trade zone, currency union, or any other form of regional economic arrangement, or any other similar international agreement, to which one or more of the Contracting Parties is a party or may become a party, and

b) any international, regional, or bilateral agreement or other similar arrangement or domestic legislation relating wholly or substantially to taxation,

c) any multilateral convention or treaty relating to investments to which any of the Contracting Parties is a party or may become a party.

Article 5. Compensation for Losses

1. Except in cases to which Article 6 applies, investments of investors of either of the Contracting Parties in the territory of the other Contracting Party shall be subject to loss resulting from war or any other armed conflict, national emergency, insurrection, civil disturbance, rebellion, instability, natural disaster, or other similar events, the latter Consenting Party shall, with respect to those investors, make restitution, restitution, compensation, or any other payments in respect of, to its investors or to investors of any third State, shall apply the regime it applies (whichever is more favorable) that is no less favorable than the regime it applies to its own investors or to investors of any third State.

2. Subject to paragraph 1 of this Article,

in any of the situations referred to in that paragraph, investors of the other Contracting Party suffering loss in the territory of the former Contracting Party for the following reasons shall, in each case, receive prompt, adequate, and effective restitution and compensation:

a) the requisition of all or part of their investments by the armed forces or authorities of the latter,

b) the destruction of all or part of their investments by the armed forces or authorities of the latter, without military operation or without necessity arising from the situation created.

Article 6. Expropriation

a) Investments of investors of a Party in the territory of the other Party, from the other Party, except where it is done in relation to the public needs of that Party for public purposes and provided that prompt, adequate, and effective compensation is paid, without discrimination and in accordance with a legal procedure of general application, shall not be nationalized, expropriated, or confiscated, nor shall it be subjected to any other direct or indirect measures having an equivalent effect to nationalization, expropriation, or confiscation (hereinafter referred to as “expropriation”).

b) such compensation shall be equal to the fair value of the expropriated investment, and from the moment that the expropriation is carried out or becomes known to the public to be contemplated, (whichever is earlier) immediately prior to (hereinafter the “Valuation Date”) the expropriation, shall be determined and calculated on the basis of the fair market value of the expropriated investment, in accordance with internationally recognized principles of valuation. such compensation shall be in a freely convertible currency selected by the investor, calculated based on the prevailing market exchange rate for that currency on the valuation date, and shall include interest at a market-determined commercial rate from the date of expropriation to the date of payment, which rate shall in no event be less than the prevailing LIBOR interest rate or its equivalent.

c) If fair market value cannot be determined, compensation will be determined on equitable principles, taking into account relevant factors and circumstances such as the capital invested, the nature and duration of the investment, replacement cost, appreciation, current income, discounted cash flow value, residual value and business reputation.

2. Taking into account the principles set forth in paragraph 1 and the rights of the investor as set forth in Article 9 of this Agreement, the aggrieved investor, with respect to his investment, including the prompt review by a judicial or other competent and independent body of the Party effecting the expropriation of the valuation of its investment and the payment of compensation in this regard.

3. For the purposes of greater clarity, “Contracting Party” means a party established or created in accordance with the legislation in force in its own territory, includes cases of expropriation of the assets of a company or enterprise in which an investor of the other Party has an investment through ownership of shares, bonds, or other rights or interests.

4. For the purposes of this Agreement, the term "expropriation" also includes interventions or control measures by a Contracting Party which have the effect of actually confiscating or expropriating, and as a result of the implementation of these measures, the investor is "de facto" deprived of ownership, the enjoyment of the benefits of, or control over, an investment, or the economic value of the investment is impaired through the freezing of the investment, the imposition of additional taxes on the investment, the forced sale of all or part of the investment, or other similar measures.

5. A claim for compensation shall also be considered to exist in accordance with the principles and conditions set forth in this Article where a Contracting Party takes an action that inflicts significant harm on an investment in any enterprise in which an investor of the other Contracting Party has an investment, if the action is taken by the Contracting Party in which the investor's investment is located.

Article 7. Transfer of Payments In Connection with Investments

1. Each Party shall guarantee to the investors of the other Party the free transfer into and out of its territory of payments in connection with investments, including:

a) any additional capital for the maintenance, management, or increase of the initial capital and investments;

b) profits;

c) payments under contracts, including principal and accrued interest in accordance with credit agreements;

d) royalties and other amounts in respect of the rights referred to in subparagraph (c) of the first paragraph of Article 1;

e) proceeds from the sale or liquidation, in whole or in part, of investments;

f) salaries and bonuses of personnel recruited from abroad in connection with the investment;

g) compensation in accordance with Articles 5 and 6 of this Article;

h) payments referred to in Article 8 and

i) payments arising from the settlement of disputes.

2. The transfers referred to in paragraph 1 shall be made in freely usable currencies without delay or restriction, except in cases where the payments are made in kind. In the event of a delay in the requested transfer, the aggrieved investor is entitled to interest for the period of the delay.

3. Transfers shall be made on the transfer day at the prevailing spot market rate of the currency to be transferred in the territory of the receiving Contracting Party. In the absence of a foreign exchange market, the rate to be used shall be the most recent rate applicable to domestic investments, or the rate determined in accordance with the rules of the International Monetary Fund, or the rate for conversion of currencies into SDRs (whichever is more favorable for the investor).

Article 8. Subrogation

1. If a Party or an entity designated by it (the “Compensating Party”) makes a payment under a guarantee in respect of an investment in the territory of another Party, the receiving Party shall:

a) that the rights and claims arising from such investment shall pass to the Compensating Party in accordance with law or legal transaction,

b) shall recognize the right of the Compensating Party, by subrogation, to exercise such rights and to pursue claims and to assume all obligations associated with the investment.

2. In respect of the following, the Investor shall be subject to the same regime under this Agreement as is applicable to the Investor in respect of its investment:

a) the rights and claims acquired and obligations undertaken by way of the transfer of the rights and claims referred to in paragraph 1;

b) any payments received in respect of such rights and claims.

Article 9. Settlement of Disputes between a Contracting Party and an Investor

1. Any dispute between an investor of one Contracting Party and the other Contracting Party relating to an investment in the territory of the latter Contracting Party shall, as far as possible, be settled amicably.

2. If the dispute is not settled amicably within six months from the date of receipt of the request for its amicable settlement, the investor may submit the dispute to the competent court of the Contracting Party in whose territory the investment is made or to international arbitration. The investor shall have the right to submit the dispute to:

a) the International Centre for Settlement of Investment Disputes established under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, opened for signature at Washington on 18 March 1965 (hereinafter referred to as the "Centre"), if the Centre is available, or

b) if only one of the Contracting Parties is a party to the Convention referred to in subparagraph (a) of this Article, to a subsidiary body of the Centre, or

c) in the absence of any other agreement between the parties to the dispute, to an ad hoc arbitral tribunal established in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law ("UNCITRAL").

d) To an arbitral tribunal established in accordance with the arbitration rules of any arbitration institution mutually agreed upon by the parties to the dispute

The Contracting Parties unconditionally consent to the submission of the dispute to the aforementioned tribunal and to arbitration or alternative arbitration procedures.

3. An investor who has submitted a dispute to the competent courts of a Contracting Party may not subsequently apply to any of the arbitral tribunals referred to in paragraph 2 of this Article.

4. In any judicial, arbitral or other proceedings concerning an investment dispute between an investor of one Contracting Party and the other Contracting Party, or in the enforcement of any award, a Contracting Party may not claim sovereign immunity for the purpose of self-defense. Neither Party may object at any stage of the arbitral proceedings or the enforcement of an award of an arbitral tribunal on the grounds that the investor of the other party has received full or partial compensation for losses under a guarantee.

5. Such award shall be final and binding on the parties to the dispute and shall be enforced in accordance with its national

law.

6. Notwithstanding the fact that an investor has submitted a dispute to compulsory arbitration in accordance with paragraph 2, it may, before the commencement of the arbitration proceedings or during the proceedings, request the Contracting Party which is a party to the dispute to obtain an interim injunction before a court or administrative tribunal to preserve its rights and interests, except for a claim for compensation for any damages.

7. No Contracting Party shall exercise diplomatic protection or bring an international claim in respect of any dispute submitted to arbitration, except in the event of the other Contracting Party failing to comply with the award in respect of the dispute. However, diplomatic protection for the purposes of this paragraph does not include informal diplomatic communications intended solely to facilitate the resolution of that dispute.

Article 10. Settlement of Disputes between the Contracting Parties

1. Disputes between the Contracting Parties concerning the interpretation and application of this Agreement shall be settled, as far as possible, through diplomatic channels.

2. If the dispute cannot be settled by this means within six months from the date of the request of either Party to conduct such negotiations, it shall be submitted to the Arbitration Tribunal at the request of either Party.

3. Such Arbitral Tribunal shall be constituted for each individual case in the following manner. Within two (2) months from the date of receipt of the application for arbitration, each Party to the Agreement shall appoint one member of the Tribunal. These two members shall then, with the agreement of both Contracting Parties, select a national of a third State to be appointed as the Chairman of the Court. The Chairman shall be appointed within four (4) months after the date of appointment of the other two members.

4. If the necessary appointments are not made within the period specified in paragraph 3 of this Article, either of the Contracting Parties 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 any of the Contracting Parties or is for any other reason unable to perform the said function, The next highest-ranking member of the Court who is not a national of any of the Contracting Parties, or who is not otherwise unable to perform the said function, shall be invited to make the necessary appointments.

5. The Arbitral Tribunal shall render its awards by a majority vote. These awards shall be rendered in accordance with this Agreement and the rules of international law in force, settled, and binding on the Signatory Parties. Each Consenting Party shall pay the costs of the member of the arbitral tribunal appointed by that Consenting Party, as well as its own costs of representation in the arbitral proceedings. The costs of the Chairman, as well as any other costs related to the arbitration proceedings, shall be borne equally by the Consenting Parties. In all other respects, the procedure shall be determined by the arbitral tribunal.

Article 11. Relations between the Contracting Parties

The provisions of this Agreement shall apply regardless of the existence or non-existence of diplomatic or consular relations between the Contracting Parties.

Article 12. Application of other Rules

If, in addition to this Agreement, the legislation of either of the Contracting Parties or obligations existing or hereafter established between the Contracting Parties under international law, with respect to investments of investors of the other Contracting Party, the regime provided by this Agreement shall provide for general or special measures prescribing a more favorable regime than that provided by this Agreement with respect to investments of investors of the other Contracting Party, such measures shall, insofar as they are more favorable, prevail over this Agreement.

Article 13. Scope of the Agreement

This Agreement applies to all investments existing on the date of its entry into force, or made after that date in the territory of any Contracting Party by investors of any other Contracting Party.

Article 14. Entry Into Force

Each Party shall notify the other in writing that its constitutional requirements for the entry into force of this Agreement have been met, and this Agreement shall enter into force on the thirtieth day after the receipt of the latter notification.

Article 15. Entry Into Force and Termination

1. This Agreement shall remain in force for a period of twenty (20) years and shall remain in force for the same period or periods thereafter, unless either Contracting Party notifies the other Contracting Party in writing of its intention to terminate this Agreement at least one year before the expiry of the initial or subsequent period.

2. In respect of investments made before the date of the effective date of the notification of termination of this Agreement, the provisions of this Agreement shall remain in force for a period of ten (10) years from the date of termination of this Agreement.

IN WITNESS WHEREOF, the duly authorized representatives of both Parties have executed this Agreement.

Signed in the city of Al-Kuwait on the 14th day of Safar 1430 of the Hijri calendar, corresponding to February 2009, in two originals, each in Azerbaijani, Arabic, and English, all texts being equally authentic. In case of any discrepancy in interpretation, the English text shall prevail.

On behalf of the Government of the Republic of Azerbaijan

Shahin Mustafayev

Minister of Economic Development

On behalf of the Government of the State of Kuwait

Mustafa Jasim Al-Shomali

Minister of Finance