Agreement on the Promotion and Protection of Investment between the Government of the Republic of Iraq and the Government of the Hashemite Kingdom of Jordan

The Government of the Republic of Iraq and the Government of the Hashemite Kingdom of Jordan (hereinafter referred to as the "Contracting Parties"),

Desiring to protect the investments of investors of one Contracting Party in the territory of the other Contracting Party on a non-discriminatory basis, thereby further encouraging economic cooperation between them with respect to investments by nationals and companies of one Contracting Party in the territory of the other Contracting Party,

Recognizing that agreement on the treatment to be accorded to such investments will stimulate the flow of private capital and the economic development of the Contracting Parties, on the basis that stable investment will contribute to maximizing the efficient use of economic resources and improving living standards,

Seeking to develop economic and mutual ties in a manner that promotes respect for internationally recognized labor rights, and noting that these objectives can be achieved without compromising generally applicable health, safety, and environmental measures,

They have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

1. The term "investment" means any type of asset established or owned by an investor of one Contracting Party in the territory of the other Contracting Party and utilized for the benefit of the national economy in accordance with the laws and regulations of the host Party, and includes, in particular but not limited to:

(a) movable and immovable property or any other property rights such as mortgages, debts, concessions, leases, usufruct rights, and similar rights.

(b) shares, equity interests, and bonds in a company or any other form of participation in a company.

(c) claims for money or performance rights having monetary value.

(d) intellectual property rights such as patents, copyrights, trademarks, industrial designs, trade names, and geographical indications, as well as technical processes, know-how, and trade names.

(e) concessions granted by law or by contract by a competent authority, including concessions for the exploration, development, extraction, or exploitation of natural resources.

Investments made in the territory of one of the Contracting Parties by any legal entity of that Contracting Party itself, but which is in fact owned or controlled, directly, by investors of the other Contracting Party, shall be considered investments of the latter Contracting Party's investors if they were made in accordance with the laws and regulations of the host Contracting Party.

No change in the form of the investor or the reinvestment of assets therein shall affect its status as an investment.

2. The term "returns" means the amounts generated by the investments and includes, specifically and exclusively, profits, dividends, interest, royalties, capital gains, or any payments in kind related to any of the investments.

Reinvested returns shall be treated in the same manner as the original investment.

3. The term “investor”, in relation to either of the Contracting Parties:

(a) Any natural person who is a national of one of the Contracting Parties and makes an investment in the territory of the other Contracting Party.

(b) Any legal entity such as a company, private institution, partnership, consortium, or any organization established in the laws and regulations of one of the Contracting Parties, which has a registered office and carries out genuine business activities in the territory of that same Contracting Party and makes an investment in the territory of the other Contracting Party, whether for profit or not and whether its liability is limited or not.

4. The term “territory” means the land, internal waters, and territorial waters of a Contracting Party, as well as the airspace above them, and the maritime zones beyond the territorial waters, including the seabed and subsoil, over which the Contracting Party exercises sovereign rights or jurisdiction in accordance with its national law and international lawfor the purpose of exploring and exploiting the natural resources of these areas.

Article 2. Promotion and Facilitation of Investments

Each Contracting Party shall promote investments in its territory by investors of the other Contracting Party and shall facilitate such investments in accordance with its laws and regulations.

Article 3. Protection of Investments

1. Each Contracting Party shall, in accordance with its laws and regulations, provide full protection and security within its territory for the investments and returns of investors of the other Contracting Party.

2. Neither Contracting Party shall, through arbitrary or discriminatory measures, impede the ownership, management, maintenance, use, enjoyment, expansion, sale, or other dispositions of such investments.

3. The investments and returns of investors of either Contracting Party shall be accorded fair and equitable treatment in the territory of the other Contracting Party.

Article 4. Treatment of Investments

1. Each Contracting Party shall, in accordance with its laws and regulations, accord to investors of the other Contracting Party and their investments and returns, treatment no less favorable than that accorded to its own investors and their investments and returns with respect to the ownership, expansion, operation, management, maintenance, use, enjoyment, sale, or other dispositions of investments

2. Each Contracting Party shall accord to investors of the other Contracting Party, and to their investments and returns, treatment no less favorable than the treatment it accords to investors of any third country and to their investments and returns with respect to the establishment, ownership, expansion, operation, management, maintenance, use, enjoyment, or sale of investments or other dispositions thereof.

3. Each Contracting Party shall accord to investors of the other Contracting Party, and to their investments and returns, the more favorable treatment required under paragraphs (I) and (II) of this Article, whichever is more favorable to the investors or to the investments and returns.

4. Neither Contracting Party may impose in its territory unreasonable or discriminatory mandatory procedures on the investments of the other Contracting Party’s investors regarding the purchase of materials and means of production, operation, transportation, and marketing of their products.

5. The provisions of paragraph three of this Article shall not be construed as obligating a Contracting Party to grant to investors of the other Contracting Party any benefit, treatment, preference, or privilege that it may grant pursuant to any:

(a) a free trade area, customs union, common market, economic or monetary union, or

(b) similar existing or future regional union of which either contracting party is or may become a party, or

(c) under a double taxation avoidance agreement or any other existing or future international agreement or arrangement relating entirely or primarily to the collection of taxes.

Article 5. Expropriation

1. Investments of investors of a Contracting Party in the territory of the other Contracting Party shall not be expropriated, nationalized, or subjected to any direct or indirect measures having an effect equivalent to expropriation or nationalization (hereinafter referred to as “expropriation”), except for the public interest on a non-discriminatory basis in accordance with due legal process and in exchange for prompt, adequate, and effective compensation.

2. The amount of such compensation shall be the fair value of the expropriated investment as of the earlier of the time of expropriation or before the expropriation becomes public knowledge, whichever occurs first, and the fair value shall be determined in accordance with generally accepted valuation principles, taking into account, among other things, the capital invested, replacement value, appreciation, current returns, goodwill, and other relevant factors.

3. The compensation must be fully realizable and paid without any restrictions or delays. It shall include interest at a commercial rate determined on a market basis for the currency of payment from the date of expropriation until the date of actual payment.

4. The contracting parties confirm that if a contracting party expropriates all or part of the assets of a company incorporated or established in accordance with the law in force in its territory and in which investors of the other Party hold shares, or where the purpose of the expropriation is an association established in the territory of a Contracting Party, the host Contracting Party to respect the articles of association and any other relevant documents of the companies or entities concerned, as they exist at the time of expropriation.

5. An investor whose investments have been expropriated shall have the right to a prompt review of his case and an assessment of his investments in accordance with the principles set forth in this Article by a judicial authority or other competent authority of the host Contracting Party for such investments.

Article 6. Compensation for Losses

1. Investors affiliated with one of the Contracting Parties whose investments in the territory of the other Contracting Party have suffered damage or loss due to war, any other armed conflict, a state of emergency, revolution, disturbances, riots, or other similar events shall be treated by the other Contracting Party regards restoration of the status quo, reimbursement of losses, compensation, or any other settlement, no less favorable than those granted by the Contracting Party to its own investors or to investors of any third country, whichever is more favorable.

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

(a) the expropriation of their investment or part thereof by the armed forces or authorities of the other Contracting Party, or,

(b) the destruction of their investment or part thereof by the armed forces or authorities of the other Contracting Party, which was not required except in cases of necessity,

they shall be restored by the other Contracting Party to their previous condition or provided with compensation, which in either case shall be prompt, adequate, and effective, and such compensation shall be fully enforceable, paid without delay, and include interest at the prevailing market rate determined on a market basis and in a convertible currency from the date of the seizure or destruction until the date of actual payment.

Article 7. Free Transfers

1. Each Contracting Party shall, in accordance with its laws and regulations, guarantee to the investors of the other Contracting Party the free transfer of funds into and out of its territory without delay, for their investments and remittances related to such investments.

2. These amounts shall include, but are not limited to:

(a) Initial capital and additional amounts for the maintenance and development of an investment.

(b) Returns.

(c) Payments under a contract, including a loan agreement.

(d) Proceeds from the sale or full or partial liquidation of the investment.

(e) Compensation payments under Articles 5, 6, and 8 of this Agreement.

(f) Payments arising from the settlement of a dispute concerning the investment.

(g) Other earnings and remuneration of employees hired from abroad in connection with an investment.

2. Each Contracting Party shall ensure that the remittance payments referred to in paragraph (1) of this Article are made without any restrictions in a freely convertible currency and at the market exchange rate on the date of conversion into the currency to which the conversion is to be made.

3. In the absence of a foreign exchange market, the rate to be used shall be the most recent exchange rate for converting currencies into Special Drawing Rights.

4. In the event of a delay in the transfer by the host contracting party, the transfer must include interest at the market-based commercial rate for the relevant currency from the date on which the transfer was requested until the date of the actual transfer, to be borne by the other contracting party.

5. The host state may, if necessary and to protect the balance of payments, impose precautionary measures it deems appropriate on the transfer process for a period not exceeding one hundred and eighty (180) days, which may be extended for such period as it deems appropriate in accordance with general and publicly announced procedures.

Article 8. Subrogation

If a Contracting State, its relevant agency, or any other entity designated by it (the Guarantor) established in or incorporated in that Contracting State makes a payment pursuant to indemnification or a guarantee against non-commercial risks undertakenand relating to an investment in the territory of the other Contracting State (the Host State), the Host State shall recognize:

(a) The assignment to the Guarantor, by law or legal agreement, of all rights and claims arising from such risks for which payment has been made to the investor.

(b) The guaranteeing party shall be entitled to exercise such rights and enforce those claims and obligations relating to the investment based on the principle of subrogation.

(c) Subrogation of the creditor shall not take place until after approval by the competent authorities in both States.

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

1. Any dispute arising from an investment between a contracting party and an investor affiliated with the other contracting party shall be settled through amicable means, including mediation and conciliation.

2. If the dispute cannot be settled in accordance with paragraph (First) of this Article and the internal review procedures have been exhausted within 180 (one hundred and eighty) days from the date of submission of the written request for settlement, either party to the dispute may to submit the dispute to:

(a) The competent courts of the Contracting Party in whose territory the investment was made, or,

(b) Arbitration through the International Centre for Settlement of Investment Disputes (ICSID), established under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, signed in Washington on March 18, 1965 (hereinafter referred to as the Center), provided that both Contracting Parties are parties thereto, or,

(c) Arbitration under the Additional Facilities of the Center if one of the contracting parties is a signatory to the agreement referred to in subparagraph (b) of this article, or,

(d) Any arbitral tribunal constituted for this purpose to be established under the rules of the (UNCITRAL).

3. An investor who has submitted the dispute to a national court in accordance with paragraph 2(a) of this Article or to one of the arbitration procedures mentioned in paragraphs 2(b) through (d) shall not have the right to pursue his claim before any court or other body. The investor's choice regarding the court or arbitral tribunal shall be final and binding.

4. Neither contracting party that is a party to the dispute shall be entitled to raise an objection at any stage of the arbitration proceedings or the enforcement of an arbitral award on the grounds that the investor, who is the other party to the dispute, has received compensation for damages covering part or all of its losses under insurance.

5. The arbitral award shall be final and binding on the parties to the dispute and shall be enforced in accordance with national law.

6. The investor shall not be entitled to bring a claim against the host Contracting Party regarding the investment as provided for in this Article after the expiration of (5) five years from the date the investor actually or presumably became aware of the subject matter of the dispute.

7. An investor who holds the nationality of the host country of the investment shall be considered a national of that country regardless of any other nationality held by him or her for the purposes of applying the provisions of this Article.

8. The most-favored-nation clause shall not apply to the provisions of this Article.

Article 10. Settlement of Disputes between the Contracting Parties

1. Disputes between the contracting parties regarding the interpretation or application of this Agreement shall be settled, to the extent possible, through negotiation, mediation, and conciliation.

2. If the dispute cannot be settled in accordance with the provisions of paragraph (First) of this Article within (180) one hundred and eighty days, either party may refer it to an arbitration panel.

3. This arbitration panel shall be constituted for each individual dispute, such that each contracting party shall appoint one arbitrator, and these two arbitrators shall agree on a national of a third country to serve as the chair of the arbitration panel. These two arbitrators shall be appointed within sixty (60) days from the date on which a contracting party notifies the other contracting party of its intention to submit the dispute to an arbitration panel, the chairperson of which must be appointed within a further sixty (60) days.

4. If the time limits set forth in paragraph (III) of this Article are not observed, either contracting party may, in the absence of any other relevant arrangement, request the President of the International Court of Justice to make the necessary appointment; if the President of the International Court of Justice is a national of either contracting party or is otherwise prevented from performing the aforementioned task, the Vice President shall be requested to make the necessary appointment; if he is unable to do so, the member of the International Court of Justice next in seniority shall be requested to make that appointment.

5. The arbitral tribunal shall establish its own rules of procedure.

6. The arbitral tribunal shall render its decision in accordance with this Convention and the rules of international law. The tribunal shall render its decision by a majority vote, and the decision shall be final and binding.

7. Each contracting party shall bear the costs of its own representative and legal representation in the arbitration proceedings; as for the costs of the chairperson and the remaining costs, they shall be divided equally between both contracting parties; however, the arbitral tribunal is entitled to decide in its award on a different allocation of costs.

Article 11. Permits

1. Each Contracting Party shall, in accordance with its laws and regulations, treat all applications relating to investments on a preferential basis and grant the necessary permits required in its territory regarding investments by investors of the other Contracting Party as quickly as possible.

2. Each Contracting Party shall, in accordance with its laws and regulations, grant temporary entry and stay permits to natural persons employed from abroad as executives, managers, statisticians, or technical staff in connection with an investment by an investor of the other Contracting Party and whose presence is deemed vital to the project. Furthermore, the immediate family members of such employees shall be granted similar treatment regarding temporary entry and stay in the territory of the host Contracting Party.

Article 12. Security Measures

Each Contracting Party may take any necessary measures to protect its security interests, including:

(a) measures necessary to prevent and combat crime;

(b) measures necessary to prevent the smuggling and trafficking of arms and ammunition;

(c) on war equipment, deals, materials, and services for the purpose of equipping an official military, paramilitary, or security institution, directly or indirectly;

(d) activities related to the implementation of national policies or international agreements regarding the prevention of the

proliferation of nuclear weapons or nuclear or non-nuclear explosive equipment;

(e) the fulfillment of its obligations under the Charter of the United Nations to maintain international peace and security.

(f) measures taken by either contracting party during wartime or in emergencies in accordance with national legislation.

(g) measures necessary to protect the environment from pollution.

(h) measures necessary to combat bribery and money laundering.

Article 13. Application of other Rules

1. If the provisions of the law of either Contracting Party or existing international obligations, or those subsequently agreed upon between the Contracting Parties in addition to the present Agreement contain general or specific provisions that grant investments by investors of the other Contracting Party more favorable treatment than that provided for under the present Agreement, such provisions, to the extent that they are more favorable, shall prevail over the present Agreement.

2. Each Contracting Party shall take into account any other contractual obligation it may have entered into with an investor of the other Contracting Party regarding investments approved by it in its territory.

Article 14. Application of the Agreement

This Agreement applies to all investments made by investors of either Contracting Party in the territory of the other Contracting Party, whether made before or after the entry into force of this Agreement, but it shall not apply to any dispute regarding an investment that arose or a claim that was settled prior to its entry into force.

Article 15. Transparency

1. Each Contracting Party shall promptly publish or make publicly available its laws, regulations, procedures, administrative rulings, and judicial decisions of general application, as well as international agreements that may affect the investments of investors of the other Contracting Party in the territory of the Contracting Party.

2. Nothing in this Agreement shall require a Contracting Party to provide or allow access to any confidential information, including information pertaining to specific investors or investments, the disclosure of which would impede the implementation of the law or violate laws protecting confidentiality or that harm the legitimate commercial interests of investors.

Article 16. Consultations

The Contracting Parties shall, at the request of either Party, hold consultations for the purpose of reviewing the implementation of this Agreement and to examine any matter arising from this Agreement, including information regarding investment opportunities in the territories of the Contracting Parties. Such consultations shall be held between the competent authorities of the Contracting Parties at a place and time agreed upon through diplomatic channels.

Article 17. Entry Into Force

This Agreement shall enter into force thirty days after the date of receipt of the last notification confirming the completion of the necessary constitutional procedures for both Contracting Parties.

Article 18. Duration

1. The provisions of this Agreement shall remain in force for a period of ten (10) years and shall be automatically renewed for a period of five (5) years, unless one of the contracting parties notifies the other contracting party in writing of its desire to terminate or amend it, provided that such notice is given at least one year prior to the expiration of the Agreement.

2. Upon the expiration of this Agreement in accordance with paragraph one of this Article, the provisions of this Agreement shall remain in effect for a period of five (5) years with respect to investments established prior to the expiration of this Agreement.

This Agreement was signed in the city of Baghdad on the 21st of Safar in the year 1435 AH, corresponding to December 25, 2013 AD, in two original copies in the Arabic language, both of which shall have equal legal force.

On behalf of the Government of the Republic of Iraq

Dr. Sami Ruwaf Al-Aaraji

Acting Chairman of the National Investment Commission

On behalf of the Government of the Hashemite Kingdom of Jordan

Dr. Hatem Al-Halwani

Minister of Industry, Trade, and Supply