AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE AND THE GOVERNMENT OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA THE PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the Republic of Singapore and the Government of the Democratic People's Republic of Korea (each hereinafter referred to as a "Contracting Party"),

DESIRING to create favourable conditions for greater economic co-operation between them and in particular for investments by investors of one State in the territory of the other State based on the principles of equality and mutual benefit,

RECOGNISING that the encouragement and reciprocal protection of such investments will be conducive to stimulating business initiative and increasing prosperity in both States,

HAVE AGREED AS FOLLOWS:

Article 1. Definitions

For the purposes of this Agreement:

1. The term "investment" means every kind of asset that an investor of one Contracting Party owns or controls, directly or indirectly, in the territory of the other Contracting Party in accordance with the laws and regulations of the latter, including, though not exclusively, any:

a. movable and immovable property and other property rights such as mortgages, liens or pledges;

b. shares, stocks, debentures and similar interests in companies;

c. claims to money or to any performance under contract having an economic value;

d. intellectual property rights and goodwill; and

e. business concessions conferred by law or under contract, including any concession to search for, cultivate, extract or exploit natural resources;

2. The term "returns" means monetary returns yielded by an investment including any profits, interest, capital gains, dividends, royalties or fees;

3. The term "investor" means:

a. in respect of the Democratic People's Republic of Korea:

i) natural persons who, according to the laws of the Democratic People's Republic of Korea, are considered to be its nationals;

ii) legal entities, including companies, firms, associations or other organizations, which are constituted or otherwise duly organized under the laws in force in the Democratic People's Republic of Korea and have their seat, together with real economic activities, in its territory.

b. in respect of the Republic of Singapore:

i) any person who is a citizen of Singapore within the meaning of the Constitution of the Republic of Singapore or has the right of permanent residence in that Party under the law of the Party;

ii) any company, firm, association or body, with or without legal personality, incorporated, established or registered under the laws in force in the Republic of Singapore; and

4. The term "territory" means:

a. in respect of the Democratic People's Republic of Korea, the territorial land, territorial waters, exclusive economic maritime zone and continental shelf over which it exercises sovereign rights or jurisdiction in accordance with its national law and international law; and

b. in respect of the Republic of Singapore, its land territory, internal waters and territorial sea, as well as any maritime area situated beyond the territorial sea which has been or might in the future be designated under its national law, in accordance with international law, as an area within which Singapore may exercise sovereign rights or jurisdiction with regards to the sea, the sea-bed, the subsoil and the natural resources.

Article 2. Applicability of this Agreement

1. This Agreement shall only apply:

a. in respect of investment in the territory of the Democratic People's Republic of Korea, to all investments made by investors of the Republic of Singapore, which are admitted in accordance with its laws by any body or authority so designated in writing notified by the Government of the Democratic People's Republic of Korea to the other Contracting Party; and

b. in respect of investments in the territory of the Republic of Singapore, to all investments made by investors of the Democratic People's Republic of Korea, which are specifically approved in writing by the Singapore Economic Development Board or any other body or authority so designated in writing notified by the Government of the Republic of Singapore to the other Contracting Party and upon such conditions, if any, as it shall deem fit.

2. The provisions of the foregoing paragraph shall apply to all investments made by investors of either Contracting Party in the territory of the other Contracting Party, whether made before or after the coming into force of this Agreement, but shall not apply to any dispute concerning an investment which arose, or any claim which was settled, before its entry into force.

Article 3. Promotion and Protection of Investments

1. Each Contracting Party shall encourage and create favourable conditions for investors of the other Contracting Party to make in its territory investments that are in line with its general economic policy.

2. Investments approved under Article 2 shall be accorded fair and equitable treatment and protection in accordance with this Agreement.

Article 4. National Treatment and Most-favoured Nation Treatment

With regards to the management, maintenance, conduct, operation, and sale or other disposition of investments, each Contracting Party shall in its territory accord investors of the other Contracting Party and their investments treatment no less favorable than that it accords, in like circumstances,

a. to investors of any other non-Contracting Party and their investments, or,

b. to its own investors and their investments, whichever is more favourable.

Article 5. Exceptions

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

a. any existing or future customs union, free trade area, free trade arrangement, common market, monetary union or similar international agreement or other forms of regional cooperation to which either of the Contracting 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, area or arrangement;

b. any existing bilateral investment agreements; or

c. any arrangement with a third State or States in the same geographical region designed to promote regional cooperation in the economic, social, labour, industrial or monetary fields within the framework of specific projects.

2. The provisions of this Agreement shall not apply to matters of taxation in the territory of either Contracting Party. Such matters shall be governed by any Avoidance of Double Taxation Treaty between the two Contracting Parties and the domestic laws of each Contracting Party.

Article 6. Expropriation

1. Neither Contracting Party shall take any measure of expropriation, nationalization or other measures having effect equivalent to nationalization or expropriation (hereinafter referred to as "expropriation") against the investment of investors of the other Contracting Party unless the measures are taken for any purpose authorized by law, on a non-discriminatory basis, in accordance with its laws and against compensation which shall be effectively realizable and shall be made without unreasonable delay. Such compensation, shall, subject to the laws of each Contracting Party, be the value immediately before the expropriation. The compensation shall include the interest that has accrued at a commercially reasonable rate from the date when the payment is due until the date of actual payment. The compensation shall be made in freely convertible currency and be freely transferable to the person entitled thereto in accordance with Article 8 (Repatriation).

2. Any measure of expropriation or valuation may, at the request of the investors affected, be reviewed by a judicial or other independent authority of the Contracting Party taking the measures in the manner prescribed by its laws.

3. Where a Contracting Party expropriates the assets of a company which is incorporated or constituted under the laws in force in any part of its own territory, and in which investors of the other Contracting Party own shares, it shall ensure that the provisions of paragraph 1 of this Article are applied to the extent necessary to guarantee compensation as specified therein to such investors of the other Contracting Party who are owners of those shares.

Article 7. Compensation for Losses

Investors of one Contracting Party whose investments in the territory of the other Contracting Party suffer losses owing to war or other armed conflict, a state of national emergency, revolt, insurrection or riot in the territory of the latter Contracting Party, shall be accorded by the latter Contracting Party treatment, as regards restitution, indemnification, compensation or other settlement, if any, no less favourable than that which the latter Contracting Party accords to investors of any third State or to its own investors, whichever is more favourable. Any resulting compensation shall be made in freely convertible currency and be freely transferable in accordance with Article 8 (Repatriation).

Article 8. Repatriation

1. Each Contracting Party shall guarantee to investors of the other Contracting Party The free transfer, on a non-discriminatory basis, of their capital and the returns from any investments. The transfers shall be made in a freely convertible currency, without any restriction or undue delay. Such transfers shall include in particular, though not exclusively:

a. profits, capital gains, dividends, royalties, interest and other current income accruing from an investment;

b. The proceeds of the total or partial liquidation of an investment;

c. repayments made pursuant to a loan agreement in connection with an investment;

d. license fees in relation to the matters in Article 1 (1)(d);

e. payments in respect of technical assistance, technical service and management fees;

f. payments in connection with contracting projects; and

g. earnings of investors of the other Contracting Party who work in connection with an investment in the territory of the former Contracting Party.

2. Nothing in paragraph 1 of this Article shall affect the free transfer of compensation paid under Articles 6 and 7 of this Agreement.

3. Notwithstanding paragraph 1 and 2 of this Article, a Party may delay or prevent a transfer through the equitable, non-discriminatory and good faith application of its laws relating to:

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

b. issuing, trading, or dealing in securities, futures, options or derivatives;

c. criminal or penal offenses;

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

e. ensuring the satisfaction of judgments, orders or awards in adjudicatory proceedings; or

f. social security, public retirement or compulsory savings schemes.

4. In case of a serious balance of payments difficulty or of a threat thereof, a Contracting Party may temporarily restrict transfers provided that such a Contracting Party implements measures or a programme in accordance with the Articles of Agreement of the International Monetary Fund. These restrictions should be imposed on an equitable, non-discriminatory and in a good faith manner.

5. The transfers referred to in Articles 6 to 8 of this Agreement shall be effected at the prevailing market rate in freely convertible currency on the date of transfer.

Article 9. Governing Laws

For the avoidance of any doubt, it is declared that all investments shall, subject to this Agreement, be governed by the laws in force in the territory of the Contracting Party in which such investments are made.

Article 10. Subrogation

1. In the event that either Contracting Party (or any agency, institution, statutory body or corporation designated by it) as a result of an indemnity it has given in respect of an investment or any part thereof makes payment to its own investors in respect of any of their claims under this Agreement, the other Contracting Party acknowledges that the former Contracting Party (or any agency, institution, statutory body or corporation designated by it) is entitled by virtue of subrogation to exercise the rights and assert the claims of its own investors. The subrogated rights or claims shall not be greater than the original rights or claims of the said investor.

2. Any payment made by one Contracting Party (or any agency, institution, statutory body or corporation designated by it) to its investors shall not affect the right of such investors to make their claims against the other Contracting Party in accordance with Article 11.

Article 11. Investment Disputes

1. Any dispute between investors of one Contracting Party and the other Contracting Party in connection with an investment in the territory of the other Contracting Party shall, as far as possible, be settled amicably through negotiations between the parties to the dispute. The party intending to resolve such dispute through negotiations shall give written notice to the other of its intention.

2. If the dispute cannot be thus resolved as provided in paragraph 1 of this Article, within 6 months from the date of the notice given thereunder, then, unless the parties have otherwise agreed, it may, upon the request of the investor concerned, be submitted:

a. to a competent court of the Contracting Party in the territory of which the investment has been made;

b. to an ad hoc arbitral tribunal which shall be established under the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL) (1);

c. for the purpose of conciliation or arbitration, to the International Centre for Settlement of Investment Disputes (called "the Centre" in this Agreement) established by the Convention on the Settlement of Investment Disputes between the States and Nationals of Other States opened for signature at Washington D.C. on 18 March, 1965 (called "the Convention" in this Agreement), provided that both Contracting Parties are parties to the Convention; or

d. to any other arbitral institutions or in accordance with any other arbitral rules, if the parties to the dispute so agree.

3. Each Contracting Party hereby irrevocably consents to the submission of an investment dispute to international

arbitration or conciliation. Such consent shall be understood to satisfy the requirements of Article 25 of the Convention.

4. The arbitral tribunal shall make its decision, taking into account all relevant factors, including the national laws and regulations of the Contracting Party which is a party to the dispute, the provisions of this Agreement, as well as applicable rules of international law. The arbitral awards shall be final and binding on the parties to the dispute. Each Contracting Party shall ensure the recognition and enforcement of the award in accordance with its relevant laws and regulations.

5. Neither Contracting Party shall give diplomatic protection, or bring an international claim, in respect of a dispute which one of its investors and the other Contracting Party shall have consented to submit or have submitted to conciliation or arbitration under this Article, unless such other Contracting Party has failed to abide by and comply with the award rendered 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.

(1) The chairperson of a tribunal established under the UNCITRAL arbitration rules shall be a national of a third country which has diplomatic relations with both Contracting Parties.

Article 12. Disputes between the Contracting Parties

1. Any dispute between the Contracting Parties concerning the interpretation or application of this Agreement shall, as far as possible, be settled through negotiation.

2. If any dispute cannot be thus settled, it shall upon the request of either Contracting Party be submitted to arbitration. The arbitral tribunal (hereinafter called "the tribunal") shall consist of three arbitrators, one appointed by each Contracting Party and the third, who shall be Chairperson of the tribunal and unless the Contracting Parties agree otherwise, be a national of a third country having diplomatic relations with both Contracting Parties, appointed by agreement of the Contracting Parties.

3. Within two months of receipt of the request for arbitration, each Contracting Party shall appoint one arbitrator, and within two months of such appointment of the two arbitrators, the Contracting Parties shall appoint the third arbitrator.

4. If the tribunal is not constituted within four months of receipt of the request for arbitration, either Contracting Party may, in the absence of any other agreement, invite the President of the International Court of Justice to appoint the arbitrator or arbitrators not yet appointed. If the President is a national of either Contracting Party or if he is unable to do so, the Vice-President may be invited to do so. If the Vice-President is a national of either Contracting Party or if he is unable to do so, the Member of the International Court of Justice next in seniority who is not a national of either Contracting Party may be invited to make the necessary appointments, and so on.

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

6. The tribunal's decision shall be final and the Contracting Parties shall abide by and comply with the terms of its award.

7. Each Contracting Party shall bear the costs of its own member of the tribunal and of its representation in the arbitration proceedings and half the costs of the Chairperson and the remaining costs. The tribunal may, however, in its decision direct that a higher proportion of costs shall be borne by one of the two Parties, and this award shall be binding on both Parties.

8. Apart from the above the tribunal shall establish its own rules of procedure.

Article 13. More Favourable Provisions and other Obligations

If the legislation of either Contracting Party or international obligations existing at present or established hereafter between the Contracting Parties in addition to this Agreement, result in a position entitling investments by investors of the other Contracting Party to treatment more favourable than is provided for by this Agreement, such position shall not be affected by this Agreement. Each Contracting Party shall observe any commitment in accordance with its laws additional to those specified in this Agreement, entered into by the Contracting Party with investors of the other Contracting Party as regards their investments.

Article 14. Amendment

This Agreement may be amended at any time, if deemed necessary, by mutual consent of both Contracting Parties in writing.

1. Each Contracting Party shall notify the other Contracting Party of the fulfillment of its internal legal procedures required for the bringing into force of this Agreement. This Agreement shall enter into force on the thirtieth day from the date of notification of the later Contracting Party.

2. This Agreement shall remain in force for a period of fifteen years and shall continue in force thereafter unless, after the expiry of the initial period of fourteen years, 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 the other Contracting Party has received it.

3. In respect of investments made prior to the date when the notice of termination of this Agreement becomes effective, the provisions of Articles 1 to 13 shall remain in force for a further period of fifteen years from that date.

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

Done in duplicate at Singapore on 2 nd December 2008 in the Korean and English languages, both texts being equally authentic. In case of any dispute, the English text shall prevail.

For the Government of the Republic of Singapore

Lim Hng Kiang

Minister for Trade and Industry

For the Government of the Democratic People's Republic of Korea

Ri Ryong-Nam

Minister for Foreign Trade