AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF AZERBAIJAN AND THE GOVERNMENT OF THE REPUBLIC OF ESTONIA ON THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS

The Government of the Republic of Azerbaijan and the Government of the Republic of Estonia, hereinafter referred to as the "Contracting Parties",

DESIRING to intensify economic co-operation to the mutual benefit of both Contracting Parties and to maintain fair and equitable conditions for investments by investors of one Contracting Party in the territory of the other Contracting Party,

RECOGNISING that the promotion of international investment flows and the protection of investments of one Contracting Party in the territory of the other Contracting Party on the basis of this Agreement will stimulate business initiatives,

DESIRING to achieve these objectives in a manner consistent with the protection of health, safety, and the environment and the promotion of sustainable development,

HAVE AGREED AS FOLLOWS:

Article 1. Definitions

For the purpose of this Agreement:

1. The term "investor" means for either Contracting Party: a. Any natural person having the nationality of a Contracting Party in accordance with its legislation; or

b. A company or other legal entity incorporated in accordance with the legislation of one Contracting Party, which has its seat and is actually managed from the territory of that Contracting Party,

Who makes an investment in the territory of the other Contracting Party in accordance with the legislation of the latter Contracting Party.

Subject to international law, an investor does not mean a natural person having the nationality of the Contracting Party in whose territory the investment is made.

2. The term "investment" means every kind of asset established or acquired directly by an investor of one Contracting Party wholly or exclusively in the territory of the other Contracting Party in accordance with the legislation of the latter Contracting Party including, in particular: a. Movable and immovable property or any property rights such as mortgages, pledges, leases, usufruct and similar rights;

b. Shares, stocks or other form of participation in a company and bonds, debentures and other form of debt instruments in a company;

c. Money, claims to money or claims to performance under a contract having a financial value;

d. Intellectual property rights, such as patents, copyrights, technical processes, trade marks, industrial designs, business names, know-how and goodwill; and

e. Concessions conferred by law, by administrative act or under a contract by a competent authority, including concessions to search for, develop, extract or exploit natural resources.

Any alteration of the form in which assets are invested or reinvested does not affect their character as investments and shall be made in accordance with the legislation of the Contracting Party in whose territory the investment was made.

3. The term "returns" means the amounts yielded by investments and in particular shall include profits, dividends, interest, royalties, capital gains or any kind of payments related to an investment.

Returns shall enjoy the same treatment as the original investment.

4. The term "territory" means in respect to: a. The Republic of Azerbaijan: the territory of the Republic of Azerbaijan, including the respective Caspian Sea sector, over which the Republic of Azerbaijan exercises, in accordance with its national law and international law, sovereign rights or jurisdiction.

b. The Republic of Estonia: the land territory of the Republic of Estonia, internal waters and territorial sea, as well as those maritime areas adjacent to the external boundary of the territorial sea, including the seabed and subsoil of either of the above territories, over which the Republic of Estonia exercises, in accordance with international law, sovereign rights and jurisdiction.

Article 2. Promotion and Protection of Investments

1. Each Contracting Party shall encourage and create favourable conditions in its territory for investments by investors of the other Contracting Party and shall admit such investments according to its legislation.

2. Investments made by investors of one Contracting Party in the territory of the other Contracting Party shall be accorded by the latter a treatment no less favourable than that required by international law and shall enjoy full protection and security.

3. The Contracting Party has the right to seek information concerning the potential investor of the other Contracting Party, including its corporate governance history and its investment practices. The Contracting Party has to protect confidential business information received. The Contracting Party may make the information provided available to the public in the community where the investment will be located, subject to the protection of confidential business information and to other applicable domestic legislation.

4. Each Contracting Party shall ensure that, to the extent possible, its laws, regulations, procedures, administrative rulings and judicial decisions of general application, as well as international agreements after their entry into force, which may affect the investments of investors of the other Contracting Party in its territory, are according to its legislation promptly published, or otherwise made publicly available.

Article 3. Treatment of Investments

1. Each Contracting Party shall in its territory accord to investments made by investors of the other Contracting Party, and to returns thereto, treatment no less favourable than that which it accords to investments and returns of its own investors or to investments of investors of any third state, whichever is more favourable to the investor.

2. Each Contracting Party shall in its territory accord to investors of the other Contracting Party, as regards management, maintenance, use, acquisition or disposal of their investment treatment no less favourable than that which it accords to its own investors Or investors of any third state, whichever is more favourable to the investor concerned and shall not impair by unreasonable, arbitrary or discriminatory measures.

3. Each Contracting Party shall not impose mandatory measures on investments by investors of the other Contracting Party concerning purchase of materials, means of production, operation, transport, marketing of its products or similar orders having unreasonable or discriminatory effects.

4. Each Contracting Party shall, within the framework of its legislation, consider in good faith all applications for necessary permits in connection with investments in its territory, including authorisations for engaging executives, managers, specialists and technical personnel.

Article 4. Exceptions

The provisions of this Agreement shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party the benefit of any treatment, preference or privilege by virtue of:

a. Any existing or future free trade area, customs union, common market or regional labour market agreement to which one of the Contracting Parties is or may become a party;

b. Any international agreement or arrangement relating to taxation; or

c. Any multilateral convention or treaty relating to investments, of which one of the Contracting Parties is or may become a party.

Article 5. Expropriation

1. Investments by investors of a Contracting Party in the territory of the other Contracting Party shall not be expropriated, nationalised or subjected to any other measures having the effect, either directly or indirectly, equivalent to expropriation or nationalisation (hereinafter referred to as "expropriation") except for a public interest, on a non-discriminatory basis, under due process of law and against the payment of prompt, adequate and effective compensation.

2. Such compensation shall amount to the fair market value of the expropriated investment at the time immediately before the expropriation took place or became public knowledge, whichever is earlier.

3. Such fair market value shall be expressed in a freely convertible currency on the basis of the market rate of exchange applicable for that currency on the day of transfer. Compensation shall also include interest on a commercial rate from the due date until the date of actual payment.

4. The investor of a Contracting Party, whose investments are expropriated, shall have the right to a prompt review by a judicial or other competent authority of the other Contracting Party of its case and of valuation of its investments in accordance with the principles set out in this Article.

Article 6. Compensation for Losses

1. 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 a natural disaster, shall be accorded by the latter Contracting Party treatment, as regards restitution, indemnification. compensation or other settlement no less favourable than that which the latter Contracting Party accords to its own investors or investors of any third State, whichever is more favourable to the investor. These payments shall be effectively realisable, freely convertible and immediately transferable.

2. Without prejudice to paragraph 1 of this Article, an investor of one Contracting Party who, in any of the situations referred to in that paragraph, suffers a loss in the territory of the other Contracting Party resulting from:

a. Requisitioning of its investment or a part thereof by the latter's armed forces or authorities; or

b. Destruction of its investment or a part thereof by the latter's armed forces or authorities, which was not required by the necessity of situation

Shall be accorded by the latter Contracting Party restitution or adequate compensation.

Article 7. Free Transfer

1. In accordance with its legislation, each Contracting Party shall in good faith ensure to investors of the other Contracting Party, after fulfilment of their fiscal obligations, free transfer, into and out of its territory, of payments in connection with an investment. Such payments shall include in particular, but not limited to:

a. The principal and additional amounts to maintain, develop or increase the investment;

b. Returns;

c. Proceeds obtained from the total or partial sale or disposal of an investment;

d. 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;

e. Compensation payable pursuant to Articles 5 and 6 of this Agreement;

f. Management fees;

g. Payments arising out of the settlement of a dispute;

h. Payments in connection with contracts, including loan agreements; i. net earnings and other remuneration of personnel engaged from abroad working in connection with an investment.

2. Transfers referred to in paragraph 1 of this Article shall be made without any restriction or delay, in a freely convertible Currency and at the market rate of exchange prevailing on the date of transfer. If the market rate is unavailable the applicable rate of exchange shall be the most recent rate of exchange for conversion of currencies into Special Drawing Rights.

3. Notwithstanding paragraphs 1 and 2 of this Article, a Contracting Party may delay or prevent a transfer using equitable, non-discriminatory measures applied in good faith to ensure investors' compliance with the Orders or judgments of its courts or tribunals and its legislation relating to:

a. The payment of taxes and dues;

b. Bankruptcy or insolvency proceedings, or the protection of the rights of creditors; and

c. Criminal or penal offences.

4. The provisions of this Article shall not be construed so as to prevent a Contracting Party from fulfilling in good faith its obligations as a member of an economic and monetary union.

Article 8. Subrogation

Where a Contracting Party or its designated agency (hereinafter referred to as "guarantor") makes a payment under a guarantee or contract of insurance it has accorded in respect of non-commercial risks of an investment in the territory if the other Contracting Party, the latter Contracting Party shall recognise the assignment to the guarantor of all the rights and claims resulting from such an investment, and shall recognise that the guarantor is entitled to exercise such rights and enforce such claims to the same extent as the original investor.

Article 9. Consultations

The Contracting Parties agree to consult promptly, on the request of either, each other for the effective application of this Agreement, or to review any matter relating to the implementation or application of this Agreement or to study any other issue that may arise from this Agreement. Such consultations shall be held between the competent authorities of the Contracting Parties at a place and time agreed upon by the Contracting Parties through diplomatic channels.

Article 10. Disputes between an Investor and the Contracting Party

1. Any dispute between an investor of a Contracting Party and the other Contracting Party concerning an alleged violation of one or more of the provisions of this Agreement in respect of an investment in the territory of the latter Contracting Party shall, if possible, be settled amicably. Before an investor may submit a dispute to arbitration under this Article, the disputing parties shall, in good faith, hold negotiations. The place of the negotiations shall be the capital city of the Contracting Party to the dispute unless the disputing parties otherwise agree. An investor's right to submit a dispute to dispute settlement procedures set out in paragraph 2, below, shall not be denied merely by the refusal of the Contracting Party to the dispute to participate in negotiations.

2. If a dispute referred to in paragraph 1 cannot be settled amicably within six months from the date of request for amicable settlement, the investor concerned may submit the dispute to international arbitration. Unless any other mechanism is agreed for the resolution of the dispute, which shall prevail, the investor has the choice of submitting the case either to:

a. The competent courts of the Contracting Party in whose territory the investment is made;

b. The International Centre for Settlement of Investment Disputes (ICSID), established pursuant to 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");

c. The Additional Facility of the Centre, if only one of the Contracting Parties is a signatory to the Convention set out in subparagraph (b) of this paragraph; or

d. An ad hoc arbitration tribunal, which unless otherwise agreed upon by the parties to the dispute, is to be established under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL).

3. Once the investor has submitted the dispute to the competent court of the Contracting Party in accordance with paragraph 2(a) or to one of the arbitration procedures stipulated in paragraphs 2(b) to 2(d) of this Article, the choice of the procedure is final.

4. Neither of the Contracting Parties, which is a party to a dispute, can raise an objection, at any phase of the arbitration procedure or of the execution of an arbitral award, on account of the fact that the investor, which is the opposing party of the dispute, has received an indemnification covering a part or the whole of its losses by virtue of an insurance.

5. Dispute shall be resolved in accordance with the terms of this Agreement, the legislation of the Contracting Party to the dispute, and principles of public international law.

6. Such award shall be final and binding for the parties to the dispute and shall be executed according to the legislation of the Contracting Party in whose territory the investment is made.

Article 11. Disputes between the Contracting Parties

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

2. If the dispute cannot thus be settled within six months, following the date on which such negotiations were requested by either Contracting Party, it shall at the request of either Contracting Party be submitted to an arbitral tribunal constituted in accordance with this Article (hereinafter referred to as "Arbitral Tribunal").

3. Such 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 Contracting Party shall appoint one member of the Arbitral Tribunal. Those two members shall then select a national of a third state who on approval by the two Contracting Parties shall be appointed Chairman of the Arbitral Tribunal. The Chairman shall be appointed within four 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 Contracting Party may, in the absence of any other agreement, invite the President of the International Court of Justice to make any necessary appointments. If the President is a national of either Contracting Party or is otherwise prevented from discharging the said function, the Member of the International Court of Justice next in seniority in office who is not a national of either Contracting Party or is not otherwise prevented from discharging the said function, shall be invited to make the necessary appointments.

5. The Arbitral Tribunal shall determine its own rules of procedure.

The Arbitral Tribunal shall reach its decision on the basis of this Agreement and in accordance with international law applicable between the Contracting Parties. The Arbitral Tribunal shall reach its decision by a majority of votes. The decisions of the Tribunal shall be final and binding on both Contracting Parties. Each Contracting Party shall bear the costs of the member appointed by that Contracting Party and of its representation at the arbitral proceedings. Both Contracting Parties shall assume an equal share of the cost of the Chairman, as well as other common costs.

Article 12. Application of other Rules

If the legislation of either Contracting Party or obligations between the Contracting Parties under international law existing at present or established hereafter between the Contracting Parties, in addition to this Agreement, contain a regulation, whether general or specific, entitling investments made by investors of the other Contracting Party to a treatment more favourable than is provided for by this Agreement, such provisions shall, to the extent that they are more favourable to the investor, prevail over this Agreement..

Article 13. Application of the Agreement

This Agreement shall apply to all investments made by an investor of one Contracting Party in the territory of the other Contracting Party whether made before or after the entry into force of this Agreement. However, this Agreement shall not apply to any investment dispute that may have arisen or any claim which was settled before its entry into force.

Article 14. Amendments

Any amendments may be made to this Agreement by mutual consent of the Contracting Parties. Such amendments shall be made in a form of separate protocols being an integral part of this Agreement and shall enter into force in accordance with the provision of Article 15 of this Agreement.

Article 15. Entry Into Force, Duration and Termination

1. The Contracting Parties shall notify each other in writing through diplomatic channels when their constitutional requirements necessary for the entry into force of this Agreement have been fulfilled. This Agreement shall enter into force on the thirtieth day following the date of receipt of the latter notification.

2. This Agreement shall remain in force for an initial period of five years and shall thereafter remain in force for a period of ten years unless one Contracting Party notifies the other Contracting Party in writing of its intention to terminate it. The termination of this Agreement shall become effective one year after notice of termination has been received by the other Contracting Party.

3. In respect of investment made prior to the date of termination of this Agreement the provisions of Articles 1 to 14 shall remain in force for a further period of ten years from the date of termination of this Agreement.

IN WITNESS WHEREOF, the undersigned representatives, duly authorised by their governments, have signed this Agreement.

Done at Tallinn on the April "7" 2010 in duplicate in the Azerbaijani, Estonian and English languages, all texts being equally authentic. In the case of any divergence of interpretation and application, the English text shall prevail.