AGREEMENT BETWEEN THE GOVERNMENT OF HUNGARY AND THE GOVERNMENT OF THE REPUBLIC OF SAN MARINO FOR THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS

The Government of Hungary and the Government of the Republic of San Marino (hereinafter referred to as the "Contracting Parties"),

Desiring to intensify economic cooperation to the mutual benefit of both Contracting Parties,

Intending to create and maintain favourable conditions for investments of investors of one Contracting Party in the territory of the other Contracting Party, and

Seeking to ensure that investment is consistent with the protection of health, safety and the environment, the promotion and protection of internationally and domestically recognised human rights, labour rights, and internationally recognised standards of corporate social responsibility;

Desiring to promote investment that contributes to the sustainable development of the Contracting Parties;

Aiming to secure an overall balance of rights and obligations between investors and the Host State;

Being conscious that the promotion and reciprocal protection of investments, according to the present Agreement, stimulates the business initiatives in this field,

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

1. The term "investment" means every kind of asset invested in connection with economic activities 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 including characteristics such as the commitment of capital or other resources, the expectation of gain or profit, assumption of risk or certain duration. Forms that an investment may take include:

a. movable and immovable property as well as any other rights in rem such as mortgages, liens, pledges and similar rights;

b. shares, stocks and debentures of companies or any other form of participation in a company;

c. claims to money or to any performance having an economic value associated with an investment;

d. intellectual and industrial property rights, as defined in the multilateral agreements concluded under the auspices of the World Intellectual Property Organization, in as far as both Contracting Parties are parties to them, including copyrights, trademarks, patents, designs, rights of breeders, technical processes, know-how, trade secrets, geographical indications, trade names and goodwill associated with an investment;

e. any right conferred by law or under contract and any licenses and permits pursuant to law, including the concessions to search for, extract, cultivate or exploit natural resources. Any alteration of the form in which assets are invested shall not affect their character as investment on condition that this alteration is made in accordance with the laws and regulations of the Contracting Party in the territory of which the investment has been made.

2. The term "investor" shall mean any natural or legal person of one Contracting Party that has made an investment in the territory of the other Contracting Party.

a. The term "natural person" shall mean any individual having the citizenship of either Contracting Party in accordance with

its laws.

b. The term “legal person” shall mean with respect to either Contracting Party, any legal entity incorporated or constituted in accordance with its laws having its central administration or principal place of business in the territory of one Contracting Party.

3. The term “returns” shall mean amounts yielded by an investment and in particular, though not exclusively, includes profits, interest, capital gains, dividends, royalties or fees.

4. The term “territory” shall mean:

a. in the case of Hungary, the territory over which Hungary exercises, in conformity with international law, sovereignty, sovereign rights or jurisdiction;

b. in the case of the Republic of San Marino, the territory of the Republic of San Marino.

5. The term “freely convertible currency” means any currency that is widely used to make payments for international transactions and widely exchanged in principal international exchange markets provided it is not contrary to the regulations of either of the Contracting Parties, and independently from how the International Monetary Fund determines the scope of freely convertible, or freely usable currency.

Article 2. Promotion and Protection of Investments

1. Each Contracting Party shall encourage and create favourable conditions for investors of the other Contracting Party to make investments in its territory and, shall admit such investments in accordance with its laws and regulations.

2. Each Contracting Party shall accord in its territory to investments of the other Contracting Party and to investors with respect to their investments fair and equitable treatment and full protection and security in accordance with paragraphs 3 through 6.

3. A Contracting Party breaches the obligation of fair and equitable treatment referenced in paragraph 2 where a measure or a series of measures constitutes:

a. denial of justice in criminal, civil or administrative proceedings; or

b. fundamental breach of due process, including a fundamental breach of transparency and obstacles to effective access to justice, in judicial and administrative proceedings; or

c. manifest arbitrariness; or

d. targeted discrimination on manifestly wrongful grounds, such as gender, race or religious belief; or

e. harassment, coercion, abuse of power or similar bad faith conduct.

4. For greater certainty, “full protection and security” refers to the Contracting Party’s obligations relating to physical security of investors and investments.

5. A breach of another provision of this Agreement or of a separate international agreement does not establish a breach of this Article.

6. The fact that a measure breaches domestic law does not, in and of itself, establish a breach of this Article; a Tribunal must consider whether a Contracting Party has acted inconsistently with the obligations in paragraph 2.

7. The Contracting Party shall not encourage investment by lowering domestic environmental, labour or occupational health and safety legislation or by relaxing core labour standards. Where a Contracting Party considers that the other Contracting Party has offered such an encouragement, it may request consultations with the other Contracting Party and the two Contracting Parties shall consult with a view to avoiding any such encouragement.

Article 3. Investment and Regulatory Measures

1. The provisions of this Agreement shall not affect the right of the Contracting Parties to regulate within their territories through measures necessary to achieve legitimate policy objectives, such as the protection of public health, safety, environment or public morals, social or consumer protection or promotion and protection of cultural diversity.

2. The mere fact that a Contracting Party regulates, including through a modification to its laws, in a manner which

negatively affects an investment or interferes with an investor's expectations of profits, does not amount to a breach of an obligation under this Agreement.

3. For greater certainty a Contracting Party's decision not to issue, renew or maintain a subsidy

a. in the absence of any specific commitment under law or contract to issue, renew or maintain that subsidy; or

b. in accordance with terms or conditions attached to the issuance, renewal or maintenance of the subsidy, does not constitute a breach of the provisions of this Agreement.

Nothing in this Agreement shall be construed as preventing a Contracting Party from discontinuing the granting of a subsidy or requesting its reimbursement where such measure is necessary in order to comply with international obligations between the Contracting Parties or has been ordered by a competent court, administrative tribunal or other competent authority, or requiring that Contracting Party to compensate the investor therefor.

Article 4. National and Most-Favoured-Nation Treatment

1. Each Contracting Party shall in its territory accord to investors of the other Contracting Party and their investments treatment not less favourable than the treatment it accords, in like situations to its own investors and their investments with respect to the conduct, operation, management, maintenance, use, enjoyment and sale or disposal of their investments in its territory.

2. Each Contracting Party shall in its territory accord to investors of the other Contracting Party and their investments treatment no less favourable than that it accords, in like situations, to investors of a third country or to their investments with respect to the operation, conduct, management, maintenance, use, enjoyment and sale or disposal of their investments in its territory.

3. For greater certainty, the "treatment" referred to in paragraph 2 does not include procedures for the resolution of investment disputes between investors and states provided for in other international investment treaties and any other agreements. Substantive obligations in other international investment treaties and other trade agreements do not in themselves constitute "treatment", and thus cannot give rise to a breach of this Article, absent measures adopted or maintained by a Contracting Party pursuant to those obligations.

4. The National Treatment and Most-Favoured-Nation Treatment provisions of this Agreement shall not apply to advantages accorded by a Contracting Party pursuant to its obligations as a member of a customs, economic, or monetary union, a common market or a free trade area.

5. The Contracting Parties understand the obligations of a Contracting Party as a member of a customs, economic, or monetary union, a common market or a free trade area to include obligations arising out of an international agreement or reciprocity arrangement of that customs, economic, or monetary union, common market or free trade area.

6. The provisions of this Article shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party, or to the investments or returns of investments of such investors the benefit of any treatment, preference or privilege, which may be extended by the former Contracting Party by virtue of:

a. any forms of multilateral agreements on investments to which either of the Contracting Parties is or may become a party;

b. any international agreement or arrangement relating wholly or mainly to taxation.

Article 5. Compensation for Losses

1. When investments or returns of investments of investors of either Contracting Party suffer losses owing to war, armed conflict, a state of national emergency, revolt, insurrection, riot or other similar events in the territory of the other Contracting Party, they shall be accorded by the latter Contracting Party treatment, as regards restitution, indemnification, compensation or other settlement, not less favourable than that which the latter Contracting Party accords to its own investors or to investors of any third State whichever is more favourable.

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

a. requisitioning of their investment or a part thereof by its forces or authorities;

b. destruction of their investment or a part thereof by its forces or authorities which was not caused in combat action or was

not required by the necessity of the situation shall be accorded by the Contracting Party, in whose territory the losses occurred, prompt, just, adequate and effective restitution or compensation. Compensation shall include interest at a commercially reasonable rate from the date of losses occurred until the day of payment.

Article 6. Expropriation

1. Investments or returns of investors of either Contracting Party shall not be subject to nationalisation, direct or indirect expropriation, or any measures having equivalent effect (hereinafter referred to as “expropriation”) in the territory of the other Contracting Party except for a public purpose. The expropriation shall be carried out under due process of law, on a non-discriminatory basis and shall be accompanied by provisions for the payment of prompt, adequate and effective compensation. Such compensation shall amount to the fair market value of the investment expropriated immediately before expropriation or impending expropriation became public knowledge (whichever is earlier), shall include interest at a commercially reasonable rate from the date of expropriation to the date of actual payment and shall be made without delay, be effectively realizable and be freely transferable in a freely convertible currency.

2. For the purpose of this Agreement:

a. indirect expropriation results from a measure or series of measures of a Contracting Party having an equivalent effect to direct expropriation without formal transfer of title or outright seizure;

b. the determination of whether a measure or series of measures by a Contracting Party, in a given specific situation, constitutes an indirect expropriation requires a case-by-case, fact-based inquiry that considers, among other factors:

(i) the economic impact of the measure or series of measures, although the sole fact that a measure or series of a measure of a Contracting Party has an adverse effect on the economic value of an investment does not establish that an indirect expropriation has occurred,

(ii) the duration of the measure or series of measures by a Contracting Party,

(iii) the character of the measure or series of measures, notably their object and content;

c. non-discriminatory measures that the Contracting Parties take for legitimate reason of public purpose including for reasons of public health, safety, and environmental protection, which are taken in good faith, which are not arbitrary, and which are proportionate and reasonably connected to the stated purpose, shall not constitute indirect expropriation.

Article 7. Transfers

1. The Contracting Parties shall permit the free transfer of payments related to investments and returns. The transfers shall be made in a freely convertible currency and in accordance with the laws and regulations of the Contracting Party where investments were made without any restriction and undue delay. Such transfers shall include in particular, though not exclusively:

a. capital and additional amounts to maintain or increase the investment;

b. returns as defined in paragraph 3 of Article 1 of this Agreement;

c. 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;

d. payments in connection with contracts, including loan agreements;

e. proceeds of the total or partial sale or liquidation of the investment;

f. the wages or other similar earnings of natural persons engaged from abroad, in connection with

an investment, subject to the laws and regulations of the Contracting Party, in which the investment has been made;

g. compensations owed pursuant to Articles 5 and 6 of this Agreement;

h. payments arising out of settlement of a dispute under Article 9 of this Agreement.

2. The transfers shall be made after the investor fulfilled all of its related financial obligations according to the laws in force of the Contracting Party in the territory of which the investment was made.

3. Nothing in this Article shall be construed to prevent a Contracting Party from applying in an equitable and non-

discriminatory manner and not in a way that would constitute a disguised restriction on transfers, its laws relating to:

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

b. issuing, trading or dealing in securities;

c. criminal or penal offences;

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

e. the satisfaction of judgements in adjudicatory proceedings.

4. For the purpose of this Agreement, exchange rates shall be the rate published – in accordance with the laws and regulations of the Contracting Party, which has admitted the investment – by the financial institution effecting the transfer unless otherwise agreed. Should such rate not exist the official rate has to be applied unless otherwise agreed.

Article 8. Subrogation

1. If a Contracting Party or its designated agency makes a payment to its own investors under a guarantee or insurance it has accorded in respect of an investment in the territory of the other Contracting Party, the latter Contracting Party shall recognize:

a. the assignment, whether under the law or pursuant to a legal transaction in that country, of any right or claim by the investor to the former Contracting Party or its designated agency, as well as,

b. that the former Contracting Party or its designated agency is entitled by virtue of subrogation to exercise the rights and enforce the claims of that investor and shall assume the obligations related to the investment.

2. The subrogated rights or claims shall not exceed the original rights or claims of the investor.

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

1. Any dispute which may arise between an investor of one Contracting Party and the other Contracting Party in connection with an investment in the territory of that other Contracting Party shall, if possible be settled amicably and be subject to negotiations between the parties in dispute.

2. The negotiations start on the date when the disputing investor of one Contracting Party requests negotiations in written notification from the other Contracting Party. In order to facilitate the amicable settlement of the dispute the written notice shall specify the issues, the factual basis of the dispute, the findings of the disputing investor (including any supporting documents) and their presumed legal basis. Unless otherwise agreed, at least one consultation shall be held within 90 days from the date on which the disputing investor of one Contracting Party has requested negotiations from the other Contracting Party in written notification.

3. If any dispute between an investor of one Contracting Party and the other Contracting Party cannot be thus settled within a period of six months following the date on which such negotiations were requested in written notification, the investor shall be entitled to submit the dispute:

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

b. to the International Centre for Settlement of Investment Disputes (ICSID) pursuant to the applicable provisions of the Convention on the Settlement of Investment Disputes between States and Nationals of other States opened for signature at Washington D.C. on 18 March 1965, in the event both Contracting Parties have become a party to this Convention; or

c. to an ad hoc arbitral tribunal established under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL). The parties to the dispute may agree in writing to deviate from these arbitration Rules; or

d. under the Rules Governing the Additional Facility for the Administration of Proceedings by the Secretariat of ICSID ("Additional Facility Rules of ICSID"), provided that either the disputing Contracting Party or the Contracting Party of the investor, but not both, is a party to the Convention on the Settlement of Investment Disputes between States and Nationals of other States, opened for signature at Washington D.C. on March 18, 1965; or

e. in accordance with any other form of dispute settlement agreed upon by the parties to the dispute.

4. Once a dispute has been submitted to one of the tribunals mentioned in paragraph 3 a.–e. the investor shall have no recourse to the other dispute settlement fora listed in paragraph 3 a.–e.

5. If any dispute between an investor of one Contracting Party and the other Contracting Party cannot be thus settled within a period of six months following the date on which such negotiations were requested in written notification as mentioned in paragraph 2 of this Article, and the disputing investor intends to submit the dispute to one of the fora listed under paragraphs 3 a.–e. the disputing investor shall at the very latest simultaneously to submitting any dispute to one of the tribunals, notify the other Contracting Party in a written notice of its intention.

6. An investor may submit a dispute as referred to in paragraph 1 and 2 to arbitration in accordance with paragraph 3 only if not more than three years have elapsed from the date on which the investor first acquired, or should have first acquired, knowledge of the alleged breach and knowledge that the investor has incurred loss or damage.

7. When rendering its decision, the tribunal shall apply this Agreement as interpreted in accordance with the rules and principles codified in the Vienna Convention on the Law of Treaties, and other rules and principles of international law applicable between the Contracting Parties. For greater certainty the domestic law of the Contracting Parties shall not constitute part of the applicable law. In case of Hungary the term “domestic law” comprises the law of the European Union.

8. The tribunal referred to in paragraph 3 b.–e. shall not have jurisdiction to determine the legality of a measure, alleged to constitute a breach of this Agreement, under the domestic law of a Contracting Party. For greater certainty, in determining the consistency of a measure with this Agreement, the tribunal may consider, as appropriate, the domestic law of a Contracting Party as a matter of fact. In doing so, the tribunal shall follow the prevailing interpretation given to the domestic law by the courts or authorities of that Contracting Party and any meaning given to domestic law by the tribunal shall not be binding upon the courts or the authorities of that Contracting Party.

9. The award shall be final and binding on the parties to the dispute and shall be executed in accordance with the law of the Contracting Party in the territory of which the investment has been made and the award is relied upon, by the date indicated in the award.

10. The Contracting Parties shall pursue with each other and other trading partners the establishment of a multilateral investment tribunal and appellate mechanism for the resolution of investment disputes. Upon entry into force between the Contracting Parties of an international agreement providing for a multilateral investment tribunal and/or a multilateral appellate mechanism applicable to disputes under this Agreement, the relevant parts of this Agreement shall cease to apply.

Article 10. Impartiality or Independence of Arbitrators

1. Arbitrators shall be independent and they shall not affiliate with any government. They shall not participate in the consideration of any disputes that would create a direct or indirect conflict of interest. In addition, upon appointment, they shall refrain from acting as counsel or as party-appointed expert or witness in any pending or new investment protection dispute under this or any other international agreement. Arbitrators shall comply with the code of conduct as set out in Annex I in disputes arising out of Article 9.

2. If a disputing party considers that an arbitrator has a conflict of interest, it may invite the Secretary General of the ICSID to issue a decision on the challenge to disqualify such arbitrator. Any notice of a challenge shall be submitted to the Secretary General of the ICSID within 15 days of the date on which the appointment of the challenged arbitrator has been communicated to the disputing party, or within 15 days of the date on which the relevant facts came to the knowledge of the disputing party that proposed the challenge, if the relevant facts could not have reasonably been known at the time of the appointment of the challenged arbitrator.

3. The notice of challenge shall state the grounds on which the challenge is based. Any arbitrator may be challenged in any event before the proceeding is declared closed, if circumstances exist that give rise to justifiable doubts as to the arbitrator’s impartiality or independence on the basis of the code of conduct as set out in Annex I. The challenge shall be notified to all other parties, to the arbitrator who is challenged and to the other arbitrators.

4. When an arbitrator has been challenged by a party, all parties may agree to the challenge. The arbitrator may also, after the challenge, withdraw from his or her office. In neither case does this imply acceptance of the validity of the grounds for the challenge. The other disputing party and the challenged arbitrator shall file their statement presenting their position and supporting documents within 15 days after the notice of the challenge.

5. If the other disputing party has not expressed its consent to the challenge or the challenged arbitrator fails to resign within 15 days from the date of the notice of the challenge, the disputing party may request the Secretary General of the ICSID to issue a founded decision on the challenge.

6. The Secretary General of the ICSID shall endeavour to issue the decision within 30 days after receiving submissions from the disputing parties and the challenged arbitrator. If the Secretary General of the ICSID admits the challenge, a new arbitrator shall be appointed.

7. The proceeding shall be suspended upon the filing of the notice of the challenge until a decision on the challenge has been made, except to the extent that the disputing parties agree to continue the proceeding.

Article 11. Settlement of Disputes between the Contracting Parties

1. Disputes between the Contracting Parties concerning the interpretation or application of this Agreement shall, if possible, be settled through consultation or negotiation.

2. If the dispute cannot be thus settled within six months, it shall upon the request of either Contracting Party, be submitted to an Arbitral Tribunal of three members, in accordance with the provisions of this Article.

3. The Arbitral Tribunal shall be constituted for each individual case in the following way. Within two months from the date of the receipt of the request for arbitration, each Contracting Party shall appoint one member of the Tribunal. These two members shall then select a national of a third State who shall be appointed the Chairman of the Tribunal (hereinafter referred to as the "Chairman"). The Chairman shall be appointed within three 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, a request may be made to the President of the International Court of Justice to make the appointments. If the President happens to be a national of either Contracting Party, or if the President is otherwise prevented from discharging the said function, the Vice-President shall be invited to make the appointments. If the Vice-President also happens to be a national of either Contracting Party or is prevented from discharging the said function, the member of the International Court of Justice next in seniority who is not a national of either Contracting Party shall be invited to make the appointments.

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

6. The Tribunal shall issue its decision on the basis of respect for the law, the provisions of this Agreement, as well as of the universally accepted principles of international law.

7. Subject to other provisions made by the Contracting Parties, the Tribunal shall determine its procedure.

8. Each Contracting Party shall bear the cost of its own arbitrator and its representation in the arbitral proceedings; the cost of the Chair and the remaining costs shall be borne in equal parts by both Contracting Parties. The Arbitral Tribunal may make a different regulation concerning the costs.

9. The decisions of the Tribunal are final and binding for each Contracting Parties.

Article 12. Transparency

The "UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration" shall apply to disputes under this Agreement. With respect to regulations of general application adopted at central government level respecting any matter covered by this Agreement the Contracting Parties shall publish the regulation in their official gazette without delay. On request of a Contracting Party to this Agreement consultation might be held on issues of transparency practices.

Article 13. Application of other Rules and Special Commitments

Nothing in this Agreement shall be taken to limit the rights of investors of the Contracting Parties from benefiting from any more favourable treatment that may be provided for in any existing or future bilateral or multilateral agreement to which they are parties.

Article 14. Applicability of this Agreement

This Agreement shall apply to investments made in the territory of one of the Contracting Parties in accordance with its laws and regulations by investors of the other Contracting Party after the entry into force of this Agreement, but shall not apply to any dispute or claim concerning an investment which arose, or which was settled before the entry into force of this Agreement.

Article 15. Consultations

Upon request by either Contracting Party, the other Contracting Party shall agree to consultations on the interpretation or application of this Agreement. Upon request by either Contracting Party, information shall be exchanged on the impact that the laws, regulations, decisions, administrative practices or procedures, or policies of the other Contracting Party may have on investments covered by this Agreement.

Article 16. General Exceptions

1. Nothing in this Agreement shall prevent a Contracting Party from adopting or maintaining measures for prudential reasons, including for:

a. the protection of investors, depositors, policy-holders or persons to whom a fiduciary duty is owed by a financial service supplier; and

b. ensuring the integrity and stability of a Contracting Party's financial system.

Where such measures do not conform with the provisions of this Agreement, they shall not be used as a means of avoiding the Contracting Party's commitments or obligations under the Agreement. Nothing in this Agreement shall be construed as requiring a Contracting Party to disclose information relating to the affairs and accounts of individual customers or any confidential or proprietary information in the possession of public entities.

2. a. Nothing in this Agreement shall be construed to prevent a Contracting Party from adopting or maintaining measures that restrict transfers where the Contracting Party experiences serious balance of payments difficulties, or the threat thereof, and such restrictions are consistent with paragraph b.

b. Measures referred to in paragraph a. shall be equitable, neither arbitrary nor unjustifiably discriminatory, in good faith, of limited duration and may not go beyond what is necessary to remedy the balance of payments situation. A Contracting Party that imposes measures under this Article shall inform the other Contracting Party forthwith and present as soon as possible a time schedule for their removal. Such measures shall be taken in accordance with other international obligations of the Contracting Party concerned, including those under the WTO Agreement and the Articles of Agreement of the International Monetary Fund.

3. Nothing in this Agreement shall be construed: a. to prevent any Contracting Party from taking any actions that it considers necessary for the protection of its essential security interests

(i) relating to the traffic in arms, ammunition and implements of war and to such traffic and transactions in other goods, materials, services and technology undertaken directly or indirectly for the purpose of supplying a military or other security establishment,

(ii) taken in time of war or other emergency in international relations, or

(iii) relating to the implementation of national policies or international agreements respecting the non-proliferation of nuclear weapons or other nuclear explosive devices; or

b. to prevent any Contracting Party from taking action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

4. A Contracting Party may deny the benefits of this Agreement to an investor of the other Contracting Party that is a legal person and to investments of that investor, if investors of a third state own or control the first mentioned investor or the investments and:

a. the investor has no substantial business activities in the territory of the Contracting Party under whose law it is constituted, or

b. the denying Contracting Party adopts or maintains measures with respect to the third state that prohibit transactions with such investor and its investments or that would be violated or circumvented if the benefits of the Agreement were accorded to the investments of investors.

5. A Contracting Party's essential security interests may include interests and measures deriving from its membership in a customs, economic, or monetary union, a common market or a free trade area.

6. All references in the Agreement to measures of a Contracting Party shall include measures applicable in accordance with EU law in the territory of that Contracting Party pursuant to its membership in the European Union. References to "serious balance-of-payments difficulties, or the threat thereof," shall include serious balance-of-payments difficulties, or the threat

thereof, in the economic or monetary union of which a Contracting Party is a member.

7. The dispute settlement according to Article 9 shall not be considered as treatment, preference or privilege.

8. Subject to the requirement that such measures are not applied in a manner that would constitute arbitrary or unjustifiable discrimination between investments or between investors, nothing in Article 4 paragraphs 1 and 2 shall be construed to prevent a Contracting Party from adopting or enforcing measures necessary:

a. to protect public morals or public order;

b. to protect human, animal or plant life or health;

c. to ensure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement including those relating to:

(i) the prevention of deceptive and fraudulent practices or to deal with the effects of a default on contracts;

(ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts;

(iii) safety.

Article 17. Final Provisions, Entry Into Force, Duration, Termination and Amendments

1. This Agreement shall apply without prejudice to the rights and obligations deriving from Hungary's membership in the European Union, and subject to those obligations. Consequently, the provisions of this Agreement may not be invoked or interpreted neither in whole nor in part in such a way as to invalidate, amend or otherwise affect the obligations of Hungary arising from the Treaties on which the European Union is founded.

2. The Contracting Parties shall notify each other through diplomatic channels that their internal procedure requirements for the entry into force of this Agreement have been complied with. This Agreement shall enter into force sixty (60) days after the receipt of the last notification.

3. This Agreement shall remain in force for a period of ten years and afterwards shall continue to be in force unless, 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 it has been received by the other Contracting Party but not earlier than the expiry of the initial period of ten years.

4. In respect of investments made prior to the termination of this Agreement, the provisions of this Agreement shall continue to be effective for a period of ten years from the date of termination.

5. This Agreement may be amended by written agreement between the Contracting Parties. Any amendment shall be integral part of the Agreement and enter into force under the same procedure required for entering into force of the present Agreement.

IN WITNESS WHEREOF, the undersigned duly authorized have signed this Agreement.

DONE in duplicate at NEW YORK, this 21 day of SEPTEMBER 2022, in the Hungarian, Italian and English languages, all texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

Annex I. CODE OF CONDUCT FOR MEMBERS OF TRIBUNALS APPOINTED UNDER THE AGREEMENT BETWEEN THE GOVERNMENT OF HUNGARY AND THE GOVERNMENT OF THE REPUBLIC OF SAN MARINO FOR THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS

Article 1 Definitions

For the purpose of this Code of Conduct, the following definitions apply:

– “member” means a person who has been appointed to serve as a member of a tribunal established pursuant to the applicable provisions of Article 9 paragraph 3 of the Agreement between the Government of Hungary and the Government of the Republic of San Marino for the promotion and reciprocal protection of investments (the “Agreement”);

– “assistant” means a person who, under the terms of appointment of a member, assists the member, conducts research, or supports him or her in his or her duties;

– “candidate” means a person who is under consideration for appointment as member.

Article 2 Governing principles

Any candidate or member shall avoid impropriety and the appearance of impropriety, and shall observe high standards of conduct so that the integrity and impartiality of the dispute settlement proceeding is preserved.

Article 3 Disclosure Obligations

1. Prior to confirmation of their appointment as members under Article 9 paragraph 3 of this Agreement, candidates shall disclose to the disputing parties any past or present interest, relationship or matter that is likely to affect their independence or impartiality, or that might reasonably be seen as creating a direct or indirect conflict of interest, or that creates or might reasonably be seen as creating an appearance of impropriety or bias. To this end, candidates shall make all reasonable efforts to become aware of any such interests, relationships or matters. The disclosure of past interests, relationships or matters shall cover at least the last five years prior to a candidate becoming aware that he or she is under consideration for appointment as member in a dispute under this Agreement.

2. Following their appointment, members shall at all times continue to make all reasonable efforts to become aware of any interests, relationships or matters referred to in Article 3 paragraph 1 of this Code of Conduct. Members shall at all times disclose such interests, relationships or matters throughout the performance of their duties by informing the disputing parties and the Contracting Parties. They shall also communicate matters concerning actual or potential violations of this Code of Conduct to the disputing parties and the Contracting Parties.

Article 4 Independence, impartiality and other obligations of members

1. In addition to the obligations established pursuant to Articles 2 and 3 of this Code of Conduct, members shall:

a. get acquainted with this Code of Conduct;

b. be and appear to be, independent and impartial, and avoid any direct or indirect conflicts of interest;

c. not take instructions from any organisation or government with regard to matters before the tribunal for which they are appointed;

d. avoid creating an appearance of bias and not be influenced by self-interest, outside pressure, political considerations, public clamour, loyalty to a Contracting Party, disputing party or any other person involved or participating in the proceeding, fear of criticism or financial, business, professional, family or social relationships or responsibilities;

e. not, directly or indirectly, incur any obligation, or accept any benefit, enter into any relationship, or acquire any financial interest that would in any way interfere, or appear to interfere, with the proper performance of their duties, or that is likely to affect their impartiality;

f. not use their position as a member to advance any personal or private interests and avoid actions that may create the impression that others are in a special position to influence them;

g. perform their duties thoroughly and expeditiously throughout the course of the proceeding, and with fairness and diligence;

h. avoid engaging in ex parte contacts concerning the proceeding;

i. consider only those issues raised in the proceeding and which are necessary for a decision or award and not delegate this duty to any other person.

2. Members shall take all appropriate steps to ensure that their assistants are aware of, and comply with, Articles 2 and 3, Article 4 paragraph 1 and Articles 5 and 6 of this Code of Conduct mutatis mutandis.

Article 5 Obligations of former members

1. Former members shall avoid actions that may create the appearance that they were biased in carrying out their duties or

derived advantage from the decisions or awards of the tribunal. $

2. Former members shall undertake that for a period of three years after the end of their duties in relation to a dispute settlement proceeding under this Agreement they shall not:

a. become involved in any manner whatsoever in investment disputes directly and clearly connected with disputes, including concluded disputes, that they have dealt with as members of a tribunal established under this Agreement;

b. act as party-appointed member, legal counsel or party-appointed witness or expert of any of the disputing parties, in relation to investment disputes under this or other bilateral or multilateral investment treaties.

3. If the Secretary General of the ICSID is informed or becomes otherwise aware that a former member is alleged to have acted inconsistently with the obligations established in Article 5 paragraphs 1 and 2, or any other part of this Code of Conduct while performing the duties of member of a tribunal in an investment dispute under this Agreement, it shall examine the matter, provide the opportunity to the former member to be heard, and after verification, inform:

a. the professional body or other such institution with which the former member is affiliated;

b. the Contracting Parties;

c. the disputing parties in the specific dispute;

d. any other relevant international court or tribunal.

4. The Secretary General of the ICSID shall make public its decision to take the actions referred in paragraphs 3 a. to 3 d. above, together with the reasons thereof.

Article 6 Confidentiality

1. No member or former member shall at any time disclose or use any non-public information concerning a proceeding or acquired during a proceeding, except for the purposes of that proceeding, and shall not, in any case, disclose or use any such information to gain personal advantage or advantage for others or to adversely affect the interest of others.

2. Members shall not disclose an order, decision, or award or parts thereof prior to adoption or publication.

3. Members or former members shall not at any time disclose the deliberations of the tribunal, or any views of other members forming part of the tribunal, except in an order, decision or award.

Article 7 Expenses

Each member shall keep a record and render a final account of the time devoted to the procedure and of the expenses incurred, as well as the time and expenses of their assistants.