AGREEMENT BETWEEN THE PORTUGUESE REPUBLIC AND THE DEMOCRATIC REPUBLIC OF São Tomé and Príncipe ON THE PROMOTION AND MUTUAL PROTECTION OF INVESTMENTS

The Government of the Portuguese Republic and the Government of the Democratic Republic of São Tomé and Príncipe, hereinafter referred to as the Contracting Parties:

Encouraged by the desire to intensify economic cooperation between the two States;

In order to encourage and create favorable conditions for investment by investors of one Contracting Party in the territory of the other Contracting Party on the basis of equality and mutual benefit;

Recognizing that the protection and mutual promotion of investments under this Agreement will contribute to stimulating private initiative;

Agree as follows:

Article 1. Definitions

For the purposes of this Agreement:

1. The term "investments" shall comprise all kinds of assets and rights invested by investors of one Contracting Party in the territory of the other Contracting Party, including in particular but not exclusively:

a) Property of furniture and real estate, as well as any other real rights, such as mortgages and pledges;

b) Shares, quotas or other shares representing the capital of companies or any other form of participation and / or economic interests resulting from their activity;

c) Credit rights or any other rights with economic value;

d) Intellectual property rights, such as copyrights, patents, industrial designs, trademarks, trade names, trade and industrial secrets, technical processes, know-how and clientele;

e) Concessions granted by law, contract or administrative act of a competent public authority, including concessions for exploration, research and exploitation of natural resources;

f) Goods which, under a lease, are made available to a lessor in the territory of a Contracting Party in accordance with its laws and regulations.

Any change in the form of realization of investments shall not affect their qualification as investments provided that such change is made in accordance with the laws and regulations of the Contracting Party in whose territory the investments have been made.

2. The term "income" shall mean the amounts generated by investments in a given period, including but not limited to profits, dividends, interest, royalties or other income relating to investments, including payments for technical assistance or management.

In the event that investment income, as defined above, is reinvested, the proceeds from this reinvestment will also be treated as income from the initial investment.

3. the term 'investors' means:

a) Natural persons, with the nationality of either Contracting Party, in accordance with the respective law; and

b) Legal persons, including companies, commercial companies or other companies or associations, having their headquarters in the territory of one of the Contracting Parties, are incorporated and operate under the law of that Contracting Party.

4. The term "territory" shall include the territory of each Contracting Party as defined in its respective laws, including the territorial sea and any other area over which the Contracting Party concerned exercises, in accordance with international law, Sovereignty, sovereign rights or jurisdiction.

Article 2. Promotion and Protection of Investments

1. Both Contracting Parties shall promote and encourage, as far as possible, investments by investors of the other Contracting Party in their territory, admitting such investments in accordance with their laws and regulations.

They shall in any case grant the investments fair and equitable treatment.

2. Investments made by investors of either Contracting Party shall enjoy full protection and security in the territory of the other Contracting Party.

3. No Contracting Party shall subject to the management, maintenance, use, enjoyment or disposition of the investments made in its territory by investors of the other Contracting Party to unjustified, arbitrary or discriminatory measures.

Article 3. National and Most-favored Nation Treatment

1. Investments made by investors of a Contracting Party and their income shall be treated fairly and equitably and no less favorable than that accorded by the latter Contracting Party to its own investors or to investors of third States.

2. Both Contracting Parties shall grant to investors of the other Contracting Party, as regards the management, maintenance, use, enjoyment or disposition of the investments made in their territory, a fair and equitable treatment and not less favorable than that accorded to their own investors Or investors from third States.

3. The legal provisions of this article do not imply the granting of preferential treatment or privilege by one of the Contracting Parties to investors of the other Contracting Party that may be granted by virtue of:

a) Participation in free trade areas, customs unions, common or existing common markets and other similar international agreements, including other forms of economic cooperation, to which one of the Contracting Parties has acceded or will accede; and

b) International tax agreements.

Article 4. Expropriation

1. Investments made by investors of one Contracting Party in the territory of the other Contracting Party may not be expropriated, nationalized or subject to other measures having equivalent effect to the expropriation or nationalization, hereinafter referred to as expropriation, except by law, in the public interest , Without discrimination and with prompt compensation.

2. The compensation should correspond to the market value that the expropriated investments had at the date immediately prior to the moment the expropriation became public knowledge. The compensation shall be paid without delay, shall bear interest at the usual commercial rate up to the date of its liquidation and shall be prompt, effective, adequate and freely transferable. Appropriate arrangements should be made for fixing the amount and method of payment of the compensation, at the latest at the time of expropriation.

3. The investor to whom the investments have been expropriated shall have the right, in accordance with the law of the Contracting Party in whose territory the property has been expropriated, to review its case, in judicial or other proceedings, and to evaluate its investments In accordance with the principles set forth in this article.

Article 5. Compensation for Losses

Investors of either Contracting Party who suffer loss of investment in the territory of the other Contracting Party as a result of war or other armed conflict, revolution, national state of emergency and other events considered equivalent under international law shall not receive less treatment from that Contracting Party Favorable than that accorded to its own investors or to investors from third States, whichever is the more favorable, as regards restitution, damages or other

relevant factors. The resulting compensation shall be transferable freely and without delay in convertible currency.

Article 6. Downloads

1. Each Contracting Party shall, in accordance with its law, guarantee to the investors of the other Contracting Party the free transfer of amounts related to investments, in particular:

a) The capital and additional amounts required to maintain or expand investments;

b) Of the income defined in Article 1 (2) of this Agreement;

c) The amounts necessary for the servicing, repayment and amortization of loans recognized by both Contracting Parties as investments;

d) The proceeds from the sale or the total or partial liquidation of the investments;

e) Compensation or other payments provided for in Articles 4 and 5 of this Agreement; or

f) Of any preliminary payments that may have been made on behalf of the investor in accordance with Article 7 of this Agreement.

2. Transfers referred to in this Article shall be made without delay, in convertible currency, at the rate of exchange applicable on the date of transfer.

3. For the purposes of this Article, a transfer shall be deemed to have taken place 'without delay' where it is effected within the period normally necessary for completing the requisite formalities, which may in no case exceed 30 days From the date of submission of the transfer request.

Article 7. Subrogation

In the case of one of the Contracting Parties or the agency designated by it to make payments to one of its investors by virtue of a guarantee given to an investment carried out in the territory of the other Contracting Party, it shall be for that reason subrogated to the rights and shares of that investor , And may exercise them in the same terms and conditions as the original holder.

Article 8. Disputes between the Contracting Parties

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

2. If the Contracting Parties do not reach agreement within six months after the start of negotiations, the dispute shall be referred to an arbitral tribunal at the request of either Contracting Party.

3. The arbitral tribunal shall be constituted ad hoc, as follows: each Contracting Party shall appoint one member and both members shall propose a third-country national as president, who shall be appointed by both Contracting Parties. Members shall be appointed within two months and the President within three months of the date on which a Contracting Party has notified the other Party that it wishes to refer the dispute to an arbitral tribunal.

4. If the time limits laid down in paragraph 3 of this Article are not observed, each Contracting Party may, in the absence of any other agreement, request the President of the International Court of Justice to make the necessary appointments. If the President is prevented or is a national of one of the Contracting Parties, the appointments shall be made by the Vice-President.

If he is also prevented or is a national of one of the Contracting Parties, appointments shall be made to the member of the Tribunal who is in the hierarchy, provided he is not a national of either Contracting Party.

5. The president of the arbitral tribunal must be a national of a State with which both Contracting Parties maintain diplomatic relations.

6. The arbitral tribunal shall decide by majority vote.

Its decisions shall be final and binding on both Contracting Parties. Each of the Contracting Parties shall bear the expenses of the respective arbitrator, as well as of the respective representation in the proceedings before the arbitral tribunal. Both Contracting Parties shall bear the costs of the President and the other expenses in equal parts. The arbitral tribunal may

adopt a different regulation on costs. The arbitral tribunal shall define its own rules of procedure.

Article 9. Disputes between One Contracting Party and an Investor of the other Contracting Party

1. Disputes arising between an investor of one Contracting Party and the other Contracting Party relating to an investment of the former in the territory of the second shall be settled amicably through negotiations between the parties to the dispute.

2. If disputes can not be settled in accordance with paragraph 1 of this Article within six months from the date on which one of the parties to the dispute has raised it, the investor may, at his request, submit The dispute to the International Center for Settlement of Investment Disputes for conciliation or arbitration under the Convention on the Settlement of Disputes between National States of Other States, done at Washington DC on 18 March 1965.

3. Neither Contracting Party may use diplomatic channels to resolve any matter relating to arbitration unless the proceeding has been completed and the Contracting Party has not complied with or complied with the decision of the International Center for Settlement of Investment Disputes.

4. The judgment shall be binding on both parties and shall not be subject to any type of appeal other than those provided for in the said Convention. The judgment shall be binding in accordance with the domestic law of the Contracting Party in whose territory the investment in question is situated.

Article 10. Application of other Rules

1. If, in addition to this Agreement, the provisions of the domestic law of one of the Contracting Parties or the obligations under international law in force or which may come into force between the two Contracting Parties establish a general or special regime for the investments made by Investors of another Contracting Party a treatment more favorable than that provided for in this Agreement, the most favorable regime shall prevail over it.

2. Each Contracting Party shall comply with any obligations assumed in respect of investments made by investors of the other Contracting Party in its territory.

Article 11. Application of the Agreement

This Agreement shall also apply to investments made prior to their entry into force by investors of one Contracting Party in the territory of the other Contracting Party in accordance with their respective laws and regulations, but shall not apply to disputes arising prior to the entry into force of this Agreement. Entry into force.

Article 12. Inquiries

The representatives of the Contracting Parties shall, whenever necessary, hold meetings on any matter relating to the implementation of this Agreement. These meetings shall be held on the proposal of one of the Contracting Parties at a date and time to be agreed through the diplomatic channel.

Article 13. Entry Into Force and Duration

1. This Agreement shall enter into force 30 days after the date on which both Contracting Parties have notified each other in writing of the completion of their respective internal constitutional procedures.

2. This Agreement shall remain in force for a period of 10 years, which shall be extended indefinitely, unless denounced in writing by one of the Contracting Parties 12 months before the date of expiration of the 10-year period. After this 10-year period has elapsed, this Agreement may be denounced at any time by either Contracting Party with 12 months' written notice.

3. The provisions of Articles 1 to 12 shall remain in force for a period of 10 years from the date of termination of this Agreement in respect of the investments made before that denunciation.

Done in duplicate in Lisbon, on May 12, 1995, in two originals in the Portuguese language.

At the time of signature of the Agreement on the Promotion and Reciprocal Protection of Investments between the Portuguese Republic and the Democratic Republic of São Tomé and Príncipe, the undersigned Plenipotentiaries further agreed on the following provisions, which form an integral part of said Agreement:

1. With reference to Article 2 of this Agreement:

The provisions of Article 2 of this Agreement shall apply to investors of one Contracting Party who are already established in the territory of the other Contracting Party and wish to expand their activities or establish themselves in other sectors.

Such investments shall be considered as new and as such shall be carried out in accordance with the rules governing the admission of investments, in accordance with Article 2 of this Agreement.

2. With regard to Article 3 of this Agreement:

The Contracting Parties consider that the provisions of Article 3 of this Agreement shall be without prejudice to the right of each Contracting Party to apply the relevant provisions of its tax law which distinguish between taxpayers who are not in the same situation as His place of residence or the place where his capital is invested.

Done in duplicate in Lisbon, on May 12, 1995, in two originals in the Portuguese language.