AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF TURKEY AND THE GOVERNMENT OF THE FEDERAL REPUBLIC OF NIGERIA CONCERNING THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the Republic of Turkey and The Government of the Federal Republic of Nigeria hereinafter referred to as "the Contracting Parties".

Desiring to promote greater economic cooperation between them, particularly with respect to investment by investors of one Contracting Party in the territory of the other Contracting Party;

Recognizing that agreement upon the treatment to be accorded such investment will stimulate the inflow of capital, technology and the economic development of the Contracting Parties;

Agreeing that fair and equitable treatment of investments is desirable in order to maintain a stable framework for investment and will contribute to maximizing effective utilization of economic resources and improve living standards;

Convinced that these objectives can be achieved without relaxing health, safety and environmental measures of general application as well as internationally recognized labour rights;

Having resolved to conclude an agreement concerning the promotion and reciprocal protection of investments; and

Considering that investment relations should be promoted and economic co-operation strengthened in accordance with the principles of equality, mutual benefit, non- discrimination and mutual confidence;

Have agreed as follows:

Article 1. Definitions

For the purpose of this Agreement:

1. The term "investment" means every kind of asset. connected with business activities, acquired for the purpose of establishing lasting economic relations in the territory of a Contracting Party in conformity with its laws and regulations, and shall include in particular, but not exclusively:

(a) movable and immovable property, as well as any other rights as mortgages, liens, pledges and any other similar rights as defined in conformity with the laws and regulations of the Contracting Party in whose territory the property is situated;

(b) shares, stocks or any other form of participation in companies:

(c) reinvested returns, claims to money or any other rights having financial value related to an investment;

(d) industrial and intellectual property rights, in particular patents, industrial designs, technical processes, as well as trademarks, goodwill and know-how; and

(e) business concessions conferred by law or by contract, including concessions related to natural resources:-

provided that such investments are not in the nature of acquisition of shares or voting power amounting to, or representing less than ten (10) percent of a company through stock exchanges which shall not be covered by this Agreement.

2. The term "Investor" means:

(a) natural persons having the nationality of one Contracting Party in accordance with its laws;

(b) companies. corporations, firms, business partnerships incorporated or constituted under the law in force of a Contracting Party and having their registered offices together with adequate business activities in the territory of that Contracting Party, who have made an investment in the territory of the other Contracting Party.

3. The term "returns" means the amounts yielded by an investment and includes profit, interest, capital gains, royalties, fees, dividends and other lawful income.

4. The "territory" means:

(a) in respect of the Republic of Turkey; the land territory, internal waters, the territorial sea and the airspace above them, as well as the maritime areas over which Turkey has sovereign rights or jurisdiction for the purpose of exploration, exploitation and preservation of natural resources whether living or non-living, pursuant to international law.

(b) in respect of the Federal Republic of Nigeria; its land territory, the territorial sea and any maritime area situated beyond the territorial sea, airspace of the State concerned which has been or might in the future be designated in accordance with international law as an area within which the Federal Republic of Nigeria exercises rights with regard to the sea-bed and subsoil and the natural resources.

5. The term "freely convertible currency" means a convertible currency as classified by the International Monetary Fund or any currency that is widely traded in the international Foreign Exchange Market.

Article 2. Scope of Application

This Agreement shall apply to investments in the territory of one Contracting Party, made in accordance with its national laws and regulations, by investors of the other Contracting Party, whether prior to, or after the entry into force of the present Agreement. However, this Agreement shall not apply to any disputes that have arisen before its entry into force.

Article 3. Promotion of Investments

Subject to its laws and regulations, each Contracting Party shall create favorable conditions and encourage the investors of the other Contracting Party to invest in its territory.

Article 4. Protection of Investments

Investments made by investors of each Contracting Party shall at all times be accorded treatment in accordance with international law minimum standard of treatment, including fair and equitable treatment and full protection and security in the territory of the other Contracting Party. Neither Contracting Party shall in any way impair the management, maintenance, use, enjoyment, extension, or disposal of such investments by arbitrary or discriminatory measures.

Article 5. Treatment of Investments

1. Each Contracting Party shall admit in its territory investments on a basis no less favourable than that accorded in like circumstances to investments of investors of any third State, within the framework of its laws and regulations.

2. Each Contracting Party shall accord to these investments, once established, treatment no less favourable than that accorded in like circumstances to investments of its investors or to investments of investors of any third State, whichever is the most favourable, as regards the management, maintenance, use, enjoyment, extension, or disposal of the investment.

3. The Contracting Parties shall within the framework of their national legislation give favorable consideration to applications for the entry and sojourn of persons of either Contracting Party who wish to enter the territory of the other Contracting Party in connection with the making and carrying through of an investment; the same shall apply to nationals of either Contracting Party who in connection with an investment wish to enter the territory of the other Contracting Party and sojourn there to take up employment.

4. (a) 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 the benefit of any treatment, preference or privilege which may be extended by the former Contracting Party by virtue of any international agreement or arrangement relating wholly or mainly to taxation.

(b) The non-discrimination, national treatment and most-favored nation treatment provisions of this Agreement shall not apply to all actual or future advantages accorded by either Contracting Party by virtue of its membership of, or association with a customs, economic or monetary union, a common market or a free-trade area; to nationals or companies of its own, of Member States of such union, common market or free trade area, or of any other third State.

(c) The provisions of Article 5 of this Agreement shall not oblige the host Contracting Party to accord investments of investors of the other Contracting Party the same treatment that it accords to investments of its own investors with regard to acquisition of land, real estates and real rights upon them.

Article 6. General Exceptions

1. Nothing in this Agreement shall be construed to prevent either Contracting Party from adopting, maintaining. or enforcing any non-discriminatory legal measures:

a) designed and applied for the protection of human, animal or plant life or health, or the environment;

b) related to the conservation of living or non-living exhaustible natural resources.

2. Nothing in this Agreement shall be construed:

(a) to require any Contracting Party to furnish or allow access to any information the disclosure of which it determines to be contrary to its essential security interests;

(b) 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

(c) 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.

Article 7. Expropriation and Compensation

1. Investments shall not be expropriated, nationalized or subject, directly or indirectly, to measures of similar effects (hereinafter referred as expropriation) except for public interest, in a non-discriminatory manner, upon payment of prompt, adequate and effective compensation, and in accordance with due process of law and the general principles of treatment provided for in Article 5 of this Agreement.

2. Non-discriminatory legal measures designed and applied to protect legitimate public welfare objectives, such as health, safety and environment, do not constitute indirect expropriation.

3. Compensation shall be equivalent to the market value of the expropriated investment before the expropriation was taken or became public knowledge. Compensation shall be paid without delay and be freely transferable as described in paragraph 2 Article 9 (Repatriation and Transfer).

4. Compensation shall be payable in a freely convertible currency and in the event that payment of compensation is delayed, it shall include an interest rate equivalent to the highest interest paid on public claims in the host Contracting Party.

Article 8. Compensation for Losses

Investors of either Contracting Party whose investments suffer losses in the territory of the other Contracting Party owing to war, insurrection, civil disturbance or other similar events shall be accorded by such other Contracting Party treatment no less favourable than that accorded to its own investors or to investors of any third State, whichever is the most favourable treatment, as regards any measures it adopts in relation to such losses.

Article 9. Repatriation and Transfers

1. Upon fulfillment of all tax obligations, each Contracting Party shall permit in good faith all transfers relating to an investment to be made freely and without delay into and out of its territory. Such transfers include:

(a) returns,

(b) proceeds from the sale or liquidation of all or any part of an investment,

(c) compensation pursuant to Article 7,

(d) reimbursements and interest payments deriving from loans in connection with investments,

(e) salaries, wages and other remunerations received by the nationals of one Contracting Party who have obtained in the territory of the other Contracting Party the corresponding work permits related to an investment,

(f) payments arising from an investment dispute.

2. Transfers shall be made in the convertible currency in which the investment has been made or in any convertible currency at the rate of exchange in force at the date of transfer, unless otherwise agreed by the investor and the host Contracting Party.

3. Where, in exceptional circumstances, payments and capital movements cause or threaten to cause serious balance of payments difficulties, each Contracting Party, upon written notification to the other Contracting Party, may temporarily restrict transfers, provided that such restrictions are imposed on a non-discriminatory and in good faith basis.

4. Notwithstanding paragraphs (1), (2) and (3) above, a Contracting Party may 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, options or derivatives;

(c) criminal or penal offences;

(d) financial reporting or record keeping of transfers;

(e) ensuring the satisfaction of judgments in adjudicatory proceedings.

Article 10. Subrogation

1. If one of the Contracting Parties has a public insurance or guarantee scheme to protect investments of its own investors against non-commercial risks, and if an investor of this Contracting Party has subscribed to it, any subrogation of the insurer under the insurance contract between this investor and the insurer shall be recognized by the other Contracting Party.

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

Article 11. Settlement of Disputes between One Contracting Party and Investors of the other Contracting Party

1. Disputes between one of the Contracting Parties and an investor of the other Contracting Party, in connection with his or her investment, shall be notified in writing, including detailed information, by the investor to the recipient Contracting Party of the investment. As far as possible, the investor and the concerned Contracting Party shall endeavor to settle these disputes by consultations and negotiations in good faith.

2. If these disputes cannot be settled in this way within six (6) months following the date of the written notification mentioned in paragraph 1, the disputes can be submitted, as the investor may choose, to:

(a) the competent court of the Contracting Party in whose territory the investment has been made.,

or

(b) except as provided under paragraph 4 (a) and (b) of this Article, to:

(i) the International Center for Settlement of Investment Disputes (ICSID) set up by the "Convention on Settlement of

Investment Disputes Between States and Nationals of other States",

(ii) an ad hoc arbitration tribunal established under the Arbitration Rules of Procedure of the United Nations Commission for International Trade Law (UNCITRAL).

3. Once the investor has submitted the dispute to one or the other of the dispute settlement procedures mentioned in paragraph 2 of this Article, the choice of one of these procedures is final.

4. Notwithstanding the provisions of paragraph 2 of this Article:

(a) only the disputes arising directly out of investment activities which have obtained necessary permission, if there is any permission required, in conformity with the relevant legislation of the host Contracting Party on foreign capital, and that effectivel started shall be subject to the jurisdiction of the International Center for Settlement of Investment Disputes (ICSID) or any other international dispute settlement mechanism as agreed upon by the Contracting Parties;

(b) the disputes, related to the property and real rights upon the real estates are totally under the jurisdiction of the courts of the host Contracting Party and therefore shall not be submitted to jurisdiction of the International Center for Settlement of Investment Disputes (ICSID) or any other international dispute settlement mechanism; and

(c) With regard to Article 64 of the "Convention on the Settlement of Investment Disputes between States and Nationals of other States":

The Contracting Parties shall not accept the referral of any disputes arising between them concerning the interpretation or application of "Convention on the Settlement of Investment Disputes between States and Nationals of other States", which is not settled by negotiation, to the International Court of Justice.

5. The arbitration tribunal shall take its decisions in accordance with the provisions of this Agreement, the laws and regulations of the Contracting Party involved in the dispute on which territory the investment is made (including its rules on the conflict of laws) and the relevant principles of international law as accepted by both Contracting Parties.

6. Paragraphs (1) and (2) of Article 5 (Treatment of Investments) shall not apply in respect of dispute settlement provisions between an investor and the host Contracting Party laid down simultaneously by this Agreement and by another similar international agreement to which one of the Contracting Parties is signatory.

7. The arbitral awards shall be final and binding for all parties in dispute. Each Contracting Party commits itself to execute the award according to its national law.

Article 12. Settlement of Disputes between the Contracting Parties

1. The Contracting Parties shall seek in good faith and a spirit of cooperation a rapid and equitable solution to any dispute between them concerning the interpretation or application of this Agreement. In this regard, the Contracting Parties agree to engage in direct and meaningful negotiations to arrive at such solutions. If the Contracting Parties cannot reach an agreement within six (6) months after the beginning of disputes between themselves through the foregoing procedure, the disputes may be submitted, upon the request of either Contracting Party, to an arbitral tribunal of three members.

2. Within two (2) months of receipt of a request, each Contracting Party shall appoint an arbitrator. The two arbitrators shall select a third arbitrator as Chairman, who is a national of of a third State. In the event either Contracting Party fails to appoint an arbitrator within the specified time, the other Contracting Party may request the President of the International Court of Justice to make the appointment.

3. If both arbitrators cannot reach an agreement about the choice of the Chairman within two (2) months after their appointment, the Chairman shall be appointed upon the request of either Contracting Party by the President of the International Court of Justice.

4. If, in the cases specified under paragraphs (2) and (3) of this Article, the President of the International Court of Justice is prevented from carrying out the said function or if he is a national of either Contracting Party, the appointment shall be made by the Vice-President, and if the Vice-President is prevented from carrying out the said function or if he is a national of either Contracting Party, the appointment shall be made by the most senior member of the Court who is not a national of either Contracting Party.

5. The tribunal shall have three (3) months from the date of the selection of the Chairman to agree upon rules of procedure consistent with the other provisions of this Agreement. In the absence of such agreement, the tribunal shall request the President of the International Court of Justice to designate rules of procedure, taking into account generally recognized rules

of international arbitral procedure.

6. Unless otherwise agreed, all submissions shall be made and all hearings shall be completed within eight (8) months of the date of selection of the Chairman, and the tribunal shall render its decision within two (2) months after the date of the final submissions or the date of the closing of the hearings, whichever is later. The arbitral tribunal shall reach its decisions, which shall be final and binding, by a majority of votes.

7. Expenses incurred by the Chairman, the other arbitrators, and other costs of the proceedings shall be paid for equally by the Contracting Parties. The tribunal may, however, at its discretion, decide that a higher proportion of the costs be paid by one of the Contracting Parties.

8. A dispute shall not be submitted to an international arbitration tribunal under the provisions of this Article, if a dispute on the same matter has been brought before another international arbitration tribunal under the provisions of Article 11 and is still before the tribunal. This will not impair the engagement in direct and meaningful negotiations between both Contracting Parties.

Article 13. Entry Into Force

This Agreement shall enter into force on the date of last notification by the Contracting Parties, in writing and through diplomatic channels, upon the completion of the respective internal legal procedures necessary to that effect.

Article 14. Duration

it shall remain in force for a period of ten (10) years and shall continue in force unless terminated in accordance with Article 16 of this Agreement.

Article 15. Amendment

This Agreement may be amended by mutual written consent of the Contracting Parties at any time. The amendments shall enter into force in accordance with the same legal procedure prescribed under Article 13 of this Agreement.

Article 16. Termination

1. Either Contracting Party may, by giving one year's written notice to the other Contracting Party, terminate this Agreement at the end of the initial ten-year period or at any time thereafter.

2. With respect to investments made or acquired prior to the date of termination of this Agreement and to which this Agreement otherwise applies, the provisions of this Agreement shall thereafter continue to be effective for a further period of ten (10) years from such date of termination.

IN WITNESS WHEREOF, the respective plenipotentiaries have signed this Agreement.

DONE in duplicate at Ankara on February 2, 2011, in the Turkish and English languages, both texts being equally authentic.

In case of any divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF THE REPUBLIC OF TURKEY

FOR THE GOVERNMENT OF THE FEDERAL REPUBLIC OF NIGERIA