AGREEMENT BETWEEN THE GOVERNMENT OF THE KINGDOM OF BAHRAIN AND THE GOVERNMENT OF THE REPUBLIC OF KOREA FOR THE PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the Kingdom of Bahrain and the Government of the Republic of Korea and (hereinafter referred to as the "Contracting Parties"),

Desiring to create favourable conditions for greater investments by investors of one Contracting Party in the territory of the other Contracting Party, based on the principles of equality and mutual benefit,

Recognizing that the promotion and protection of investments on the basis of this Agreement will be conducive to the stimulation of individual business initiatives and will increase prosperity in both States, and

Desiring to achieve these objectives in a manner consistent with the protection of health, safety, and the environment and the promotion of consumer protection and internationally recognized labour rights, taking note of the need to ensure the attainment of legitimate governmental objectives to foster sustainable development;

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

(a) "investment" means every kind of asset in the territory of one Contracting Party, owned or controlled directly or indirectly by an investor of the other Contracting Party, provided that the investment has been made in accordance with the laws and regulations of the former Contracting Party, including, though not exclusively:

(i) an enterprise (being a juridical person or any other entity constituted or organised under the applicable law of the host Contracting Party, whether or not for profit, and whether private or government-owned or controlled, and includes a corporation, trust, partnership, sole proprietorship, branch, joint venture, association or organisation);

(ii) shares, stock, and other forms of equity participation in an enterprise;

(iii) bonds, debentures, other debt instruments, and loans; (1)

(1) Some forms of debt, such as bonds, debentures, and long-term notes, are more likely to have the characteristics of an investment, while other forms of debt are less likely to have such characteristics.

(iv) futures, options, and other derivatives;

(v) turnkey, construction, management, production, concession, revenue- sharing, and other similar contracts;

(vi) intellectual property rights;

(vii) licenses, authorizations, permits, and similar rights conferred pursuant to domestic law; (2) (3) and

(2) Whether a particular type of license, authorization, permit, or similar instrument (including a concession, to the extent that it has the nature of such an instrument) has the characteristics of an investment depends on such factors as the nature and extent of the rights that the holder has under the law of the Contracting Party. Among the licenses, authorizations, permits, and similar instruments that do not have the characteristics of an investment are those that do not create any rights protected under domestic law. For greater certainty, the foregoing is without prejudice to whether any asset associated with the license, authorization, permit, or similar instrument has the characteristics of an investment.

(3) The term "investment" does not include an order or judgment entered in a judicial or administrative action.

(viii) other tangible or intangible, movable or immovable property, and related property rights, such as leases, mortgages, liens, and pledges. (4)

(4) For greater certainty, market share, market access, expected gains, and opportunities for profit making are not, by themselves, investments.

For the purposes of this Agreement, a claim to payment that arises solely from the commercial sale of goods and services is not an investment, unless it is a loan that has the characteristics of an investment. In order to qualify as an investment, an asset must have the characteristics of an investment, such as the commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk;

(b) "investor" means any natural or juridical persons of one Contracting Party who invest in the territory of the other Contracting Party:

(i) "natural persons" means natural persons having the nationality of the former Contracting Party in accordance with its laws, provided, however, that a natural person who is a dual national shall be deemed to be exclusively a national of the State of his or her dominant and effective nationality; and

(ii) "juridical persons" means any entities, whether or not for profit, such as companies, public institutions, authorities, foundations, partnerships, firms, establishments, organisations, corporations or associations incorporated or constituted in accordance with the laws and regulations of the former Contracting Party;

(c) "territory" means:

(i) in the case of Bahrain, the territory of the Kingdom of Bahrain as well as the maritime areas, seabed and subsoil over which Bahrain exercises, in accordance with international law, sovereign rights and jurisdiction;

(ii) in the case of Korea, the territory of the Republic of Korea as well as those maritime areas, including the seabed and subsoil adjacent to the outer limit of the territorial sea over which Korea exercises, in accordance with international law, sovereign rights or jurisdiction for the purpose of the exploration and exploitation of the natural resources of such areas;

(d) "freely usable currency" means currencies that the International Monetary Fund determines, from time to time, as freely usable currencies in accordance with the Articles of Agreement of the International Monetary Fund and Amendments thereto;

(e) "financial service" means any service of a financial nature. Financial services include all insurance and insurance-related services, and all banking and any other financial services, as well as services incidental or auxiliary to a service of a financial nature.

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 to investments of an investor of the other Contracting Party treatment in accordance with customary international law, including fair and equitable treatment and full protection and security.

3. For greater certainty, paragraph 2 of this Article prescribes the customary international law minimum standard of treatment of aliens as the minimum standard of treatment to be afforded to investments of an investor of the other Contracting Party. The concepts of "fair and equitable treatment" and "full protection and security" do not require treatment in addition to or beyond that which is required by that standard, and do not create additional substantive rights. The obligations in paragraph 2 to provide:

(a) "fair and equitable treatment" includes the obligation not to deny justice in criminal, civil, or administrative adjudicatory proceedings in accordance with the principle of due process embodied in the principal legal systems of the world; and

(b) "full protection and security" requires each Contracting Party to provide the level of police protection required under customary international law.

4. A determination that there has been a breach of another provision of this Agreement, or of a separate international

agreement, does not establish that there has been a breach of this Article.

5. Neither Contracting Party shall take any unreasonable or discriminatory measures against the management, maintenance, use, enjoyment and disposal of investments by the investors of the other Contracting Party, nor impose unreasonable or discriminatory measures on investments by investors of the other Contracting Party concerning local content, technology transfer or export performance requirements.

Article 3. Treatment of Investments

1. Each Contracting Party shall accord in its territo1y to investors of the other Contracting Party, as regards the management, maintenance, use, enjoyment, or disposal of their investments, treatment no less favourable than that which it accords in like circumstances to its own investors (hereinafter referred to as "national treatment") or to investors of any third State (hereinafter referred to as "most-favoured-nation treatment"), whichever is more favourable.

2. Each Contracting Party shall accord in its te1Titory to investments made in accordance with its laws and regulations by investors of the other Contracting Party, as regards the management, maintenance, use, enjoyment, or disposal of their investments, treatment no less favourable than that which it accords in like circumstances to investments of its own investors (national treatment) or to investments of investors of any third State (most-favoured-nation treatment), whichever is more favourable.

3. The standard of national treatment as provided for in paragraphs 1 and 2 of this Article means, with respect to a sub-national government, treatment no less favourable than the most favourable treatment accorded in like circumstances by that sub-national government to investors, and to investments of investors, of the Contracting Party of which it forms a part.

4. The national treatment and most-favoured-nation treatment as provided for in paragraphs 1 and 2 of this Article do not apply to:

(a) government procurement; or

(b) subsidies or grants provided by a Contracting Party, including government-supported loans, guarantees, and insurance.

5. The most-favoured-nation treatment as provided for in paragraphs 1 and 2 of this Article shall not relate to privileges which either Contracting Party accords to investors of third States on account of its present or future membership of, or association with, a customs or economic union, a common market or a free trade area, or a similar international agreement.

6. For greater certainty, the most-favoured-nation treatment as provided for in paragraphs 1 and 2 of this Article shall not apply to Article 11 (Settlement of Investment Disputes between a Contracting Party and an Investor of the other Contracting Party) of this Agreement.

Article 4. Compensation for Losses

1. Investors of one Contracting Party, whose investments suffer losses owing to war or other armed conflict, a state of national emergency, revolt, insurrection, riot, or other similar situation in the territory of the other Contracting Party, shall be accorded by the latter Contracting Party, as regards restitution, indemnification, compensation or other forms of settlement, treatment no less favourable than that which the latter Contracting Pa1ty accords to its own investors or to investors of any third State.

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

(a) requisitioning of their property by the latter Contracting Party's forces or authorities; or

(b) destruction of their property by the latter Contracting Party's forces or authorities which was not caused in combat action or was not required by the necessity of the situation,

shall be accorded restitution, compensation, or both, as appropriate, for such losses. Any compensation shall be prompt, adequate, and effective in accordance with Article 5 (Expropriation and Compensation), mutatis mutandis.

Article 5. Expropriation and Compensation (5)

(5) Article 5 (Expropriation and Compensation) shall be interpreted in accordance with the Annexes.

1. Neither Contracting Party may expropriate or nationalize an investment either directly or indirectly through measures equivalent to expropriation or nationalization (hereinafter referred to as "expropriation"), except:

(a) for a public pmpose;

(b) in a non-discriminatory manner;

(c) on payment of prompt, adequate, and effective compensation; and

(d) in accordance with due process of law and Article 2 (Promotion and Protection of Investments) as they are understood under customary international law.

2. The compensation referred to in paragraph l(c) shall:

(a) be paid without delay;

(b) be equivalent to the fair market value of the expropriated investment immediately before the expropriation took place (the date of expropriation);

(c) not reflect any change in value occurring because the intended expropriation had become known earlier; and

(d) be fully realizable and freely transferable.

3. If the fair market value is denominated in a freely usable currency, the compensation referred to in paragraph l(c) shall be no less than the fair market value on the date of expropriation, plus a rate of return determined at a commercially reasonable rate for that currency, accrued from the date of expropriation until the date of payment.

4. If the fair market value is denominated in a currency that is not freely usable, the compensation referred to in paragraph 1 (c) - converted into the currency of payment at the market rate of exchange prevailing on the date of payment - shall be no less than:

(a) the fair market value on the date of expropriation, converted into a freely usable currency at the market rate of exchange prevailing on that date, plus

(b) a rate of return determined at a commercially reasonable rate for that freely usable currency, accrued from the date of expropriation until the date of payment.

5. Investors of one Contracting Party affected by expropriation shall have a right to prompt review by a judicial or other independent authority of the other Contracting Party of their case and of the valuation of their investments in accordance with the principles set out in this Article.

6. This Article does not apply to the issuance of compulsory licenses granted in relation to intellectual property rights in accordance with the Agreement on Trade-Related Aspects of Intellectual Property Rights (the "TRIPS Agreement").

Article 6. Transfers

1. Each Contracting Party shall guarantee to an investor of the other Contracting Party the free transfer of all payments relating to an investment into and out of its territory.

Such transfers shall include, in particular, though not exclusively:

(a) the initial capital and additional amounts to maintain or increase an investment;

(b) the amounts yielded by investments and, in particular, though not exclusively, includes profits, rates of return, capital gains, dividends, royalties, and all kinds of fees;

(c) payments made under a contract including a loan agreement;

(d) proceeds from the sale or liquidation of all or any part of an investment;

(e) payments made pursuant to Articles 4 (Compensation for Losses) and Article 5 (Expropriation and Compensation);

(f) payments arising out of the settlement of a dispute under this Agreement; and

(g) earnings and other remuneration of personnel engaged from abroad in connection with an investment.

2. All transfers under this Agreement shall be made in a freely usable currency, without undue restriction or delay, at the market exchange rate prevailing on the date of the transfer.

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

(a) bankrnptcy, insolvency, or the 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; or

(e) ensuring compliance with orders or judgements in judicial or administrative proceedings.

4. A Contracting Party may adopt or maintain measures inconsistent with paragraphs 1 and 2 of this Article:

(a) in the event of serious balance-of-payments and external financial difficulties or the threat thereof; or

(b) in cases where, in exceptional circumstances, movements of capital cause or threaten to cause serious difficulties for macroeconomic management, in particular, monetary and exchange rate policies.

5. Measures referred to in paragraph 4 of this Article shall:

(a) not exceed a period of one (1) year, however, if extremely exceptional circumstances arise such that a Contracting Party seeks to extend such measures, that Contracting Party will coordinate in advance with the other Contracting Party concerning the implementation of any proposed extension;

(b) be consistent with the Articles of the Agreement of the International Monetary Fund;

(c) be non-discriminatory;

(d) not exceed those necessary to deal with the circumstances set out in paragraph 4 of this Article;

(e) be temporary, and be eliminated as soon as conditions permit;

(f) not be confiscatory;

(g) be promptly notified to the other Contracting Party;

(h) not constitute a dual or multiple exchange rate practice;

(i) not restrict payments or transfers for current transactions, unless the imposition of such measures complies with the procedures stipulated in the Articles of Agreement of the International Monetary Fund; and

(j) not restrict payments or transfers associated with foreign direct investment.

Article 7. Subrogation

1. If a Contracting Party or its designated agency makes a payment under an indemnity, guarantee, or contract of insurance given in respect of an investment of an investor of that Contracting Party in the territory of the other Contracting Party, the other Contracting Party shall recognize:

(a) the assignment of any right or claim of such investor to the former Contracting Party or its designated agency; and

(b) the right of the former Contracting Party or its designated agency to exercise by virtue of subrogation any such right and claim to the same extent as its predecessor in title.

2. The investor referred to in paragraph 1 of this Article shall be precluded from pursuing such rights and claims arising therefrom to the extent of the subrogation.

Article 8. Transparency

1. Each Contracting Party shall promptly publish, or otherwise make publicly available, its laws, regulations, procedures, administrative court rulings and judicial decisions of general application as well as international agreements which may affect the operation of this Agreement. Where a Contracting Party establishes a policy, which is not expressed in laws or regulations or by any other means listed in this paragraph but which may affect the operation of this Agreement, that Contracting Party shall use its reasonable endeavours to promptly publish them or otherwise make them publicly available.

2. Each Contracting Party shall promptly respond to specific questions and provide, upon request, information to the other Contracting Party on matters referred to in paragraph 1 of this Article.

3. Nothing in this Agreement shall prevent one Contracting Party from requiring an investor of the other Contracting Party, or its investment, to provide routine information concerning that investment solely for informative or statistical purposes. Nothing in this Agreement requires a Contracting Party to furnish or allow access to:

(a) information relating to the financial affairs and accounts of individual customers of particular investors or investments; or

(b) any confidential or proprietary information, including information concerning particular investors or investments, the disclosure of which would impede law enforcement or be contrary to its laws and regulations protecting confidentiality or prejudice the legitimate commercial interests of a particular enterprise or individual.

Article 9. Entry and Sojourn of Personnel

Subject to its laws and regulations regarding the entry and sojourn of aliens, a Contracting Party shall permit natural persons who are investors of the other Contracting Party and personnel employed by investors of that other Contracting Party to enter and remain in its territory for the purpose of engaging in activities connected with investments.

Article 10. 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 consultations or diplomatic channels.

2. If any dispute cannot be settled within one hundred and eighty (180) days from the date of request for settlement, it shall, at the request of either Contracting Party, be submitted to an ad hoc Arbitral Tribunal in accordance with the provisions of this Article.

3. Such an ad hoc Arbitral Tribunal shall be constituted for each individual case in the following way: Within sixty (60) days from the date of receipt of the request for arbitration, each Contracting Party shall appoint one member of the ad hoc Arbitral Tribunal. These two members shall then select a national of a third State, who on approval of the two Contracting Parties shall be appointed Chairperson of the ad hoc Arbitral Tribunal. The Chairperson shall be appointed within sixty (60) days from the date of the appointment of the other two members.

4. If the necessary appointments have not been made within the periods specified in paragraph 3 of this Article, a request may be made by either Contracting Party to the President of the International Court of Justice to make such appointments. If the President is a national of either Contracting Party or otherwise prevented from discharging the said function, the Vice-President shall be invited to make the appointments. If the Vice-President is also a national of either Contracting Party or prevented from discharging the said function, the member, next in seniority, of the International Court of Justice 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 appointments.

5. The ad hoc Arbitral Tribunal shall reach its decision by a majority of votes. Such decision shall be binding on the Contracting Parties.

6. The ad hoc Arbitral Tribunal shall determine its own procedure.

7. Each Contracting Party shall bear the costs of its own arbitrator and its representation in the arbitral proceedings. The costs of the Chairperson and any remaining costs shall be borne in equal parts by the Contracting Parties. The ad hoc Arbitral Tribunal may, however, in its decision direct that a higher proportion of costs shall be borne by one of the Contracting Parties.

Article 11. Settlement of Investment Disputes between a Contracting Party and an Investor of the other Contracting Party

1. This Article applies to disputes between a Contracting Party and an investor of the other Contracting Party concerning an alleged breach of an obligation of the former Contracting Party under this Agreement which causes loss or damage to the investor or its investment.

2. Such a dispute should, if possible, be settled by negotiations or consultations. If it is not so settled within one hundred and eighty (180) days from the date on which the dispute has been raised with written request by either party, the investor may choose to submit it for resolution, subject to paragraphs 6, 7, and 8 of this Article:

(a) to any competent court or administrative tribunal of the Contracting Party which is party to the dispute;

(b) by arbitration in accordance with this Article under:

(i) the Convention on the Settlement oflnvestmentDisputes between States and Nationals of other States (the "ICSID Convention"), if the ICSID Convention is available;

(ii) the Additional Facility Rules of the International Centre for Settlement of Investment Disputes (the "ICSID Additional Facility Rules"), if the ICSID Additional Facility Rules are available;

(iii) the Arbitration Rules of the United Nations Commission on International Trade Law, as revised in 2010 (the "UNCITRAL Arbitration Rules") (6); or

(6) (6) Unless the Contracting Parties otherwise agree, the United Nations Commission on International Trade Law Rules on Transparency in Treaty-based Investor-State Arbitration (UN Doc A/CN.9/783) (the "UNCITRAL Transparency Rules") may not apply to arbitrations initiated pursuant to paragraph 2(b)(iii) of Article 11. The Contracting Parties may enter into consultations on the future application of the UNCITRAL Transparency Rules to arbitrations initiated pursuant to paragraph 2(b)(iii) of Article 11, upon the request of either Contracting Party.

(iv) if agreed by both parties to the dispute, any other arbitration institution or any other arbitration rules.

3. Each Contracting Party hereby consents to the submission of a dispute to arbitration in accordance with the procedures set out in this Agreement. The consent and the submission of a claim to arbitration under this Article shall satisfy the requirements of:

(a) Chapter II of the ICSID Convention (Jurisdiction of the Centre) and the ICSID Additional Facility Rules with regard to the written consent of the parties to the dispute; and

(b) Article II of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the "New York Convention") for an "agreement in writing".

4. Once the investor has submitted the dispute to either the courts or administrative tribunals of the disputing Contracting Party or any of the arbitration mechanisms provided for in paragraph 2, the choice of the procedure shall be final.

5. The seeking of interim relief not involving the payment of damages, from judicial or administrative tribunals, by a party to a dispute submitted to arbitration under this Article, for the preservation of its rights and interests pending resolution of the dispute, is not deemed a submission of the dispute for resolution for the purposes of a Contracting Party's limitation of consent under paragraph 4 of this Article, and is permissible in arbitration under any of the provisions of paragraph 2(b) of this Article.

6. A dispute may be submitted to arbitration ninety (90) days after the date on which notice of intent to do so was received by the Contracting Party which is party to the dispute. Notice of intent shall specify:

(a) the name, address, and nationality of the claimant and, where a claim is submitted on behalf of an enterprise, the name, address, and place of incorporation of the enterprise;

(b) for each claim, the provisions of this Agreement alleged to have been breached and any other related provisions;

(c) the legal and factual basis for each claim; and

(d) the relief sought, including the approximate amount of any damages claimed.

7. A dispute shall be submitted to arbitration no later than three (3) years from the date the investor first acquired or should have acquired knowledge of the events which gave rise to the dispute.

8. Where an investor of a Contracting Party submits a claim to arbitration under paragraph 2(b) of this Article, and the

respondent invokes Article 17 (Exceptions on Financial Services) as a defence, the following provisions shall apply:

(a) the respondent shall, within one hundred and twenty (120) days of the date the claim is submitted to arbitration under this Article, submit in writing to the ad hoc Joint Committee (7) established by the two Contracting Parties, a request for a joint determination on the issue of whether and to what extent Article 17 is a valid defence to the claim. The respondent shall promptly provide the tribunal, if constituted, a copy of such request. The arbitration may proceed with respect to the claim only as provided in subparagraph (d);

(7) The ad hoc Joint Committee shall be established by the request of the responding party invoking the defence referred in Article 17 and shall be composed of Governmental representatives designated by the two Contracting Parties.

(b) the ad hoc Joint Committee shall attempt in good faith to make a determination as described in subparagraph (a). Any such determination shall be transmitted promptly to the disputing parties and, if constituted, to the tribunal. The determination shall be binding on the tribunal;

(c) if the ad hoc Joint Committee, within ninety (90) days of the date by which it has received the respondent's written request for a determination under subparagraph (a), has not made a determination as described in that subparagraph, the tribunal shall decide the issue left unresolved by the ad hoc Joint Committee;

(d) the arbitration referred to in subparagraph (a) shall be suspended during the pendency of the deliberation by the ad hoc Joint Committee and may proceed with respect to the claim:

(i) ten (10) days after the date the determination of the ad hoc Joint Committee has been received by the disputing parties and, if constituted, the tribunal; or

(ii) ten (10) days after the expiration of the 90-day period extended to the ad hoc Joint Committee in subparagraph (c).

9. The disputing parties may agree on the legal place of any arbitration under the arbitral rules applicable under paragraph 2(b) of this Article. If the disputing parties fail to reach an agreement, the tribunal shall determine the place in accordance with the applicable arbitral rules, provided that the place shall be in the territory of a State that is a party to the New York Convention.

10. A Contracting Party shall not assert as a defence, counter-claim, right of set-off, or for any other reason, that indemnification or other compensation for all or part of the alleged damages has been received or will be received pursuant to an indemnity, guarantee, or insurance contract.

11. The arbitral tribunal, in its award, shall set out its findings of law and fact, together with the reasons for its ruling and may, at the request of a party, provide the following forms of relief:

(a) a declaration that the Contracting Party has failed to comply with its obligations under this Agreement;

(b) pecuniary compensation, which shall include a rate of return from the time the loss or damage was incurred until the payment was or will be made;

(c) restitution in kind in appropriate cases, provided that the Contracting Party may pay pecuniary compensation in lieu thereof; and

(d) with the agreement of the parties to the dispute, any other form of relief.

12. Arbitration awards shall be final and binding upon the parties to the dispute. Each Contracting Party shall provide for the enforcement of an award in its territory.

Article 12. Service of Documents

1. Notices and other documents relating to arbitration under this Agreement shall be served on a Contracting Party by delivery to:

(a) with respect to the Kingdom of Bahrain, the Ministry of Foreign Affairs, P.O. Box 547, Manama, Kingdom of Bahrain; and

(b) with respect to the Republic of Korea, the Ministry of Justice, Building #1, 47 Gwanmun-ro, Gwacheon-si, Gyeonggi-do, 13809, Republic of Korea.

2. Each Contracting Party shall promptly make publicly available and notify to the other Contracting Party any change to the

name of the authority referred to in paragraph 1.

3. Each Contracting Party shall make publicly available the address of its authority referred to in paragraphs 1 and 2.

Article 13. Application of other Rules

If the laws and regulations of either Contracting Party or obligations under international law existing at present or established hereafter between the Contracting Parties in addition to this Agreement contain provisions, whether general or specific, entitling investments 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 they are more favourable, prevail over this Agreement.

Article 14. Application of the Agreement

1. This Agreement applies to investments existing at the date of the entry into force of this Agreement, as well as to investments made or acquired after this date.

2. For greater certainty, this Agreement does not bind a Contracting Party in relation to any act or fact that took place or any situation that ceased to exist before the date of the entry into force of this Agreement.

Article 15. Denial of Benefits

1. A Contracting Party may deny the benefits of this Agreement to an investor of the other Contracting Party that is a juridical person of such other Contracting Party and to investments of that investor if persons of a non-Contracting Party, directly or indirectly, own or control the juridical person and the denying Contracting Party adopts or maintains measures with respect to the non-Contracting Party or a person of the non-Contracting Party that prohibit transactions with the juridical person or that would be violated or circumvented if the benefits of this Agreement were accorded to the juridical person or its investments.

2. A Contracting Party may deny the benefits of this Agreement to an investor of the other Contracting Party that is a juridical person of that other Contracting Party and to investments of that investor if the juridical person has no substantial business activities in the territory of that other Contracting Party.

Article 16. Interpretation of the Agreement

The Contracting Parties shall consult and issue interpretations with regard to any provision of this Agreement, upon request of a Contracting Party, if a dispute between the Contracting Parties or between a Contracting Party and an investor of the other Contracting Party concerning the interpretation of this Agreement arises. The interpretations of this Agreement agreed between the Contracting Parties shall be binding on tribunals established under the Article 10 (Settlement of Disputes between the Contracting Parties) and Article 11 (Settlement of Investment Disputes between a Contracting Party and an Investor of the other Contracting Party).

Article 17. Exceptions on Financial Services

1. With respect to the supply of financial services in the territory of a Contracting Party by an investment, that Contracting Party shall not be prevented from adopting or maintaining measures for prudential reasons, including for the protection of investors, depositors, policy holders, or persons to whom a fiduciaiy duty is owed by a financial institution, or to ensure the integrity and stability of the 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 such provisions.

2. Nothing in this Agreement, with respect to the supply of financial services in the territory of a Contracting Party by an investment, applies to non-discriminatory measures of general application taken by any public entity in pursuit of monetary and related credit policies or exchange rate policies.

3. Notwithstanding Article 6 (Transfers), a Contracting Party may prevent or limit transfers by a financial institution to, or for the benefit of, an affiliate of or person related to such institution or supplier, through the equitable, non-discriminatory, and good faith application of measures relating to maintenance of the safety, soundness, integrity, or financial responsibility of financial institutions. For greater certainty, this paragraph does not prejudice any other provision of this Agreement that may permit a Contracting Party to restrict transfers.

4. For greater certainty, nothing in this Agreement shall be construed to prevent a Contracting Party from adopting or enforcing measures necessmy to secure compliance with laws or regulations that are consistent with this Agreement, including those relating to the prevention of deceptive and fraudulent practices or to deal with the effects of a default on financial services contracts, subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on investment in financial institutions.

Article 18. Security Exception

Nothing in this Agreement shall be construed:

(a) to require a Contracting Party to furnish any information, the disclosure of which it considers contrary to its essential security interests;

(b) to prevent a Contracting Party from taking any actions which it considers necessary for the protection of its essential security interests; or

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

Article 19. Taxation

1. Except as provided in this Article, nothing in this Agreement shall impose obligations with respect to taxation measures.

2. Article 5 (Expropriation and Compensation) shall apply to all taxation measures, except that a claimant that asserts that a taxation measure involves an expropriation may submit a claim to arbitration under Atticle 10 (Settlement of Disputes between Contracting Paiiies) or Article 11 (Settlement of Investment Disputes between a Contracting Party and an Investor of the other Contracting Party) only if:

(a) the claimant has first referred to the competent tax authorities (8) of both Contracting Parties in writing the issue of whether that taxation measure involves an expropriation; and

(8) For the purposes of this Article, "competent tax authorities" means, for the Kingdom of Bahrain, the Minister of Finance and National Economy or his/her authorized representative and, for the Republic of Korea, the Ministiy of Economy and Finance or the National Tax Service.

(b) within one hundred and eighty (180) days after the date of such referral, the competent tax authorities of both Contracting Parties fail to agree that the taxation measure is not an expropriation.

3. Nothing in this Agreement shall affect the rights and obligations of either Contracting Party under any tax convention. In the event of any inconsistency between this Agreement and any such convention, that convention shall prevail to the extent of the inconsistency. In the case of a tax convention between the Contracting Parties, the competent authorities under that convention shall have sole responsibility for determining whether any inconsistency exists between this Agreement and that convention.

Article 20. Entry Into Force, Duration and Termination

1. This Agreement shall enter into force thirty (30) days after the date on which the Contracting Parties have notified each other in writing that their respective legal requirements for the entry into force of this Agreement have been fulfilled.

2. This Agreement shall remain in force for a period of ten (10) years and shall remain in force thereafter indefinitely unless either Contracting Party notifies the other Contracting Party in writing, one (1) year in advance, of its intention to terminate this Agreement. This Agreement shall be terminated one (1) year after the date of such notification.

3. In respect of investments made prior to the termination of this Agreement, the provisions of Articles 1 to 19 of this Agreement shall remain in force for a further period of ten (10) years from the date of the termination.

4. This Agreement may be revised by mutual written consent of the Contracting Parties. Any revision or termination of this Agreement shall be effected without prejudice to any rights or obligations accruing or incurred under this Agreement prior to the effective date of such revision or termination.

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

DONE in duplicate at Manama, on the 26th day of December 2024, in the Arabic, Korean, and English languages, all texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF THE KINGDOM OF BAHRAIN

FOR THE GOVERNMENT OF THE REPUBLIC OF KOREA

ANNEX I. EXPROPRIATION

The Contracting Parties confirm their shared understanding that:

1. An action or a series of actions by a Contracting Party cannot constitute an expropriation unless it interferes with a tangible or intangible property right in an investment.

2. Article 5 (Expropriation and Compensation) addresses two situations. The first is direct expropriation, where an investment is nationalized or otherwise directly expropriated through formal transfer of title or outright seizure.

3. The second situation addressed by Article 5 (Expropriation and Compensation) is indirect expropriation, where an action or a series of actions by a Contracting Party has an effect equivalent to direct expropriation without formal transfer of title or outright seizure.

(a) The determination of whether an action or a series of actions by a Contracting Party, in a specific fact situation, constitutes an indirect expropriation, requires a case-by-case, fact-based inquiry that considers all relevant factors relating to the investment, including:

(i) the economic impact of the government action, although the fact that an action or a series of actions by a Contracting Party has an adverse effect on the economic value of an investment, standing alone, does not establish that an indirect expropriation has occurred;

(ii) the extent to which the government action interferes with distinct, reasonable investment-backed expectations; (9) and

(9) For greater certainty, whether an investor's investment-backed expectations are reasonable depends in part on the nature and extent of governmental regulation in the relevant sector. For example, an investor's expectations that regulations will not change are less likely to be reasonable in a heavily regulated sector than in a less heavily regulated sector.

(iii) the character of the government action, including its objectives and context. Relevant considerations could include whether the government action imposes a special sacrifice on the particular investor or investment that exceeds what the investor or investment should be expected to endure for the public interest.

(b) Except in rare circumstances, such as, for example, when an action or a series of actions is extremely severe or disproportionate in light of its purpose or effect, non-discriminatory regulatory actions by a Contracting Party that are designed and applied to protect legitimate public welfare objectives, such as public health, safety, the environment, and real estate price stabilization (through, for example, measures to improve the housing conditions for low-income households), do not constitute indirect expropriations. (10)

(10) For greater certainty, the list of "legitimate public welfare objectives" in subparagraph (b) is not exhaustive.

4. The concept of indirect expropriation is not intended to impugn a governmental measure adopted in the exercise of the legitimate regulatory authority of a Contracting Party, which is otherwise consistent with other provisions of this Agreement.

ANNEX II. TAXATION AND EXPROPRIATION

The determination of whether a taxation measure, in a specific fact situation, constitutes an expropriation requires a case-by-case, fact-based inquiry that considers all relevant factors relating to the investment, including the factors listed in Annex I and the following considerations:

(a) the imposition of taxes does not generally constitute an expropriation. The mere introduction of a new taxation measure or the imposition of a taxation measure in more than one jurisdiction in respect of an investment generally does not in and of itself constitute an expropriation;

(b) a taxation measure that is consistent with internationally recognized tax policies, principles, and practices should not constitute an expropriation. In particular, a taxation measure aimed at preventing the avoidance or evasion of taxation measures generally does not constitute an expropriation;

(c) a taxation measure that is applied on a non-discriminatory basis, as opposed to a taxation measure that is targeted at investors of a particular nationality or at specific taxpayers, is less likely to constitute an expropriation; and

(d) a taxation measure generally does not constitute an expropriation if it was already in force when the investment was made and information about the measure was publicly available