AGREEMENT

BETWEEN

THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA

AND

THE GOVERNMENT OF THE BOLIVARIAN REPUBLIC OF VENEZUELA

ON

THE RECIPROCAL PROMOTION AND PROTECTION OF

INVESTMENTS

The Government of the People's Republic of China and the Government of the Bolivarian Republic of Venezuela, hereinafter referred to as jointly and separately, "the Contracting Parties," or, individually, "the Contracting Party";

DESIRING to strengthen friendship ties and develop the spirit of continuous cooperation between the Contracting Parties;

DETERMINED to encourage further cross-border economic cooperation between the Contracting Parties, particularly concerning cross-border direct investments by the investors of a Contracting Party in the territory of the other Contracting Party;

INTENDING to establish and maintain favourable conditions for investments by the investors of a Contracting Party in the territory of the other Contracting Party;

RECOGNIZING the significance of cross-border direct investments in technology transfer, establishment of added-value chains, adoption of new ways of production, promotion of exports, diversification of production matrix, economic growth, stimulation of capital flow, job creation, and development of the Contracting Parties, among others;

RECOGNIZING the importance of providing effective means and procedures to protect rights and interests with respect to investment under national law as well as through international arbitration;

CONVINCED that these objectives can be attained without compromising the Contracting Parties' legitimate public welfare objectives, including public morals, health, security and

environment measures of general application, as well as internationally recognized labour rights;

HAVING resolved to conclude an Agreement concerning the reciprocal promotion and protection of investment by investors of a Contracting Party in the territory of the other Contracting Party;

HAVE AGREED AS FOLLOWS:

ARTICLE 1
Purpose of the Agreement

This Agreement is intended to establish, maintain and consolidate a legal framework to facilitate and promote reciprocal cross-border direct investments made by the investors of the Contracting Parties in order to promote the harmonious, productive and sustainable development of both countries, while respecting the sovereignty and self-determination of each of the Contracting Parties, as well as their national laws and regulations, and international law.

ARTICLE 2
Definitions

For the purposes of this Agreement:

1. The term "investment" means every kind of asset, totally or partially acquired with cross-border contributions which origin is different from the hosting Contracting Party for the purpose of establishing economic activities in the territory of that hosting Contracting Party in accordance with its national laws and regulations, that has the characteristics of an investment, including the commitment of capital or other resources, the expectation of gain or profit, the assumption of risk, or a certain duration. The investment shall include in particular, but not exclusively:

(a) an enterprise constituted or organized in the territory of the hosting Contracting Party;

(b) movable or immovable property, and any other property rights, such as mortgages, liens, pledges and any other similar rights in accordance with the national laws and regulations of the Contracting Party where the property is situated;

(c) reinvested returns;

(d) shares, securities, bonds, and debentures issued by enterprises and any other similar forms of interest in an enterprise constituted or organized in the territory of the hosting Contracting Party;

(e) rights over sums of money, or any other right to a payment which is related to the economic value of an investment;

(f) intellectual property rights, namely: copyrights, patents, utility models, industrial models and designs, trademarks, know-how; and

(g) economic rights, namely: business concessions, licenses or authorizations granted by law or by contract, including concessions to search for, process, extract and exploit natural

resources.

2. For the avoidance of doubt, the term "investment" shall not include the following:

(a) immovable property or any other assets, tangible or intangible, that are not used or have not been acquired with the expectation of using them for the purpose of gain or profit, or for other business purposes;

(b) an judgment or award issued by a court, administrative authority or arbitral tribunal;

(c) debt securities issued by a Contracting Party or loans granted by a Contracting Party to the other Contracting Party, bonds, debentures, loans and any other debt instruments of a State-owned enterprise of a Contracting Party, which that Contracting Party treats as public debt;

(d) portfolio investments, which do not grant to the investor a significant degree of influence over the management of a enterprise; or

(e) claims to money exclusively derived from trade agreements for the sale of goods or services by a national or a enterprise in the territory of a Contracting Party to a national or a enterprise in the territory of the other Contracting Party, or the granting of credit in relation to a business transaction.

3. The term "covered investment" means, with respect to a Contracting Party, an investment in its territory of an investor of the other Contracting Party in existence as of the date of entry into force of this Agreement, or established, acquired, or expanded thereafter.

4. Any alteration of the form in which assets or rights are invested or re-invested shall not affect their character as investments, provided that such alteration is made in accordance with the national laws and regulations of the hosting Contracting Party. Where an asset lacks the characteristics of an investment, that asset is not an investment regardless of the form it may take.

5. The term "enterprise" means any entity constituted or organized under applicable law of a Contracting Party, and whether privately or governmentally owned or controlled, including a corporation, partnership, sole proprietorship, joint venture, association, or similar organization; and a branch of an enterprise.

6. The term "investor" means:

(a) a national that is making, or has made an investment in the territory of the other Contracting Party, and that does not hold the nationality of the hosting Contracting Party;

(b) an enterprise constituted or organized in the territory of a Contracting Party, that is making, or has made an investment in the territory of the other Contracting Party.

7. The term "national" means:

(a) for the People's Republic of China, a natural person who is a national of the People's Republic of China as defined in the Nationality Law of the People's Republic of China; and

(b) for the Bolivarian Republic of Venezuela, a natural person who is a national of the Bolivarian Republic of Venezuela in accordance with its national laws and regulations.

8. The term "returns" means; the amounts yielded by an investment including interests, capital gains, dividends, income, and fees for technical assistance and management, payments in kind, and any other payments regardless of their type.

9. The definition of "territory" for each Contracting Party is for the purposes of this Agreement only and is without prejudice to the position of either Contracting Party regarding the recognition of any territorial or maritime claims.

(a) with respect to the People's Republic of China, the term "territory" means:

(i) the customs territory of the People's Republic of China;

(ii) the territorial sea thereof and any area beyond the territorial sea within which, under its domestic law and in accordance with international law, the People's Republic of China may exercise sovereign rights or jurisdiction.

(b) with respect to the Bolivarian Republic of Venezuela, the term "territory" means: all areas in which the Bolivarian Republic of Venezuela exercise rights and jurisdiction in accordance with the provisions of international law and their national laws and regulations, including, but not limited to, the territory, inland waters, territorial sea, seabed and subsoil, the relevant air space, the exclusive economic zone and the continental shelf.

ARTICLE 3
Scope of Application

1. This Agreement shall apply to the investors and covered investments, made either before or after the entry into force of this Agreement.

2. This Agreement shall not apply to any disputes that have arisen before its entry into force. This Agreement shall not bind either Contracting Party in relation to any act or fact that took place before the date of entry into force of this Agreement.

ARTICLE 4
Promotion and Protection of Investments

1. Subject to its national laws and regulations, each Contracting Party shall encourage and create favourable conditions for the investors of the other Contracting Party to make investments in its territory.

2. Each Contracting Party shall accord to covered investments fair and equitable treatment and full protection and security in accordance with customary international law.

3. For great certainty, paragraph 2 of this Article prescribes the customary international law minimum standard of treatment of aliens as the standard of treatment to be afforded to covered investments. 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 obligation 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 due process of law; and

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

4. For the purposes of monitoring the behaviour of investment flows, each Contracting Party may, in accordance with its national laws and regulations, require the covered investments or the investors to inform the competent national authority on investment matters about the investments.

ARTICLE 5
Treatment of Investments

1. Each Contracting Party shall accord to the investors of the other Contracting Party or covered investments, treatment no less favourable than that accorded in like circumstances to its own investors or investments of its investors as regards the management, maintenance, use, operation, enjoyment, sale, liquidation or disposal of the investment.

2. Each Contracting Party shall accord to the investors of the other Contracting Party or covered investments, treatment no less favourable than that accorded in like circumstances to investors of any third State or investments of investors of any third State, as regards the management, maintenance, use, operation, enjoyment, sale, liquidation or disposal of the investment.

3. Each Contracting Party, in accordance with its national laws and regulations, should favourably consider applications for the entry and sojourn of the nationals of the other Contracting Party for making and carrying out of an investment.

4. This Article shall not be construed so as to oblige a hosting Contracting Party to extend to the investors of the other Contracting Party the benefit of any treatment, preference or privilege that may be extended by that hosting Contracting Party by virtue of an international agreement or arrangement relating wholly or mainly to taxation.

5. Paragraph 1 and 2 of this Article shall not apply to:

(a) any existing non-conforming measures maintained by a Contracting Party within its territory;

(b) the continuation of any non-conforming measure referred to in subparagraph (a);

(c) an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not increase the non-conformity of the measure, as it existed immediately before the amendment, with those obligations.

6. Paragraph 2 of this Article shall not apply to all existing or future advantages accorded by either Contracting Party by virtue of any bilateral or multilateral agreement relating to investment in force or signed prior to the date of entry into force of this Agreement, or its membership or partnership in a customs, economic or monetary union, a common market or a free trade area, to their own nationals or enterprises, the member states of the said union, common market or free trade area, or any third State.

7. Paragraph 2 of this Article does not include nor apply to any dispute settlement procedures or mechanisms between the investors and the Contracting Parties, such as those included in Article 12 of this Agreement.

ARTICLE 6
Exceptions

Nothing in this Agreement shall be construed as:

(a) requiring either Contracting Party to grant or allow access to any information, the

disclosure of which it determines to be contrary to its essential security interests; as well as preventing either Contracting Party from taking any action deemed necessary to protect its essential security interests:

(i) regarding the traffic of firearms, ammunition, and war implements and for the traffic and transaction in any other goods, materials, services, and technology, either directly or indirectly, in order to provide military service or any other security site;

(ii) taken in time of war or any other emergency in international affairs; or

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

(b) precluding either Contracting Party from discharging its obligations under the Charter of the United Nations to maintain or restore international peace and security.

ARTICLE 7
Expropriation

1. Investments made by the investors of the other Contracting Party shall not be expropriated, nationalized or subject, either directly or indirectly, to measures with similar effects by the hosting Contracting Party, except for a public purpose or interest, in a non-discriminatory manner, in accordance with its domestic legal procedure, upon payment of compensation without delay and in compliance with paragraph 2 and 3 of this Article.

2. The amount of compensation shall be equivalent to the market value of the expropriated investment, immediately before the nationalization or expropriation measures were taken or became public knowledge.

3. Compensation shall be payable in a freely usable currency. In the event that payment of compensation is delayed, it shall include interest calculated at a rate, which may not exceed Euribor rate, from the date the compensation is due, according with the national laws and regulations of the hosting Contracting Party, until the date of payment.

4. Non-discriminatory legal measures, designed and implemented to ensure legitimate objectives of public welfare, such as health, security, and the environment, do not constitute indirect expropriation.

5. The affected investors shall have the right, under the national laws and regulations of the Contracting Party undertaking the expropriation, to resort to the judicial authorities of said Contracting Party to review the amount of compensation and the legality of said expropriation or comparable measures.

ARTICLE 8
Compensation for Losses

1. The investors of either Contracting Party whose investments in the territory of the hosting Contracting Party suffer losses owing to war, armed conflict, uprising, civil turmoil, national state of emergency or any other similar events shall be accorded, by way of redress, indemnity, compensation or other settlement, treatment no less favourable than that accorded to its own investors or to the investors of any third State, regarding any measures it adopts in connection with such losses.

2. Without prejudice to paragraph 1 of this Article, investors of one Contracting Party who in any of the situations referred to in said paragraph suffer losses in the territory of the other Contracting Party resulting from destruction of their property 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 restitution or compensation. Such compensation shall be equivalent to the market value, payable in a freely usable currency and without delay, as appropriate.

ARTICLE 9
Repatriation and Transfers

1. Each Contracting Party shall allow the investors of the other Contracting Party to make investment-related transfers freely and without delay into and out of its territory. Such transfers including, but not limited to, the following:

(a) initial contribution and seed capital, and additional contributions to maintain or increase the investment;

(b) profits, dividends, capital gains, and interest, royalty payments, management fees, and technical assistance and other fees;

(c) the proceeds of the full or partial sale or the liquidation of part or the entirety of an investment;

(d) the amount of compensation under Articles 7 and 8 of this Agreement;

(e) reimbursements and payment of interests accrued on loans related to the investments;

(f) wages, salaries and other compensation received by the nationals of a Contracting Party, having the relevant work permits in the territory of the other Contracting Party in relation to an investment; or

(g) the payments arising from an investment dispute.

2. Transfers shall be made in the usable currency in which the investment has been made or

any other freely usable currency at the exchange rate effective on the date of the transfer, unless otherwise agreed by the investor and the hosting Contracting Party. In the process of making the transfer, the tax obligations established by the national laws and regulations of the hosting Contracting Party shall be observed.

3. Notwithstanding paragraphs 1 and 2 of this Article, a Contracting Party may impede a transfer by means of the equitable, non-discriminatory and bona fide enforcement of its national laws and regulations, concerning:

(a) bankruptcy, insolvency or protection of creditors' rights;

(b) issue, trade or negotiation of securities;

(c) crimes or criminal offences;

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

(e) fulfilment of judgments or awards in awarding procedures;

(f) establishment of the necessary instruments or mechanisms to ensure the payment of income tax by such means as the withholding of the amount related to dividends and other items.

4. Neither Contracting Party shall compel its investors to transfer, or punish its investors for not transferring, income, profits or any other amounts derived from or attributable to investments in the territory of the other Contracting Party.

5. Paragraph 4 of this Article shall not be construed as preventing a Contracting Party from imposing any measure by means of the equitable, non-discriminatory and bona fide enforcement of its national laws and regulations related to the provisions laid down in paragraph 3 of this Article.

6. For greater certainty, provided that such measures are not applied in an arbitrary or unjustifiable manner, and provided that such measures do not constitute a disguised restriction on international trade or investment, paragraphs 1 through 2 of this Article shall not be construed to prevent a Contracting Party from adopting or maintaining measures that are necessary to secure compliance with its national laws and regulations, including those relating to the prevention of deceptive and fraudulent practices, that are not inconsistent with this Agreement.

7. In the event of serious balance-of-payments difficulties, external financial difficulties, or threat thereof, nothing in this Agreement shall be construed to prevent a Contracting Party from adopting or maintaining restrictive measures with regard to payments or transfers

relating to the movements of capital.

8. The restrictive measures adopted or maintained by a Contracting Party in accordance with the paragraph 7 of this Article:

(a) shall be adopted and maintained in an equitable, non-discriminatory manner, and in accordance with international standards;

(b)shall not exceed those necessary to deal with the circumstances described in the paragraph 7 of this Article;

(c) shall be temporary and be phased out as soon as the situation described in the paragraph 7 of this Article improves;

(d) shall not be inconsistent with paragraph 1 and 2 of Article 5 of this Agreement;

(e) shall not be inconsistent with Article 7 of this Agreement;

(f) be promptly notified to the other Contracting Party and published as soon as practicable.

9. For greater clarity, this Article does not affect each Contracting Party's ability to adopt or preserve reasonable measures to administer its capital account for the maintenance of the stability and soundness of its financial system, such as the foreign exchange market, stock market, bond market and financial derivatives market, or for the protection of the investors, depositors, participants in the financial market, policy holders, policy applicants or persons to whom fiduciary duty is owned by a financial institution.

ARTICLE 10
Subrogation

1. The Contracting Party, or a public or private entity duly authorized by the Contracting Party, indemnifying an investor under insurance or other guarantee against non-commercial risks in relation to its investment in the territory of the other Contracting Party, shall subrogated in the rights of the investor under this Agreement.

2. Subrogated rights or claims shall not exceed the original rights or claims of the investor. Any disputes that may arise between a Contracting Party and an insurance company shall be settled in accordance with the provisions of Article 12 of this Agreement.

ARTICLE 11
Settlement of Disputes between the Contracting Parties

The Contracting Parties shall, to the extent possible, settle any dispute concerning the

interpretation or application of this Agreement through consultations or diplomatic channels.

ARTICLE 12
Settlement of Disputes between a Contracting Party and Investors of the Other Contracting Party

1. Any dispute related to the covered investments that may arise between a Contracting Party and an investor of the other Contracting Party with respect to the issues regulated by this Agreement, shall be notified in writing by the investor to the hosting Contracting Party. The written notice shall include detailed information about the investor and its covered investment, the claim and shall indicate the provisions of the Agreement deemed as violated, the grounds upon which the dispute is based, the estimated value of claimed damages and the pursued compensation. To the extent possible, the investor and the hosting Contracting Party shall strive to settle the dispute through consultations and direct negotiations in good faith.

2. If the dispute fails to be settled amicably within six (6) months following the date of receipt of the written notice mentioned in paragraph 1 of this Article, then the dispute shall be submitted, at the investor's choice, to:

(a) the competent court of the Contracting Party where the investment was made; or

(b) an *ad hoc* arbitral tribunal established under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL), approved by the United Nations General Assembly on 15 December 1976. For further clarification, the dispute that is submitted to the *ad hoc* arbitral tribunal under this subparagraph shall be deemed to be consistent with paragraph 1 of Article 1 of the UNCITRAL Arbitration Rules; or

(c) any other arbitration institution or any other arbitration rules, if the disputing parties so agree in writing.

3. An investor may submit to arbitration any dispute referred to in paragraph 1 of this Article, in accordance with paragraph 2 of this Article, only if:

(a) the investor has consented to it in writing;

(b) the investor has waived its right to bring or continue any other proceeding in connection with the measure it alleges constitutes a breach of this Agreement before the courts or tribunals of the relevant Contracting Party or in any other kind of dispute settlement procedure; and

(c) no more than three (3) years have elapsed since the date when the investor first learned, or should have learned, of the alleged breach.

4. The disputing parties may agree on the seat of any arbitration referred in paragraph 2(b)

of this Article. If such agreement can not be reached, the arbitral tribunal shall determine the seat of the arbitration in accordance with the applicable arbitral rules, provided that the seat shall be located in the territory of a State that is a party to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

5. Upon submission by the investor of the dispute to one of the dispute settlement forums mentioned in paragraph 2, the election of one of these forums shall be final.

6. The arbitral tribunal shall take its decisions in accordance with the provisions of this Agreement, and generally accepted principles and rules of international law, taking into consideration the relevant national laws and regulations of the Contracting Parties.

7. The arbitral award shall be final and binding upon all the parties in dispute. Each Contracting Party shall execute the arbitral award according to its national laws and regulations.

ARTICLE 13
Denial of Benefits

1. The benefits of this Agreement may be denied at any time by the hosting Contracting Party, even after a claim has been lodged under the dispute settlement mechanism under Article 12 of this Agreement and provided that either of the following conditions is met:

(a) a enterprise is directly or indirectly or in fact controlled by individuals or enterprises of a country that is not a Contracting Party to this Agreement and that enterprise does not have any substantial business in the territory of the other Contracting Party;

(b) a enterprise is directly or indirectly or in fact controlled by, individuals or enterprises of the denying Contracting Party.

ARTICLE 14
Investment and Legitimate Public Policy Objectives

1. The Contracting Parties reaffirm the right to regulate within their respective territories to achieve legitimate public policy objectives, such as the protection of public health, safety, the environment, the labor rights, and public morals.

2. None of the provisions set out in this Agreement shall be construed as preventing a Contracting Party from adopting, maintaining or enforcing any measure otherwise consistent with this Agreement that it deems appropriate to ensure that the investment activities in its territory shall be carried out in a manner sensitive to environmental, health or other regulatory objectives.

3. The Contracting Parties recognize that it is not appropriate to encourage investment by

lowering the standards of their environmental and labour measures. Consequently, a Contracting Party shall not waive or derogate from, or offer to waive or derogate from such measures to encourage the establishment, acquisition, expansion or retention of an investment or an investor in its territory.

ARTICLE 15
Consultation and Exchange of Information

The Contracting Parties may agree, at any time, at the request of either Contracting Party, to enter into consultations on the interpretation or application of this Agreement. At the request of either Contracting Party, information shall be exchanged on the measures taken by the other Contracting Party having a potential impact on new investments, existing investments or returns covered by this Agreement.

ARTICLE 16
Service of Documents

Notices and other documents in disputes under Article 12 (Settlement of Disputes between a Contracting Party and Investors of the other Contracting Party) shall be served on the People's Republic of China by delivery to:

Department of Treaty and Law
Ministry of Commerce of the People's Republic of China
2 Dong Chang'an Avenue
Beijing, 100731
People's Republic of China

Notices and other documents in disputes under Article 12 (Settlement of Disputes between a Contracting Party and Investors of the other Contracting Party) shall be served on the Bolivarian Republic of Venezuela by delivery to:

Ministry of People's Power of Economy, Finance and Foreign Trade
Office of Integration and International Affairs
Ministry Headquarters Building. Av. Urdaneta, Carmelitas
Caracas, 1010, Venezuela.

ARTICLE 17
Entry into Force, Duration, Amendment and Termination

1. This Agreement shall enter into force sixty (60) days after the date of receipt of the last notification sent by the Contracting Parties, in writing and through diplomatic channels, of the completion of the relevant domestic legal procedures required for such purpose.

2. This Agreement shall remain in force for a period of ten (10) years and shall continue in force unless terminated pursuant of this Article.

3. Either Contracting Party may, by giving one (1) year's prior written notice to the other Contracting Party, the denounce of this Agreement at the end of the initial ten (10) -year period or at any time thereafter.

4. This Agreement may be amended at any time by mutual written consent of the Contracting Parties. Any such amendment shall enter into force in accordance with the same legal procedures described in this Article.

5. In the event of denounce, the provisions of Articles 1 through 16 of this Agreement shall continue in effect for a period of five (5) years following the date of termination.

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

DONE in duplicate at Caracas on 22/5/2024 in Chinese, Spanish 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 PEOPLE'S REPUBLIC OF CHINA

FOR THE GOVERNMENT OF
THE BOLIVARIAN REPUBLIC OF
VENEZUELA