AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE GOVERNMENT OF THE UNITED ARAB EMIRATES FOR THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS

PREAMBLE

The Government of the Republic of the Philippines ("Philippines") and the Government of the United Arab Emirates ("UAE"), (hereinafter referred to individually as "Contracting Party" and collectively as "Contracting Parties");

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

Recognizing that an agreement on the promotion and reciprocal protection to be accorded to such investments will stimulate the flow of capital and the economic development of the Contracting Parties;

Considering that a stable framework for investments will ensure effective utilization of economic resources and improve living standards;

Agreeing that the establishment of investments must be in accordance with their laws and regulations;

Understanding that promotion of such investments requires co-operative efforts of the investors of both Contracting Parties;

Have agreed as follows:

SECTION A: Definitions

For the purposes of this Agreement, the term:

1. **"Competent authority"** means:

   (a) in the case of the Philippines, the Department of Foreign Affairs or its authorized representative;

   (b) in the case of the UAE, the Ministry of Finance or its authorized representative.

2. **"Covered investment"** means with respect to a Contracting Party, an investment in its territory, of an investor of the other Contracting Party, existing on the date of entry into force of this Agreement, or made or acquired thereafter, and which has been admitted by the Contracting Party, subject to its laws, rules, and regulations;

3. "**Disputing investor**" means an investor of a Contracting Party that makes a claim against the other Contracting Party;

4. "**Disputing parties**" means the disputing investor and the disputing Party;

5. "**Disputing Party**" means a Contracting Party against which a claim is made;

6. "**Disputing party**" means either the disputing investor or the disputing Party;

7. **"Freely usable currency"** means any freely usable currency designated as such by the International Monetary Fund (IMF) under its Articles of Agreement and any amendments thereto;

8. **"ICSID"** means the International Centre for Settlement of Investment Disputes;

9. **"ICSID Additional Facility Rules"** means the Rules Governing the Additional Facility for the Administration of Proceedings by the Secretariat of the International Centre for Settlement of Investment Disputes;

10. **"ICSID Convention"** means the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, done at Washington, 18 March 1965;

11. **"Investment"** means every kind of asset which is owned or controlled directly or indirectly by the investors of a Contracting Party in the territory of the other Contracting Party in accordance with its laws and regulations that has the characteristics of an investment, such as the commitment of capital or other resources, the expectation of gains or profits, or the assumption of risk, and shall include in particular:

    (a) movable and immovable property as well as any other property rights, such as mortgages, pledges, usufructs and similar rights;

    (b) stocks, shares, bonds, debentures, loans and other forms of participation, loans to state enterprises, turnkey projects, in a juridical person[1];

    (c) intellectual property rights, which are recognized under the domestic law of the host Contracting Party;

    (d) rights to engage in economic activities conferred by law;

    (e) returns reinvested; and

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[1] Borrowings of public sector and private sector with public guarantees are not included.

(f) claims to money or any other rights to contractual performance having financial value related to an investment.

The term "investment" does not include:

(a) claims to money arising solely from:

(i) commercial contracts for the sale of goods or services;

(ii) the extension of credit in connection with commercial transaction;

(iii) trade financing;

(b) an order or judgment entered in a judicial or administrative action;

The term "investment" also includes returns that are invested. Any alteration of the form in which assets are invested or reinvested shall not affect their character as investment.

This Agreement shall not apply to market access and services.

Natural resources shall not be covered by this Agreement.

12. **"Investor"** means in respect of either Contracting Party:

(a) a natural person, who is a national of a Contracting Party; and

(b) a juridical person who is a legal entity duly constituted or otherwise organized under the applicable law of a Contracting Party, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, partnership, joint venture, sole proprietorship, association or similar organization,

and who has made an investment in the territory of the other Contracting Party;

13. **"Measure"** means any measure by a Contracting Party, whether in the form of a law, rule, regulation, procedure, administrative action, or other similar forms;

14. "**New York Convention**" means the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York, 10 June 1958;

15. **"Returns"** means income derived from an investment and includes, in particular, but not exclusively, profits, dividends, capital gains, interests, royalties and any other fees;

16. **"Territory"** of a Contracting Party means in respect of:

(a)The Philippines, the Philippine archipelago, with all the islands and waters embraced therein, and all other territories over which the Philippines has sovereignty or jurisdiction, consisting of its terrestrial, fluvial and aerial domains, including its territorial sea, the seabed, the subsoil, the insular shelves, and other submarine areas, and areas over which the Philippines has sovereignty, sovereign rights or jurisdiction in accordance with the United Nations Convention on the Law of the Sea (UNCLOS). The waters around, between and connecting the islands of the archipelago, regardless of their breadth and dimensions form part of the internal waters of the Philippines;

(b)The UAE, its territorial sea, airspace and submarine areas over which the UAE exercises, in accordance with international law and the law of the UAE, sovereign rights, including the Exclusive Economic Zone and the mainland and islands under its jurisdiction in respect of any activity carried on in its water, seabed and subsoil in connection with the exploration for or the exploitation of the natural resources by virtue of its law and international law;

17. "**UNCITRAL Arbitration Rules**" means the arbitration rules of the United Nations Commission on International Trade Law, adopted by the United Nations General Assembly on 15 December 1976, as revised in 2010; and

18. **"Vienna Convention on the Law of Treaties"** means the Convention done at Vienna, 23 May 1969.

SECTION B: Investment Promotion and Protection

ARTICLE 1. Scope

1. This Agreement shall apply to measures adopted or maintained by a Contracting Party relating to:

   (a)covered investments; and

   (b)investors of the other Contracting Party.

2. This Agreement shall not apply to:

   (a)any taxation measure except under Article 8 (Expropriation) and Article 9 (Transfers);

   (b)subsidies or grants provided by a Contracting Party; and

   (c)government procurement.

3. This Agreement shall apply to investments made prior to or after the entry into force of this Agreement, but shall not

apply to any investment dispute that may have arisen nor to any claim that was settled before its entry into force.

4. The treatment accorded to an investor of a Contracting Party under this Agreement does not extend to the pre-establishment stage of the investment.

ARTICLE 2. Promotion and Admission of Investments

1. Each Contracting Party shall encourage and create favorable 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. In order to encourage mutual investment flows, each Contracting Party shall endeavor as far as possible to inform the other Contracting Party, at its request, of the investment opportunities in its territory.

ARTICLE 3. Treatment of Investments

1. Each Contracting Party shall accord in its territory to a covered investment made by investors of the other Contracting Party, fair and equitable treatment and full protection and security.

2. For greater certainty, a Contracting Party breaches the obligation of fair and equitable treatment referred to in paragraph 1 if a measure or series of measures constitute:

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

   (b) fundamental breach of due process in judicial and administrative proceedings;

   (c) manifest arbitrariness; and

(d) targeted discrimination on the ground of gender.

3. For greater certainty, the concepts of "fair and equitable treatment" and "full protection and security" do not require treatment to be accorded to covered investments in addition to or beyond that which is required under customary international law and do not create additional substantive rights.

4. For greater certainty, 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.

ARTICLE 4. National Treatment

Each Contracting Party shall, in accordance with its laws and regulations, accord in its territory to covered investments of investors of the other Contracting Party treatment no less favorable than that which it accords, in like circumstances, to investments of its own investors, or to investments of investors of a non-Party with respect to the management, use, enjoyment or disposal of investments.

ARTICLE 5. Most-Favored-Nation Treatment

1. Each Contracting Party shall, in accordance with its laws and regulations, accord in its territory to covered investments of the investors of the other Contracting Party treatment no less favorable than that it accords, in like circumstances, to investors of any third Party, with respect to the management, conduct, operation, and sale or other disposition of investment in its territory.

2. The provisions of paragraph 1 of this Article shall not be construed so as to oblige a 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:

(a) any existing or future customs union or economic or monetary union, free trade area or similar international agreements, including international investment agreements to which either of the Contracting Parties is or may become a Party in the future; or

(b) any international agreement or arrangement, wholly or partially related to taxation.

3. For greater certainty, the treatment referred to in paragraphs 1 and 2 of this Article does not encompass any international dispute resolution procedures or mechanisms under other existing or future international agreements.

4. For greater certainty, whether the treatment is accorded in "like circumstances" under this Article depends on the totality of the circumstances.

ARTICLE 6. Prohibition of Performance Requirements

1. Within the context of its national economic policy and goals, each Contracting Party shall avoid imposing on the investments of investors of the other Contracting Party, conditions which require the export of goods produced, the purchase of goods locally or the transfer of technology, production process or other proprietary knowledge to a natural person or juridical person in the territory of the other Contracting Party.

2. For greater certainty, any investment relating to real estate acquisitions by foreigners should be made in accordance with the host Contracting Party's applicable law at the time the investment is made.

ARTICLE 7. Compensation for Damages or Losses

Covered investments made by investors of a Contracting Party which suffer loss or damage owing to war or other armed conflict, civil disturbances, state of national emergency, revolution, riot or similar events in the territory of the other Contracting Party shall be accorded by the latter Contracting Party treatment, as regards compensation, not less favorable than the treatment that it accords to its own investors or to investors of a non-Party.

ARTICLE 8. Expropriation

1. Each Contracting Party shall not expropriate or nationalize directly or indirectly in its territory an investment of an investor of the other Contracting Party or take any measures having equivalent effect such as freezing, or levying excessive tax, except:

   (a) for a public purpose;

   (b) on a non-discriminatory basis;

   (c) in accordance with due process of law; and

   (d) accompanied by payment of prompt, adequate and effective compensation in accordance with paragraphs 2 and 3 of this Article.

2. The compensation referred to in paragraph 1, subparagraph (d) shall:

   (a) be paid without undue delay[2];

   (b) be equivalent to the fair market value of the expropriated investment:

[2] The Contracting Parties understand that there may be legal and administrative processes that need to be observed before payment can be made.

i. For the Philippines, at the date of filing of the Petition for Expropriation or when the expropriation occurred, whichever is applicable; and

ii. For the UAE, at the time when or immediately before the expropriation was publicly known or when the expropriation occurred;

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

(d) be effectively realizable and freely transferable.

3. In the event of delay, the compensation referred to in paragraph 1, subparagraph (d) shall include an appropriate interest in accordance with the laws, rules, and regulations in the territory of the Contracting Party making the expropriation.

4. Where the fair market value cannot be ascertained, the compensation shall be determined in an equitable manner considering all relevant factors and circumstances, such as the capital invested, the nature and duration of the investment, replacement cost, book value and goodwill.

5. The government assets of each Contracting Party shall be immune from nationalization and expropriation.

   For the avoidance of doubt, government assets referred to under this paragraph shall exclude commercial and private transactions.

6. An investor of a Contracting Party affected by the expropriation carried out by the other Contracting Party shall have the right to prompt review of its case by a judicial authority or another competent and independent authority of the latter Contracting Party.

7. This Article does not apply to the issuance of compulsory licenses granted in relation to intellectual property rights, or to the revocation, limitation, or creation of intellectual property rights, to the extent that such issuance, revocation, limitation, or creation is consistent with the Trade-Related Aspects of Intellectual Property Rights Agreement.[3]

ARTICLE 9. Transfers

1. Each Contracting Party shall, in accordance with its laws and regulations, ensure that all payments relating to an investment in its territory of an investor of the other Contracting Party shall be freely transferred into and out of its territory without delay. Such transfers shall include, in particular:

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

   (b) returns;

   (c) payments made under a contract, including repayments pursuant to a loan agreement;

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

   (e) payments of compensation under Article 7 (Compensation for Damages and Losses) and Article 8 (Expropriation) of this Agreement;

   (f) payments under Article 12 (Subrogation) of this Agreement;

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[3] For greater certainty, the Parties recognize that for the purpose of this Article, the term "revocation" of intellectual property rights includes the cancellation or nullification of such rights, and the term "limitation" of intellectual property rights includes exceptions to such rights.

(g) payments arising out of the settlement of an investment dispute by any means, including adjudication, arbitration or the agreement of the disputing parties;

(h) earnings and other remuneration of personnel engaged from abroad in connection with a covered investment; and

(i) profits and returns of national airlines operating international traffic of each Contracting Party.

2. Each Contracting Party shall ensure that the transfers under paragraph 1 of this Article are made without delay in a freely usable currency, at the market rate of exchange prevailing on the date of transfer and under the laws and regulations in force in the territory of the Contracting Party where investments have been made.

3. Notwithstanding paragraphs 1 and 2, each Contracting Party may prevent or delay a transfer through the equitable, non-discriminatory, and good faith application of its laws, rules, and regulations relating to:

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

(b) issuing, trading, or dealing in securities, futures, options or derivatives;

(c) criminal or penal offenses and the recovery of the proceeds of crime;

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

(e) ensuring compliance with orders or judgments in judicial or administrative proceedings;

(f) payment of taxation liabilities;

(g) social security, public retirement, or compulsory savings schemes; and

(h) requirement to register and satisfy other formalities imposed by the central bank and financial regulatory authorities of a Contracting Party.

4. Nothing in this Agreement shall affect the rights and obligations of the Contracting Parties as members of the IMF under the Articles of Agreement of the IMF, including the use of exchange actions which are in conformity with the Articles of Agreement, provided that a Contracting Party shall not impose restrictions on any capital transactions inconsistently with its specific commitments regarding such transactions, except under Article 10 (Measures to Safeguard the Balance of Payments) or at the request of the IMF.

ARTICLE 10. Measures to Safeguard the Balance of Payments

1. Each Contracting Party may, in a non-discriminatory manner, adopt or maintain restrictions on payments or transfers relating to investments in like situations:

   (a) in the event of serious balance of payments and external financial difficulties or 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.

2. The restrictions referred to in paragraph 1 shall:

   (a) be consistent with the Articles of Agreement of the IMF;

(b) avoid unnecessary damage to the commercial, economic, and financial interests of the other Contracting Party;

(c) not exceed those necessary to deal with the circumstances described in paragraph 1;

(d) be temporary and be phased out progressively as the situation specified in paragraph 1 improves; and

(e) not treat the other Contracting Party less favorably than a non-Party in like situations.

3. Any restrictions adopted or maintained under paragraph 1 of this Article, or any changes therein, shall be promptly notified to the other Contracting Party.

ARTICLE 11. Prudential Measures

1. Notwithstanding any other provisions in this Agreement, each Contracting Party shall not be prevented from adopting or maintaining measures for prudential reasons[4], including for the protection of investors, depositors, policy holders, or persons to whom a fiduciary duty is owed by an entity supplying financial services, 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 this Agreement.

2. Nothing in this Agreement shall be construed to require a Contracting Party to disclose information relating to the affairs and accounts of individual customers or any

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[4] The Parties understand that "prudential reasons" includes the maintenance of the safety, soundness, integrity, or financial responsibility of individual financial institutions, as well as the safety and financial and operational integrity of payment and clearing systems.

confidential or proprietary information in the possession of public entities.

ARTICLE 12. Subrogation

1. If a Contracting Party, or an agency designated by a Contracting Party, makes payment to an investor of that Contracting Party under a guarantee, contract of insurance, or other forms of indemnity that it has granted in respect of a covered investment, the other Contracting Party in whose territory the covered investment was made shall recognize the subrogation or transfer of any right or claim in respect of such investment. The subrogated or transferred right or claim shall not be greater than the original right or claim of the investor.

2. Where a Contracting Party or any agency designated by a, Contracting Party has made a payment to an investor of that Contracting Party and has taken over any right or claim of the investor, that investor shall not, unless authorized to act on behalf of the Contracting Party or the agency designated by the Contracting Party making the payment, pursue that right or claim against the other Contracting Party in whose territory the covered investment was made.

3. In the exercise of subrogated or transferred rights or claims, the Contracting Party or agency designated by the Contracting Party exercising such right or claim shall disclose the coverage of the claims arrangement with its investors to the Contracting Party in whose territory the covered investment was made.

ARTICLE 13. Denial of Benefits

1. Each Contracting Party may deny the benefits of this Agreement to an investor of the other Contracting Party that is a juridical person of the latter Contracting Party and to its investments if the juridical person:

(a) is owned or controlled by a person of a non-Party or of the denying Party;

(b) is an investor of a non-Party who acquires the ownership or control of an investment through planning of nationality where the investor has restructured his investment through intermediary countries and that non-Party has no diplomatic relationship with the host State;

(c) is an investor of a Contracting Party, if the main purpose of the acquisition of the nationality of that Contracting Party was to obtain benefits under this Agreement that would not otherwise be available to the investor; or

(d) if the investment is owned or controlled by a non-Party who had no physical presence or substantial economic activity.

2. A Contracting Party may deny the benefits of this Agreement to investors of the other Contracting Party and to investments of that investor where it establishes that such investor has made an investment in breach of the domestic laws of the denying Contracting Party by misrepresenting its ownership in those areas of investment which are reserved for natural or juridical persons of the denying Contracting Party.

SECTION C: Settlement of Investment Disputes between a Contracting Party and an Investor of the other Contracting Party

ARTICLE 14. Scope

1. This Article shall apply to investment disputes between the disputing parties arising from an alleged breach of the substantial protection provisions under Section B which

causes loss or damage to the disputing investor arising out of that breach in relation to its covered investment with respect to the management, conduct, development, operation, maintenance, use, and sale or disposition of such investment.

2. This Article shall not apply to investment disputes which occurred prior to the entry into force of this Agreement.

3. This Article shall not apply where the disputing investor holds the nationality or citizenship of the disputing Party.

ARTICLE 15. Consultation and Negotiation

1. An investor that has a dispute with a Contracting Party shall initially attempt to settle it amicably through consultations and negotiations.

2. To start consultations and negotiations, the investor shall deliver to the competent authority of the relevant Contracting Party a written notice. The notice shall specify:

   (a) the name and address of the disputing investor;

   (b) the provisions of this Agreement alleged to have been breached;

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

   (d) the remedy sought and the amount of damages claimed, if any.

ARTICLE 16. Choice of Forum

1. If the dispute cannot be settled amicably within six (6) months from the date of the start of the consultations and negotiations referred to in Article 15 (Consultation and

Negotiation), the dispute may upon the request of the disputing investor be settled as follows:

(a) by a competent court of the Contracting Party in whose territory the investment is made;

(b) by arbitration by the International Centre for Settlement of Investment Disputes (ICSID), subject to the execution of a separate written agreement between the disputing parties;

(c) by arbitration in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL); or

(d) by arbitration centers of a Contracting Party in whose territory the investment is made or any other arbitration institution or under any other arbitration rules, if the disputing parties agree.

2. At any stage of the proceedings the disputing parties may withdraw the case if they agree on any other mode of settlements in connection with the dispute.

ARTICLE 17. Conditions and Limitations on Submission of Claim

1. The submission of a dispute to arbitration under Article 16 (Choice of Forum), subparagraphs (b) to (d) shall be conditional upon:

(a) the submission of the dispute to such arbitration taking place within four (4) years from the time at which the disputing investor became aware, or should reasonably have become aware of a breach of an obligation under this Agreement causing loss or damage to the disputing investor in relation to its covered investment;

(b) the disputing investor providing to the disputing Party a written notice of intent to submit the claim to arbitration at least ninety (90) days before the claim is submitted. The notice of intent shall specify:

   i. the forum for dispute settlement being sought, under Article 16 (Choice of Forum), subparagraphs (b) to (d);

   ii. the factual and legal basis of the investment dispute, including the provisions of this Agreement alleged to have been breached;

   iii. the loss or damage allegedly caused to the disputing investor or its covered investment; and

(c) the notice of arbitration being accompanied by the disputing investor's written waiver of any right to initiate or continue before any administrative tribunal or court under the law of either the disputing Party or the Contracting Party of the disputing investor, or other dispute settlement mechanisms including investment dispute settlement mechanisms under any other bilateral or multilateral agreements to which either or both the disputing Party and the Party of the disputing investor are parties, and any proceedings with respect to any measure of the disputing Party alleged to constitute a breach referred to in paragraph 1. Accordingly, once the disputing investor has submitted the claim to arbitration under paragraph 6, subparagraphs (b) to (d), the choice of forum shall be final.

2. The applicable arbitration rules shall govern the arbitration referred to in this Article except to the extent modified by the disputing parties in this Article.

3. Notwithstanding paragraph 8(c), the disputing investor may initiate or continue an action that seeks interim injunctive relief for the sole purpose of preserving the disputing investor's rights and interests and does not involve the payment of damages or resolution of the substance of the matter in dispute before a court or administrative tribunal under the law of the disputing Party.

4. No Contracting Party shall give diplomatic protection, or bring an international claim, in respect of a dispute which has been submitted to arbitration, unless the other Contracting Party has failed to abide by and comply with the award rendered in such dispute. Diplomatic protection, for the purposes of this paragraph, shall not include informal diplomatic exchanges for the sole purpose of facilitating a settlement of the dispute.

ARTICLE 18. Consent to Arbitration

Each Party consents to the submission of a claim to arbitration in accordance with the terms of this Agreement, subject to paragraph 1(b) of Article 16 of this Agreement.

ARTICLE 19. Selection of Arbitrators

1. Unless the disputing parties agree otherwise, an arbitral tribunal established under Article 16 (Choice of Forum), subparagraphs (b) to (d) shall comprise three (3) arbitrators:

   (a) one arbitrator appointed by each of the disputing parties; and

   (b) the third arbitrator, who shall be the presiding arbitrator, appointed by the agreement of the disputing parties, shall:

i. not be of the same nationality as the disputing investor, or be a national of the disputing Party;

ii. not have his or her usual place of residence in the territory of either the disputing Party or the Party of the disputing investor;

iii. not be employed by or affiliated with the disputing Party, the Party of the disputing investor, or the disputing investor;

iv. not have dealt with the said investment dispute in any capacity; and

v. have expertise or experience in public international law, international trade or international investment rules and be independent of, and not be affiliated with or take instructions from the disputing Party, the non-disputing Party, or disputing investor.

2. Where any arbitrator appointed as provided for in this Article resigns or becomes unable to act, a successor shall be appointed in the same manner as prescribed for the appointment of the original arbitrator and the successor shall have all the powers and duties of the original arbitrator.

ARTICLE 20. Conduct of Arbitration

1. A disputing Party may file, no later than ninety (90) days after the constitution of the arbitral tribunal, an objection that a claim is manifestly without merit or not admissible. A disputing Party may also file an objection that a claim is outside the jurisdiction or competence of the arbitral tribunal. The disputing Party shall specify as precisely as possible the basis for the objection.

2. At any stage of the proceedings, the arbitral tribunal may consider, *motu proprio*, whether the claim is admissible, or within the jurisdiction or competence of the arbitral tribunal.

3. The arbitral tribunal shall address any such objection as a preliminary question apart from the merits of the claim. The disputing parties shall be given a reasonable opportunity to present their views and observations to the arbitral tribunal. If the arbitral tribunal decides that the claim is manifestly without merit, or is otherwise not within its jurisdiction or competence, it shall render an award to that effect.

ARTICLE 21. Place of Arbitration

Unless the disputing parties agree otherwise, the place of arbitration shall be in a country that is a party to the New York Convention.

ARTICLE 22. Governing Law

The arbitral tribunal shall decide the issues in dispute in accordance with this Agreement, applicable rules of international law and, where applicable, relevant domestic laws of the disputing Party. The arbitral tribunal does not have jurisdiction to determine the legality of a measure alleged to constitute a breach of this Article under the domestic law of the disputing Party.

ARTICLE 23. Joint Interpretation

1. The tribunal shall, on its own account or at the request of a disputing Party, request a joint interpretation of any provision of this Agreement that is in issue in a dispute. The Contracting Parties shall submit in writing any joint decision declaring their interpretation to the tribunal within sixty (60) days of the request. Without prejudice to paragraph 2 of this Article, if the Contracting Parties fail to submit such a decision within sixty (60) days, any interpretation submitted

by a Contracting Party individually shall be forwarded to the disputing parties and the tribunal, which shall decide the issue on its own account.

2. In accordance with the Vienna Convention of the Law of Treaties, and customary international law, other evidence of the Contracting Parties, relevant agreements and applicable domestic law regarding interpretation or application of this Treaty shall constitute authoritative interpretations of this Treaty and must be taken into account by tribunals under this Chapter.

3. A joint decision of the Contracting Parties, declaring their interpretation of a provision of this Agreement shall be binding on the tribunal, and any decision or award issued by the tribunal must be consistent with that joint decision.

ARTICLE 24. Awards

1. An arbitral tribunal may not award moral and punitive damages.

2. The arbitral award shall be final and binding on the disputing parties. Each Contracting Party shall ensure the recognition and enforcement of the arbitral award in its territory in accordance with its laws and regulations.

3. The award shall be binding and shall not be subject to any appeal or remedy other than those provided for in the ICSID Convention or arbitral rules on which the arbitral proceedings by the investor are based, unless new fact or new evidence have been discovered. The award shall be subject to Articles 48, 49, 50, 51, 52, 53 and 54 of the ICSID Convention.

SECTION D: Settlement of Disputes between the Contracting Parties

ARTICLE 25

1. Disputes between the Contracting Parties concerning the interpretation or application of this Agreement shall be settled as far as possible by negotiations.

2. If a dispute under paragraph 1 of this Article cannot be settled within six (6) months, it shall upon the request of either Contracting Party be submitted to an arbitral tribunal of three (3) members.

3. Such arbitral tribunal shall be constituted for each individual case. Each Contracting Party shall appoint one (1) member and these two (2) members shall agree upon a national of a third State as their chairman. Such members shall be appointed within two (2) months from the date one Contracting Party has informed the other Contracting Party of its intention to submit the dispute to an arbitral tribunal, the chairman of which shall be appointed within two (2) further months.

4. If the periods specified in paragraph 3 of this Article are not observed, either Contracting Party may, in the absence of any other relevant arrangement, invite the President of the International Court of Justice to make the necessary appointments. If the President of the International Court of Justice ("ICJ") is a national of either of the Contracting Parties or if he is otherwise prevented from discharging the said function, the Vice-president or in case of his inability the member of the ICJ next in seniority according to the Rules of the Court should be invited under the same conditions to make the necessary appointments. The appointed judge should be a national of a State that has diplomatic relations with the Contracting Parties.

5. The arbitral tribunal shall establish its own rules of procedure, unless the Contracting Parties decide otherwise.

6. The arbitral tribunal shall reach its decision in virtue of this Agreement and pursuant to the rules of international law. It shall reach its decision by a majority of votes; the decision shall be final and binding.

7. Each Contracting Party shall bear the costs of its own member and or its legal representation in the arbitration proceedings. The costs of the chairman and the remaining costs shall be borne in equal parts by both Contracting Parties. The tribunal may, however, in its award determine another distribution of costs.

SECTION E: General and Final Provisions

ARTICLE 26. Joint Committee on Investment

1. The Contracting Parties hereby establish a Joint Committee on Investments (hereinafter referred to as "the Committee"), composed of representatives of each Contracting Party and headed by Undersecretaries of each Contracting Party:

   (a)In the case of UAE, the Undersecretary of Ministry of Finance or his authorized representative; and

   (b)In the case of the Philippines, the Undersecretary of the Department of Trade and Industry or his authorized representative.

2. Unless otherwise agreed by the Contracting Parties, the committee shall meet upon the request of either Contracting Party within thirty (30) days from such request.

3. The functions of the Committee shall include:

   (a) a general review of this Agreement with a view to furthering its objectives;

   (b) to discuss and review the implementation and operation of this Agreement;

   (c) to exchange information on and to discuss investment-related matters within the scope of this Agreement which relate to improvement of investment environment;

   (d) to consider any issues raised by investors under this Agreement;

   (e) review the possibility of further facilitation of investment between the Contracting Parties;

   (f) evaluation of the results obtained from the application of this Agreement and consideration of any other issues or matters related to the implementation of this Agreement including solving problems, obstacles and dispute resolution before its submission to arbitration; and

   (g) the Committee may, as necessary, make appropriate recommendations by consensus to the Contracting Parties for the more effective functioning or the attainment of the objectives of this Agreement.

4. The Committee may, upon mutual consent of the Contracting Parties, invite representatives of relevant entities other than the Governments of the Parties with the necessary expertise relevant to the issues to be discussed, and hold joint meetings with the private sectors.

5. The Committee may establish sub-committees and delegate specific tasks to such sub-committees.

6. The Committee shall discuss any issues regarding the implementation and interpretation of this Agreement.

ARTICLE 27. Taxation Measures

1. Except as set out in Article 8 (Expropriation) and Article 9 (Transfers), this Agreement does not apply to taxation measures or Value-Added Tax (VAT) issues.

2. This Agreement does not 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 tax convention, the latter shall prevail.

3. This Agreement does not require a Contracting Party to furnish or allow access to information which if disclosed would be contrary to the Contracting Party's law protecting information on the taxation offer of a taxpayer.

ARTICLE 28. Transparency

1. Each Contracting Party shall endeavor to promptly publish, or otherwise make publicly available, its laws, regulations, administrative procedures and administrative rulings and judicial decisions of general application as well as international agreements which pertain to or affect the implementation and the operation of this Agreement.

2. Each Contracting Party shall, upon request by the other Contracting Party, endeavor to promptly respond to specific questions and provide that other Contracting Party with information on matters set out in paragraph 1, including that relating to a contract each Contracting Party enters into with regard to investment.

3. Paragraphs 1 and 2 shall not be construed so as to oblige either Contracting Party to disclose confidential information, the disclosure of which would impede law

enforcement or otherwise be contrary to the public interest, or which would prejudice privacy or legitimate commercial interests.

4. Upon the request by a Contracting Party, the other Contracting Party shall provide information on measures that may have impact on the covered investment.

ARTICLE 29. General Exceptions

1. Subject to the requirement that such measures are not applied in an arbitrary or unjustifiable manner, and do not constitute a disguised restriction on international trade or investment, nothing in this Agreement shall be construed to prevent a Contracting Party from adopting, maintaining or enforcing measures, including environmental measures, that are necessary to:

   (a) protect human, animal or plant life or health;

   (b) protect public morals or to maintain public order, provided that the public order exception may only be invoked where a genuine and sufficiently serious threat is posed to one of the fundamental interests of society in accordance with Article XIV of the General Agreement on Trade in Services;

   (c) protect national treasures of artistic, historic or archaeological value;

   (d) the conservation of living or non-living exhaustible natural resources, provided that such measures are made effective in conjunction with restrictions on domestic production or consumption; or

   (e) secure compliance with the laws or regulations which are not inconsistent with the provisions of this Agreement, including those relating to:

i. the prevention of deceptive and fraudulent practices or to deal with the effects of a default on contract[5];

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

iii. safety.

2. Nothing in this Agreement shall prevent the Parties from adopting or maintaining measures for prudential reasons, including:

(a) the protection of investors, depositors, policy holders, policy claimants, as well as financial market participants, or persons to whom a fiduciary duty is owed by a financial institution;

(b) the maintenance of the safety, soundness, integrity or financial responsibility of financial institutions; and

(c) ensuring the integrity and stability of the Contracting Party's financial system.

Such measures shall be taken in good faith and shall not be used as means of avoiding a Contracting Party's commitments or obligations under this Agreement.

ARTICLE 30. Security Exceptions

Nothing in this Agreement shall be construed:

[5] For greater certainty, this paragraph shall not preclude the contracting state to investigate in such matters.

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

(b) to preclude a Contracting Party from applying measures that it considers necessary for the fulfilment of its obligations under the United Nations Charter with respect to the maintenance or restoration of international peace or security, or for the protection of its own essential security interests, or in order to carry out obligations it has accepted for the purposes of maintaining international security.

ARTICLE 31. Health and Environment

1. The Contracting Parties recognize that it is inappropriate to encourage investment by relaxing public health, safety or environmental measures. They should not waive or otherwise derogate or offer to waive from such measures as an encouragement or establishment or expansion in their territories of an investment.

2. The investor should respect laws and regulations that pertains to essential security interests. or to the protection of public health or the prevention of diseases and pests in animals or plants.

ARTICLE 32. Entry Into Force

1. This Agreement shall enter into force on the thirtieth day after the date on which the Contracting Parties have received the notification, in writing, that their respective legal procedures necessary for entry into force of this Agreement have been completed. This Agreement shall remain in force unless terminated as provided for in Article 33 (Duration and Termination).

2. This Agreement may be amended in writing by the mutual consent of the Contracting Parties. Such amendments shall enter into force according to the same procedure as the Agreement.

ARTICLE 33. Duration and Termination

1. This Agreement shall remain in force for a period of ten (10) years and shall lapse thereafter unless the Contracting Parties expressly agree in writing that it shall be renewed.

2. In respect of investments made prior to the date when the termination of this Agreement becomes effective, the provisions of this Agreement shall remain in force for a period of ten (10) years.

In witness whereof, the undersigned, duly authorized thereto by their respective Governments, have signed this Agreement.

Signed in Dubai, United Arab Emirates, this day of _________, in the Arabic and English languages, both texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

For the Government of the Republic of the Philippines:	For the Government of the United Arab Emirates:
RAMON M. LOPEZ	**MOHAMED BIN HADI AL HUSSAINI**
Secretary of Trade and Industry	Minister of State for Financial Affairs

PROTOCOL

At the signing of the Agreement between the Government of the Republic of the Philippines and the Government of the United Arab Emirates for the Promotion and Reciprocal Protection of Investment, hereinafter referred to as "the Agreement", the United Arab Emirates and the Republic of the Philippines have agreed upon the following provisions, which shall form an integral part the Agreement.

With respect to Article 8 (Expropriation), it is understood that:

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

2. Expropriation may be direct or indirect:

   (a) direct expropriation occurs when a covered investment is nationalized or otherwise directly expropriated through formal transfer of title or outright seizure; and

   (b) indirect expropriation occurs if an action or series of actions of a Party has an effect equivalent to direct expropriation, in that it substantially deprives the investor of the fundamental attributes of property in its covered investment, including the right to use, enjoy and dispose of its covered investment, without formal transfer of title or outright seizure.

3. The determination of whether an action or series of actions of a Party, in a specific fact situation, constitutes an indirect expropriation requires a case-by-case, fact-based inquiry that takes into consideration, among other factors:

   (a) the economic impact of the action or series of actions, although the sole fact that an action or series of actions of a Party has an adverse effect on the economic value of a covered investment does not establish that an indirect expropriation has occurred;

   (b) whether the action breaches the Party's prior binding written commitment to the investor, whether by contract, license, or other legal documents; and the duration of the action or series of actions of a Party; and

4. Non-discriminatory regulatory actions by a Party that are designed and applied to achieve legitimate public welfare objectives, in the area of public health, safety, public morals, and the environment, do not constitute expropriation of the type referred to in subparagraph 2(b).

With respect to paragraph 2, Article 13 Denial of Benefits, the Philippines will provide a list on the reserved sectors through an Exchange of Notes with UAE.

In witness whereof, the undersigned, duly authorized thereto by their respective Governments, have signed this Agreement.

Signed in Dubai, United Arab Emirates, this day of _________, in the Arabic and English languages, both texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

For the Government of the Republic of the Philippines:

RAMON M. LOPEZ
Secretary of Trade and Industry

For the Government of the United Arab Emirates:

MOHAMED BIN HADI AL HUSSAINI
Minister of State for Financial Affairs