

**AGREEMENT BETWEEN  
THE GOVERNMENT OF THE UNITED ARAB EMIRATES AND  
THE GOVERNMENT OF THE REPUBLIC OF COSTA RICA  
FOR THE RECIPROCAL PROMOTION AND  
PROTECTION OF INVESTMENTS**

The Government of the United Arab Emirates and the Government of the Republic of Costa Rica, hereinafter referred to as the “Parties”;

Desiring to create favorable conditions for fostering greater investment by investors of one Party in the territory of the other Party;

Recognizing that the promotion and protection of these investments seeks to stimulate the flow of capital and technology and economic development; thus fostering sustainable development in both Parties;

Acknowledging that investments of investors of one Party in the territory of the other Party shall be made within the framework of the laws and regulations of the Party hosting the investment;

Underlining the importance of strengthening their economic relations, while recognizing their interest on promoting bilateral trade and investment through the corresponding agreements;

Having resolved to conclude an agreement concerning the reciprocal promotion and protection of investments, hereinafter referred to as the “Agreement”;

Have agreed as follows:

**ARTICLE 1  
DEFINITIONS**

For the purpose of this Agreement, and unless stated otherwise:

1. **“Investor”** means
  - (a) a natural person, who has the nationality of a Party in accordance with its laws and regulations. The term “natural person” does not include a permanent resident of either Party; and

- (b) legal entities, including corporations, companies, firms, partnerships, business associations and other similar organizations, incorporated or constituted under the laws and regulations of a Party, having their seats and performing real business activity in that Party, and that have established an investment in the territory of the other Party.

2. “**Investment**” means every asset that an investor owns or controls, in accordance with the laws and regulations of the Party in whose territory the investment is made, that has the characteristics of an investment, including such characteristics as the commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk. Forms that an investment may take include:

- (a) movable and immovable property as well as other related property rights such as mortgages, liens or pledges;
- (b) shares, debentures, stock and other forms of equity participation in companies;
- (c) rights to money or to any performance under contract having a financial value;
- (d) intellectual property rights which are recognized in accordance with the relevant laws and regulations of the respective Party;
- (e) rights to engage in economic and commercial activities conferred by law or under contract, except for natural resources. For greater certainty,
  - i) in the case of the United Arab Emirates, natural resources shall not be covered by this Agreement, and;
  - ii) in the case of Costa Rica, natural resources shall be subject only to domestic laws and regulations, and a claim with respect to natural resources shall be resolved only in accordance with the domestic procedures of Costa Rica, and not in accordance with Article 14 (Settlement of Disputes between a Party and an Investor of the other Party).

Contracts with their own dispute resolution mechanisms regarding any rights to engage in economic and commercial activities shall not be covered by this Agreement. For greater certainty, terms and conditions of any contract signed by a Party shall govern the dispute thereof; and a breach of the contract shall not be understood a breach of this Agreement.

But investment does not mean:

- (a) an order or judgement entered in a judicial or administrative action; and
- (b) claims to money that arise solely from:
  - (i) commercial contracts for the sale of goods or services by a national or legal entity in the territory of a Party to a national or a legal entity in the territory of the other Party; or
  - (ii) the extension of credit in connection with a commercial transaction, such as trade financing.

Any change in the form in which assets are invested or reinvested shall not affect their character as an investment, provided that such change is not contrary to the approvals or authorizations granted to the assets originally invested.

3. **“Party”** means either State for which this Agreement is enforced, including local governments;

4. **“Territory”** means:

- (a) for the United Arab Emirates, the territory of the United Arab Emirates, its territorial sea, airspace and submarine areas over which the United Arab Emirates exercises in accordance with international law and the law of United Arab Emirates sovereign rights; including the Exclusive Economic Zone and the mainland and islands under its jurisdiction in respect of any activity carried 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; and
- (b) for Costa Rica, the land territory of Costa Rica, internal and territorial waters including its bed and subsoil, the air space over them, the exclusive economic zone and the continental shelf, over which Costa Rica exercises its jurisdiction, sovereignty and sovereign rights in accordance with the provisions of international law and Costa Rica’s laws and regulations.

5. **“Freely usable currency”** means the Euro, the United States Dollars, the United Kingdom Pound Sterlings, the Japan Yen, and any currency that the International Monetary Fund determines, from time to time, as freely usable currency in accordance with the Articles of Agreement of the International Monetary Fund and any amendment thereto.

6. “**Claimant**” means an investor of a Party that is a party to an investment dispute with the other Party, in accordance with Article 14 (Settlement of Disputes between a Party and an Investor of the other Party).

7. “**Respondent**” means the Party that is a party to an investment dispute in accordance with Article 14 (Settlement of Disputes between a Party and an Investor of the other Party).

## **ARTICLE 2 SCOPE OF THE AGREEMENT**

1. This Agreement shall apply to investments made by investors of a Party in the territory of the other Party, accepted as such in accordance with its laws and regulations, whether made before or after the entry into force of this Agreement, but shall not apply to any dispute concerning an investment that arise before the entry into force of this Agreement nor any claim that was settled before the entry into force of this Agreement.

2. For greater certainty, this Agreement only applies to the post-establishment stage of investments made by investors of a Party in the territory of the other Party.

3. Articles 5 (Most-Favored-Nation Treatment), 6 (National Treatment) and 8 (Treatment in Case of Strife) shall not apply to:

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

## **ARTICLE 3 PROMOTION OF INVESTMENTS**

1. Each Party shall, as far as possible, encourage the creation of conditions for investors of the other Party to make investments in its territory, and admit such investments in accordance with its laws and regulations.

2. In order to encourage mutual investment flows, each Party shall endeavor to inform the other Party, at its request, of the investment opportunities in its territory.

**ARTICLE 4**  
**PROTECTION OF INVESTMENTS**

1. Each Party shall accord fair and equitable treatment in its territory to investments of investors of the other Party, in accordance with customary international law.
2. The concept of “fair and equitable treatment” does not require treatment in addition to or beyond that which is required by that standard under customary international law, and does not create additional substantive rights. The obligation in paragraph 1 to provide:

“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.
3. “Customary international law” results from a general and consistent practice of States that they follow from a sense of legal obligation.
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.

**ARTICLE 5**  
**MOST-FAVORED-NATION TREATMENT**

1. Each Party shall, subject to its laws and regulations, accord in its territory to investments of investors of the other Party, treatment no less favorable than that it accords, in like circumstances, to investments in its territory of investments of investors of a third State with respect to the management, maintenance, enjoyment, use or disposal of their investment.
2. Notwithstanding other investment agreements the Parties have with third States, before or after the entry into force of this Agreement, the most-favored-nation treatment shall not apply to dispute settlement mechanisms such as those set out in Articles 13 (Settlement of Disputes Between the Parties) and 14 (Settlement of Disputes Between a Party and an Investor of the Other Party) or that are provided for in any other international treaty or trade agreement, and shall only be interpreted as applicable to substantive matters under Articles 4 to 9 (Protection of Investments, Most-Favored-Nation Treatment, National Treatment, Expropriation, Treatment in Case of Strife and Transfers). In this respect, for

greater certainty, there shall be no importation of more favorable protection arising from such other agreements.

3. Paragraphs 1 and 2 shall not be construed so as to oblige either Party to extend to investments of investors of the other Party the benefits of any treatment, preference or the privileges granted to the investments and investors of a third State by virtue of its participation in any of the following:

- (a) any agreements relating to any existing or future customs unions or economic or monetary union, free trade zones, regional economic organizations or similar international agreements;
- (b) any international agreement or arrangement relating wholly or partially to taxation; or
- (c) any other bilateral investment agreements.

## **ARTICLE 6 NATIONAL TREATMENT**

Each Party shall, subject to its laws and regulations, accord in its territory to investments of investors of the other Party, treatment no less favorable than that it accords, in like circumstances, to investments in its territory of its own investors with respect to the management, maintenance, enjoyment, use or disposal of their investment.

## **ARTICLE 7 EXPROPRIATION**

1. A Party shall not expropriate or nationalize (herein, expropriate) an investment of an investor of the other Party, either directly or indirectly, unless it is for a public purpose in accordance with its law; on a non-discriminatory basis; in accordance with due process of law; and against payment of prompt, adequate and effective compensation.

2. The compensation referred to in paragraph 1 shall be equivalent to the fair market value for the expropriated investment at the time immediately before the expropriation took place (the date of expropriation). The compensation shall be paid without undue delay and shall be freely transferable, and it shall include interest at a commercially reasonable rate for that currency, from the date of dispossession of the expropriated investment until the date of payment.

3. With regard to paragraphs 1 and 2, the Parties agree that:
- (a) an action or a series of actions by a Party cannot constitute an expropriation unless it interferes with a tangible or intangible property right in an investment; and
  - (b) the determination of whether an action or a series of actions by a Party, in a specific fact situation, constitutes an indirect expropriation under this Article, 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 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 and unequivocal expectations related to the existing investment; and
    - (iii) the character of the government action, including its objectives and context; and
  - (c) 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 Party that are designed and applied to protect legitimate public welfare objectives, such as public health, safety, and the environment do not constitute indirect expropriations.

4. This Article shall not apply to the issuance of compulsory licenses granted in relation to intellectual property rights in accordance with the TRIPS Agreement, 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 TRIPS Agreement.

## **ARTICLE 8 TREATMENT IN CASE OF STRIFE**

Each Party shall accord to investments of investors of the other Party treatment no less favorable, in like circumstances, than that which it accords to its own investments or to investments of any third State, as regards restitution, indemnification, compensation or

other settlement for losses suffered by investments in its territory owing to armed conflict or civil strife. The resulting payments shall be freely transferable.

## **ARTICLE 9 TRANSFERS**

1. Each Party shall permit transfers relating to an investment covered by this Agreement to be made freely and without undue delay into and out of its territory. Such transfers include:

- (a) contributions to capital;
- (b) profits, dividends, capital gains, and proceeds from the sale of all or any part of the investment or from the partial or complete liquidation of the investment;
- (c) interest, royalty payments, management fees, and technical assistance and other fees;
- (d) payments made under a contract, including a loan agreement;
- (e) payments made pursuant to Articles 7 (Expropriation) and 8 (Treatment in Case of Strife); and
- (f) payments arising out of a dispute.

2. Each Party shall permit transfers relating to an investment covered by this Agreement to be made in a freely usable currency at the market rate of exchange prevailing at the time of transfer and in accordance with its laws and regulations.

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

- (a) bankruptcy, insolvency, or the protection of the rights of creditors;
- (b) issuing, trading, or dealing in securities, futures, options, or derivatives;
- (c) criminal or penal offenses;
- (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 judgments in judicial or administrative proceedings.

**ARTICLE 10**  
**MEASURES RELATED TO THE ENVIRONMENT, HEALTH, SECURITY,**  
**LABOUR AND OTHER REGULATORY REQUIREMENTS**

Nothing in this Agreement shall be construed to prevent a Party from adopting, maintaining, or enforcing any measure otherwise consistent with this Agreement that it considers appropriate to ensure that investment activity in its territory is undertaken in a manner sensitive to environmental, health, security, labor or other regulatory objectives provided that such measures are compliant with this agreement provided that such measures should not constitute an unjustified discrimination between investments or investors, as established and interpreted by the applicable domestic laws and regulations.

**ARTICLE 11**  
**CORPORATE SOCIAL RESPONSIBILITY**

Each Party shall encourage legal entities operating within its territory or subject to its jurisdiction to voluntarily incorporate into their internal policies those internationally recognized standards of corporate social responsibility that have been endorsed by the Party. These principles relate to topics such as the environment, human rights, relations with local communities and the fight against corruption.

**ARTICLE 12**  
**DENIAL OF BENEFITS**

1. A Party may deny the benefits of this Agreement to an investor of the other Party that is a legal entity of such other Party, and to investments of that investor if persons of a third State own or control the legal entity and the denying Party adopts or maintains measures with respect to such third State or a person of the third State that prohibit transactions with the legal entity or that would be violated or circumvented if the benefits of this Agreement were accorded to the legal entity or to its investments.
2. A Party may deny the benefits of this Agreement to an investor of the other Party that is a legal entity of such other Party and to investments of that investor if the legal entity has no substantial business activities in the territory of the other Party and persons of a third State, or of the denying Party, own or control the legal entity.

3. Prior to the denial of benefits, the denying Party should notify the other Party.

**ARTICLE 13**  
**SETTLEMENT OF DISPUTES BETWEEN THE PARTIES**

1. Disputes between the Parties concerning the interpretation or application of this Agreement shall be settled as far as possible through consultation and negotiations. In this connection the Parties hereby agree to enter into direct objective consultations and negotiations to reach such settlement.

2. If the dispute has not been settled within a period of eight months from the date on which the matter was raised by either Party, it may be submitted at the request of either Party to an arbitral tribunal composed of three members.

3. Within a period of two months from the date of receiving the request indicated in paragraph 2, each Party shall appoint one arbitrator, and these two arbitrators shall appoint, within a period of two months and with the approval of both Parties, a national of a third State as Chairman of the arbitral tribunal.

4. If within the periods specified in paragraph 3 the necessary appointments have not been made, either Party may, in the absence of any other agreement, invite the President of the International Court of Justice to make any necessary appointments. If otherwise prevented from discharging the said function, the Vice-President shall be invited to make the necessary appointments. If the Vice-President is a national of either Party or if he too is prevented from discharging the said function, the Member of the International Court of Justice next in seniority who is not a national of either Party shall be invited to make the necessary appointments.

5. The arbitral tribunal shall reach its decision by a majority of votes. Such decisions shall be final and binding on both Parties. The arbitral tribunal shall base its decision on the relevant provisions of this Agreement and in accordance with international law. Each Party shall bear the cost of its own member of the arbitral tribunal and of its representation in the arbitral proceedings; the cost of the Chairman and the remaining costs shall be borne in equal parts by the Parties. Unless otherwise agreed by the Parties, the arbitral tribunal shall determine its own rules of procedure, in consultation with the Parties.

**ARTICLE 14**  
**SETTLEMENT OF DISPUTES BETWEEN A PARTY AND AN INVESTOR OF**  
**THE OTHER PARTY**

**Consultation and negotiation**

1. An investment dispute that arises between an investor and a Party regarding an obligation in Articles 4 to 9 (Protection of Investments, Most-Favored-Nation Treatment, National Treatment, Expropriation, Treatment in Case of Strife and Transfers) of this Agreement shall be settled, to the extent possible, through consultations and negotiations.

2. To start consultations and negotiations, such investor shall notify the respondent about the investment dispute by submitting a notice of the dispute (notice of dispute) in writing. The notice of dispute shall include the name and address of the investor of the other Party that brings the claim, detailed information on the factual and legal basis of the claim and evidence establishing that it is an investor of the other Party who is the owner and controls the whole investment.

**Third-party procedures**

3. In the event that an investment dispute cannot be settled by consultations and negotiations in accordance with paragraph 1 within three months after the respondent received the notice of dispute, it shall be submitted to a third-party procedure such as conciliation and mediation before an authorized center of the Party that is a respondent in the dispute.

4. For greater certainty, compliance with the requirements under paragraphs 1, 2 and 3 regarding consultation and negotiation and third party procedures is mandatory and a condition precedent to the submission of the dispute to arbitration.

**Submission of a claim to arbitration**

5. If the dispute referred to in paragraph 1 cannot be settled amicably within six months from the start of the third-party procedure referred to in paragraph 3 of this Article, which may be extended if the disputing parties so agree, the investor may submit to arbitration a claim.

6. At least ninety days before submitting any claim to arbitration in accordance with paragraph 7, the claimant shall deliver to the respondent a written notice of its intention to submit the claim to arbitration (notice of intent). The notice of intent shall specify:

- (a) the name and address of the claimant;

- (b) for each claim, the provision of this Agreement alleged to have been breached;
- (c) the legal and factual basis for each claim;
- (d) sufficient evidence of the existence of the investment and the amount invested; and
- (e) the relief sought and the approximate amount of damages claimed.

7. A claimant may submit a claim referred to in paragraph 5 under the:

- (a) arbitration centers authorized in the territory of the Party in whose territory the investment has been admitted; or
- (b) Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID), opened for signature in Washington on 18<sup>th</sup> March 1965, and the ICSID Rules of Procedure for Arbitration Proceedings, provided that both the respondent and the non-disputing Party are parties to the ICSID Convention; or
- (c) ICSID Additional Facility Rules, provided that either of the Parties is a party to the ICSID Convention.

8. For greater certainty, an investor of a Party may only submit to arbitration an investment dispute concerning the breach of the other Party's obligations under Articles 4 to 9 (Protection of Investments, Most-Favored-Nation Treatment, National Treatment, Expropriation, Treatment in Case of Strife and Transfers) of this Agreement.

9. Once the investor has alleged a breach of an obligation under Articles 4 to 9 (Protection of Investments, Most-Favored-Nation Treatment, National Treatment, Expropriation, Treatment in Case of Strife and Transfers) of this Agreement in any proceedings before a competent court or administrative tribunal of the Party in whose territory the investment has been admitted, or in any of the arbitration mechanisms set out in paragraph 7, the choice of the proceeding shall be final and the investor shall not submit the dispute to a different forum.

10. The arbitration rules applicable under paragraph 7, and in effect on the date the claim was submitted to arbitration under this Agreement, shall govern the arbitration except as otherwise established in this Agreement.

11. The claimant shall provide with the notice of arbitration the name of the arbitrator it appoints or its consent for the Secretary General of ICSID to appoint that arbitrator.

12. At any stage of the proceedings, the investor and the respondent may withdraw the case if they settle the dispute.

13. The Parties shall refrain from pursuing through diplomatic channels matters related to disputes between a Party and an investor of the other Party, submitted to a court or administrative tribunal of the Party or to international arbitration in accordance with the provisions of this Agreement.

14. For greater certainty, in case of a dispute resolution procedure regarding Article 4 (Protection of Investments), the claimant has to establish the existence of a rule under customary international law and the breach of that rule by the respondent.

#### **Consent to arbitration and, conditions and limitations on consent of each Party**

15. Each Party consents to the submission of a claim to arbitration in accordance with this Agreement.

16. No claim may be submitted to arbitration under this Agreement if more than three years have elapsed from the date on which the claimant first acquired, or should have first acquired, knowledge of the breach alleged under Articles 4 to 9 (Protection of Investments, Most-Favored-Nation Treatment, National Treatment, Expropriation, Treatment in Case of Strife and Transfers) of this Agreement and knowledge that the claimant incurred loss or damage.

17. No claim may be submitted to arbitration under this Agreement unless the claimant consents in writing to arbitration and the notice of arbitration is accompanied by the claimant's written waivers of any right to initiate or continue before any administrative tribunal or court under the law of any Party, or other dispute settlement procedures, any proceeding with respect to any measure alleged to constitute a breach under 4 to 9 (Protection of Investments, Most-Favored-Nation Treatment, National Treatment, Expropriation, Treatment in Case of Strife and Transfers) of this Agreement.

18. Notwithstanding paragraph 17, the claimant may initiate or continue an action that seeks interim injunctive relief and does not involve the payment of monetary damages before a judicial or administrative tribunal of the respondent, provided that the action is brought for the sole purpose of preserving the claimant's rights and interests during the pendency of the arbitration.

19. For greater certainty, no claim may be submitted to arbitration under this Agreement, if the investor has already alleged the same breach before a competent court or administrative tribunal of the respondent, or to any other binding dispute settlement procedure, for adjudication or resolution.

### **Selection of arbitrators**

20. Unless the disputing parties otherwise agree, the arbitral tribunal shall comprise three arbitrators, one arbitrator appointed by each of the disputing parties and the third, who shall be the presiding arbitrator, appointed by agreement of the disputing parties.

21. The Secretary General of ICSID shall serve as appointing authority for an arbitration under this Section. If an arbitral tribunal has not been constituted within ninety days of the date a claim is submitted to arbitration under this Agreement, the Secretary General of ICSID, on the request of a disputing party, shall appoint, in his or her discretion, after consulting the disputing parties, the arbitrator or arbitrators not yet appointed. The Secretary General of ICSID shall not appoint a national of either Party as the presiding arbitrator, unless the disputing parties agree otherwise.

22. The arbitrators shall:

- (a) have experience or expertise in public international law, international investment rules, or in dispute settlement derived from international investment agreements; and
- (b) be independent from the Parties and the claimant, and not be affiliated with or receive instructions from any of them.

### **Conduct of the arbitration**

23. The disputing parties may agree on the legal place of any arbitration under the arbitral rules applicable according to paragraph 7. If the disputing parties fail to reach agreement, the arbitral 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.

24. After consulting the disputing parties, the arbitral tribunal may allow a person or entity that is not a disputing party and that has a significant interest in the proceeding, to file a written submission regarding a matter within the scope of the dispute. In determining whether to allow such a filing, the arbitral tribunal shall consider, among other things, the extent to which:

- (a) the submission would assist the arbitral tribunal in the determination of a factual or legal issue related to the proceeding by bringing a perspective, particular knowledge, or insight that is different from that of the disputing parties; and
- (b) the submission would address a matter within the scope of the dispute.

The arbitral tribunal shall ensure that the submission does not disrupt the proceeding or unduly burden or unfairly prejudice either disputing party, and that the disputing parties are given an opportunity to present their observations on such submission.

25. Without prejudice to an arbitral tribunal's authority to address other objections as a preliminary question, an arbitral tribunal shall address and decide as a preliminary question any objection by the respondent that, as a matter of law, a claim submitted is not a claim for which an award in favor of the claimant may be made.

- (a) Such objection shall be submitted to the arbitral tribunal as soon as possible after the arbitral tribunal is constituted, and in no event later than the date the arbitral tribunal fixes for the respondent to submit its counter-memorial or, in the case of an amendment to the notice of arbitration, the date the arbitral tribunal fixes for the respondent to submit its response to the amendment.
- (b) On receipt of an objection under this paragraph, the arbitral tribunal shall suspend any proceedings on the merits, establish a schedule for considering the objection consistent with any schedule it has established for considering any other preliminary question, and issue a decision or award on the objection, stating the grounds therefor.
- (c) In deciding an objection under this paragraph, the arbitral tribunal shall assume to be true the claimant's factual allegations in support of any claim in the notice of arbitration (or any amendment thereof). The arbitral tribunal may also consider any relevant facts not in dispute.
- (d) The respondent does not waive any objection as to competence or any argument on the merits merely because the respondent did or did not raise an objection under this paragraph or make use of the expedited procedure set out in paragraph 27.

26. In the event that the respondent so requests within 45 days of the date the arbitral tribunal is constituted, the arbitral tribunal shall decide on an expedited basis an objection under paragraph 25 and any objection that the dispute is not within the arbitral tribunal's

competence. The arbitral tribunal shall suspend any proceedings on the merits and issue a decision or award on the objection, stating the grounds therefor, no later than 150 days after the date of the request. However, if a disputing party requests a hearing, the arbitral tribunal may take an additional 30 days to issue the decision or award. Regardless of whether a hearing is requested, an arbitral tribunal may, on a showing of extraordinary cause, delay issuing its decision or award by an additional brief period, which may not exceed 30 days.

27. When it decides a respondent's objection under paragraphs 25 or 26, the arbitral tribunal may, if warranted, award to the prevailing disputing party reasonable costs and attorney's fees incurred in submitting or opposing the objection. In determining whether such an award is warranted, the arbitral tribunal shall consider whether either the claimant's claim or the respondent's objection was frivolous, and shall provide the disputing parties a reasonable opportunity to comment.

28. An arbitral tribunal may, after giving each disputing party an opportunity of presenting its observations, order an interim measure of protection to preserve the rights of a disputing party, or to ensure that the arbitral tribunal's jurisdiction is made fully effective, including an order to preserve evidence in the possession or control of a disputing party or to protect the arbitral tribunal's jurisdiction. An arbitral tribunal may not order attachment or enjoin the application of a measure alleged to constitute a breach. For the purposes of this paragraph, an order includes a recommendation.

29. In any arbitration conducted under this Agreement, at the request of a disputing party, an arbitral tribunal shall, before issuing a decision or award on liability, transmit its proposed decision or award to the disputing parties. Within 60 days after the date the arbitral tribunal transmits its proposed decision or award, the disputing parties may submit written comments to the arbitral tribunal concerning any aspect of its proposed decision or award. The arbitral tribunal shall consider any such comments and issue its decision or award no later than 45 days after the date the 60-day comment period expires.

### **Transparency of arbitral proceedings**

30. Subject to the obligation to duly protect confidential information in paragraphs 32 and 33, the respondent shall, after receiving the following documents, make the following available to the public:

- (a) notice of arbitration; and
- (b) award.

31. The arbitral tribunal shall, by mutual agreement by the two disputing parties, conduct hearings open to the public and shall determine, in consultation with the disputing



parties, the appropriate logistical arrangements. However, any disputing party that intends to use information designated as protected information in a hearing shall so advise the arbitral tribunal. The arbitral tribunal shall make appropriate arrangements to protect the information from disclosure.

32. Nothing in this Agreement requires the respondent to disclose protected information. Any protected information that is submitted to the arbitral tribunal shall be protected from disclosure in accordance with the following procedures:

- (a) subject to subparagraph (d), neither the disputing parties nor the arbitral tribunal shall disclose any protected information where the disputing party that provided the information clearly designates it in accordance with subparagraph (b);
- (b) any disputing party claiming that certain information constitutes protected information shall clearly designate the information at the time it is submitted to the arbitral tribunal;
- (c) a disputing party shall, at the time it submits a document containing information claimed to be protected information, submit a redacted version of the document that does not contain the information. Only the redacted version may, if appropriate and in accordance with paragraph 31, made public; and
- (d) the arbitral tribunal shall decide any objection by a disputing party regarding the designation of information claimed to be protected information. If the arbitral tribunal determines that such information was not properly designated, the disputing party that submitted the information may:
  - (i) withdraw all or part of its submission containing such information; or
  - (ii) agree to resubmit complete and redacted documents with corrected designations in accordance with the arbitral tribunal's determination and subparagraph (c).

In either case, the other disputing party shall, whenever necessary, resubmit complete and redacted documents which either remove the information withdrawn under subparagraph (i) by the disputing party that first submitted the information or redesignate the information consistent with the designation under subparagraph (ii) of the disputing party that first submitted the information.

### **Governing law and experts**

33. The arbitral tribunal shall decide the issues in dispute in accordance with this Agreement and applicable rules of international law.

34. A decision by the Parties declaring its interpretation of a provision of this Agreement shall be binding on an arbitral tribunal, and any decision or award issued by an arbitral tribunal must be consistent with that decision.

35. Without prejudice to the appointment of other kinds of experts where authorized by the applicable arbitration rules, the arbitral tribunal, at the request of a disputing party or, unless the disputing parties disapprove, on its own initiative, may appoint one or more experts to report to it in writing on any factual issue concerning environmental, health, safety, or other scientific matters raised by a disputing party in a proceeding, subject to such terms and conditions as the disputing parties may agree.

### **Awards**

36. The arbitral tribunal shall decide questions by a majority of the votes of all its members. The award of the arbitral tribunal shall be in writing and shall be signed by the members of the arbitral tribunal who voted for it. Such award shall deal with every question submitted to the arbitral tribunal, and shall state the reasons upon which it is based. Any member of the arbitral tribunal may attach his individual opinion to the award, whether he dissents from the majority or not, or a statement of his dissent. The arbitral tribunal, in its final award shall set out its findings of law and fact, together with the reasons for its ruling. Where an arbitral tribunal makes a final award against the respondent, the arbitral tribunal may, provided that it does not exceed the request of the claimant, award, separately or in combination, only:

- (a) monetary damages and any applicable interest; and
- (b) restitution of property, in which case the award shall provide that the respondent may pay monetary damages and any applicable interest in lieu of restitution.

37. An arbitral tribunal may also award costs and attorney's fees in accordance with this Agreement and the applicable arbitration rules.

38. An arbitral tribunal is not authorized to award punitive damages.

39. An award made by an arbitral tribunal shall have no binding force except between the disputing parties and in respect of the particular case.

40. Subject to paragraph 41 and the applicable review procedure for an interim award, a disputing party shall abide by and comply with an award.

41. A disputing party may not seek enforcement of a final award until:

(a) in the case of a final award made under the ICSID Convention:

(i) 120 days have elapsed from the date the award was rendered and no disputing party has requested revision or annulment of the award; or

(ii) revision or annulment proceedings have been completed; and

(b) in the case of a final award under the ICSID Additional Facility Rules, or the other rules selected pursuant to paragraph 7:

(i) 90 days have elapsed from the date the award was rendered and no disputing party has commenced a proceeding to revise, set aside, or annul the award; or

(ii) a court has dismissed or allowed an application to revise, set aside, or annul the award and there is no further appeal.

42. Each Party shall provide for the enforcement of an award in its territory.

43. Delivery of notice and other documents to a Party shall be made to the place named for that Party in Annex 1 to this Agreement.

## **ARTICLE 15 GENERAL EXCEPTIONS**

1. Nothing in this Agreement shall be construed to prevent the adoption or enforcement of measures of general applicability which a Party considers necessary to:

(a) protect public morals or maintain public order;

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

(c) secure compliance with laws or regulations, which are not inconsistent with the provisions of this Agreement, for the prevention of deceptive and fraudulent practices or to deal with the effects of a default on a contract;

- (d) secure compliance with laws or regulations to protect privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts;
- (e) ensure safety; and
- (f) the protection and conservation of the environment, including all living and non-living natural resources.

2. Nothing in this Agreement shall be understood as a commitment by the Parties to protect investments established with capital or assets deriving from illegal or fraudulent acts as determined following due process of law.

3. Nothing in this Agreement shall apply to non-discriminatory measures of general application taken by any public entity of either Party in pursuit of monetary and related credit policies or exchange rate policies.

## **ARTICLE 16 ESSENTIAL SECURITY**

Nothing in this Agreement shall be construed:

- (a) to require a Party to furnish or allow access to any information the disclosure of which it determines to be contrary to its essential security interests;
- (b) to prevent a Party from taking any action which it considers necessary for the protection of its essential security interests:
  - (i) relating to fissionable materials or the materials from which they are derived;
  - (ii) relating to the supply of services as carried out directly for the purpose of provisioning a military establishment;
  - (iii) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;
  - (iv) taken in time of war or other emergency in international relations; or

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

**ARTICLE 17  
TAXATION**

Nothing in this Agreement shall apply to taxation measures.

**ARTICLE 18  
BALANCE OF PAYMENTS**

Nothing in this Agreement shall be construed to prevent a Party from adopting or maintaining temporary safeguard measures pursuant to the Party's laws and regulations with regard to payments or transfers and capital movements:

- (a) in the event of serious balance of payments and external financial difficulties or under threat thereof; or
- (b) in cases where payments or transfers relating to capital movements cause or threaten to cause serious difficulties for the operation of monetary or exchange rate policies in the Party concerned.

**ARTICLE 19  
DISCLOSURE OF INFORMATION**

Nothing in this Agreement shall be construed to require a Party to furnish or allow access to confidential information the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice the legitimate commercial interests of particular legal entities, public or private.

**ARTICLE 20  
CONTACT POINTS**

In order to facilitate communications regarding this Agreement, the Parties hereby establish the following contact points:

- (a) for Costa Rica: the Directorate General of Foreign Trade of the Ministry of Foreign Trade; and
- (b) for United Arab Emirates: the Ministry of Finance,

or their successors.

## **ARTICLE 21 ANNEX AND PROTOCOL**

The Annex and Protocol to this Agreement, constitute an integral part of this Agreement.

## **ARTICLE 22 AMENDMENTS**

1. The Parties may agree in writing on any amendment of this Agreement at any time after entering into force.
2. Such amendment shall enter into force and constitute an integral part of this Agreement 30 days after the receipt of the last written notification by the Parties certifying that they have completed their respective applicable legal procedures for its entry into force or on such other date as the Parties may agree.

## **ARTICLE 23 ENTRY INTO FORCE**

This Agreement shall enter into force 30 days after the receipt of the last written notification by the Parties certifying that they have completed their respective applicable legal procedures for its entry into force or on such other date as the Parties may agree.

## **ARTICLE 24 DURATION AND TERMINATION**

1. This Agreement shall remain in force for ten years and, thereafter, it shall be deemed to have been automatically extended.

2. Subject to paragraph 1, this Agreement shall be terminated 180 days after the date a Party notifies the other Party in writing that it wishes to terminate this Agreement or on such other date as the Parties may agree.

3. 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 10 years from the date of its termination.

#### **ARTICLE 25 RESERVATIONS**

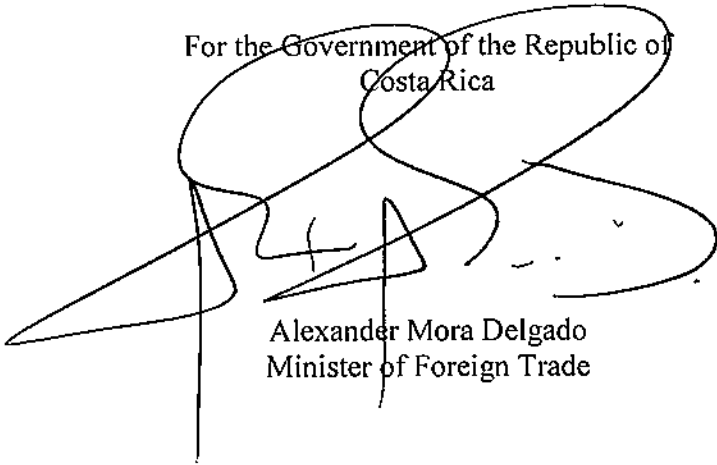
This Agreement shall not allow unilateral interpretative declarations or reservations.

#### **ARTICLE 26 AUTHENTIC TEXTS**

The Arabic, English and Spanish texts of this Agreement are equally authentic. In case of divergence between these texts, the English text shall prevail.

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

For the Government of the Republic of  
Costa Rica

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long vertical stroke extending downwards.

Alexander Mora Delgado  
Minister of Foreign Trade

For the Government of the United Arab  
Emirates

A handwritten signature in black ink, featuring a long, sweeping horizontal stroke at the top and several smaller, curved strokes below it.

Mohammed Sharaf  
Assistant Foreign Minister for Economic  
and Trade Affairs



**ANNEX I**  
**SERVICE OF DOCUMENTS ON A PARTY**

Costa Rica:

Notices and other documents in disputes under Article 14 (Settlement of Disputes between an Investor of one Party and the other Party) shall be served on Costa Rica by delivery to:

General Directorate of Foreign Trade  
Ministry of Foreign Trade  
Plaza Tempo, Escazu,  
San Jose, Costa Rica

United Arab Emirates:

Notices and other documents in disputes under Article 14 (Settlement of Disputes between an Investor of one Party and the other Party) shall be served on United Arab Emirates by delivery to:

The Ministry of Finance  
Department of International Financial Relations  
Abu Dhabi  
UAE

**PROTOCOL  
TO THE AGREEMENT BETWEEN  
THE GOVERNMENT OF THE UNITED ARAB EMIRATES AND  
THE GOVERNMENT OF THE REPUBLIC OF COSTA RICA  
FOR THE RECIPROCAL PROMOTION AND  
PROTECTION OF INVESTMENTS**

At the moment of signing of the Agreement between the United Arab Emirates and the Government of the Republic of Costa Rica for the Reciprocal Promotion and Protection of Investments (hereinafter referred to as the “Agreement”), the undersigned have, in addition, agreed on the following provisions which shall be regarded as an integral part of the Agreement.

With respect to paragraph 2 of Article 1, the Parties agree that an enterprise is owned indirectly by an investor if at least 50% or more of the equity interest is owned by that investor, and that an enterprise is controlled by an investor if that investor has the power to name a majority of its directors or otherwise to legally direct its actions.

With respect to paragraph 2 of Article 1, the Parties agree that market shares, market access, expected gains, and opportunities for profit-making are not, by themselves, investments.

With respect to paragraph 2 (e) of Article 1, the Parties agree that nothing in the Agreement shall be understood as a derogation by the Parties of any rights or flexibilities regarding intellectual property rights deriving from the TRIPS agreement or any other agreement related to intellectual property rights, provided that such intellectual property right is recognized in accordance with the domestic laws and regulations of the respective party.

With respect to Article 2, the Parties agree that each Party shall honor its commitment with respect to the present this Agreement. However, any breach of a contract cannot be considered a breach of the Agreement.

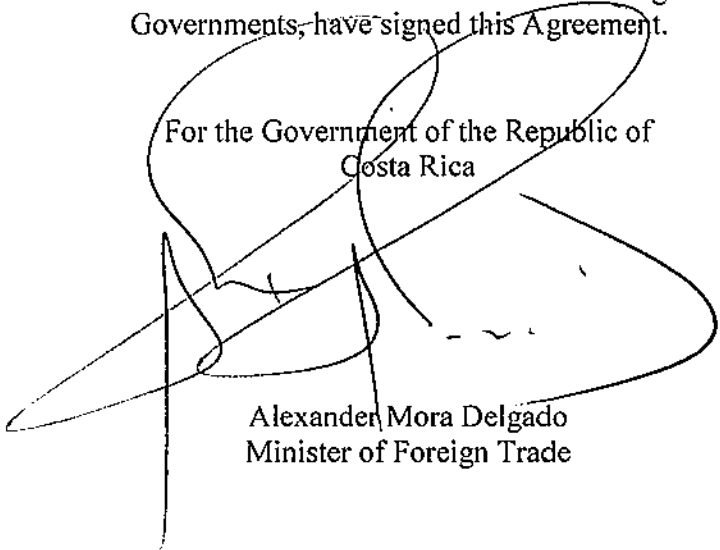
For greater certainty, with respect to Article 5, the Parties agree that this Article shall in no way be understood or interpreted so as to modify the scope of the Agreement.

With respect to paragraph 3 (c) of Article 7, the Parties agree that the list of “legitimate public welfare objectives” in paragraph 3 (c) of Article 7 is not exhaustive.

Done at San Jose on October 3<sup>rd</sup>, 2017 in two originals, each in the Spanish, Arabic and English languages, all texts being equally authentic. In case of divergence between these texts, the English text shall prevail.

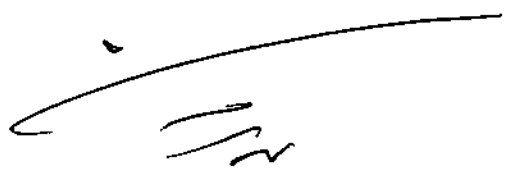
**IN WITNESS WHEREOF** the undersigned duly authorized thereto by their respective Governments, have signed this Agreement.

For the Government of the Republic of  
Costa Rica



Alexander Mora Delgado  
Minister of Foreign Trade

For the Government of the United Arab  
Emirates



Mohammed Sharaf  
Assistant Foreign Minister for Economic  
and Trade Affairs