[redacted] - In - Force

INVESTMENT INCENTIVE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE MONGOLIAN PEOPLE'S REPUBLIC

The Government of the United States of America and the Government of the Mongolian People's Republic, desiring to encourage economic activities in the Mongolian People's Republic which promote the development of the economic resources and productive capacities of the Mongolian People's Republic through investment insurance (including reinsurance), loans and guaranties which are backed in whole or in part by the credit or public monies of the United States of America and administered by the Overseas Private Investment Corporation ("OPIC"), an agency of the United States of America, or pursuant to arrangements between OPIC and commercial insurance, reinsurance and other companies, have agreed as follows:

ARTICLE 1

As used in this Agreement, the term "Coverage" shall refer to any investment insurance, reinsurance or guaranty which is issued in accordance with this Agreement by OPIC, by any successor agency of the United States of America or by any other entity or group of entities, pursuant to arrangements with OPIC or any successor agency. In this Agreement, the term "Issuer" shall refer to OPIC and any such successor agency, entity

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or group of entities to the extent of their interest as insurer, reinsurer, or guarantor in any Coverage, whether as a party or successor to a contract providing Coverage or as an agent for the administration of Coverage.

ARTICLE 2

The procedures set forth in this Agreement shall apply only with respect to Coverage relating to projects or activities registered with or otherwise approved by the Government of the Mongolian People's Republic. In the case of Coverage relating to projects with respect to which the Government of the Mongolian People's Republic, or any agency or political subdivision thereof, has entered into a contract involving the provision of goods or services or invited tenders on such a contract, the required registration or approval shall be conclusively presumed to exist.

ARTICLE 3

(a) If the Issuer makes payment to any party under Coverage, the Government of the Mongolian People's Republic shall, subject to the provisions of Article 4 of this Agreement, recognize the transfer to the Issuer of any currency, credits, assets, or investment on account of which payment under such Coverage is made as well as the succession of the Issuer to any right, title,

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claim, privilege, or cause of action existing, or which may arise, in connection with such payment.

(b) The Issuer shall assert no greater rights than those of the transferring party under Coverage with respect to any interests transferred or succeeded to under this Article. Nothing in this Agreement shall limit the right of the Government of the United States of America to assert a claim under international law in its sovereign capacity, as distinct from any rights it may have as Issuer.

(c) The Issuer shall not be subject to regulation under the laws of the Mongolian People's Republic applicable to insurance or financial organizations.

(d) Interest and fees on loans made or guaranteed by the Issuer shall be exempt from tax in the Mongolian People's Republic. The Issuer shall not be subject to tax in the Mongolian People's Republic as a result of any transfer or succession which occurs pursuant to Article 3(a). Tax treatment of other transactions conducted by the Issuer in the Mongolian People's Republic shall be determined by applicable law or specific agreement between the Issuer and appropriate fiscal authorities of the Government of the Mongolian People's Republic.

ARTICLE 4

To the extent that the laws of the Mongolian People's Republic partially or wholly invalidate or

prohibit the acquisition from a party under Coverage of any interest in any property within the territory of the Mongolian People's Republic by the Issuer, the Government of the Mongolian People's Republic shall permit such party and the Issuer to make appropriate arrangements pursuant to which such interests are transferred to an entity permitted to own such interests under the laws of the Mongolian People's Republic.

ARTICLE 5

(a) Amounts in the lawful currency of the Mongolian People's Republic, including credits thereof, acquired by the Issuer by virtue of such Coverage shall be accorded treatment by the Government of the Mongolian People's Republic no less favorable as to use and conversion than the treatment to which such funds would be entitled in the hands of the party under Coverage.

(b) Such amounts and credits may be transferred by the Issuer to any person or entity and upon such transfer shall be freely available for use by such person or entity in the territory of the Mongolian People's Republic.

(c) Notwithstanding the provisions of Article 2 of this agreement, the provisions of this Article 5 shall also apply to any amounts and credits in the lawful currency of the Mongolian People's Republic which may be

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accepted by the Issuer in settlement of obligations with respect to loans made by the Issuer for projects in the Mongolian People's Republic.

ARTICLE 6

(a) Any dispute between the Government of the United States of America and the Government of the Mongolian People's Republic regarding the interpretation of this Agreement or which, in the opinion of one of the Governments, involves a question of public international law arising out of any project or activity for which Coverage has been issued shall be resolved, insofar as possible, through negotiations between the two Governments. If, at the end of six months following the request for negotiations, the two Governments have not resolved the dispute by agreement, the dispute, including the question of whether such dispute presents a question of public international law, shall be submitted, at the initiative of either Government, to an arbitral tribunal for resolution in accordance with Article 6(b).

(b) The arbitral tribunal for resolution of disputes pursuant to Article 6(a) shall be established and function as follows:

(i) Each Government shall appoint one arbitrator; these two arbitrators shall designate a president by common agreement who shall be a citizen of a

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third state and whose appointment shall be subject to acceptance by the two Governments. The arbitrators shall be appointed within three months and the president within six months of the date of receipt of either Government's request for arbitration. If the appointments are not made within the foregoing time limits, either Government may, in the absence of any other agreement, request the Secretary-General of the International Centre for the Settlement of Investment Disputes to make the necessary appointment or appointments, and both Governments agree to accept such appointment or appointments.

(ii) The arbitral tribunal shall base its decision on the applicable principles and rules of public international law. The arbitral tribunal shall decide by majority vote. Its decision shall be final and binding.

(iii) During the proceedings, each of the Governments shall pay the expense of its arbitrator and of its representation in the proceedings before the arbitral tribunal, whereas the expenses of the president and other costs of arbitration shall be paid in equal parts by the two Governments. In its award, the arbitral tribunal may, in its discretion, reallocate expenses and costs between the two Governments.

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(iv) In all other matters, the arbitral tribunal shall regulate its own procedures.

ARTICLE 7

The two Governments, desiring reciprocity, agree that, in the event the Government of the Mongolian People's Republic makes arrangements to issue Coverage in the United States of America under a program similar in substance to the investment guaranty program to which this Agreement relates, provisions equivalent to those of this Agreement shall apply with respect to Mongolian investments in the United States of America upon completion of the constitutional and other legal processes of both Governments approving such arrangements.

ARTICLE 8

This Agreement shall continue in force until six months from the date of receipt of a note by which one Government informs the other of an intent no longer to be a party to the Agreement. In such event, the provisions of the Agreement with respect to Coverage issued while the Agreement was in force shall remain in force for the duration of such Coverage, but in no case longer than twenty years after the termination of the Agreement.

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This Agreement shall enter into force on the date in which each Government shall have notified the other that its constitutional or other legal requirements with regard to this Agreement have been fulfilled.

In witness whereof, the undersigned, duly authorized thereto by their respective Governments, have signed this Agreement at New York on the 29th day of September, 1990.

For the Government of the
UNITED STATES OF AMERICA

For the Government of the
MONGOLIAN PEOPLE'S REPUBLIC

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