

INVESTMENT SUPPORT AGREEMENT
BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE REPUBLIC OF INDONESIA

The Government of the United States of America and the Government of the Republic of Indonesia (hereinafter referred to as the "Parties");

AFFIRMING their common desire to encourage economic activities in the Republic of Indonesia that promote the development of the economic resources and productive capacities of the Republic of Indonesia;

ACKNOWLEDGING that diverse forms of assistance and support are important to the economic revitalization of the Republic of Indonesia;

REFERRING to the importance of developing a mutually advantageous economic relationship and cooperation between the Republic of Indonesia and the United States of America, both in general and through the Joint Declaration on a Comprehensive Partnership, to be announced at Jakarta; and

NOTING that the Overseas Private Investment Corporation ("OPIC"), a development institution and an agency of the United States of America, can be instrumental in achieving these objectives through its provision of investment insurance, coinsurance and reinsurance, debt and equity investments and investment guaranties;

HAVE AGREED as follows:

ARTICLE 1

As used in this Agreement, the following terms have the meanings herein provided:

- (a) The term "Issuer" refers to OPIC, an agency of the United States of America created and existing pursuant to Section 231 of the Foreign Assistance Act of 1969, as amended, and any successor agency of the United States of America.

- (b) The term "Investment Support" refers to any debt or equity investment, any investment guaranty and any investment insurance, reinsurance or coinsurance which is provided by the Issuer (or, in the case of coinsurance, is provided by the Issuer and commercial insurance companies ("Coinsurers") under coinsurance arrangements under which the Issuer acts both for itself and for such Coinsurers) in connection with a project in the territory of the Republic of Indonesia.

ARTICLE 2

Before providing Investment Support for any project in the Republic of Indonesia as to which the Issuer's maximum contingent liability or financial commitment would exceed an agreed amount, the Issuer shall notify the Government of the Republic of Indonesia, providing agreed information in accordance with the procedures set forth in the implementing arrangement that is in force at the time.

ARTICLE 3

- (a) The Issuer as an entity shall be regulated exclusively under the laws of the United States applicable to insurance or financial organizations. However, in the provision of Investment Support with respect to any project in the Republic of Indonesia, the Issuer shall comply with the project-specific requirements of Indonesian law that are generally applicable to such entities, whether domestic, foreign or multilateral, in order to be afforded the rights and have access to the remedies that are available to such entities under Indonesian law.
- (b) If the Issuer, alone or with a Coinsurer, makes a payment to any person or entity, or exercises its rights as a creditor or subrogee, in connection with any Investment Support, the Republic of Indonesia shall recognize the transfer to, or acquisition by, the Issuer and any Coinsurer of any cash, accounts, credits, instruments or other assets in connection with such payment or the exercise of such rights, as well as the succession of the Issuer and any Coinsurer to any right, title, claim, privilege or cause of action existing, or which may arise, in connection therewith.

The Government of the Republic of Indonesia recognizes liability to the Issuer as subrogee in connection with Investment Support only for acts for which it bears state responsibility under international law or liability under Indonesian law or both.

- (c) With respect to any interests transferred to the Issuer or a Coinsurer or any interests to which the Issuer or a Coinsurer succeeds under this Article, in its own right or otherwise, the Issuer shall assert no greater rights than those of the person or entity from whom such interests were received. The rights of the Issuer pursuant to paragraph (b) of this Article shall be without prejudice to any other rights of the Parties in their sovereign capacities. No Coinsurer or

reinsurer or investor shall be entitled to the benefits of this Agreement unless it is acting through, or its interests have been assigned to, the Issuer.

ARTICLE 4

- (a) Amounts in the currency of the Republic of Indonesia, including cash, accounts, credits, instruments or otherwise, acquired by the Issuer (or by the Issuer and any Coinsurer) upon making a payment, or upon the exercise of its rights as a creditor, in connection with any Investment Support for a project in the Republic of Indonesia, shall be accorded treatment in the territory of the Republic of Indonesia no less favorable as to use and conversion than the treatment to which such funds would have been entitled in the hands of the person or entity from which such amounts were acquired.
- (b) Such currency and credits may be transferred 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 Republic of Indonesia in accordance with its laws.

ARTICLE 5

- (a) Any dispute between the Parties regarding the interpretation or application of this Agreement or regarding a claim, in connection with any project or activity for which Investment Support has been provided, for loss to the Issuer which presents a question of international law or for loss to the Issuer for which the Republic of Indonesia may have other legal liability should be resolved, insofar as possible, through consultations and negotiations between the Parties. If at any time either Party considers that the dispute cannot be resolved through consultations and negotiations, it may, upon ninety (90) days notice and without any requirement to exhaust other remedies, submit the dispute to arbitration for a binding decision or award by a tribunal in accordance with paragraph (b) of this Article.
- (b) The tribunal referred to in paragraph (a) of this Article shall be established and shall function as follows:
 - (i) Unless the Parties agree otherwise, the tribunal shall comprise three arbitrators, one arbitrator appointed by each Party and the third, who shall be a citizen of a third state and the presiding arbitrator, appointed by agreement of the Parties.
 - (ii) The Party-appointed arbitrators shall be appointed within three months, and the presiding arbitrator within six months, of the date the dispute is submitted to arbitration.

- (iii) If the appointments are not made within the foregoing time limits, either Party 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.
- (iv) In the absence of an agreement by the Parties to the contrary, the UNCITRAL Arbitration Rules shall govern the arbitration, except as modified by the Parties or this Agreement.
- (v) The tribunal shall decide the issues in dispute in accordance with this Agreement, applicable rules of international law and, as necessary, relevant rules of applicable Indonesian law.
- (vi) The decision or award of the tribunal shall be made by at least two of its members, be in writing, and state the reasons on which it is based.
- (vii) The decision or award made by the tribunal shall be final and binding. Each Party shall abide by and comply with the terms of the decision or award without delay. The decision or award made by the tribunal shall have no binding force except between the Parties and in respect of the particular dispute.
- (viii) Expenses incurred by the Party-appointed arbitrators and the presiding arbitrator, and other costs of the proceedings, shall be paid for equally by the Parties. In its decision or award, the tribunal may, in its discretion, reallocate expenses and costs between the Parties, including directing that a higher proportion of the costs be paid by one of the Parties.

ARTICLE 6

Either Party may request at any time in writing amendment of this Agreement. Any amendment which has been agreed by the Parties shall enter into force on such date as will be determined by the Parties.

ARTICLE 7

- (a) This Agreement shall enter into force on the date on which the Government of the Republic of Indonesia notifies the Government of the United States of America that all legal requirements for entry into force of this Agreement have been fulfilled.

- (b) Upon entry into force, this Agreement shall supersede the Agreement on Investment Guaranties between the United States of America and the Republic of Indonesia effected by exchange of notes signed at Djakarta, January 7, 1967 and entered into force August 22, 1967. After the entry into force of this Agreement, all matters relating to OPIC support of projects in the territory of the Republic of Indonesia shall be resolved under the terms of this Agreement.
- (c) Each Party has the right to terminate this Agreement at any time upon six months written notice to the other. In such event, the provisions of this Agreement shall, with respect to Investment Support provided prior to or while this Agreement was in force, remain in force so long as such Investment Support remains outstanding, but in no case longer than twenty years after the termination of this Agreement.

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

DONE at Washington D.C., in duplicate, this 13th day of April, 2010, in the English and Indonesian languages, each text being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA



Lawrence Spinelli
Acting President,

Overseas Private Investment Corporation

FOR THE GOVERNMENT OF THE REPUBLIC OF INDONESIA



Gita Wirjawan

Chairman of the Investment Coordinating Board