

INVESTMENT INCENTIVE AGREEMENT BETWEEN  
THE GOVERNMENT OF THE UNITED STATES OF AMERICA  
AND THE GOVERNMENT OF AZERBAIJAN,

The Government of the United States of America and the  
Government of Azerbaijan;

Affirming their common desire to encourage economic  
activities in Azerbaijan which promote the development of the  
economic resources and productive capacities of Azerbaijan; and

Recognizing that this objective can be promoted through  
investment insurance (including reinsurance), loans and  
investment guaranties which are backed in whole or in part by the  
Government of the United States of America and provided by the  
Overseas Private Investment Corporation ("OPIC"), an agency of  
the Government of the United States of America;

Have agreed as follows:

ARTICLE 1

As used in this Agreement, the term "Coverage" shall refer  
to any investment insurance, reinsurance or investment  
guaranty which is provided by an Issuer in connection with a  
project in the territory of Azerbaijan, and the term  
"Issuer" shall refer to OPIC, any successor agency of the  
Government of the United States of America, and the agent of  
either.

ARTICLE 2

(a) (i) If the Issuer makes payment to any party under Coverage, the Government of Azerbaijan shall, subject to the provisions of Article 3 of this Agreement, recognize the transfer to the Issuer of any assets, including those in the form of investment as well as currency or credits, in connection with such payment, as well as the succession of the Issuer to any right, title, claim, privilege, or cause of action existing, or which may arise, in connection therewith.

(ii) If the Issuer, in the exercise of its rights as a creditor, acquires any such assets or succeeds to any right, title, claim, privilege or cause of action, the Government of Azerbaijan shall, subject to the provisions of Article 3 of this Agreement, recognize such acquisition or succession.

(b) The Issuer shall assert no greater rights than those of the party from whom such rights were acquired as described in paragraph (a) of this Article.

(c) The Issuer, as a non-commercial agency of the Government of the United States of America, shall not be subject to regulation under the laws of Azerbaijan applicable to commercial insurance or financial organizations. (d) Interest and fees on loans made or guaranteed by the Issuer shall be exempt from tax in Azerbaijan. The Issuer shall not be subject to tax in

Azerbaijan relating to any transfer, succession or other acquisition described in paragraph (a) of this Article. In all other cases, tax treatment of transactions conducted by the Issuer in Azerbaijan, as well as tax liabilities existing prior to such transfer, succession or other acquisition, shall be determined by applicable law of Azerbaijan or any applicable specific agreement between the Government of the United States and the Government of Azerbaijan.

ARTICLE 3

To the extent that the laws of Azerbaijan partially or wholly invalidate or prohibit the transfer, succession or other acquisition, as described in Article 2(a) of this Agreement, of any interest in any property within the territory of Azerbaijan by the Issuer, the Government of Azerbaijan shall permit the Issuer to make appropriate arrangements pursuant to which such interests are transferred to a person or entity permitted to own such interests under the laws of Azerbaijan.

ARTICLE 4

(a) Amounts in the currency of Azerbaijan, including credits thereof, acquired by the Issuer in connection with payment to a party under Coverage shall be accorded treatment in the territory of Azerbaijan 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 Azerbaijan in accordance with its laws.

(c) The provisions of this Article shall also apply to any amounts and credits in the currency of Azerbaijan which may be accepted by the Issuer in settlement of obligations with respect to loans made by the Issuer for projects in Azerbaijan.

#### ARTICLE 5

(a) Any dispute between the Government of the United States of America and the Government of Azerbaijan regarding the interpretation of this Agreement or which, in the opinion of one of the Governments, presents a question of 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 international law, shall be submitted, at the initiative of either

Government, to an arbitral tribunal for resolution in accordance with paragraph (b) of this Article.

(b) The arbitral tribunal referred to in paragraph (a) of this Article, shall be established and function as follows:

(i) Each Government shall appoint one arbitrator; these two arbitrators shall, by agreement, designate a president of the arbitral tribunal who shall be a citizen of a 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 Permanent Court of Arbitration 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 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.

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

(c) 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 of the Issuer.

#### ARTICLE 6

The two Governments, desiring reciprocity, agree that, in the event the Government of Azerbaijan makes arrangements to issue Coverage or make loans for projects in the United States of America under a program similar in substance to the investment incentive program to which this Agreement relates, provisions equivalent to those of this Agreement shall apply with respect to such arrangements upon completion of the constitutional or other legal processes of both Governments approving such provisions.

ARTICLE 7

This Agreement shall continue in force until the expiration of twelve months from the date on which either Government shall have given written notice of termination of this Agreement to the other. Provided that in respect of Coverage issued or loans made at any time before the termination of this Agreement, its provisions shall continue in effect with respect to such Coverage or loans for a period of twenty years after the date of termination of this Agreement.

This Agreement shall enter into force on the date on which the Government of Azerbaijan notifies the Government of the United States of America that all necessary, legal requirements for entry into force of this Agreement have been fulfilled.

Done at Washington on the 28th day of September, 1992, in duplicate, in the English language. An Azerbaijan language text shall be prepared which shall be signed in Baku and shall be considered equally authentic.

For the Government of  
THE UNITED STATES OF AMERICA

For the Government of  
AZERBAIJAN

