

DRAFT



Ministry of Economic Development

Male', Republic of Maldives

FOREIGN INVESTMENT AGREEMENT

BETWEEN

MINISTRY OF ECONOMIC DEVELOPMENT

AND

Under the Maldives Foreign Investment Act [*Law No. 25/79*]

[This Agreement contains a total of 17 numbered pages including 3 Schedules]

INTRODUCTION

THIS AGREEMENT is made on the _____ under the Maldives Foreign Investment Act (the “**Act**”) to approve the setting up and operation of the Business as described in the **First Schedule** (the “**Business**”) as a foreign direct investment in the Maldives and to provide for the terms and conditions applicable to the approval, its continuance, and its revocation.

PARTIES:

THIS AGREEMENT is made between the **Government of the Republic of Maldives** (“**Government**”) represented by the **Ministry of Economic Development** (“**Ministry**”) on the one part; and _____ a company duly registered and existing under the laws and regulations of Republic of Maldives and having its registered office at _____ Male’, Republic of Maldives (“the **Investor**”) on the other part;

IT IS HEREBY WITNESSED AS FOLLOWS:

1. Agreement

In consideration of the taxes and other charges to be paid by the **Investor** to the **Government** as provided in the **Second Schedule** and the **Investor** performing and observing the several terms, conditions and obligations contained in this Agreement to be observed or performed by the **Investor**, **THE MINISTRY** hereby grants its approval to the **Investor** to set up and operate the **Business** subject to and in accordance with the various provisions of this Agreement.

2. Period

2.1. This Agreement shall come into effect from the date of its signing and remain valid and effective for a period of 05 calendar year from that date unless terminated earlier as set out in the Agreement.

2.2. **THE MINISTRY** may extend this Agreement upon a written request made by the Investor three (3) months prior to the expiry of this Agreement. Where such extension is granted by the **MINISTRY** it shall have the discretion to amend any terms and conditions contained in this Agreement or to include new terms and conditions. This shall be done after consulting with and obtaining the views of the **Investor**. The **MINISTRY** may or may not accept the views of the **Investor**. The **MINISTRY's** decision shall however be based upon fair and considerate terms that reflect the current market conditions prevailing in the Maldives in relation to the Business.

3. Independent Relationship

By virtue of this Agreement the **Investor** cannot be considered to be involved in any commercial undertaking or business with the **Government** or to have formed any form of partnership or business venture with it. Further the **Investor** shall not be entitled to claim any benefit that may be available for the **Government** or persons involved in any commercial undertaking or business with it.

4. Antecedent claim

The coming to an end of this Agreement either by expiry or prior to the expiry date shall not affect the rights and remedies available in law to either party against the other in respect of any claim or breach of Agreement that has occurred prior to the expiry or earlier termination of the Agreement.

5. Schedules

5.1. This Agreement will not be complete without the First, Second, and Third, Schedules that are mentioned in and attached to this Agreement. Those Schedules shall for all purposes be regarded as a part and parcel of this Agreement and shall be valid as if they were all reproduced here.

5.2. Any reference to those Schedules shall be construed to be a reference made to this Agreement. And any reference to this Agreement shall be construed to the necessary extent to include a reference to those Schedules as well.

5.3. The contents of the Schedules are as follows:

5.3.1. First Schedule specifies the Business for the conduct of which this Agreement provides the various terms and conditions.

5.3.2. Second Schedule contains the general provisions of this Agreement which are applicable to the Investor.

5.3.3. Third Schedule contains the specific provisions of this Agreement which are applicable to the Investor in relation to the business.

6. Entire Agreement

This Agreement embodies the entire agreement between the **Ministry** and the **Investor** with respect to the subject matter and operates to nullify any earlier oral or written agreements, understandings, negotiations, or representations on the subject matter of this Agreement.

7. Waiver

The non exercise of a right given to the **Ministry** under this Agreement shall not be considered as a waiver of that right nor shall a waiver duly granted by the **Ministry** on one occasion be taken as a waiver applicable on a different occasion.

8. Notices

All notices required to be given under this Agreement or communications that need to be exchanged under this Agreement or with reference to Maldives Law shall be deemed to be sufficiently served or delivered to the relevant party if sent by registered post to the address of that party as set out in this Agreement.

If to the Ministry: **Ministry of Economic Development,
Boduthakurufaanu Magu,
Male',
Republic of Maldives.**

If to the Investor: _____

9. Disputes

Any disputes arising from or in relation to or connected with the Agreement shall first be attempted to be resolved amicably through discussions between the parties. Where a dispute remains unresolved, it shall be referred to the relevant Courts of Law or Authorities of the Maldives.

10. Governing Law

This Agreement shall be subject to and construed in accordance with and governed by the laws of the Republic of Maldives. The relevant Courts of Law and Authorities of the Maldives shall have the exclusive jurisdiction to entertain, hear and decide on disputes arising from or in relation to or connected with this Agreement.

Having read and understood the terms of this Agreement and intending to honor them and to be bound by them, the Parties have signed this Agreement in two identical and original counterparts on the date specified at the outset, in the presence of two (2) witnesses.

| | |
|--|----------------------|
| For and on behalf of the Government of the Republic of Maldives | For and on behalf of |
| | |
| Ministry of Economic Development Male', Republic of Maldives | |
| In presence of: | In presence of: |
| | |
| | |

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FIRST SCHEDULE
DESCRIPTION OF THE BUSINESS
(with reference to Clause 5 of this Agreement)

*(Describe here the Business that is being approved by the Government of the Republic of Maldives and state here if any conditions are imposed upon the **Investor** in relation to the **Business** or its operation in the Maldives)*

DRAFT STANDARD AGREEMENT

End of Schedule

SECOND SCHEDULE
GENERAL PROVISIONS

(with reference to Clause 5 of this Agreement)

1. Conformity with the submitted Proposal

Unless otherwise indicated by the **Ministry**, the **Investor** shall set up and operate the **Business** in conformity with any conditions attached to the approval; the terms and conditions set out in this Agreement; the **Act** including any regulations as may be made from time to time under the Act or any amendments that may be brought to the Act or any regulations made under them.

2. Commencement of Business

Within 6 months of signing this Agreement, the Investor shall commence the Business licensed under this Agreement failing which, the Ministry shall have the right to terminate this Agreement.

3. Assignment

The right of the **Investor** to set up, conduct and/or operate the **Business** shall be exclusive to the **Investor** only and shall not be assigned, transferred, pledged, mortgaged or charged to any third party without prior written consent of the **Ministry**.

4. Condition on land or premises

Where any specific piece of land or physical premises is granted or approved by the **Government** or the **Ministry** to conduct the **Business** or if any conditions are imposed on the site or location or conduct of the **Business**, then the **Investor** shall honor those limiting factors or conditions associated with the location or site or

conduct of the **Business** and comply with any laws or rules relevant to the land or physical premises of the **Business**, their use and possession, and the conduct of the **Business**.

5. Structures

Where any structures, erections, installations, alterations and/or additions need to be made on the land or the premises given for the **Business** or any existing structures, installations, or erections need to be removed or displaced or dislocated from there and where such act requires any approval or permission or no objection or license of any relevant authority of the **Government** then it shall be the responsibility of the **Investor** to obtain and be in possession of such approval, permission, no objection or license.

6. Employment

The **Investor** shall employ Maldivian nationals except in those cases where employment of non-Maldivian nationals become necessary, in all spheres of its work and where any expatriate staff is required, the **Investor** shall be subject to the policies of the **Government** as regards the employment of expatriate staff and relevant laws and regulations applicable to the engagement of such staff. The **Investor** shall train Maldivians in all fields and operations of the **Investor** whenever it is commercially and reasonably practical.

7. Similar Labour Rights

In addition to the requirement of any labour laws or regulations, it shall be a continuing obligation of the **Investor** to offer to all its employees terms and conditions of service not less favorable than the terms and conditions of service applicable to employees in comparable categories in similar trade and/or industry in the Maldives as may be relevant in respect of their wages, hours of work, overtime, leave, welfare facilities, safety precautions, insurance or compensation.

8. Tax Laws

The Investor shall comply with any current or future tax laws of the Maldives.

9. Investor Shares

The shares (if any) in the **Investor** shall be allotted, or issued or transferred with the prior written approval of the **Ministry**. Where there needs to be an increase or decrease of authorized capital of the **Investor**, it shall seek the approval of the **Ministry** in addition to seeking any other statutory or corporate approvals.

10. Repatriation of funds

The repatriation of dividends paid to shareholders and outward remittance of salaries paid to the expatriate employees of the **Investor** and other monies belonging to the **Investor** shall not be subject to any exchange control restrictions. However, subject to reporting procedures established by the **Maldives Monetary Authority (MMA)** from time to time in order to keep the **Government** fully informed of its conversions, receipts, and remittances.

11. Compliance with Laws

The **Investor** shall at all times comply with and observe all laws regulations and other customary practices of the Maldives and shall not act in any manner that is disrespectful or offensive to the religion or customs of the Maldives.

12. Environmental Considerations

The **Investor** shall take all suitable protective measures as may be stipulated by the Environment Protection and Preservation Act of Maldives and the Regulations made under it to control possible pollution and other hazards resulting from the operation of the **Business** and observe the guidelines prescribed by the relevant

laws and regulations for the protection and preservation of [where applicable] the land, water resources, flora and fauna, beaches, lagoons, reefs and the environment.

13. Fees and charges

The **Investor** shall pay all taxes, fees and charges to the **Government** that may be imposed and/or levied by the relevant authorities and/or agencies of the Government in respect of the **Business**, its operation, the land or premises occupied by the **Investor**.

14. Charges for Services

The **Investor** shall be responsible for the settlement of all charges in respect of primary or secondary services made available at or supplied to the **Investor's** premises or for purposes of the **Investor** itself or its staff.

15. Safety Measures

In the conduct of and/or operation of the **Business** the **Investor** shall observe and implement all rules regulations and requirements pertaining to the maintenance of safety precautions, as may be prescribed by law and/or by the relevant Authority of the Government and shall ensure that the employee engaged in any dangerous or hazardous operation, work or vocation are supplied with reasonable safety equipment and appliances and to have at all times a sufficient supply of first aid drugs and other welfare facilities; and to have the establishments well and sufficiently installed with safety equipment such as fire extinguishers. To have all electrical fittings and appliances in the establishments safely fitted and heavy and dangerous machinery, if any, installed securely and adequately protected to ensure safety of the workers when at work. All electrical fittings and appliances in the establishments shall be safely fitted and heavy and dangerous machinery, if any,

installed shall be securely and adequately protected to ensure safety of the workers when at work.

16. Powers of Competent Officers

Any authorized officer(s) of the **Ministry** and/or any other department or authority of the Government shall be entitled to enter the premises or office or establishment of the **Investor** to inspect the work conditions of the employees and books, accounts, permits, licenses and any other documents within the possession of the **Investor** and to take copies thereof. It shall be the obligation of the **Investor** to accord to such inspection and to provide any information and/or documents as may be required by such officer(s).

17. Suspension of Business

The **Ministry** may suspend the operation of the **Business** with or without any prior notice if in the opinion of the **Ministry**:

- i. the **Investor** or its staff acting under the **Investor's** specific direction, indulges in any activity with the intent to cause detriment to the national security of the Maldives; or,
- ii. the deliberate acts of the **Investor** or its staff acting under its specific direction, are such that they may result in a threat to the national security of the Maldives,

The **Investor** may suspend the operation of the **Business** only with the prior written approval of the **Ministry** after giving at least 3 months notice to the **Ministry**. The **Business** of the **Investor** can be closed after the **Ministry's** approval. The **Investor** shall settle all outstanding dues and claims in the Republic of Maldives prior to any transfer or sale of investment proceeds out of Maldives.

18. Liability for suspension

Neither the Government nor any of its agencies shall be liable for any loss that may ensue to the **Investor** due to any suspension of **Business** that may happen under clause 17 of this Schedule. Despite such suspension the **Investor** shall continue to be liable in respect of its obligations or undertakings to third parties arising out of any contract or rule applicable on the **Investor**.

19. Recommencement

Where the Government fails to establish through the relevant courts of the Maldives, within 90 days of suspension of the **Business** that the **Investor** or its staff did commit or attempt to commit any act that was detrimental to the national security of the Maldives the Government of the Maldives shall pay fair compensation to the **Investor** and allow its **Business** to be resumed.

20. Termination

The **Ministry** may by giving written notice to the **Investor** terminate this Agreement where:

- a. the **Ministry** determines within the period of investigation mentioned in clause 19 of this Schedule that the permission given to the **Investor** under this Agreement should be revoked for the reasons set out in 17 (i) or (ii) above, or;
- b. **Investor** is unable to commence operation within the requisite period specified under Clause 2 of this schedule for reasons not acceptable to the **Ministry**; or
- c. **Investor** ceases to operate the **Business** for a consecutive period of six months for reasons not acceptable to the **Ministry**; or

- d. **Investor** enters into liquidation whether voluntary or otherwise or enters into any agreement or makes any arrangements with its creditors for liquidation of its debts by composition or otherwise.

21. Effect of Termination

Where the **Ministry** terminates this Agreement the permission granted to the **Investor** to set up and operate the **Business** in the Maldives shall come to an immediate end and all rights and privileges conferred upon the **Investor** by this Agreement shall there upon cease. Further the **Investor** shall be subject to the rules on liquidation as provided in the Companies Act (Law No. 10/96) of the Republic of Maldives and rules and regulations made under it.

22. Violations

Where the **Investor** is found guilty of infringing or violating any Law or Regulation of the Republic of Maldives, or the **Investor** is in breach of or fails to perform or comply with any duty or obligations under this Agreement, the **Ministry** may first serve a written warning on the **Investor** requesting the **Investor** to remedy the default and/or to comply with this Agreement within such period as may be prescribed by the **Ministry**. Where the default is not remedied despite that warning the **Ministry** may impose a fine on the **Investor** between MRf 10,000/- and MRf 1,000,000/- and demand compliance within such period as may be prescribed by the **Ministry**. Where the **Investor** has without justification failed to act in accordance with that second warning the **Ministry** may terminate this Agreement by giving written notice of 30 (thirty days).

23. Excusable Delay

Obligations to be performed under this Agreement may be excused to the extent the Investor is faced with unforeseen or uncontrollable events wherein it would be unreasonable upon the **Ministry** to demand strict compliance of the **Investor** with this Agreement.

When faced with any such unforeseen or uncontrollable event the **Investor** shall immediately notify the **Ministry** and seek its approval to the delay.

The comfort that the **Investor** could seek under this Clause is not automatic and is subject always to the specific approval being granted by the **Ministry**.

24. Maldivian Law

Maldivian Law for the purposes of this Agreement shall mean and refer to all the Laws and Regulations having the force of law in the Maldives and enforced or ought to be enforced as such in the appropriate Courts in the Maldives. It shall also include all amendments made to those Laws and Regulations.

End of Schedule

THIRD SCHEDULE
SPECIFIC PROVISIONS IN RELATION TO THE BUSINESS
(with reference to Clause 5 of this Agreement)

1. Specific Undertakings

The **Investor** shall be entitled to set up and operate the **Business** under this Agreement on the following specific undertakings:-

- a. The initial investment of the **Investor** shall be not less than United States Dollars _____ (US\$ _____) or equivalent in any designated currency;
- b. The initial investment cost (at least 75% of the initial investment) shall be foreign sourced and shall be remitted to the Maldives
- c. In this Agreement capital shall mean capital as defined in the Law on Foreign Investments in the Republic of Maldives.
- d. The project shall be commenced and put into uninterrupted operation within a period of six (6) months from the date of this Agreement or within any extended time as may be granted by the **Ministry** on the written request of the **Investor**.

2. Administrative Fee.

The Investor shall pay an Administration Fee of US\$ 2,000.00 to the Government of Maldives. The Administration Fee shall have been paid prior to signing this Agreement, renewal and/or extension of an existing Foreign Investment Agreement and each time an amendment proposed by the investor is included in the agreement.

3. Audited Financial Statements.

Audited financial statements for the previous year of the Business for every year shall be submitted by the Investor to Ministry and the Maldives Inland Revenue Authority within 3 months of the end of the financial year of the Investors. The Investor shall at all times keep and maintain full, accurate and proper books of accounts in the Maldives and submit audited accounts as required by Law and this Agreement.

4. Definitions

The following terms when used herein shall, unless otherwise expressly stated, have the following meanings.

- 4.1. “Year” refers to a period of twelve consecutive months as of the first day of operation.
- 4.2. Authority or Department of the Government – such body of the Government of the Republic of Maldives that is empowered to act on behalf of the State.
- 4.3. Net Profit - the profit obtained by a business organization for a particular period to which accounts are prepared after deducting the expenses (cost of sale, administration, selling and distribution and finance costs) from the turnover on an accrual basis.

End of Schedule