ANNEX II

PROTOCOL

TO AMEND THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED ARAB EMIRATES AND THE GOVERNMENT OF UKRAINE FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL

The Government of the United Arab Emirates and the Government of Ukraine,

Desiring to conclude a Protocol to amend the Agreement between the Government of the United Arab Emirates and the Government of Ukraine for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital, signed at Abu Dhabi on 22 January 2003 (hereinafter referred to as "the Agreement"), have agreed as follows:

ARTICLE 1

The Preamble of the Agreement shall be worded as follows:

"The Government of the United Arab Emirates and the Government of Ukraine,

Desiring to promote their mutual economic relations through the conclusion between them of an Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital;

Intending to eliminate double taxation with respect to taxes covered by this Agreement without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of residents of third jurisdictions),

Have agreed as follows:".

ARTICLE 2

Clause (ii) of subparagraph (a) of paragraph 3 of Article 2 (Taxes covered) of the Agreement shall be worded as follows:

"(ii) the personal income tax".

ARTICLE 3

Subparagraph (j) of paragraph 1 of Article 3 (General definitions) of the Agreement shall be worded as follows:

"(j) the term "competent authority" means:

(i) in the case of Ukraine – the Ministry of Finance or its authorized representative; and

(ii) in the case of the United Arab Emirates – the Ministry of Finance or its authorized representative.".

ARTICLE 4

Subparagraph (a) of paragraph 3 of Article 8 (Shipping and air transport) of the Agreement shall be worded as follows:

"(a) a term "profits" includes:

(i) profits, net profits, gross receipts and revenues derived directly from the operation of ships or aircraft in international traffic,

(ii) profits derived from the sale of tickets on behalf of other air enterprises, and

(iii) interest on sums generated directly from the operation of ships or aircraft in international traffic as well as investment income from stock, bonds, shares or loans of air enterprises operating in international traffic which are incidental to such operations;".

ARTICLE 5

1. Paragraph 2 of Article 10 (Dividends) of the Agreement shall be worded as follows:

"2. However, dividends paid by a company which is a resident of a Contracting State may also be taxed in that State according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:

a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 10 per cent of the capital of the company paying the dividends;

b) 15 per cent of the gross amount of the dividends in all other cases.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.".

2. Paragraph 3 of Article 10 (Dividends) of the Agreement shall be worded as follows:

"3. Notwithstanding the provision of paragraph 2 of this Article, dividends referred to in paragraph 1 shall be taxable only in the Contracting State in which the beneficial owner is a

resident if the beneficial owner is a Contracting State, a political subdivision, a local authority, a statutory body or the Central Bank thereof including:

a) in the case of Ukraine:

(i) the National Bank of Ukraine;

(ii) the State Savings Bank of Ukraine (Oschad Bank);

(iii) the Sate Export Import Bank of Ukraine (Ukreximbank); and

(iv) any financial institution owned or controlled by the Government of Ukraine that should be exchanged through the diplomatic channels between the competent authorities of the Contracting States;

b) in the case of the United Arab Emirates:

(i) the Central Bank of the United Arab Emirates;

(ii) the Emirates Investment Authority;

(iii) the Abu Dhabi Investment Authority;

(iv) the Investment Corporation of Dubai;

(v) the Mubadala Investment Company and its subsidiaries;

(vi) the Abu Dhabi Retirement Pensions and Benefits Fund;

(vii) the General Pension and Social Security Authority;

(viii) any financial institution owned or controlled by the Government of the United Arab Emirates that should be exchanged through the diplomatic channels between the competent authorities of the Contracting States.".

ARTICLE 6

1. Paragraph 2 of Article 11 (Interest) of the Agreement shall be worded as follows:

"2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.".

2. Paragraph 8 of Article 11 (Interest) of the Agreement shall be worded as follows:

"8. Notwithstanding the provisions of paragraph 2 of this Article, interest referred to in paragraph 1 shall be taxable only in the Contracting State in which the beneficial owner is a

resident if the beneficial owner is a Contracting State, any political subdivision, a local authority thereof, a statutory body or the Central Bank thereof including:

a) in the case of Ukraine:

(i) the National Bank of Ukraine;

(ii) the State Savings Bank of Ukraine (Oschad Bank);

(iii) the Sate Export Import Bank of Ukraine (Ukreximbank); and

(iv) any financial institution owned or controlled by the Government of Ukraine that should be exchanged through the diplomatic channels between the authorities of the Contracting States;

b) in the case of the United Arab Emirates:

(i) the Central Bank of the United Arab Emirates;

(ii) the Emirates Investment Authority;

(iii) the Abu Dhabi Investment Authority;

(iv) the Investment Corporation of Dubai;

(v) the Mubadala Investment Company and its subsidiaries;

(vi) the Abu Dhabi Retirement Pensions and Benefits Fund;

(vii) the General Pension and Social Security Authority;

(viii) any financial institution owned or controlled by the Government of the United Arab Emirates that should be exchanged through the diplomatic channels between the authorities of the Contracting States.".

3. Paragraph 9 of Article 11 (Interest) of the Agreement shall be worded as follows:

"9. Notwithstanding the provisions of paragraph 2 of this Article, interest arising in a Contracting State paid to a resident of the other Contracting State shall be exempt from tax in the first-mentioned State if it was paid in respect of loan made, guaranteed or insured, or in respect of any other debt-claim or credit guaranteed or insured on behalf of the other Contracting State by its authorized organ.".

4. Paragraph 7 of Article 11 (Interest) of the Agreement shall be deleted.

5. Paragraph 10 of Article 11 (Interest) of the Agreement shall be deleted.

6. Paragraphs 8 and 9 of Article 11 (Interest) of the Agreement shall be renumbered as paragraphs 7 and 8 respectively.

ARTICLE 7

Paragraph 3 of Article 12 (Royalties) of the Agreement shall be worded as follows:

"3. Notwithstanding the provisions of paragraph 2 of this Article, royalties arising in a Contracting State may also be taxed in that State according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the payments referred to in subparagraph b) paragraph 4 of this Article.".

ARTICLE 8

Article 28 (Exchange of information) of the Agreement shall be worded as follows:

"Article 28

Exchange of information

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

a. to carry out administrative measures at variance with the laws and administrative practice

of that or of the other Contracting State;

b. to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

c. to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

6. With respect to paragraph 2 it is understood that exchange of information for non-tax purposes can be exchanged only if the following conditions are cumulatively met:

(i) The "other purposes" shall accord with an existing international agreement or protocol to which both Contracting States are party relating to mutual legal assistance;
(ii) In seeking the authorization of the competent authority of the supplying State, the requesting State shall specify the other non-tax purposes for which it wishes to use the information;
(iii) The requesting State shall identify the legal agencies or judicial authorities with whom it will share the information; and
(iv) It will be necessary to obtain the prior consent of the competent authority of the supplying State, which signed the Agreement, or Protocol in accordance with which the information will be used. ".

ARTICLE 9

The following Article shall be inserted after Article 29 (Members of diplomatic missions and consular posts) of the Agreement:

"Article 29 A

Entitlement to benefits

1. Notwithstanding the other provisions of this Agreement except Article 10 paragraph 3, Article 11 paragraph 8, and Article 13 if the beneficiaries are the government or its

financial institutions, a benefit under this Agreement shall not be granted in respect of an item of income or capital if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Agreement.

2. Where a benefit under this Agreement is denied to a person under paragraph 1, the competent authority of the Contracting State that would otherwise have granted this benefit shall nevertheless treat that person as being entitled to this benefit, or to different benefits with respect to a specific item of income or capital, if such competent authority, upon request from that person and after consideration of the relevant facts and circumstances, determines that such benefits would have been granted to that person in the absence of the transaction or arrangement referred to in paragraph 1. The competent authority of the Contracting State to which the request has been made will consult with the competent authority of the other Contracting State before rejecting a request made under this paragraph by a resident of that other State.".

ARTICLE 10

The following Article shall be inserted after Article 29 A (Entitlement to benefits) of the Agreement:

"Article 29 B
Income from Hydrocarbons

Notwithstanding any other provision of this Agreement (including Article 24 (Special Provision) of the Agreement) nothing shall affect the right of either one of the Contracting States, or of any of their local Governments or local authorities thereof to apply their domestic laws and regulations related to the taxation of income and profits derived from hydrocarbons situated in the territory of the respective Contracting State, as the case may be.".

ARTICLE 11

1. Each of the Contracting States shall notify to the other in writing, through diplomatic channels, the completion of the procedures required by its domestic law for the bringing into force of this Protocol.

2. This Protocol shall form an integral part of the Agreement, that was signed on 22 January 2003, and shall enter into force on the date of the latter of these notifications and shall thereupon have effect:

(a) in respect of taxes withheld at source, on amounts paid or credited to non-residents either on or after the first day of January of the year next following the entry into force of this Protocol;

(b) in respect of other taxes for fiscal years beginning on or after the first day of January of the year next following the entry into force of this Protocol.

In witness whereof the undersigned, duly authorized thereto, have signed this Protocol.

Done in duplicate at Abu Dhabi this Sunday of February 14th 2021 in the Arabic, Ukrainian and English languages, all texts being equally authentic. In case there is any divergence of interpretation of this Protocol the English text shall prevail.

For the Government of	**For the Government of**
the United Arab Emirates	**Ukraine**