AGREEMENT

BETWEEN

THE GOVERNMENT OF THE FRENCH REPUBLIC

AND

THE GOVERNMENT OF MONGOLIA

ON THE ESTABLISHMENT AND ACTIVITIES OF THE *AGENCE FRANCAISE DE DÉVELOPPEMENT*, PROPARCO AND EXPERTISE FRANCE IN MONGOLIA

THE GOVERNMENT OF THE FRENCH REPUBLIC

AND

THE GOVERNMENT OF MONGOLIA

Hereinafter referred to for the purposes of this Agreement as the "**Parties**".

Recalling that France and Mongolia are committed to strengthen their ties of friendship and cooperation, and to build strategic partnership;

Welcoming the common desire to intensify and expand economic and financial cooperation between the two countries;

Recognizing that the *Agence française de développement* (hereinafter referred to as the "**AFD**") and its subsidiary specialized in financing private sector development, the *Société de Promotion et de Participation pour la Coopération Économique* (hereinafter referred to as "**PROPARCO**"), as well as *Expertise France*, its other subsidiary, specialized in promoting technical assistance and French expertise abroad (hereafter referred to as "**EXPERTISE FRANCE**") forming the AFD Group (hereinafter the "**AFD Group**") are developing their activities in the territory of Mongolia; and that, throughout the remainder of this Agreement, the term "AFD Group" will refer to the three entities constituting the AFD Group (AFD, PROPARCO and EXPERTISE FRANCE), individually or collectively ;

Recalling that the AFD Group is central to the French official assistance provision for developing countries and that it is active in more than 150 countries thanks to its network of over a hundred local representations;

Recalling that the AFD, an industrial and commercial public establishment under the supervision of the French State and whose statutes are defined in the French *Code Monétaire et Financier*:

- fights poverty, supports economic growth and participates in preserving global public goods in developing countries, emerging countries and French overseas territories;
- is supervised by the French Ministry for Europe and Foreign Affairs and International Development, the Ministry of the Economy, Finance, and industrial and digital Sovereignty, and the Ministry of the Interior and Overseas Territories; it implements French development assistance policy and acts under the control of and in close collaboration with these Ministries;
- is active primarily in the framework of the priority investment programme of the host States through grants, long term loans and guarantees granted to the State, to local government bodies and to public financial institutions and businesses, or in the form of purchase of stakes in businesses operating in its areas of intervention;
- also offers consultancy, training and technical assistance services;

Recalling that PROPARCO, created in 1977 in the form of a company under French law:

- is the French financial institution for development, with a majority stake held by the AFD;
- is an operator of France's development policy in the areas of development and international solidarity, as described in the French Law no. 2021-1031 of August 4, 2021 on inclusive development, and the fight against poverty and global inequalities, published in the *Journal officiel de la République Française* on August 5, 2021;
- is administered by AFD and closely controlled by the French State, as evidenced in particular by the presence on its Board of Directors of representatives from the

Ministry in charge of finance, Ministry in charge of foreign affairs and of a State Commissioner.

- has the primary goal of promoting private investment in emerging and developing countries to support growth, sustainable development, and the achievement of the Sustainable Development Goals (SDGs);
- funds economically viable, socially equitable, environmentally sustainable and financially viable operations;
- invests in a geographical area extending from the major emerging countries to the poorest countries, with high social and environmental responsibility requirements;
- offers a comprehensive range of financial instruments to help address the specific needs of private investors in developing countries (loans, equity capital, quasi-equity instruments, guarantees, technical assistance, etc.);
- intervenes only where no other local financial institution is capable of offering similar financial products or services or when such local financial institutions need additional support in order to provide financing;

Recalling that its other affiliate, EXPERTISE FRANCE, an entity fully integrated into the AFD Group in accordance with the provisions of Law No. 2021-1031 of August 4, 2021 on programming for inclusive development and the fight against global inequalities, with the role of operator of the French State for technical cooperation:

- carries out, under the law, a recognized public service mission. Its core activity is to design and implement projects and mobilize highly qualified expertise (including Experts and Technical Assistants deployed upon request of the State), in the main areas of public policy such as governance, security, climate, health, education, culture, etc. Its activities are financed by bilateral and multilateral donors, mainly the French State - through the Agence Française de Développement in particular, and the European Union, for which EXPERTISE FRANCE may act as an implementing agency and delegated donor;
- supports its partners (mainly governments, but also regional organizations, local authorities and civil society organizations) to strengthen their institutions, policies and the expertise of their agents. To do this, it offers a wide range of activities, including: mobilization of expertise, organization of workshops, seminars, training, study visits, provision of grants, supply of goods and works. It ensures, with national counterparts, the specification of needs, monitoring and final evaluation of completed projects.

Recalling that it is in the common interest of the Parties to conclude this Agreement in order to allow the AFD Group to provide its financial and technical assistance in Mongolia in accordance with the economic and social development goals of Mongolia;

Recalling that the Government of Mongolia wishes to define the framework for AFD Group's activities in order to facilitate the fulfilment of its mission in the framework of the development financing policy of Mongolia;

Consequently, on the basis of respect for the principles of independence, sovereign equality and non-interference in internal affairs, the Government of the French Republic and the Government of Mongolia have agreed as follows:

ARTICLE 1. PURPOSE OF THE AGREEMENT

AFD Group is authorized to provide its financial and technical assistance and invest in Mongolia as defined in this Agreement.

The purpose of this Agreement is to specify the regime applicable to the activities of the AFD Group in Mongolia, as described in Article 3.1, and to the establishment of the AFD Group offices as mentioned in Article 7.1. It defines, *inter alia*, the legal, tax and financial rules applicable to the activities of the AFD Group in this country and to the status of the AFD Group offices.

ARTICLE 2. LEGAL STATUS OF THE AFD GROUP

2.1 The AFD Group entities shall enjoy the legal personality and capacity and may, in particular enter into contracts and agreements, acquire, lease and dispose of movable and immovable goods (with the exception of any land), employ staff of any nationality, as well as take legal actions in Mongolia and carry out any action or procedure necessary for the performance of its missions as described in this Agreement.

2.2. For all transactions contemplated in Article 2.1, the AFD Group will do its utmost to settle the monetary obligations in the national currency of Mongolia, except for transactions which, by their nature or by custom (such as contracts with non-resident, the procurement of foreign goods or services, or international financing obligations), are to be settled in foreign currency (including Euros or US dollars).

ARTICLE 3. AUTHORIZED ACTIVITIES OF THE AFD GROUP IN MONGOLIA

3.1 AFD's operations and their selection of projects and entities for financing in Mongolia are bounded by the priorities outlined in the Government of Mongolia's prevailing short-term, medium-term, and long-term developmental policy and planning documents.

3.2 The AFD Group may, pursuant to the provisions of this Agreement, carry out its statutory duties described in the preamble, as mutually agreed hereinafter by the Parties. More specifically, the AFD Group can:

a) provide financial support as loans, grants or guarantees in Euros, US dollars or in any other currency agreed by the Parties, and any form of financial or technical assistance to Mongolia and to public authorities, to public or private businesses, as well as to national, foreign or international public or private associations or organizations, or to any legal entity headquartered in Mongolia, including any banking or financial institutions;

b) acquire any stakes in the equity of all companies from any seller, to invest in investment funds, and to transfer or dispose of such stakes, subject to applicable Mongolian laws and any regulatory requirements.

c) provide consultancy, technical assistance, training, study services, or the supply of goods and works for public or private entities.

3.3 Each of the aforementioned activities shall be the subject of a specific contract defining the obligations and commitments of the parties concerned by the activity or operation in question. Each Party undertakes to make its best efforts to facilitate the achievement of any formalities required to ensure the validity or entry into force of such contract in accordance with respective domestic laws and regulations of the Parties.

3.4 The financing agreements concluded by AFD in Mongolia, for the purpose of carrying out the financial assistance as provided for under Article 3.2 (a), namely loans, guarantees and grant agreements, of this Agreement, shall be governed by French law.

3.5 The activities of AFD Group in Mongolia a re authorized under Article 3.2 and, therefore, do not require further authorizations, except for sovereign loans intended for Mongolia, which remain subject to prior ratification by the Parliament of Mongolia for their effectiveness.

ARTICLE 4. NATURE OF AFD AND PROPARCO ACTIVITIES IN MONGOLIA

The authorized activities and operations of AFD and PROPARCO under Article 3.2 of this Agreement are decided and realized from their headquarters situated in France and, as such shall be considered as cross-border operations. Thus, AFD and PROPARCO, and their Representations, as the case may be, do not have the status of a bank or any other financial institution in Mongolia.

ARTICLE 5. CONVERTIBILITY AND TRANSFERS

5.1 Under this Agreement, the AFD Group is authorized to:

(i) hold bank accounts in Mongolia in any available currency,

(ii) convert into foreign currencies, at the applicable rates based on the exchange rates published by the Central Bank of Mongolia through authorized banks on the date of conversion, unless otherwise agreed by the Government of Mongolia and AFD Group, any sum due to the AFD Group, in particular sums corresponding to the repayment of financing, both in principal and interest, late payment interest, incidental fees, as well as any other sum due as a result of the exercise or implementation of the AFD Group's activities in Mongolia, and

(iii) freely transfer outside of the territory of Mongolia any sums in foreign currency, as referred to in the second indent of this Article 5.1.

5.2 The beneficiaries of the financing granted by the AFD Group, the guarantors of such financing, and any intermediary bank responsible for the transfer of funds, also benefit from the provisions of Article 5.1.

5.3 At the request of the borrower or the beneficiary of the financing granted by the AFD Group, the AFD Group is authorized, in the implementation of any financial operation, direct payments to the service providers of the borrower or beneficiary concerned, not established within the territory of Mongolia.

5.4 Banks duly authorized to operate in Mongolia are authorized to:

(i) convert tugriks received from the debtors of the AFD Group into Euros, Dollars or other available freely convertible currency, at the applicable rates based on the exchange rates published by the Central Bank of Mongolia through authorized banks on the date of conversion, unless otherwise agreed by the Government of Mongolia and AFD Group, and

(ii) transfer these foreign currencies to the bank accounts of the AFD Group in France or abroad.

5.5 In the event that banks in Mongolia refuse to carry out, or do not have sufficient foreign currency to carry out a conversion or transfer, or if for whatever reason a conversion of transfer is not carried out by banks in Mongolia because they are not authorized to convert the tugriks of the AFD Group and to transfer them abroad, the Government of Mongolia, in respect of sovereign financings entered into by it, shall do its utmost, as quickly as possible and taking the appropriate steps, (i) to convert the tugriks into foreign currencies at the applicable rates based on the exchange rates published by the Central Bank of Mongolia on the conversion date and (ii) shall carry out their transfer through the Central bank of Mongolia, pursuant to this Agreement, to the foreign bank accounts of the AFD Group.

ARTICLE 6. TAX STATUS

6.1 The following types of taxes may be eligible to exemption: (i) value-added tax (VAT), (ii) customs duties identified in the respective loan agreement.

Such exemptions shall apply only to goods, products, equipment, works, and services (including consultancy services) directly financed from the proceeds of the public sector financing agreement.

Any exemption shall apply only to the extent provided for in the loan agreement, and following its ratification by the Parliament of Mongolia (the State Great Khural). No other taxes or charges shall be exempted beyond those expressly stipulated in the ratified loan agreement, without prejudice to Article 6.2 below.

6.2 AFD and Proparco shall be considered as credit institution for the purpose of Article 11(3) (c) of the Convention between the Government of the French Republic and the Government of Mongolia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion and Fraud with Respect to Taxes on Income and on Capital (the "DTT Agreement"). Accordingly, Mongolia shall not impose tax on interest and fees paid or transferred to AFD and Proparco under the DTT Agreement.

6.3. All goods, products, equipment or services financed through grants, in particular those procured for the implementation of Expertise France's activities listed in Article 3.2(c), shall be exempt from value-added tax, customs duties, and any other applicable charges, in accordance with procedures established under local law.

6.4 AFD Group entities and their Representative(s) shall not be considered to have the status of permanent establishment in Mongolia for the purposes of tax regulations.

ARTICLE 7. LOCAL REPRESENTATION OF THE AFD GROUP – STATUS OF EMPLOYEES

7.1 Representation(s) of the AFD Group in Mongolia

a) The AFD Group entities are authorized, to open one or several representation(s) in Ulaanbaatar (hereinafter referred to as the "Representation(s)") or in any other place in Mongolia with prior consent of the Government of Mongolia.

b) The Government of Mongolia shall facilitate the opening and functioning of any Representation in accordance with the domestic laws and regulations of Mongolia, it being understood that this shall not affect the rights and privileges granted under this Agreement.

c) The Representation(s) of the AFD Group entities in Mongolia shall be responsible for the identification of projects that the AFD Group entities may implement in Mongolia, for the preparation and for the negotiation of the documents connected with these projects, as well as for monitoring their implementation.

The Representation(s) of the AFD Group shall carry out its (their) activities in accordance with the Agreement.

d) Any Representation shall enjoy the following facilities:

- the Representation shall be exempt from customs duties and, if applicable, value-added tax in respect of importation or purchase of : (i) the personal and household effects of all Expatriate Employees of the Representation (including furniture, household goods and other goods for their personal use or consumption, as well as a car for each Expatriate Employee of the Representation), (ii) all furniture and equipment for the Representation, including official cars, under this Agreement;
- the equipment and motor vehicles mentioned above shall be subject to payment of all taxes, including customs duties, if they are subsequently sold or transferred within Mongolia to individuals and entities not entitled to exemption from such taxes or similar privileges;
- the Representation, its premises, properties and assets shall be exempted from search, confiscation, requisition and expropriation;
- the correspondence and archives of the Representation and, more generally, all documents belonging to it or held by it shall be inviolable and the authorities in Mongolia shall not enter the premises of the Representation without the prior consent of the AFD Group;
- the debts, claims or other obligations resulting from credit agreements, grants or guarantees provided or managed by the AFD Group shall enjoy absolute protection from any form of confiscation, attachment or measure of forced execution of any nature carried out against the AFD Group or its Representation.

e) The Government of Mongolia undertakes not to nationalize or expropriate the assets or funds of the AFD Group or of its Representation(s) and not to take any action with the consequence of the impossibility of enjoyment of these assets or funds of the AFD Group or its Representation(s).

If for reasons of justified general interest, any such measure or action is taken, then adequate compensation shall be accorded to the AFD Group without delay and in a freely convertible currency. The financial compensation shall be agreed mutually, at the independently determined market price, and accepted by the Parties.

f) At the request of the Government of Mongolia, the AFD Group will, in a spirit of cooperation and good faith, endeavor to provide relevant information on its activities in Mongolia.

7.2 Expatriate personnel of the AFD Group

a) The AFD Group shall determine the number and the qualifications of the members of its personnel who do not hold the nationality of Mongolia and who are not holders of resident visas for Mongolia (hereinafter referred to as "Expatriate Employees") which it deems necessary for the good running of its Representation(s).

The AFD Group directly provides Expatriate Employees with a corporate social security system that provides a level of coverage at least equivalent to that of the general French social security system for sickness, maternity, paternity, disability, work-related accidents, occupational diseases and old age.

Expatriate Employees are not subject to the Mongolian social legislation; in particular, they are exempt from affiliation to the Mongolian social security system and from payment of social security contributions borne by the employee.

All salaries, allowances and expenses of the Expatriate Employees shall be the responsibility of the AFD Group and shall be exempt from income tax or any other form of taxation or social security contributions in Mongolia.

b) The Government of Mongolia shall facilitate the entry, stay, residence, freedom of movement and exit formalities of Expatriate Employees and their family members, including their spouse or partner, parents, grandparents, and children.

c) The Government of Mongolia shall grant the following facilities to Expatriate Employees and their family members, including their spouse or partner, parents, grandparents, and children:

- issuing of an entry permit and multiple entry visas and the issuing of residence permits for the territory of Mongolia;
- right to import their personal and household effects free of duty when first taking up their post in Mongolia;
- issuing of any authorization necessary for the free transfer of personal belongings to or out of Mongolia;
- issuing, to the spouse or partner of the Expatriate Employee, of a work permit valid for the same period as the visa or the entry permit of the Expatriate Employee concerned, allowing him or her to work in Mongolia.

d) The Government of Mongolia shall grant to Expatriate Employees immunity of jurisdiction only for acts performed in their official capacity. This immunity shall not exempt them from the jurisdiction of the French Party.

7.3 AFD Group personnel of Mongolian nationality or resident of Mongolia

In the context of its activities in Mongolia, the AFD Group may employ staff who are nationals or residents of Mongolia in accordance with legislation and regulations in Mongolia concerning labour law and social security.

7.4 Temporary missions to Mongolia

In order to accomplish its activities in Mongolia, the AFD Group may send temporary missions to Mongolia or mandate international consultants (the "Temporary Experts").

The Government of Mongolia shall take the steps needed for such Temporary Experts members of temporary missions to receive, in a timely manner, the authorizations required for their entry to, stay in and exit from the territory of Mongolia.

The Government of Mongolia shall grant to members of temporary missions immunity from jurisdiction for acts performed in their official capacity. This immunity shall not exempt them from the jurisdiction of the French Party

ARTICLE 8. IMPLEMENTATION OF THE AGREEMENT

8.1. In order to facilitate the procedures of the AFD Group for the implementation of its activities, Mongolia shall communicate, in accordance with domestic laws and regulations, all necessary information to its entities in order to enable full implementation of this Agreement promptly and take all necessary measures required to that effect.

8.2. Starting from the entry into force of this Agreement, the AFD Group may present this Agreement, whether by reference or by means of a copy, before any authority, official and, more generally, before any public administration of Mongolia. In order to enable the beneficiaries of financing from any entity of AFD Group or its co-contractors to request the implementation of the rights contained in this Agreement, the AFD Group is authorised to communicate a copy of this Agreement to such beneficiaries or co-contractors in order that they may produce it before the authorities concerned.

ARTICLE 9. ENTRY INTO FORCE, DURATION, TERMINATION AND AMENDMENT

9.1 Entry into force

Each Party shall notify the other in writing of the completion of the constitutional procedures required concerning the entry into force of this Agreement, which shall take effect the first day of the second month after the day of receipt of the last notification.

Immediately after the entry into force of this Agreement, the Government of Mongolia shall, in accordance with Article 102 of the Charter of the United Nations, proceed with the registration of this Agreement with the United Nations Secretariat. The Government of the French Republic will be informed of this registration by the transmission of the United Nations registration number as soon as confirmation from the United Nations Secretariat has been received.

This Agreement shall apply to the ongoing contracts concluded by the entities of the AFD Group in Mongolia, as authorized by the Government of Mongolia, and strictly for the implementation of activities permitted under Article 3.2 of this Agreement.

9.2 Amendments to this Agreement

The Parties may amend this Agreement at any time in writing by mutual agreement. Any amendment shall enter into force after the accomplishment by each Party of the internal procedures required for it and shall be fully part of this Agreement.

9.3 Settlement of disputes

Any dispute between the Parties arising from the interpretation or implementation of this Agreement, its potential additional agreements or any issue relating to the AFD Group, the Representation(s) or relations between the Government of Mongolia and the Government of the French Republic in relation to this Agreement shall be settled amicably by direct negotiation between the Parties through diplomatic channels.

9.4 Duration and termination

This Agreement is concluded for an indefinite period. It may be terminated at any time by either Party giving six (6) months' written notice notified through diplomatic channels to the other Party. This being the case, the Agreement ceases to apply with a timeliness of six (6) months after the date of receipt of the notification. The termination of this Agreement shall not affect the implementation of specific activities established under it, which shall continue until their full completion in accordance with applicable agreements.

Done at , on , in three originals, in French, Mongolian and English languages. In case of any divergence in the interpretation of the Agreement, the English text shall prevail.

FOR THE GOVERNMENT OF MONGOLIA	FOR THE GOVERMENT OF FRENCH REPUBLIC