L/EX NOTICE OF INTENT TO SUBMIT A CLAIM TO ARBUTRATION P 2:49 UNDER CHAPTER 11 OF KORUS-FTA DEPARTMENT OF STATE

KTurbo Inc. Disputing Investors,

v.

The Government of the United States of America Respondent

October 28, 2019

KTurbo Inc.

242, Sangjangincharo, Gaduk-myun, Sangdang-gu, Cheongju-si, Chungbuk 28202, Rep. of Korea

www.kturbo.com

TEL: +82-43-275-7573

SERVICE ACCEPTED IN OFFICIAL CAPACITY ONLY OFFICIAL CAPACITY ONLY EXECUTIVE DIRECTOR OFFICE OF THE LEGAL ADVISER 19/31/15

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October 28, 2019

VIA HAND DELIVERY AND FEDERAL EXPRESS

His Excellency Mr. Trump, President of the United States

c/o

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Executive Director (L/EX) Office of the Legal Adviser Department of State Washington, D.C. 20520 United States of America

Re: Notice of Intent to Bring Arbitration against the United States for Violation of Obligations Under the US-Korea Free Trade Agreement

Your Excellency:

- 1. The Disputing Investor in this matter is a Korean enterprise, KTurbo Inc. ("KTurbo") and Investment is a US enterprise, KTurbo USA Inc. under Article 11.28 DEFINITIONS. The Disputing Investor intend to bring claims pursuant to KORUS Chapter 11. The Disputing Investors have appended proof of their nationality and ownership to this submission.¹
- KTurbo Inc. specializes in the production of high efficiency turbo compressors and turbo blowers, having built the world's first environmentally friendly turbo compressors which does not use lubricant oil. KTurbo USA, Inc. is a subsidiary of KTurbo that was registered in 2010 as a corporation in 1183 Pierson Dr., Unit 118, Batavia, IL 60510 USA. KTurbo USA is wholly owned by KTurbo Korea.
- 3. On April 8, 2015 CEO of KTurbo was illegally extradited to the United States, which will be next dispute. (12-CR-109, Northern District of IL)
- 4. KTurbo was never indicted or punished, but the district court who lacks power over KTurbo and its properties forfeited properties of KTurbo, which is EXPROPRIATION prohibited under Article 11.6. See Case: 1:12-cr-00109 Document #: 334.
- 5. Furthermore, even if District court has jurisdiction over KTurbo without prosecution, District court ordered forfeiture and restitution after ruling that the government failed to prove any loss and gain,² which is illegal under the United State law.³

See Annex 1.

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² "the government has failed to prove, ..., the defendant's gain in this case. Based on its prior determination that the government failed to establish the defendant's actual or intended loss ..." (Dkt.273)

³ "The amount of restitution is limited to the actual losses" United States v. Kennedy, 726 F.3d 968, 973 (7th Cir. 2013)

- 6. Even if the breach was initiated September of 2010, before treaty entered into force on March 15, 2012, under the "continuing violation doctrine" the limitations period for a continuing offense does not begin until the offense is complete.⁴
- 7. KTurbo submits this Notice of Intent to bring arbitration against the United States("USA") pursuant to Article 1 1.6(2) of the Free Trade Agreement between Korea and the United States (the "FTA").
- 8. The contact information for the Disputing Investor appears below:

242, Sangjangincharo, Gaduk-myun, Sangdang-gu, Cheongju-si, Chungbuk, Korea TEL: +82-43-275-7573 Web site: <u>www.kturbo.com</u> E-mail: <u>hslee@kturbo.com</u>, <u>kcchoi@kturbo.com</u>

THE UNITED STATES KNOWINGLY DENIED EXECISING DUE DILIGENCE

- 9. We do not argue merits of judicial proceedings, but we argue that the judicial proceedings themselves are illegal, that is beyond official capacity or frivolous.
- 10. We do not argue that the officer's actions are unauthorized or ultra vires,⁵ but argues that the actions are illegal, that is beyond their official capacity.
- 11. The United States Government not only authorized and participated in the deprivation, but also failed to protect KTurbo's investments, which give rise to liability.

[&]quot;Restitution is loss based, while forfeiture is gain based." U.S. v. Genova, 333 F.3d 750, 761 (7th Cir. 2003)

⁴ The doctrine relieves a plaintiff of a limitations bar if he/she can show a series of related acts to him/her, one or more of which falls within the limitations period. Pegram v. Honeywell, Inc., 361 F.3d 272, 279 (5th Cir. 2004).

⁵ "190.... An unauthorized or **ultra vires** act of a governmental entity of course remains, in international law, the act of the State of which the acting entity is part, if that entity acted in its **official capacity**. But something **more than simple illegality or lack of authority** under the domestic law of a State is necessary to render an act or measure inconsistent with the customary international law requirements of Article 1105(1)" ADF v. United States

DAMAGES and **CLAIM**

- 12. It is trite that if a state is responsible for conduct that is unlawful under international law, it is obliged to make **full reparation** for the consequences of its wrongful conduct⁶ and that this involves putting the wronged party in the position it would have been in had the wrongful conduct not occurred.⁷
- 13. Since KTurbo itself was directly expropriated, KTurbo claims the fair market value of the properties and its interest.
- 14. Since KTurbo lost opportunity, KTurbo claims loss of profit.
- 15. Accordingly, we seek compensation for the loss and damage suffered in relation to illegal forfeiture in breach of treaty in an amount to be qualified and currently estimated to be approximately 10 million dollars.
- 16. However, we invite representative of the United States to find amicable solution to the present dispute and reserves its right to submit its claim to arbitration under Article 11.16 of the KORUS-FTA should no amicable resolutions be reached within 90 days of receipt of this notice.

Yours Sincerely,

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Choi Kyoo Cick Legal Administrator

KTurbo Inc. 242, Sangjangincharo, Gaduk-myun, Sangdang-gu, Cheongju-si, Chungbuk, 28202 Korea TEL:82-10-4702-4708

(International States)

⁶ Articles on the Responsibility of States for Internationally Wrongful Acts, drafted by the International Law Commission, and annexed to United Nations General Assembly Resolution 56/83 of 12 December 2001, Article 31.

⁷ Factory at Chorzow (Merits), pcn, Series A, No 17 (1928), p 47.

Annex 1. Nationality of Investor

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Printed by sufficiently of the State of Illinois, March 2007 - 10M - C 162-26

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ITEMS 5, 6 AND 7 ARE OPTIONAL

- 5. a. Number of Directors constituting the Initial board of directors of the corporation: three (3)
 b. Names and Addresses of persons serving as directors until the first annual meeting of shareholders or until their successors are elected and quality:

Name	L. L	Address	Cay, Stato, ZiP				
Heon Seok LEE	1183 Plenson Drive	Bldg 118	Batavia, IL 60510				
Seong Koo LEE	1183 Plerson Drive	Bldg 118	Batavia, IL 60510				
Trinity Seung Eun LEE	1183 Plerson Orive	Bldg 118	Batavia, IL 60510				

6	. a.	It is estimated that the value of the property to be owned by the corporation	
		for the following year wherever located will be:	\$ 200,000,00
	b .	It is estimated that the value of the property to be located within the State	
1.0		of Illinois during the following year will be:	\$ 200,000.00
1.0	C.	It is estimated that the gross amount of business that will be transacted by	
		the corporation during the following year will be:	\$ 2,000,000.00
	đ.	It is estimated that the pross amount of business that will be transacted	·

- from places of business in the State of Illinois during the following year will be: \$ 2,000,000.00 7. Other Povisions: Attach a separate sheet of this size for any other provision to be included in the Articles of incorporation (e.g., authorizing preemptive rights, denying cumulative voting, regulating internal attains, voting major-
- ity requirements, fixing a duration other than perpetual, etc.):

. ...

NAME(S) & ADDRESS(ES) OF INCORPORATOR(S)

8. The undersigned incorporator(s) hereby decisre(s), under penalties of perjury, that the statements made in the foregoing Articles of incorporation are true.

ated Occamper 28					
Month & Day	Year				
Signature and Name				Address	
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6iunaturo	,		•	Stroet	
Joseph Kent Kerr			Oak Park	filinois	60301
Name (type or print)			City/Ibwn	State	ZIP Code
		2.			
Bignaturo				Street	
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Sknature		3.		Stroet	
OF BUILD	*		Al Angel		÷
Name (type or print)			City/Town	State	ZIP Code

Signatures must be in BLACK INK on an original document. Carbon copy, photocopy or rubber stamp signatures may only be used on conformed copies.

NOTE: If a corporation acts as incorporator, the name of the corporation and the state of incorporation shall be shown and the execution shall be by a duly authorized corp orate officer. Type or print officer's name and title beneath signature.

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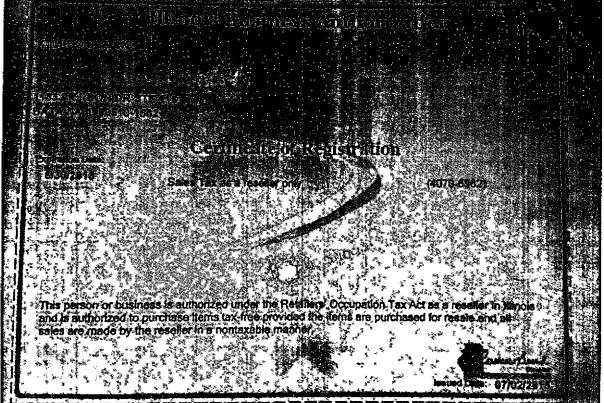
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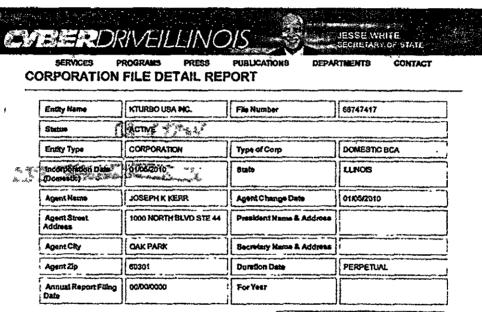
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Registered No. 2015 - 6329

NOTARIAL CERTIFICATE

NOTARY PUBLIC CHUNG YOUNG OFFICE 35, DUNSAN-RO, 137BEON-GIL, SEO-GU, DAEJEON 302-831 KOREA



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■ 법인세법 시	행규칙	[별지]	제81 호스	(식] (2012.02	2.28 기	1정)									(앞쪽)		
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한국터보기기	ᅨ(주)			해외현지법인 명세서 2013.01.01 ~										.01 ~ 2013.12.31				
②모법인 사	업자등	록번호	원호 에시언시답한 경제시 ()현재							④현지	년지법인 사업연도							
314-8	31-296	519								-	<u>, I</u>			2013.01.01 ~ 2013.12				
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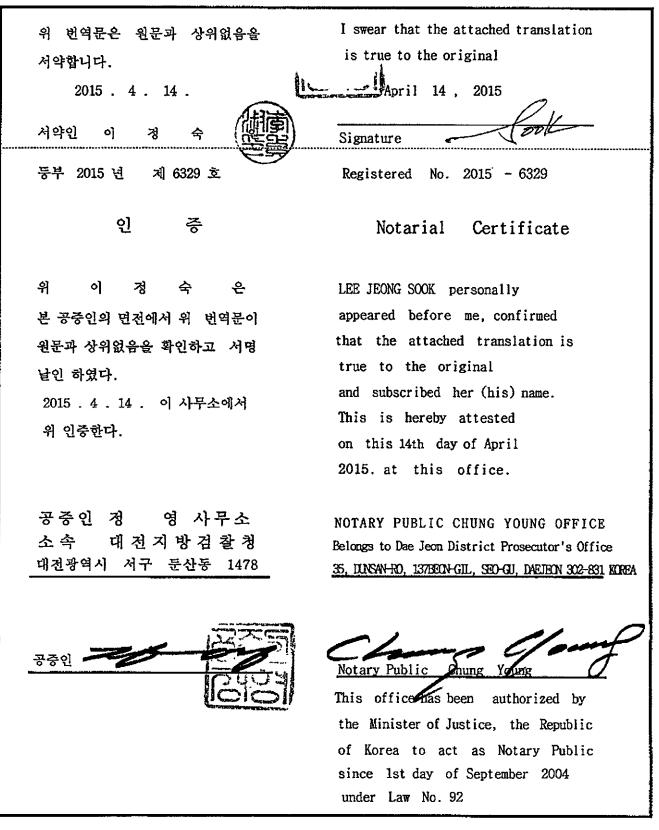
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210mm×297mm (인쇄용지(특급) 70g/m⁴