

**AGREEMENT
BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF SAN MARINO
AND
THE GOVERNMENT OF
THE COMMONWEALTH OF THE BAHAMAS
CONCERNING INFORMATION ON TAX MATTERS**

The Government of the Republic of San Marino and the Government of the Commonwealth of The Bahamas (the “Contracting Parties”), desiring to conclude an Agreement concerning information on tax matters, have agreed as follows:

**Article 1
Object and Scope of the Agreement**

The competent authorities of the Contracting Parties shall provide assistance through exchange of information that is foreseeably relevant to the administration and enforcement of the domestic laws of the Contracting Parties concerning taxes covered by this Agreement. Such information shall include information that is foreseeably relevant to the determination, assessment and collection of such taxes, the recovery and enforcement of tax claims, or the investigation or prosecution of tax matters. Information shall be exchanged in accordance with the provisions of this Agreement and shall be treated as confidential in the manner provided in Article 8. The rights and safeguards secured to persons by the laws or administrative practice of the requested Party remain applicable. The requested Party shall use its best endeavours to ensure that any such rights and safeguards are not applied in a manner that unduly prevents or delays effective exchange of information.

**Article 2
Jurisdiction**

A requested Party is not obligated to provide information which is neither held by its authorities nor in the possession or control of persons who are within its territorial jurisdiction.

Article 3
Taxes Covered

1. This Agreement shall apply to the following existing taxes imposed by the Contracting Parties:

a) in the case of San Marino:

the General Income Tax which is levied:

(i) on individuals;

(ii) on bodies corporate and proprietorship;

b) in the case of The Bahamas, taxes of every kind and description.

2. This Agreement shall also apply to any identical or any substantially similar taxes imposed after the date of signature of the Agreement in addition to or in place of the existing taxes. The competent authorities of the Contracting Parties shall notify each other of any substantial changes to the taxation and related information gathering measures covered by the Agreement within a reasonable time.

Article 4
Definitions

1. For the purposes of this Agreement, unless otherwise defined:

a) the term "Contracting Party" means the Republic of San Marino or The Bahamas as the context requires;

b) the term "San Marino" means the territory of the Republic of San Marino, including any other area within which the Republic of San Marino, in accordance with international law, exercises sovereign rights or jurisdiction;

c) the term "The Bahamas" means the Commonwealth of The Bahamas, encompassing the land, the territorial waters, and in accordance with international law and the laws of The Bahamas any area outside the territorial waters inclusive of the exclusive economic zone and the seabed and subsoil over which The Bahamas exercises jurisdiction and sovereign rights for the purpose of exploration, exploitation and conservation of natural resources;

d) the term "competent authority" means:

(i) in San Marino, the Ministry of Finance;

(ii) in The Bahamas, the Minister of Finance or his duly authorised delegate;

e) the term "person" includes an individual, a company and any other body of persons;

f) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;

g) the term “publicly traded company” means any company whose principal class of shares is listed on a recognized stock exchange provided its listed shares can be readily purchased or sold by the public. Shares can be purchased or sold “by the public” if the purchase or sale of shares is not implicitly or explicitly restricted to a limited group of investors;

h) the term “principal class of shares” means the class or classes of shares representing a majority of the voting power and value of the company;

i) the term “recognized stock exchange” means any stock exchange agreed upon by the competent authorities of the Contracting Parties;

j) the term “collective investment fund or scheme” means any pooled investment vehicle, irrespective of legal form. The term “public collective investment fund or scheme” means any collective investment fund or scheme provided the units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed by the public. Units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed “by the public” if the purchase, sale or redemption is not implicitly or explicitly restricted to a limited group of investors;

k) the term “tax” means any tax to which the Agreement applies;

l) the term “applicant Party” means the Contracting Party requesting information;

m) the term “requested Party” means the Contracting Party requested to provide information;

n) the term “information gathering measures” means laws and administrative or judicial procedures that enable a Contracting Party to obtain and provide the requested information;

o) the term “information” means any fact, statement or record in any form whatever;

p) the term “criminal tax matters” means tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the applicant party;

q) the term “criminal laws” means all criminal laws designated as such under domestic law irrespective of whether contained in the tax laws, the criminal code or other statutes.

r) the term “national” means

- (i) in relation to The Bahamas, any individual possessing the nationality or citizenship of The Bahamas; or any legal person, partnership, association or other entity deriving its status as such from the laws in force in The Bahamas; and

(ii) in relation to San Marino any individual possessing the citizenship of San Marino or any legal person, partnership or association deriving its status as such from the laws in force in San Marino.

2. As regards the application of this Agreement at any time by a Contracting Party, any term not defined herein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that Party, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

Article 5

Exchange of Information Upon Request

1. The competent authority of the requested Party shall provide upon request by the requesting Party information for the purposes referred to in Article 1. Such information shall be exchanged without regard to whether the requested Party needs such information for its own tax purposes or the conduct being investigated would constitute a crime under the laws of the requested party if it had occurred in the territory of the requested Party. The competent authority of the requesting Party shall only make a request for information pursuant to this Article when it is unable to obtain the requested information by other means, except where recourse to such means would give rise to disproportionate difficulty.

2. If the information in the possession of the competent authority of the requested Party is not sufficient to enable it to comply with the request for information, that Party shall use all relevant information gathering measures to provide the applicant Party with the information requested, notwithstanding that the requested Party may not need such information for its own tax purposes.

3. If specifically requested by the competent authority of the applicant Party, the competent authority of the requested Party shall provide information under this Article, to the extent allowable under its domestic laws, in the form of depositions of witnesses and authenticated copies of original records.

4. Each Contracting Party shall ensure that its competent authorities for the purposes specified in Article 1 of the Agreement, have the authority to obtain and provide upon request:

a) information held by banks, other financial institutions, and any person acting in an agency or fiduciary capacity including nominees and trustees;

b) information regarding the ownership of companies, partnerships, trusts, foundations, “Anstalten” and other persons, including, within the constraints of Article 2, ownership information on all such persons in an ownership chain; in the case of trusts, information on settlors, trustees and beneficiaries; and in the case of foundations, information on founders, members of the foundation council and beneficiaries. Further, this Agreement does not create an obligation on the Contracting Parties to obtain or provide ownership information with respect to publicly traded companies or public collective investment funds or schemes unless such information can be obtained without giving rise to disproportionate difficulties.

5. Any request for information shall be formulated with the greatest detail possible and shall specify in writing:

(a) the identity of the taxpayer under examination or investigation;

(b) the identity of the person in respect of whom information is requested, if that person is not also the taxpayer in subparagraph (a) of this paragraph;

(c) a statement of the information sought including its nature and the form in which the applicant Party wishes to receive the information from the requested Party;

(d) the taxable period with respect to which the information is requested;

(e) the tax purpose for which the information is sought, including:

(i) the citation of the legal authority under the applicant Party’s tax law with respect to which the information is sought; and

(ii) whether the matter is a criminal tax matter;

(f) the reasons for believing that the information requested is foreseeably relevant to the administration or enforcement of the taxes of the requesting Party covered under Article 3, with respect to a person identified in subparagraph (a) of this paragraph;

(g) grounds for believing that the information requested is held in the requested Party or is in the possession or control of a person within the jurisdiction of the requested Party;

(h) to the extent known, the name and address of any person believed to be in possession of the requested information;

(i) a statement that the request is in conformity with the law and administrative practices of the applicant Party, that if the requested information was within the jurisdiction of the applicant Party then the competent authority of the applicant Party would be able to obtain the information under the laws of the applicant Party or in the normal course of administrative practice and that it is in conformity with this Agreement;

(j) a statement that the applicant Party has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

6. The competent authority of the requested Party shall acknowledge receipt of the request to the competent authority of the requesting Party, advise if there are any unexpected delays in obtaining the requested information and shall use its best endeavours to forward the requested information to the requesting Party with the least possible delay.

Article 6

Tax Examinations Abroad

1. A Contracting Party may allow, to the extent permitted under its domestic laws, representatives of the competent authority of the other Contracting Party to enter the territory of the first-mentioned Party to interview individuals and examine records with the written consent of the persons concerned. The competent authority of the second-mentioned Party shall notify the competent authority of the first-mentioned Party of the time and place of the meeting with the individuals concerned.

2. At the request of the competent authority of one Contracting Party, the competent authority of the other Contracting Party may allow representatives of the competent authority of the first-mentioned Party to be present at the appropriate part of a tax examination in the second-mentioned Party.

3. If the request referred to in paragraph 2 is acceded to, the competent authority of the Contracting Party conducting the examination shall, as soon as possible, notify the competent authority of the other Party about the time and place of the examination, the authority or official designated to carry out the examination and the procedures and conditions required by the first-mentioned Party for the conduct of the examination. All decisions with respect to the conduct of the tax examination shall be made by the Party conducting the examination.

Article 7
Possibility of Declining a Request

1. The competent authority of the requested Party may decline to assist:

(a) where the request is not made in conformity with this Agreement;

(b) where the requesting Party has not pursued all means available in its own territory to obtain the information, except where recourse to such means would give rise to disproportionate difficulty; or

(c) where the disclosure of the information requested would be contrary to public policy.

2. The provisions of this Agreement shall not impose on a Contracting Party the obligation to supply information subject to legal privilege or to provide information which would disclose any trade, business, industrial, commercial or professional secret or trade process. Notwithstanding the foregoing, information of the type referred to in Article 5, paragraph 4 shall not be treated as such a secret or trade process merely because it meets the criteria in that paragraph.

3. The requested Party may decline a request for information if the disclosure of the information would be contrary to national security or public policy (ordre public).

4. A request for information shall not be refused on the ground that the tax claim giving rise to the request is disputed.

5. The requested Party may decline a request for information if the information is requested by the applicant Party to administer or enforce a provision of the tax law of the applicant Party, or any requirement connected therewith, which discriminates against a national of the requested Party as compared with a national of the applicant Party in the same circumstances.

Article 8
Confidentiality

1. Any information received by a Contracting Party under this Agreement shall be treated as confidential and may be disclosed only to persons or authorities (including courts and administrative bodies) in the jurisdiction of the

Contracting Party concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes imposed by a Contracting Party. Such persons or authorities shall use such information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. The information may not be disclosed to any other person or entity or authority or any other jurisdiction (including a foreign Government) without the express written consent of the competent authority of the requested Party.

2. Where information provided pursuant to this Agreement for a criminal tax purpose is, subsequently, to be used for a non-criminal tax purpose (and vice versa), the Competent Authority which supplied the information shall be notified of this change in use, if not before, then within a reasonable time of the change in use occurring.

Article 9

Prejudicial or Restrictive Measures

1. Neither of the Contracting Parties shall apply prejudicial or restrictive measures based on harmful tax practices to residents, nationals or transactions of either Contracting Party so long as this Agreement is in force and effective.

2. A "prejudicial or restrictive measure based on harmful tax practices" is a measure applied by one Contracting Party to residents, nationals or transactions of either Contracting Party on the basis that the other Contracting Party does not engage in effective exchange of information and/or because it lacks transparency in the operation of its laws, regulations or administrative practices, or on the basis of no or nominal taxes and one of the preceding criteria.

3. Without limiting the generality of paragraph 2 of this Article, the term "prejudicial or restrictive measure" includes:

- a) the introduction of any tax law or administrative arrangements that specifically and adversely target taxpayers of one Contracting Party conducting business activities or investing in the other Contracting Party; or
- b) the denial of a deduction, credit or exemption, the imposition of a tax, charge or levy, or special reporting requirements.

Article 10

Costs

Incidence of ordinary costs incurred in providing assistance shall be agreed by the Contracting Parties. Extraordinary costs incurred in providing assistance shall be borne by the requesting Party.

Article 11

Language

Requests for assistance and answers thereto shall be drawn up in the English language.

Article 12

Other international agreements or arrangements

The possibilities of assistance provided by this Agreement do not limit, nor are they limited by, those contained in existing international agreements or other arrangements between the Contracting Parties which relate to co-operation in tax matters.

Article 13

Implementation Legislation

The Contracting Parties shall enact any legislation necessary to comply with, and give effect to, the terms of the Agreement.

Article 14

Mutual agreement procedure

1. Where difficulties or doubts arise between the Parties regarding the implementation or interpretation of this Agreement, the respective competent authorities shall endeavour to resolve the matter by mutual agreement.

2. In addition to the agreements referred to in paragraph 1, the competent authorities of the Contracting Parties may mutually agree on the procedures to be used under the Agreement.

3. The competent authorities of the Contracting Parties may communicate with each other directly for purposes of reaching agreement under this Article.

4. The Contracting Parties may agree on other forms of dispute resolution.

Article 15
Entry into Force

1. Each of the Parties shall notify the other in writing of the completion of the procedures required by its law for the entry into force of this Agreement.

2. The Agreement shall enter into force on the thirtieth day after the receipt of the later of these notifications and shall thereupon have effect for all matters covered in Article 1, on that date, for taxable periods beginning on or after that date, or where there is no taxable period, for all charges to tax arising on or after that date.

Article 16
Termination

1. This Agreement shall remain in force until terminated by a Party. Either Party may terminate the Agreement by giving written notice of termination through diplomatic channels to the other Party. In such case, the Agreement shall cease to have effect on the first day of the month following the end of the period of six months after the date of receipt of notice of termination by the other Party.

2. In the event of termination, both Parties shall remain bound by the provisions of Article 8 with respect to any information obtained under the Agreement.

In WITNESS WHEREOF, the undersigned being duly authorized thereto have signed the Agreement.

Done at New York, United States of America this 24th day of September 2009, in duplicate in the English language.

For the Government
of the Republic of San Marino

Antonella Mularoni

For the Government
of the Commonwealth of The
Bahamas

T. Brent Symonette