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GOVERNMENT NOTICE GOEWERMENTSKENNISGEWING

SOUTH AFRICAN REVENUE SERVICE SUID-AFRIKAANSE INKOMSTEDIENS

No. 97**17 February 2015**

INCOME TAX ACT, 1962

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA AND THE GOVERNMENT OF BARBADOS FOR THE EXCHANGE OF INFORMATION RELATING TO TAX MATTERS

In terms of section 108(2) of the Income Tax Act, 1962 (Act No 58 of 1962), read in conjunction with section 231(4) of the Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996), it is hereby notified that the Agreement for the exchange of information relating to tax matters set out in the Schedule to this Notice has been entered into with the Government of Barbados and has been approved by Parliament in terms of section 231(2) of the Constitution.

It is further notified in terms of Article 10 of the Agreement, that the date of entry into force is 19 January 2015.

No. 97**17 Februarie 2015****INKOMSTEBELASTINGWET, 1962****OOREENKOMS TUSSEN DIE REGERING VAN DIE REPUBLIEK VAN SUID-AFRIKA EN DIE
REGERING VAN BARBADOS VIR DIE UITRUIL VAN INLIGTING MET BETREKKING TOT
BELASTINGAANGELEENTHEDE**

Ingevolge artikel 108(2) van die Inkomstebelastingwet, 1962 (Wet No 58 van 1962), saamgelees met artikel 231(4) van die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No 108 van 1996), word hiermee kennis gegee dat die Ooreenkoms vir die uitruil van inligting met betrekking tot belastingaangeleenthede wat in die Bylae tot hierdie Kennisgewing vervat is, aangegaan is met die Regering van die Vorstedom Monaco en deur die Parlement goedgekeur is ingevolge artikel 231(2) van die Grondwet.

Daar word verder bekendgemaak dat ingevolge Artikel 10 van die Ooreenkoms, die datum van inwerkingtreding 19 Januarie 2015 is.

SCHEDULE

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA AND THE GOVERNMENT OF BARBADOS FOR THE EXCHANGE OF INFORMATION RELATING TO TAX MATTERS

PREAMBLE

WHEREAS the Government of the Republic of South Africa and the Government of Barbados ("the Parties") have long been active in international efforts in the fight against financial and other crimes, including the targeting of terrorist financing;

WHEREAS the Parties wish to enhance and facilitate the terms and conditions governing the exchange of information relating to taxes;

DESIRING THEREFORE the Parties in concluding the following Agreement which contains obligations on the part of the Parties only,

HAVE AGREED AS FOLLOWS:

ARTICLE 1

SCOPE OF THE AGREEMENT

The Parties through their competent authorities shall provide assistance through exchange of information that is foreseeably relevant to the administration and enforcement of the domestic laws of the Parties concerning the taxes covered by this Agreement, including information that is foreseeably relevant to the determination, assessment, enforcement or collection of tax with respect to persons subject to such taxes, or to the investigation of tax matters or the prosecution of criminal tax matters in relation to such persons. A requested Party is not obliged to provide information which is neither held by its authorities nor in the possession of or obtainable by persons who are within its territorial jurisdiction. 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 the effective exchange of information is not unduly prevented or delayed.

ARTICLE 2

TAXES COVERED

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

- (a) in the case of Barbados:
 - (i) the income tax (including premium income tax);
 - (ii) the corporation tax (including the tax on branch profits); and
 - (iii) the petroleum winning operations tax;

(hereinafter referred to as "Barbados tax"); and

BYLAE**OOREENKOMS TUSSEN DIE REGERING VAN DIE REPUBLIEK VAN SUID-AFRIKA EN DIE REGERING VAN BARBADOS VIR DIE UITRUIL VAN INLIGTING MET BETREKKING TOT BELASTINGAANGELEENTHEDE****AANHEF**

AANGESIEN die Regering van die Republiek van Suid-Afrika en die Regering van Barbados ("die Partye") lank reeds daadwerklik betrokke is by internasionale pogings in die stryd teen finansiële en ander misdrywe, ook pogings gerig op terreurfinansiering;

AANGESIEN die Partye die bepalings en voorwaardes wil verstewig en bevorder wat die uitruil van inligting met betrekking tot belastings reël;

HET DIE PARTYE WAT DUS BEGERIG IS om die volgende Ooreenkoms aan te gaan wat verpligte vir slegs die Partye bevat,

SOOS VOLG OOREENGEKOM:**ARTIKEL 1****BESTEK VAN OOREENKOMS**

Die Partye, deur hul bevoegde owerhede, verleen bystand deur die uitruil van inligting wat voorsienbaar tersaaklik is vir die administrasie en afdwinging van die landsreg van die Partye rakende die belastings wat deur hierdie Ooreenkoms gedek word, insluitende inligting wat voorsienbaar tersaaklik is vir die vasstelling, aanslaan, afdwinging of invordering van belasting ten opsigte van persone wat aan sodanige belastings onderhewig is, of by die ondersoek van belastingaangeleenthede of die vervolging van strafregtelike belastingaangeleenthede met betrekking tot sodanige persone. 'n Versoekte Party is nie verplig om inligting te verskaf wat nog deur sy owerhede gehou word, nog in die besit is van of verkrygbaar is deur persone wat binne sy gebiedsjurisdiksie is nie. Die regte en beskerming wat deur die wette of administratiewe praktyk van die versoekte Party aan persone verleen word, bly van toepassing. Die versoekte Party moet alles in sy vermoë doen om te verseker dat die doeltreffende uitruil van inligting nie ten onregte voorkom of vertraag word nie.

ARTIKEL 2**BELASTINGS GEDEK**

1. Hierdie Ooreenkoms is van toepassing op die volgende belastings wat deur die Partye gehef word:

- (a) in die geval van Barbados:
 - (i) die inkomstebelasting (ook premie-inkomstebelasting);
 - (ii) die maatskappybelasting (ook die belasting op filiaalwinste); en
 - (iii) die belasting op petroleumwinningwerksaamhede;
- (hierna "Barbadosbelasting" genoem); en

- (b) in the case of South Africa:
- (i) the normal tax;
 - (ii) the withholding tax on royalties;
 - (iii) the dividend tax;
 - (iv) the tax on foreign entertainers and sportspersons; and
 - (v) the value-added tax;

(hereinafter referred to as "South African tax").

2. This Agreement shall apply also to any identical taxes imposed after the date of signature of the Agreement in addition to or in place of the existing taxes, or any substantially similar taxes if the Parties so agree. The competent authority of each Party shall notify the other of substantial changes in laws which may affect the obligations of that Party pursuant to this Agreement.

ARTICLE 3

GENERAL DEFINITIONS

1. In this Agreement:

- (a) the term "Barbados" means the present territory of Barbados including the territorial sea and any maritime area situated outside the territorial sea of Barbados, which has been or might in the future be designated under the national law of Barbados in accordance with international law as an area within which Barbados may exercise its sovereign rights and jurisdiction to explore, exploit and preserve the seabed, subsoil and the natural resources; and
- (b) the term "South Africa" means the Republic of South Africa and, when used in a geographical sense, includes the territorial sea thereof as well as any area outside the territorial sea, including the continental shelf, which has been or may hereafter be designated, under the laws of South Africa and in accordance with international law, as an area within which South Africa may exercise sovereign rights of jurisdiction;
- (c) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
- (d) the term "competent authority" means:
 - (i) in the case of Barbados, the Minister responsible for Finance or an authorised representative of the Minister; and
 - (ii) in the case of South Africa, the Commissioner of the South African Revenue Service or an authorised representative of the Commissioner;
- (e) the term "criminal laws" means all criminal laws designated as such under domestic law, irrespective of whether such are contained in the tax laws, the criminal code or other statutes;

- (b) in die geval van Suid-Afrika:
- (i) die normale belasting;
 - (ii) die terughoubelasting op tantième;
 - (iii) die dividendbelasting;
 - (iv) die belasting op buitelandse vermaakklikheidskunstenaars en sportpersone; en
 - (v) die belasting op toegevoegde waarde;
- (hierna "Suid-Afrikaanse belasting" genoem).

2. Hierdie Ooreenkoms is ook van toepassing op enige identiese belastings wat ná die datum van ondertekening van die Ooreenkoms bykomend tot of in die plek van bestaande belastings opgelê word of, indien die Partye daartoe instem, enige wesenlik soortgelyke belastings. Elk van die bevoegde owerhede van die Partye moet die ander kennis gee van wesenlike veranderinge in wetgewing wat die verpligte van daardie ander Party ingevolge hierdie Ooreenkoms kan raak.

ARTIKEL 3

ALGEMENE WOORDOMSKRYWING

1. In hierdie Ooreenkoms:

- (a) beteken die uitdrukking "Barbados" die huidige gebied van Barbados, met inbegrip van die gebiedswaters en enige maritieme gebied wat buite die gebiedswaters van Barbados geleë is, wat ingevolge die landsreg van Barbados in ooreenstemming met die volkereg aangedui is of in die toekoms aangedui kan word as 'n gebied waarbinne Barbados sy soewereine regte en jurisdiksie kan uitoefen om die seebodem, die ondergrond en die natuurlike hulpbronne te eksploréer, te benut en te bewaar; en
- (b) beteken die uitdrukking "Suid-Afrika" die Republiek van Suid-Afrika en, wanneer dit in 'n geografiese verband gebruik word, ook die gebiedswaters daarvan asook enige gebied buite die gebiedswaters, ook die vastelandsplat, wat ingevolge die reg van Suid-Afrika en ooreenkomsdig die volkereg aangedui is of hierna aangedui word as 'n gebied waarbinne Suid-Afrika soewereine regte van jurisdiksie kan uitoefen;
- (c) beteken die uitdrukking "maatskappy" enige regspersoon of entiteit wat vir belastingdoeleindes as 'n regspersoon behandel word;
- (d) beteken die uitdrukking "bevoegde owerheid":
 - (i) in die geval van Barbados, die Minister verantwoordelik vir Finansies of 'n gemagtigde verteenwoordiger van die Minister; en
 - (ii) in die geval van Suid-Afrika, die Kommissaris van die Suid-Afrikaanse Inkomstediens of 'n gemagtigde verteenwoordiger van die Kommissaris;
- (e) beteken die uitdrukking "strafreg" alle strafregbepalings as sodanig aangedui ingevolge die landsreg, ongeag of sodanige bepalings in die belastingreg, die strafregkode of ander statute vervat is;

- (f) the term "criminal tax matters" means tax matters involving intentional conduct whether before or after the entry into force of this Agreement which is liable to prosecution under the criminal laws of the requesting Party;
- (g) the term "information" means any fact, statement, document or record in whatever form;
- (h) the term "information gathering measures" means laws and administrative or judicial procedures enabling a requested Party to obtain and provide the information requested;
- (i) the term "person" includes an individual, a company or any other body or group of persons;
- (j) the term "publicly traded company" means any company whose principal class of shares is listed on a recognised 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;
- (k) 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;
- (l) the term "recognised stock exchange" means any stock exchange agreed upon by the competent authorities of the Parties;
- (m) the term "public collective investment scheme" means any scheme or fund, in which the purchase, sale or redemption of shares or other interests is not implicitly or explicitly restricted to a limited group of investors;
- (n) the term "requested Party" means the Party to this Agreement which is requested to provide or has provided information in response to a request;
- (o) the term "requesting Party" means the Party to this Agreement submitting a request for or having received information from the requested Party; and
- (p) the term "tax" means any tax covered by this Agreement.

2. As regards the application of this Agreement at any time by a Party, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the laws 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.

- (f) beteken die uitdrukking "strafregtelike belastingaangeleenthede" belastingaangeleenthede wat opsetlike gedrag behels, hetsy voor of na die inwerkingtreding van hierdie Ooreenkoms, wat ingevolge die strafreg van die versoekende Party aan vervolging onderhewig is;
- (g) beteken die uitdrukking "inligting" enige feit, verklaring, dokument of rekord in watter vorm ook al;
- (h) beteken die uitdrukking "inligtingversamelmaatreëls" wette en administratiewe of geregtelike procedures wat 'n versoekte Party in staat stel om die aangevraagde inligting te verkry en te verskaf;
- (i) beteken die uitdrukking "persoon" 'n individu, 'n maatskappy of enige ander liggaam of groep persone;
- (j) beteken die uitdrukking "openbaar verhandelde maatskappy" enige maatskappy waarvan die hoofklas van aandele op 'n erkende aandelebeurs genoteer is, mits sy genoteerde aandele geredelik deur die publiek gekoop of verkoop kan word. Aandele kan "deur die publiek" gekoop of verkoop word indien die koop of verkoop van aandele nie implisiet of eksplisiet tot 'n beperkte groep beleggers beperk is nie;
- (k) beteken die uitdrukking "hoofklas van aandele" die klas of klasse van aandele wat 'n meerderheid van die stemkrag en waarde van die maatskappy verteenwoordig;
- (l) beteken die uitdrukking "erkende aandelebeurs" enige aandelebeurs waartoe die bevoegde owerhede van die Partye ooreengekom het;
- (m) beteken die uitdrukking "openbare kollektiewe beleggingskema" enige skema of fonds waarin die koop, verkoop of aflossing van aandele of ander belang nie implisiet of eksplisiet tot 'n beperkte groep beleggers beperk is nie;
- (n) beteken die uitdrukking "versoekte Party" die Party by hierdie Ooreenkoms wat versoek word om inligting te verskaf of wat inligting verskaf het in antwoord op 'n versoek;
- (o) beteken die uitdrukking "versoekende Party" die Party by hierdie Ooreenkoms wat 'n versoek voorlê vir inligting of wat inligting van die versoekte Party ontvang het; en
- (p) beteken die uitdrukking "belasting" enige belasting wat deur hierdie Ooreenkoms gedek word.

2. Betreffende die toepassing van hierdie Ooreenkoms te eniger tyd deur 'n Party, het 'n uitdrukking wat nie daarin omskryf is nie, tensy die samehang anders vereis, die betekenis wat dit op daardie tydstip ingevolge die reg van daardie Party het, en geniet enige betekenis ingevolge die toepaslike belastingreg van daardie Party voorrang bo 'n betekenis wat ingevolge ander wette van daardie Party aan die uitdrukking geheg word.

ARTICLE 4

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, the requested Party shall use the information gathering measures it considers relevant to provide the requesting 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 requesting 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 Party shall ensure that it has the authority, subject to the terms of Article 1, to obtain and provide, through its competent authority and upon request:

- (a) information held by banks, other financial institutions, and any person, including nominees and trustees, acting in an agency or fiduciary capacity;
- (b) (i) information regarding the legal and beneficial ownership of companies, partnerships, foundations and other persons, including in the case of collective investment schemes, information on shares, units and other interests;
 - (ii) in the case of trusts, information on settlors, trustees and beneficiaries.

5. This Agreement does not create an obligation for a Party to obtain or provide ownership information with respect to publicly traded companies or public collective investment schemes, unless such information can be obtained without giving rise to disproportionate difficulties.

6. Any request for information shall be formulated with the greatest detail possible in specifying in writing:

- (a) the identity of the person under examination or investigation;
- (b) the period for which the information is requested;
- (c) the nature of the information requested and the form in which the requesting Party would prefer to receive it;

ARTIKEL 4**UITRUIL VAN INLIGTING OP VERSOEK**

1. Die bevoegde owerheid van die versoekende Party moet op versoek van die versoekende Party inligting verskaf vir die doeleindes in Artikel 1 genoem. Sodanige inligting word uitgeruil sonder om in ag te neem of die versoekende Party sodanige inligting vir sy eie belastingdoeleindes nodig het en of die gedrag wat ondersoek word ingevolge die reg van die versoekende Party 'n misdryf sou uitmaak indien dit in die gebied van die versoekende Party plaasgevind het. Die bevoegde owerheid van die versoekende Party moet 'n versoek om inligting ingevolge hierdie Artikel slegs rig wanneer hy nie in staat is om die aangevraagde inligting volgens ander metodes te bekom nie, behalwe waar toevlug tot sodanige metodes tot buitensporige probleme aanleiding sou gee.

2. Indien die inligting in die besit van die bevoegde owerheid van die versoekende Party onvoldoende is om hom in staat te stel om aan die versoek om inligting te voldoen, gebruik die versoekende Party die inligtingversamelmaatreëls wat hy toepaslik ag om die aangevraagde inligting aan die versoekende Party te verskaf, al het die versoekende Party sodanige inligting nie vir sy eie belastingdoeleindes nodig nie.

3. Indien spesifiek deur die bevoegde owerheid van die versoekende Party daartoe versoek, moet die bevoegde owerheid van die versoekende Party ingevolge hierdie Artikel, in soverre dit ingevolge sy landsreg toelaatbaar is, inligting verskaf in die vorm van verklarings van getuies en gewaarmerkte afskrifte van oorspronklike rekords.

4. Elke Party moet seker maak dat hy, behoudens die bepalings van Artikel 1, die bevoegdheid het om deur sy bevoegde owerheid en op versoek:

- (a) inligting te verkry en te verskaf wat gehou word deur banke, ander finansiële instellings en enige persoon, ook benoemdes en trustees, wat in 'n volmag- of vertrouenshoedanigheid optree;
- (b) (i) inligting te verkry en te verskaf betreffende dieregs- en voordeelige eienaarskap van maatskappye, vennootskappe, stigtings en ander persone, ook in die geval van kollektiewe beleggingskemas, inligting oor aandele, eenhede en ander belang;
- (ii) in die geval van trusts, inligting te verkry en te verskaf oor trustoprigters, trustees en begunstigdes.

5. Hierdie Ooreenkoms skep nie 'n verpligting vir 'n Party om inligting oor eienaarskap met betrekking tot openbaar verhandelde maatskappye of openbare kollektiewe beleggingskemas te verkry of te verskaf nie, tensy sodanige inligting bekom kan word sonder om tot buitensporige probleme aanleiding te gee.

6. Enige versoek om inligting moet geformuleer word tot in besonderhede deur die volgende skriftelik uiteen te sit:

- (a) die identiteit van die persoon wie se sake nagegaan of wat ondersoek word;
- (b) die tydperk ten opsigte waarvan die inligting versoek word;
- (c) die aard van die inligting wat verlang word en die vorm waarin die versoekende Party verkies om dit te ontvang;

- (d) the tax purpose for which the information is sought;
- (e) the reasons for believing that the information requested is foreseeably relevant to tax administration and enforcement of the requesting Party, with respect to the person identified in subparagraph (a) of this paragraph;
- (f) grounds for believing that the information requested is present in the requested Party or is in the possession of or obtainable by a person within the jurisdiction of the requested Party;
- (g) to the extent known, the name and address of any person believed to be in possession or able to obtain the information requested;
- (h) a statement that the request is in conformity with the laws and administrative practices of the requesting Party, that if the requested information was within the jurisdiction of the requesting Party then the competent authority of the requesting Party would be able to obtain the information under the laws of the requesting Party or in the normal course of administrative practice and that it is in conformity with this Agreement;
- (i) a statement that the requesting Party has pursued all means available in its own territory to obtain the information, except where that would give rise to disproportionate difficulty.

7. The competent authority of the requested Party shall acknowledge receipt of the request to the competent authority of the requesting Party and shall use its best endeavours to forward the requested information to the requesting Party with the least possible delay.

ARTICLE 5

TAX EXAMINATIONS ABROAD

1. With reasonable notice, the requesting Party may request that the requested Party allow representatives of the competent authority of the requesting Party to enter the territory of the requested Party, to the extent permitted under its domestic laws, to interview individuals and examine records with the prior written consent of the individuals or other persons concerned. The competent authority of the requesting Party shall notify the competent authority of the requested Party of the time and place of the intended meeting with the individuals concerned.

2. At the request of the competent authority of the requesting Party, the competent authority of the requested Party may permit representatives of the competent authority of the requesting Party to attend a tax examination in the territory of the requested Party.

- (d) die belastingdoel waarvoor die inligting verlang word;
- (e) die redes waarom vermoed word dat die aangevraagde inligting voorsienbaar tersaaklik is vir die versoeke Party se belastingadministrasie en -afdwinding ten opsigte van die persoon wat in subparagraph (a) van hierdie paragraaf geïdentifiseer is;
- (f) gronde waarom vermoed word dat die aangevraagde inligting in die versoeke Party gehou word of in die besit is van of verkrygbaar is deur 'n persoon binne die jurisdiksie van die versoeke Party;
- (g) in soverre dit bekend is, die naam en adres van 'n persoon wat die aangevraagde inligting vermoedelik besit of kan bekom;
- (h) 'n verklaring dat die versoek in ooreenstemming is met die reg en administratiewe praktyke van die versoeke Party, dat indien die aangevraagde inligting binne die jurisdiksie van die versoeke Party was, die bevoegde owerheid van die versoeke Party in staat sou wees om die inligting te verkry ingevolge die reg van die versoeke Party of in die gewone loop van administratiewe praktyk en dat die versoek in ooreenstemming is met hierdie Ooreenkoms;
- (i) 'n verklaring dat die versoeke Party alle metodes in sy eie gebied tot sy beskikking nagevolg het om die inligting te verkry, uitgesonderd waar dit tot buitensporige probleme aanleiding sou gee.

7. Die bevoegde owerheid van die versoeke Party moet ontvangs van die versoek erken aan die bevoegde owerheid van die versoeke Party en alles in die werk stel om die aangevraagde inligting met die mins moontlike vertraging aan die versoeke Party te stuur.

ARTIKEL 5

BELASTINGONDERSOEKE IN DIE BUITELAND

1. Die versoeke Party kan, met redelike kennisgewing, versoek dat die versoeke Party verteenwoordigers van die bevoegde owerheid van die versoeke Party toelaat om die gebied van die versoeke Party binne te gaan, in soverre dit ingevolge sy landsreg veroorloof is, om met individue onderhoude te voer en rekords na te gaan met die vooraf skriftelike toestemming van die individue of ander betrokke persone. Die bevoegde owerheid van die versoeke Party moet die bevoegde owerheid van die versoeke Party in kennis stel van die tyd en plek van die beoogde vergadering met die betrokke individue.

2. Die bevoegde owerheid van die versoeke Party kan, op versoek van die bevoegde owerheid van die versoeke Party, verteenwoordigers van die bevoegde owerheid van die versoeke Party toelaat om 'n belastingondersoek in die gebied van die versoeke Party by te woon.

3. If the request referred to in paragraph 2 is granted, the competent authority of the requested Party conducting the examination shall, as soon as possible, notify the competent authority of the requesting Party of the time and place of the examination, the authority or person authorised to carry out the examination and the procedures and conditions required by the requested Party for the conduct of the examination. All decisions regarding the conduct of the examination shall be made by the requested Party conducting the examination.

ARTICLE 6

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 of the requested Party.

2. This Agreement shall not impose upon a requested Party any obligation to provide items subject to legal privilege, or any trade, business, industrial, commercial or professional secret or trade process, provided that information described in Article 4, paragraph 4, shall not by reason of that fact alone be treated as such a secret or trade process.

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

4. The requested Party shall not be required to obtain and provide information which, if the requested information was within the jurisdiction of the requesting Party, the competent authority of the requesting Party would not be able to obtain under its laws or in the normal course of administrative practice.

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

3. Indien die versoek in paragraaf 2 bedoel toegestaan word, moet die bevoegde owerheid van die versoekte Party wat die ondersoek uitvoer, die bevoegde owerheid van die versoekende Party so gou as moontlik in kennis stel van die tyd en plek van die ondersoek, die owerheid of persoon wat gemagtig is om die ondersoek uit te voer, en die procedures en voorwaardes wat deur die versoekte Party vir die uitvoer van die ondersoek voorgeskryf word. Alle besluite rakende die uitvoer van die ondersoek word geneem deur die versoekte Party wat die ondersoek uitvoer.

ARTIKEL 6

MOONTLIKHEID VAN WEIERING VAN 'N VERSOEK

1. Die bevoegde owerheid van die versoekte Party kan weier om bystand te verleen:
 - (a) waar die versoek nie ooreenkomsgerig is nie;
 - (b) wanneer die versoekende Party nie al die metodes in sy eie gebied tot sy beskikking nagevolg het om die inligting te bekomen nie, uitgesonderd waar toevlug tot sodanige metodes tot buitensporige probleme aanleiding sou gee; of
 - (c) waar die openbaarmaking van die aangevraagde inligtingstrydig sou wees met die openbare beleid van die versoekte Party.
2. Hierdie Ooreenkoms lê nie op 'n versoekte Party 'n verpligting om stukke wat aan regspolie onderworpe is, of enige handels-, sake-, nywerheids-, kommersiële of beroepsgeheim of handelsproses, te verskaf nie, met dien verstande dat die inligting wat in Artikel 4, paragraaf 4, beskryf word nie bloot op grond van daardie feit as so 'n geheim of handelsproses gehanteer word nie.
3. 'n Versoek om inligting mag nie geweier word op grond daarvan dat die belastingeis, wat tot die versoek aanleiding gegee het, betwissel word nie.
4. Daar word nie van die versoekte Party vereis om inligting te bekomen en te verskaf wat, indien die verlangde inligting binne die jurisdiksie van die versoekende Party was, die bevoegde owerheid van die versoekende Party nie ingeval sy reg of in die gewone loop van administratiewe praktyk sou kon verkry nie.
5. Die versoekte Party kan 'n versoek om inligting weier indien die inligting deur die versoekende Party versoek word om 'n bepaling van die belastingreg van die versoekende Party, of enige vereiste wat daarmee verband hou, toe te pas of af te dwing wat diskrimineer teen 'n burger of onderdaan van die versoekte Party vergeleke met 'n burger of onderdaan van die versoekende Party in dieselfde omstandighede.

ARTICLE 7

CONFIDENTIALITY

1. All information provided and received by the competent authorities of the Parties shall be kept confidential.
2. Such information shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the purposes specified in Article 1, and used by such persons or authorities only for such purposes, including the determination of any appeal. For these purposes, information may be disclosed in public court proceedings or in judicial decisions.
3. Such information may not be used for any purpose other than for the purposes stated in Article 1 without the express written consent of the competent authority of the requested Party.
4. Information provided to a requesting Party under this Agreement may not be disclosed to any other jurisdiction.

ARTICLE 8

COSTS

Unless the competent authorities of the Parties otherwise agree, indirect costs incurred in providing assistance shall be borne by the requested Party, and direct costs incurred in providing assistance (including costs of engaging external advisors in connection with litigation or otherwise) shall be borne by the requesting Party. The respective competent authorities shall consult from time to time with regard to this Article, and in particular the competent authority of the requested Party shall consult with the competent authority of the requesting Party in advance if the costs of providing information with respect to a specific request are expected to be significant.

ARTICLE 9

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 use their best efforts to resolve the matter by mutual agreement.
2. In addition to the agreements referred to in paragraph 1, the competent authorities of the Parties may mutually agree on the procedures to be used under Articles 4, 5 and 8.
3. The competent authorities of the Parties may communicate with each other directly for purposes of reaching agreement under this Article.
4. The Parties shall agree on other forms of dispute resolution should this become necessary.

ARTIKEL 7

VERTROULIKHEID

1. Alle inligting wat deur die bevoegde owerhede van die Partye verskaf en ontvang word, moet vertroulik gehou word.
2. Sodanige inligting moet slegs openbaar gemaak word aan persone of owerhede (ook howe en administratiewe liggame) wat gemoeid is met die doeleindes in Artikel 1 vermeld, en moet deur sodanige persone of owerhede slegs vir daardie doeleindes, insluitende die beslissing van 'n appèl, gebruik word. Inligting kan vir hierdie doeleindes by openbare hofverrigtinge of in regterlike beslissings openbaar gemaak word.
3. Sodanige inligting mag nie sonder die uitdruklike skriftelike toestemming van die bevoegde owerheid van die versoekte Party vir enige ander doel as die doeleindes in Artikel 1 vermeld, gebruik word nie.
4. Inligting wat ingevolge hierdie Ooreenkoms aan 'n versoekende Party verskaf word, mag nie aan enige ander jurisdiksie openbaar gemaak word nie.

ARTIKEL 8

KOSTE

Tensy die bevoegde owerhede van die Partye anders ooreenkom, word die onregstreekse koste wat by die verskaffing van bystand aangegaan word, deur die versoekte Party gedra, en word die regstreekse koste wat by die verskaffing van bystand aangegaan word (ook die koste van die aanstelling van eksterne raadgewers in verband met litigasie of andersins), deur die versoekende Party gedra. Die onderskeie bevoegde owerhede moet van tyd tot tyd oorleg pleeg met betrekking tot hierdie Artikel, en in die besonder moet die bevoegde owerheid van die versoekte Party vooraf met die bevoegde owerheid van die versoekende Party oorleg pleeg indien die koste van die verskaffing van inligting met betrekking tot 'n spesifieke versoek na verwagting beduidend sal wees.

ARTIKEL 9

PROSEDURE VIR ONDERLINGE OOREENKOMS

1. Waar probleme of twyfel tussen die Partye ontstaan betreffende die uitvoering of vertolking van hierdie Ooreenkoms, moet die onderskeie bevoegde owerhede alles in die werk stel om die aangeleentheid deur onderlinge ooreenkoms te besleg.
2. Bykomend tot die ooreenkomste in paragraaf 1 bedoel, kan die bevoegde owerhede van die Partye onderling ooreenkom oor die procedures wat ingevolge Artikel 4, 5 en 8 gebruik moet word.
3. Die bevoegde owerhede van die Partye kan regstreeks met mekaar kommunikeer vir die doeleindes van die bereiking van 'n ooreenkoms ingevolge hierdie Artikel.
4. Die Partye moet oor ander vorme van geskilbeslewing ooreenkom sou dit nodig word.

ARTICLE 10

ENTRY INTO FORCE

This Agreement shall enter into force 30 days after receipt of written notification by the latter Party of completion of all legal formalities required for entry into force. Upon the date of entry into force, it shall have effect:

- (a) for criminal tax matters on that date; and
- (b) for all other matters covered in Article 1 on that date, but only in respect of taxable periods beginning on or after that date or, where there is no taxable period, all charges to tax arising on or after that date.

ARTICLE 11

TERMINATION

1. This Agreement shall remain in force until terminated by either Party.
2. Either Party may terminate this Agreement by giving notice of termination in writing. Such termination shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of notice of termination by the other Party. All requests received up to the effective date of termination will be dealt with in accordance with the terms of this Agreement.
3. If the Agreement is terminated the Parties shall remain bound by the provisions of Article 7 with respect to any information obtained under this Agreement.

IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments, have signed and sealed this Agreement in two originals in the English language, both texts being equally authentic.

DONE at Bridgetown on 17 day of September in the year 2013.

FOR THE GOVERNMENT OF THE
OF SOUTH AFRICA

FOR THE GOVERNMENT OF REPUBLIC
BARBADOS

ARTIKEL 10**INWERKINGTREDING**

Hierdie Ooreenkoms tree in werking 30 dae na ontvangs van 'n skriftelike kennisgewing deur die laaste Party van afhandeling van alle regsformaliteit wat vir inwerkingtreding vereis word. Op die datum van inwerkingtreding is dit van toepassing:

- (a) op strafregtelike belastingaangeleenthede op daardie datum; en
- (b) op alle ander aangeleenthede wat op daardie datum in Artikel 1 gedek word, maar slegs ten opsigte van belasbare tydperke wat op of na daardie datum begin of, waar daar geen belasbare tydperk is nie, alle belastingheffings wat op of na daardie datum ontstaan.

ARTIKEL 11**BEËINDIGING**

1. Hierdie Ooreenkoms bly van krag totdat een van die twee Partye dit beëindig.
2. Elk van die twee Partye kan hierdie Ooreenkoms beëindig deur skriftelik kennis van beëindiging te gee. Sodanige beëindiging word van krag op die eerste dag van die maand wat volg op die verstryking van 'n tydperk van drie maande na die datum van ontvangs van kennis van beëindiging deur die ander Party. Alle versoek wat tot die effektiewe datum van beëindiging ontvang word, word mee gehandel ooreenkomstig die bepalings van hierdie Ooreenkoms.
3. Indien die Ooreenkoms beëindig word, bly die Partye gebind deur die bepalings van Artikel 7 ten opsigte van enige inligting wat ingevolge hierdie Ooreenkoms verkry is.

TEN BEWYSE WAARVAN die ondergetekendes, behoorlik daartoe gemagtig deur hul onderskeie Regerings, hierdie Ooreenkoms in twee oorspronklike eksemplare in die Engelse taal, waarvan albei tekste ewe outentiek is, onderteken en geseël het.

GEDOEN te Bridgetown op hede die 17de dag van September in die jaar 2013.

**VIR DIE REGERING VAN DIE
REPUBLIEK VAN SUID-AFRIKA**

**VIR DIE REGERING VAN
BARBADOS**

IMPORTANT Reminder from Government Printing Works

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