

AGREEMENT

BETWEEN

THE GOVERNMENT OF

JAMAICA

AND

THE GOVERNMENT OF THE

REPUBLIC OF SOUTH AFRICA

FOR THE EXCHANGE OF INFORMATION

RELATING TO TAX MATTERS



PREAMBLE

WHEREAS the Government of Jamaica and the Government of the Republic of South Africa (“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

OBJECT AND 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 and prosecution of tax matters in relation to such persons. 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 the effective exchange of information is not unduly prevented or delayed.

ARTICLE 2

JURISDICTION

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.

ARTICLE 3

TAXES COVERED

1. This Agreement shall apply to the following taxes imposed by the Parties:
 - (a) in the case of Jamaica:
 - (i) the income tax; and
 - (ii) the general consumption tax; and
 - (b) in the case of South Africa:
 - (i) the normal tax;
 - (ii) the dividends tax;
 - (iii) the withholding tax on royalties;
 - (iv) the tax on foreign entertainers and sportspersons; and
 - (v) the value added 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. This Agreement shall also apply to any substantially similar taxes imposed after the date of signature of the Agreement in addition to or in place of the existing taxes if the competent authorities of 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 4

GENERAL DEFINITIONS

1. In this Agreement:

- (a) the term "Jamaica" means , the island of Jamaica, the Morant Cays, the Pedro Cays and their dependencies and includes the territorial waters of Jamaica and any area outside such territorial waters which in accordance with international law has been or may hereafter be designated under Jamaican Law as an area within which Jamaica may exercise sovereign rights for the purpose of exploring and exploiting the natural resources of the sea-bed or its subsoil and the superjacent waters and with regard to other activities for the economic exploration and exploitation of the area;
- (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 Jamaica, the the Minister of 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;
- (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;

