

**VIRGIN ISLANDS**

**MUTUAL LEGAL ASSISTANCE (TAX MATTERS) ORDER, 2010**

**ARRANGEMENT OF SECTIONS**

*Section*

1. . Citation.
2. . Application of Part 1 of the Act.

**SCHEDULE**

**VIRGIN ISLANDS**

**STATUTORY INSTRUMENT 2010 NO. 12**

**Mutual Legal Assistance (Tax Matters) Act, 2003  
(No. 18 of 2003)**

**Mutual Legal Assistance (Tax Matters) Order, 2010**

[Gazetted 1<sup>st</sup> April, 2010 ]

The Minister, in exercise of the power conferred by section 3 (3) of the Mutual Legal Assistance (Tax Matters) Act, 2003 (No. 18 of 2003) makes this Order.

Citation.       **1.** This Order may be cited as the Mutual Legal Assistance (Tax Matters) Order, 2010.

Applicat  
-ion of  
Part 1 of  
the Act.  
No. 18  
of 2003

**2.** Part 1 of the Mutual Legal Assistance (Tax Matters) Act, 2003 applies to the Agreements reproduced in the Schedule.

**SCHEDULE**

[Section 2]

**1.**

**AGREEMENT BETWEEN THE GOVERNMENT OF THE BRITISH VIRGIN ISLANDS AND THE GOVERNMENT OF DENMARK FOR THE EXCHANGE OF INFORMATION RELATING TO TAXES**

Whereas the Government of the British Virgin Islands and the Government of the Government of Denmark (“the Contracting Parties”) recognise the need for cooperation and the exchange of information in criminal and civil tax matters;

Whereas the Contracting Parties have long been active in international efforts in the fight against financial and other crimes, including the targeting of terrorist financing;

Whereas it is acknowledged that the Contracting Parties are competent to negotiate and conclude a tax information exchange agreement;

Whereas the British Virgin Islands on the 2<sup>nd</sup> April 2002 entered into a formal written commitment to the Organisation for Economic Cooperation and Development's (OECD) principles of transparency and exchange of information and have subsequently actively participated in the OECD Global Forum on Taxation;

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

Whereas the Contracting Parties recognise that they will never engage in "fishing expeditions";

Now, therefore, the Contracting Parties have concluded the following Agreement which contains obligations on the part of the Contracting Parties only.

## **Article 1**

### **Scope of Agreement**

1. The competent authorities of the Contracting Parties shall provide assistance through exchange of information that is foreseeably relevant to the administration or enforcement of the domestic laws of the Contracting Parties concerning the taxes and the tax matters covered by this Agreement, including information that is foreseeably relevant to the determination, assessment, verification, enforcement, recovery or collection of tax claims with respect to persons subject to such taxes, or the investigation or 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.

## **Article 2**

### **Jurisdiction**

To enable the appropriate implementation of this Agreement, information shall be provided in accordance with this Agreement by the competent authority of the Requested Party:

- (a) without regard to whether the person to whom the information relates is a resident or national of a Contracting Party, or whether the person by whom the information is held is a resident or national of a Contracting Party; and
- (b) provided that the information is present within the territory, or in the possession or control of a person subject to the jurisdiction, of the Requested Party.

### **Article 3**

#### **Taxes Covered**

1. The taxes covered by this Agreement are:
  - (a) in the case of the British Virgin Islands,
    - (i) the income tax;
    - (ii) the payroll tax; and
    - (iii) the property tax;
  - (b) in the case of Denmark,
    - (i) the income tax to the State (indkomstskatten til staten);
    - (ii) the income tax to the municipalities (den kommunale indkomstskat); and
    - (iii) value added tax (merværdiafgift).
2. This Agreement shall also apply to any identical or substantially similar taxes imposed by either Contracting Party after the date of signature of this Agreement in addition to, or in place of, any of the taxes listed in paragraph 1 of this Article. The competent authorities of the Contracting Parties shall notify each other of any relevant changes to the taxation and related information gathering measures covered by this Agreement.

### **Article 4**

#### **Definitions**

1. In this Agreement unless the context otherwise requires-
  - (a) “British Virgin Islands” means the territory of the Virgin Islands as referred to in the Virgin Islands Constitution Order 2007;
  - (b) “Denmark” means the Kingdom of Denmark including any area outside the territorial sea of Denmark which in accordance with international law has been or may hereafter be designated under Danish laws as an area within which Denmark may exercise sovereign rights with respect to the exploration and exploitation of the natural resources of the sea-bed or its subsoil and the superjacent waters and with respect to other activities for the exploration and economic exploitation of the area; the term does not comprise the Faroe Islands and Greenland;
  - (c) “collective investment fund or scheme” means any pooled investment vehicle irrespective of legal form;
  - (d) “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;
  - (e) “competent authority” means

- (i) in the case of the British Virgin Islands, the Financial Secretary or a person or authority designated by him in writing;
  - (ii) in the case of Denmark, the Minister for Taxation or his authorized representative;
- (f) “Contracting Party” means the British Virgin Islands or Denmark as the context requires;
- (g) “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 laws;
- (h) “criminal tax matters” means tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the Requesting Party;
- (i) “information” means any fact, statement, document or record in whatever form;
- (j) “information gathering measures” means laws, regulations and administrative or judicial procedures that enable a Requested Party to obtain and provide the requested information;
- (k) “national” means –
  - (i) in relation to the British Virgin Islands, any person who belongs to the British Virgin Islands by virtue of the Virgin Islands Constitution Order 2007 (Statutory Instrument 2007 No. 1678) or has a certificate of residence of the British Virgin Islands by virtue of the Immigration and Passport Ordinance (Cap.130); and any legal person, partnership, association or other entity deriving its status as such from the laws in force in the British Virgin Islands;
  - (ii) in relation to Denmark, (A) any Danish citizen, and (B) any legal person, partnership, association or other entity deriving its status as such from the laws in force in Denmark;
- (l) “person” includes an individual, a company, or any other body or group of persons;
- (m) “principal class of shares” means the class or classes of shares representing a majority of the voting power and value of the company;
- (n) “public collective investment fund or scheme” means any collective investment fund or scheme, in which the purchase, sale or redemption of shares or other interests is not implicitly or explicitly restricted to a limited group of investors;
- (o) “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;

- (p) "recognised stock exchange" means any stock exchange agreed upon by the competent authorities of the Contracting Parties;
- (q) "Requested Party" means the Contracting Party to this Agreement which is requested to provide or has provided information in response to a request;
- (r) "Requesting Party" means the Contracting Party to this Agreement submitting a request for or having received information from the Requested Party;
- (s) "tax" means any tax covered by this Agreement.

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

## **Article 5**

### **Exchange of Information upon Request**

1. The competent authority of a Requested Party shall provide upon request in writing by the Requesting Party information for the purposes referred to in Article 1. Such information shall be exchanged without regard to whether the conduct being investigated would constitute a crime under the laws of the Requested Party if it occurred in the territory of the Requested Party. If the information received by the competent authority of the Requested Party is not sufficient to enable it to comply with the request for information, it shall, in accordance with the terms provided in paragraph 7 (a), advise the competent authority of the Requesting Party of that fact and request such additional information as may be required to enable the effective processing of the request.
2. If the information in possession of the competent authority of the Requested Party is not sufficient to enable it to comply with the request for the information, the Requested Party shall use all relevant information gathering measures 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 Contracting Party shall ensure that its competent authority, for the purposes of this Agreement, has the authority to obtain and provide 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) information regarding the legal and beneficial ownership of companies, partnerships and other persons, including, within the constraints of Article 2, ownership information on all such persons in an ownership chain; and in the case of trusts, information on settlors, trustees, beneficiaries and protectors; and in the case of foundations, information on founders, members of the foundation council and beneficiaries, and equivalent information in the case of entities that are neither trusts nor foundations.

5. Notwithstanding the preceding paragraphs, this Agreement does not create an obligation on the Contracting Parties to obtain or provide:

- (a) 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;
- (b) information relating to a period more than six years prior to the tax period under consideration;
- (c) information in the possession or control of a person other than the taxpayer that does not directly relate to the taxpayer.

6. The competent authority of the Requesting Party shall provide the following information to the competent authority of the Requested Party when making a request for information under this Agreement in order to demonstrate the foreseeable relevance of the information to the request:

- (a) the identity of the person under examination or investigation;
- (b) the period for which the information is requested;
- (c) the nature and type of the information requested, including a description of the specific evidence sought and the form in which the Requesting Party would prefer to receive the information;
- (d) the tax purposes for which the information is sought and the reasons why the information requested is foreseeably relevant to the administration or enforcement of the domestic laws of the Requesting Party;
- (e) grounds for believing that the information requested is present in the territory of the Requested Party or is in the possession or control of a person subject to the jurisdiction of the Requested Party;
- (f) to the extent known, the name and address of any person believed to be in possession or control of the information requested;
- (g) a declaration that the request is in conformity with this Agreement and the laws and administrative practices of the Requesting Party, and that if the requested information were 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;

- (h) a statement that the Requesting Party has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.
7. The competent authority of the Requested Party shall forward the requested information as promptly as possible to the competent authority of the Requesting Party. To ensure a prompt response:
- (a) the competent authority of the Requested party shall confirm the receipt of a request in writing to the competent authority of the Requesting Party and shall notify the competent authority of the Requesting Party of any deficiencies in the request within 60 days of receipt of the request; and
  - (b) if the competent authority of the Requested Party has been unable to obtain and provide the information requested within 90 days of receipt of the request, or if obstacles are encountered in furnishing the information, or if the competent authority of the Requested Party refuses to provide the information, it shall immediately inform the competent authority of the Requesting Party in writing, explaining the reasons for its inability to obtain and provide the information, or the obstacles encountered, or for its refusal.

## **Article 6**

### **Tax Examinations or Investigations Abroad**

1. The Requested Party may, to the extent permitted under its domestic laws, and following reasonable notice from the Requesting Party, allow representatives of the competent authority of the Requesting Party to enter the territory of the Requested Party in connection with a request to interview persons and examine records with the prior written consent of the 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 meeting with the persons concerned.
2. At the request of the competent authority of the Requesting Party, the competent authority of the Requested Party may, in accordance with its domestic laws, permit representatives of the competent authority of the Requesting Party to be present at the appropriate part of a tax examination in the territory of the Requested Party.
3. If the request referred to in paragraph 2 of this Article 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 in accordance with its domestic laws.

## **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; or
  - (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 difficulties; or
  - (c) where the disclosure of the information requested would be contrary to the public policy (ordre public).
2. The provisions of this Agreement shall not impose upon a Contracting Party any obligation to provide information which would disclose any trade, business, industrial, commercial or professional secret or trade process. Information described in paragraph 4 of Article 5 shall not by reason of that fact alone constitute such a secret or process.
3. (a) The provisions of this Agreement shall not impose on a Contracting Party the obligation to obtain or provide information which would reveal confidential communications between a client and an attorney, solicitor or barrister where such communications are:
  - (i) produced for the purposes of seeking or providing legal advice, or
  - (ii) produced for the purposes of use in existing or contemplated legal proceedings.
- (b) Information held with the intention of furthering an offence is not subject to legal privilege, and nothing in this Article shall prevent an attorney, solicitor or barrister from providing the name and address of a client where doing so would not constitute a breach of legal privilege.
4. A request for information shall not be refused on the ground that the tax liability giving rise to the request is disputed by the taxpayer.
5. 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.
6. 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 resident or national of the Requested Party as compared with a resident or national of the Requesting Party in the same circumstances.

## **Article 8**

### **Confidentiality**

1. All information provided and received by the competent authorities of the Contracting Parties shall be kept confidential and 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 or the oversight of the above. For these purposes, information may be disclosed in public court proceedings or in judicial proceedings.
2. The information may not be disclosed to any other person or entity or authority without the express written consent of the competent authority of the Requested Party.
3. Information provided to a Requesting Party shall not be disclosed to any other jurisdiction.

## **Article 9**

### **Safeguards**

Nothing in this Agreement shall affect the rights and safeguards secured to persons by the laws or administrative practice of the Requested Party. However, these rights and safeguards may not be applied by the Requested Party in a manner that unduly prevents or delays effective exchange of information.

## **Article 10**

### **Administrative Costs**

1. Incidence of ordinary costs incurred in the course of responding to a request for information will be borne by the Requested Party. Such ordinary costs would normally cover internal administration costs and any minor external costs.
2. All other costs that are not ordinary costs are considered extraordinary costs and will be borne by the Requesting Party. Extraordinary costs include, but are not limited to, the following:
  - (a) reasonable fees charged by third parties for carrying out research;
  - (b) reasonable fees charged by third parties for copying documents;
  - (c) reasonable costs of engaging experts, interpreters, or translators;

- (d) reasonable costs of conveying documents to the Requesting Party;
  - (e) reasonable litigation costs of the Requested Party in relation to a specific request for information; and
  - (f) reasonable costs for obtaining depositions or testimony.
3. The competent authorities of the Contracting Parties will consult each other in any particular case where extraordinary costs are likely to exceed \$US500 to determine whether the Requesting Party will continue to pursue the request and bear the cost.

## **Article 11**

### **No Prejudicial or Restrictive Measures**

1. So long as this Agreement is in force and effective, it is the intention of the Contracting Parties not to apply or introduce prejudicial or restrictive measures based on harmful tax practices to residents or nationals of either Contracting Party. However, in the event that a Contracting Party has reason to believe that the other Contracting Party has introduced such prejudicial or restrictive measures, both Contracting Parties shall immediately initiate proceedings to resolve the matter.
2. A prejudicial or restrictive measure based on harmful tax practices means a measure applied by one Contracting party to residents or nationals of the other Contracting Party on the basis that the other Contracting Party does not engage in effective exchange of information 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 the term “prejudicial or restrictive measure”, the term includes the denial of a deduction, credit or exemption, the imposition of a tax, charge or levy, or special reporting requirements. Such measures include any measure which relates, directly or indirectly, to taxation matters. However, they do not include any generally applicable measure, applied by either Contracting Party against, amongst others, members of the OECD generally.

## **Article 12**

### **Implementing Legislation**

The Contracting Parties shall (where they have not already done so) enact any legislation necessary to comply with, and give effect to, the terms of this Agreement.

## **Article 13**

### **Language**

Requests for assistance and responses thereto shall be drawn up in English.

## **Article 14**

### **Mutual Agreement Procedure**

1. Where difficulties or doubts arise between the Contracting Parties regarding the implementation or interpretation of this Agreement, the competent authorities shall use their best efforts to resolve the matter by mutual agreement.
2. In addition to the efforts referred to in paragraph 1 of this Article, the competent authorities of the Contracting Parties may mutually determine the procedures to be used under Articles 5, 6 and 10.
3. The competent authorities of the Contracting Parties may communicate with each other directly for the purposes of reaching agreement under this Article.

## **Article 15**

### **Entry into Force**

Each of the Contracting Parties shall notify to the other the completion of the procedures required by its law for the bringing into force of this Agreement. The Agreement shall enter into force on the date of the later of the notifications. The provisions of this Agreement shall have effect:

- (a) with respect to criminal tax matters upon the entry into force of this Agreement;  
and
- (b) with respect to all other matters covered in Article 1 for taxable periods beginning on or after the date of entry into force of this Agreement.

## **Article 16**

### **Termination**

1. This Agreement shall remain in force until terminated by either Contracting Party.
2. Either Contracting 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 the notice of termination by the other Contracting Party.
3. If the Agreement is terminated the Contracting Parties shall remain bound by the provisions of Article 8 with respect to any information obtained under this Agreement.

**IN WITNESS WHEREOF**, the undersigned, being duly authorised in that behalf by the respective parties, have signed this Agreement.

Signed by the Contracting Parties at Copenhagen this 18<sup>th</sup> day of May 2009, in duplicate in the English language

For the Government of  
The British Virgin Islands

Honourable Dancia Penn  
Deputy Premier

For the Government of  
Denmark

Kristian Jensen  
Minister of Tax

**AGREEMENT BETWEEN  
THE BRITISH VIRGIN ISLANDS AND DENMARK  
FOR THE AVOIDANCE OF DOUBLE TAXATION ON INDIVIDUALS**

The Government of the British Virgin Islands and the Government of Denmark, desiring to supplement the Agreement for the exchange of information relating to tax matters concluded on 18<sup>th</sup> May 2009 by concluding an Agreement for the avoidance of double taxation on individuals with respect to taxes on income,

have agreed as follows:

**Article 1**

**Individuals Covered**

This Agreement shall apply to individuals who are residents of one or both of the Parties.

**Article 2**

**Taxes Covered**

1. The existing taxes to which the Agreement shall apply are:
  - (a) in the case of the British Virgin Islands, the income tax; (hereinafter referred to as “British Virgin Islands tax”);
  - (b) in the case of Denmark:
    - (i) the income tax to the State (indkomstkatten til staten);
    - (ii) the income tax to the municipalities (den kommunale indkomstskat);(hereinafter referred to as “Danish tax”).
2. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing

taxes. The competent authorities of the Parties shall notify each other of any significant changes that have been made in their taxation laws concerning individuals.

### **Article 3**

#### **General Definitions**

1. For the purposes of this Agreement, unless the context otherwise requires:
  - (a) the term “a Party” means the British Virgin Islands or Denmark, as the context requires; the term “Parties” means the British Virgin Islands and Denmark;
  - (b) the term “the British Virgin Islands” means the territory of the Virgin Islands as referred to in the Virgin Islands Constitution Order 2007;
  - (c) the term “Denmark” means the Kingdom of Denmark including any area outside the territorial sea of Denmark which in accordance with international law has been or may hereafter be designated under Danish laws as an area within which Denmark may exercise sovereign rights with respect to the exploration and exploitation of the natural resources of the sea-bed or its subsoil and the superjacent waters and with respect to other activities for the exploration and economic exploitation of the area; the term does not comprise the Faroe Islands and Greenland;
  - (d) the term “competent authority” means:
    - (iii) in the case of the British Virgin Islands, the Financial Secretary or a person or authority designated by him in writing;
    - (ii) in Denmark, the Minister of Taxation or his authorised representative;
  - (e) the term “enterprise” applies to the carrying on of any business;
  - (f) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Party, except when the ship or aircraft is operated solely between places in the other Party.
2. As regards the application of the 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 law of that Party for the purposes of the taxes to which the Agreement

applies, 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 4**

##### **Resident**

1. For the purposes of this Agreement, the term “resident of a Party” means:
  - (a) in Denmark in respect of an individual any individual who, under the laws of Denmark, is liable to tax therein by reason of his domicile, residence or any other criterion of a similar nature. This term, however, does not include an individual who is liable to tax in Denmark in respect only of income from sources in Denmark;
  - (b) in the British Virgin Islands in respect of an individual who, under the laws of the British Virgin Islands is ordinarily resident.
  
2. Where by reason of the provisions of paragraph 1 an individual is a resident in both Parties, then his status shall be determined as follows:
  - (a) he shall be deemed to be a resident only of the Party in which he has a permanent home available to him; if he has a permanent home available to him in both Parties, he shall be deemed to be a resident only of the Party with which his personal and economic relations are closer (centre of vital interests);
  - (b) if the Party in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Party, he shall be deemed to be a resident only of the Party in which he has an habitual abode;
  - (c) if he has a habitual abode in both Parties or in neither of them, the competent authorities of the Parties shall settle the question by mutual agreement.

#### **Article 5**



## **Income from Employment**

1. Subject to the provisions of Articles 6, 7, 8 and 9, salaries, wages and other similar remuneration derived by a resident of a Party in respect of an employment shall be taxable only in that Party unless the employment is exercised in the other Party. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Party.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Party in respect of an employment exercised in the other Party shall be taxable only in the first-mentioned Party if:

- (a) the recipient is present in the other Party for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned; and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Party; and
- (c) the remuneration is not borne by a fixed place of business through which the business is wholly or partly carried on which the employer has in the other Party.

3. Paragraph 2 of this Article shall not apply to remuneration derived by a resident of a Party in respect of an employment exercised in the other Party and paid by, or on behalf of, an employer who is not a resident of that other Party if:

- (a) the recipient renders services in the course of that employment to a person other than the employer and that person, directly or indirectly, supervises, directs or controls the manner in which those services are performed, and
- (b) those services constitute an integral part of the business activities carried on by that person.

4. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Party, may be taxed in that Party. Where a resident of Denmark derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by the air transport consortium Scandinavian Airlines System (SAS), such remuneration shall be taxable only in Denmark .

## **Article 6**

### **Director's Fees**

Directors' fees and other similar payments derived by a resident of a Party in his capacity as a member of the board of directors or any other similar organ of a company which is resident of the other Party may be taxed in that other Party.

## **Article 7**

### **Artistes and Sportsmen**

1. Income derived by a resident of a Party as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Party, may be taxed in that other Party.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another individual or legal entity, that income may be taxed in the Party in which the activities of the entertainer or sportsman are exercised.

## **Article 8**

### **Pensions**

Pensions and other similar remuneration arising in a Party, payments under the social security legislation of a Party and payments under any other scheme out of funds created by a Party, may be taxed in that Party.

## **Article 9**

### **Government Service**

1.
  - a) Salaries, wages and other similar remuneration, other than a pension, paid by a Party or a political subdivision or a statutory body or a local authority thereof to an individual in respect of services rendered to that Party or subdivision or body or authority shall be taxable only in that Party.
  - b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Party if the services are rendered in that Party and the individual is a resident of that Party who did not become a resident of that Party solely for the purpose of rendering the services.
  
2. The provisions of Articles 5, 6 and 7 shall apply to salaries, wages, and other similar remuneration in respect of services rendered in connection with a business carried on by a Party or a political subdivision or a statutory body or a local authority thereof.

## **Article 10**

### **Students**

Payments which a student or business apprentice who is or was immediately before visiting a Party a resident of the other Party and who is present in the first-mentioned Party solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that Party, provided that such payments arise from sources outside that Party.

## **Article 11**

### **Elimination of Double Taxation**

1. In the British Virgin Islands double taxation shall be avoided in accordance with the laws of the British Virgin Islands.
  
2. In Denmark double taxation shall be avoided as follows:

- (a) Subject to the provisions of sub-paragraph c), where a resident of Denmark derives income which, in accordance with the provisions of this Agreement, may be taxed in the British Virgin Islands, Denmark shall allow as a deduction from the income tax of that resident, an amount equal to the income tax paid in the British Virgin Islands;
- (b) Such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in the British Virgin Islands;
- (c) where a resident of Denmark derives income which in accordance with the provisions of this Agreement shall be taxable only in the British Virgin Islands, Denmark may include this income in the tax base, but shall allow as a deduction from the income tax that part of the income tax which is attributable to the income derived from the British Virgin Islands.

## **Article 12**

### **Mutual Agreement Procedure**

1. Where an individual considers that the actions of one or both of the Parties result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those Parties, present his case to the competent authority of the Party of which he is a resident. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Parties.

3. The competent authorities of the Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement.

4. The competent authorities of the Parties may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

### **Article 13**

#### **Entry Into Force**

1. This Agreement shall enter into force on the thirtieth day after the later of the dates on which each of the Parties has notified the other in writing that the procedures required by its law have been complied with.

2. The Agreement shall have effect:

(a) in the British Virgin Islands:

in respect of British Virgin Islands tax, on tax chargeable for any tax year beginning on or after the first day of January of the calendar year next following that in which this Agreement enters into force;

(b) in Denmark :

in respect of Danish tax, on tax chargeable for any tax year beginning on or after the first day of January of the year next following that in which this Agreement enters into force.

3. Notwithstanding paragraph 2 of this Article, the Agreement shall only be applicable when the Agreement signed on 18<sup>th</sup> May 2009 between the British Virgin Islands and Denmark for the exchange of information relating to taxes shall have effect.

### **Article 14**

#### **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 at least six months before the end of any calendar year. In such case, the Agreement shall cease to have effect on taxes chargeable for any tax year beginning on or after the first day of January of the year next following the end of the six months period.

2. Notwithstanding paragraph 1 of this Article, this Agreement will be terminated, without giving notice of termination, on the date of termination of the Agreement signed on 18<sup>th</sup> May 2009 between the British Virgin Islands and Denmark for the exchange of information relating to tax matters.

In witness whereof the undersigned being duly authorised thereto have signed this Agreement.

Done at Copenhagen, this 18<sup>th</sup> day of May 2009, in duplicate in the English language.

For the Government of  
The British Virgin Islands:

For the Government of the  
Denmark:

Honourable Dancia Penn  
Deputy Premier

Kristian Jensen  
Minister of Tax

**AGREEMENT BETWEEN  
THE BRITISH VIRGIN ISLANDS AND DENMARK  
FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO  
ENTERPRISES OPERATING SHIPS OR AIRCRAFT IN INTERNATIONAL  
TRAFFIC**

The Government of the British Virgin Islands and the Government of Denmark, desiring to conclude an agreement for the avoidance of double taxation with respect to enterprises operating ships or aircraft in international traffic,

have agreed as follows:

**Article 1**

**Definitions**

1. For the purposes of this Agreement, unless the context otherwise requires:
  - (a) the term "a Party" means the British Virgin Islands or Denmark, as the context requires; the term "Parties" means the British Virgin Islands and Denmark;
  - (b) the term "the British Virgin Islands" means the territory of the Virgin Islands as referred to in the Virgin Islands Constitution Order 2007;
  - (c) the term "Denmark" means the Kingdom of Denmark including any area outside the territorial sea of Denmark which in accordance with international law has been or may hereafter be designated under Danish laws as an area within which Denmark any exercise sovereign rights with respect to the exploration and exploitation of the natural resources of the sea-bed or its subsoil and the superjacent waters and with respect to other activities for the exploration and economic exploitation of the area; the term does not comprise the Faroe Islands and Greenland;
  - (d) the term "person" includes an individual, a company and any other body of persons;

- (e) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;
- (f) The term “resident of a Party” means
  - (i) in the British Virgin Islands, an individual ordinarily resident in the British Virgin Islands, and a company, partnership or other entity created under the laws of the British Virgin Islands; provided that an entity created under the laws of the British Virgin Islands shall not be deemed to be resident in the British Virgin Islands unless its effective management is carried on in the British Virgin Islands;
  - (ii) in Denmark any person, who under the law of that Party is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature; this term, however, does not include an individual who is liable to tax in that Party in respect only of income from sources in that Party;
- (g) the term “enterprise” applies to the carrying on of any business;
- (h) the term “enterprise of a Party” means an enterprise carried on by a resident of a Party;
- (i) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Party, except when the ship or aircraft is operated solely between places in the other Party;
- (j) the term “income derived from the operation of ships or aircraft in international traffic” means revenues, gross receipts and profits derived from:
  - (i) such operation of ships or aircraft for the transport of passengers or cargo;
  - (ii) the rental on a charter basis of ships or aircraft where the rental is ancillary to the operation of ships or aircraft in international traffic;



- (iii) the sale of tickets or similar documents and the provision of services connected with such operation, either for the enterprise itself or for any other enterprise, where such sale of tickets or similar documents or provision of services is directly connected with or ancillary to the operation of ships or aircraft in international traffic;
  - (iv) the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise, where the use, maintenance or rental is directly connected with or ancillary to the operation of ships or aircraft in international traffic;
  - (v) interest on funds deposited directly in connection with the operation of ships or aircraft in international traffic.
- (k) the term "competent authority" means:
- (i) in the case of the British Virgin Islands, the Financial Secretary or a person or authority designated by him in writing;
  - (ii) in the case of Denmark, the Minister of Taxation or his authorized representative.

2. As regards the application of the 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 law of that Party for the purposes of the taxes to which the Agreement applies, 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 2**

### **Avoidance of Double Taxation**

1. Income derived from the operation of ships or aircraft in international traffic by an enterprise of a Party shall be taxable only in that Party.
2. Gains derived from the alienation of ships or aircraft or movable property pertaining to the operation of ships and aircraft in international traffic by an enterprise of a Party shall be taxable only in that Party.
3. The provisions of paragraphs 1 and 2 shall also apply to income and gains derived by an enterprise of a Party from the participation in a pool, a joint business or an international operating agency.

### **Article 3**

#### **Mutual Agreement Procedure**

1. Where a person considers that the actions of one or both of the Parties result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those Parties, present his case to the competent authority of the Party of which he is a resident. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Parties.
3. The competent authorities of the Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement.
4. The competent authorities of the Parties may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

## **Article 4**

### **Entry Into Force**

1. This Agreement shall enter into force on the thirtieth day after the later of the dates on which each of the Parties has notified the other in writing that the procedures required by its law have been complied with. The Agreement shall have effect on taxes chargeable for any tax year beginning on or after the first day of January of the year next following that in which this Agreement enters into force.
2. Notwithstanding paragraph 1 of this Article, the Agreement shall only be applicable when the Agreement between the British Virgin Islands and Denmark for the exchange of information relating to tax matters signed on 18<sup>th</sup> May 2009 shall have effect.

## **Article 5**

### **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 at least six months before the end of any calendar year. In such event, the Agreement shall cease to have effect on taxes chargeable for any tax year beginning on or after the first day of January of the year next following the end of the six months period.
2. Notwithstanding paragraph 1 of this Article, this Agreement will be terminated, without giving notice of termination, on the date of termination of the Agreement signed on 18<sup>th</sup> May 2009 between the British Virgin Islands and Denmark for the exchange of information relating to taxes.

In witness whereof the undersigned, being duly authorised thereto, have signed this Agreement.

Done at Copenhagen this 18<sup>th</sup> day of May 2009, in duplicate in the English language.

For the Government of  
The British Virgin Islands:

Honourable Dancia Penn  
Deputy Premier

For the Government of  
Denmark:

Kristian Jensen  
Minister of Tax

**AGREEMENT BETWEEN  
THE BRITISH VIRGIN ISLANDS AND DENMARK  
ON THE ACCESS TO MUTUAL AGREEMENT PROCEDURES IN CONNECTION  
WITH THE ADJUSTMENT OF PROFITS OF ASSOCIATED ENTERPRISES**

The Government of the British Virgin Islands and the Government of Denmark, desiring to conclude an agreement on the access to mutual agreement procedures in connection with the adjustment of profits of associated enterprises, have agreed as follows:

**Article 1**

**Taxes Covered**

This Agreement shall apply to taxes on income and profits.

**Article 2**

**Definitions**

1. For the purposes of this Agreement, unless the context otherwise requires:
  - (a) the term “Party” means the British Virgin Islands or Denmark as the context requires; the term “Parties” means the British Virgin Islands and Denmark;
  - (b) the term “the British Virgin Islands” means the territory of the Virgin Islands as referred to in the Virgin Islands Constitution Order 2007;
  - (c) the term “Denmark” means Kingdom of Denmark including any area outside the territorial sea of Denmark which in accordance with international law has been or may hereafter be designated under Danish laws as an area within which Denmark may exercise sovereign rights with respect to the exploration and exploitation of the natural resources of the sea-bed or its subsoil and the superjacent waters and with respect to other activities for the exploration and economic exploitation of the area; the term does not comprise the Faroe Islands and Greenland;
  - (d) the term “resident of a Party” means
    - (i) in the British Virgin Islands, an individual ordinarily resident in the British Virgin Islands, and a company, partnership or other entity created under the laws of the British Virgin Islands; provided that an entity created under the laws of the British Virgin Islands shall not be deemed to be resident in the British Virgin Islands unless its effective management is carried on in the British Virgin Islands;

- (ii) in Denmark any person, who under the law of that Party is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature; this term, however, does not include an individual who is liable to tax in that Party in respect only of income from sources in that Party;
- (e) the term “enterprise” applies to the carrying on of any business;
- (f) the term “enterprise of a Party” mean an enterprise carried on by a resident of a Party;
- (g) the term “competent authority” means
  - (i) in the case of the British Virgin Islands, the Financial Secretary or a person or authority designated by him in writing;
  - (ii) in the case of Denmark, the Minister of Taxation or his authorized representative.

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 law of that Party for the purposes of the taxes to which the Agreement applies, 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 3**

#### **Principles applying to the adjustment of profits of associated enterprises**

Where:

- (a) an enterprise of a Party participates directly or indirectly in the management, control or capital of an enterprise of the other Party, or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Party and an enterprise of the other Party, and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

## **Article 4**

### **Mutual agreement procedures**

1. Where an enterprise considers that, in any case to which this Agreement applies, the principles set out in Article 3 have not been observed, it may, irrespective of the remedies provided by the domestic law of the Party concerned, present its case to the competent authority of the Party of which it is a resident. The case must be presented within three years from the first notification of the action which is contrary or is likely to be contrary to the principles set out in Article 3. The competent authority shall then without delay notify the competent authority of the other Party.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Parties.

3. The competent authorities of the Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement.

4. The competent authorities of the Parties may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

## **Article 5**

### **Entry into force**

1. This Agreement shall enter into force on the thirtieth day after the later of the dates on which each of the Parties has notified the other in writing that the procedures required by its law have been complied with. The Agreement shall have effect on taxes chargeable for any tax year beginning on or after the first day of January of the year next following that in which this Agreement enters into force.

2. Notwithstanding paragraph 1, this Agreement shall only have effect when the Agreement signed on 18<sup>th</sup> May 2009 between the British Virgin Islands and Denmark for the exchange of information relating to tax matters shall have effect.

## **Article 6**

### **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 at least six months before the end of any calendar year. In such event, the Agreement shall cease to have effect on taxes chargeable for any tax year beginning on or after the first day of January of the year next following the end of the six month period.

2. Notwithstanding paragraph 1, this Agreement will be terminated, without giving notice of termination, on the date of termination of the Agreement signed on 18<sup>th</sup> May 2009 between the British Virgin Islands and Denmark for the exchange of information relating to taxes.

In witness whereof the undersigned, being duly authorised thereto have signed this Agreement.

Done at Copenhagen, this 18<sup>th</sup> day of May 2009, in duplicate in the English language.

For the Government of  
The British Virgin Islands:

Honourable Dancia Penn  
Deputy Premier

For the Government of  
Denmark:

Kristian Jensen  
Minister of Tax



**2.**

**AGREEMENT BETWEEN THE GOVERNMENT OF GREENLAND AND THE  
GOVERNMENT OF THE BRITISH VIRGIN ISLANDS FOR THE EXCHANGE OF  
INFORMATION RELATING TO TAXES**

Whereas the Government of the British Virgin Islands and the Government of the Government of Greenland (“the Contracting Parties”) recognise the need for cooperation and the exchange of information in criminal and civil tax matters;

Whereas the Contracting Parties have long been active in international efforts in the fight against financial and other crimes, including the targeting of terrorist financing;

Whereas it is acknowledged that the Government of the British Virgin Islands is competent to negotiate and conclude a tax information exchange agreement with Greenland;

Whereas it is acknowledged that the Government of Greenland concludes this agreement on behalf of the Kingdom of Denmark pursuant to the Act on the Conclusion of Agreements under International Law by the Government of Greenland;

Whereas the British Virgin Islands on the 2<sup>nd</sup> April 2002 entered into a formal written commitment to the Organisation for Economic Cooperation and Development’s (OECD) principles of transparency and exchange of information and have subsequently actively participated in the OECD Global Forum on Taxation;

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

Whereas the Contracting Parties recognise that they will never engage in “fishing expeditions”;

Now, therefore, the Contracting Parties have concluded the following Agreement which contains obligations on the part of the Contracting Parties only.

## **ARTICLE 1**

### **SCOPE OF AGREEMENT**

1. The competent authorities of the Contracting Parties shall provide assistance through exchange of information that is foreseeably relevant to the administration or enforcement of the domestic laws of the parties concerning the taxes and the tax matters covered by this Agreement, including information that is foreseeably relevant to the determination, assessment, verification, enforcement, recovery or collection of tax claims with respect to persons subject to such taxes, or the investigation or 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.

## **ARTICLE 2**

### **JURISDICTION**

To enable the appropriate implementation of this Agreement, information shall be provided in accordance with this Agreement by the competent authority of the Requested Party:

- (a) without regard to whether the person to whom the information relates is a resident or national of a Contracting Party, or whether the person by whom the information is held is a resident or national of a Contracting Party; and
- (b) provided that the information is present within the territory, or in the possession or control of a person subject to the jurisdiction, of the Requested Party.

## **ARTICLE 3**

### **TAXES COVERED**

1. The taxes covered by this Agreement are:
  - (a) in the case of the British Virgin Islands,
    - (i) the income tax;
    - (ii) the payroll tax; and
    - (iii) the property tax
  - (b) in the case of Greenland,

- (i) the home rule tax;
  - (ii) the special home rule tax;
  - (iii) the municipal tax;
  - (iv) the intermunicipal tax;
  - (v) the company tax;
  - (vi) the dividend tax;
  
  - (vii) the royalty tax; and
  - (viii) labour market tax.
2. This Agreement shall also apply to any identical or substantially similar taxes imposed by either party after the date of signature of this Agreement in addition to, or in place of, any of the taxes listed in paragraph 1 of this Article. The competent authorities of the Contracting Parties shall notify each other of any relevant changes to the taxation and related information gathering measures covered by this Agreement.

#### **ARTICLE 4**

##### **DEFINITIONS**

1. In this Agreement unless the context otherwise requires:-
- (a) “British Virgin Islands” means the territory of the Virgin Islands as referred to in the Virgin Islands Constitution Order 2007;
  - (b) “Greenland” means the landmass of Greenland and its territorial waters and any area outside the territorial waters where Denmark or Greenland according to domestic legislation and in accordance with international law, may exercise its rights with respect to the seabed and subsoil and their natural resources;
  - (c) “collective investment fund or scheme” means any pooled investment vehicle irrespective of legal form;
  - (d) “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;
  - (e) “competent authority” means
    - (i) in the case of the British Virgin Islands, the Financial Secretary or a person or authority designated by him in writing;
    - (ii) in the case of Greenland, the Minister of Finance or his delegate;

- (f) “Contracting Party” means the British Virgin Islands or Greenland as the context requires;
- (g) “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 laws;
- (h) “criminal tax matters” means tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the Requesting Party;
- (i) “information” means any fact, statement, document or record in whatever form;
- (j) “information gathering measures” means laws, regulations and administrative or judicial procedures that enable a Requested party to obtain and provide the requested information;
- (k) “national” means
  - (i) in relation to the British Virgin Islands, any person who belongs to the British Virgin Islands by virtue of the Virgin Islands Constitution Order 2007 (Statutory Instrument 2007 No. 1678) or has a certificate of residence of the British Virgin Islands by virtue of the Immigration and Passport Ordinance (Cap.130); and any legal person, partnership, association or other entity deriving its status as such from the laws in force in the British Virgin Islands;
  - (ii) in relation to Greenland, any legal person, partnership, association or other entity deriving its status as such from the laws in force in Greenland;
- (l) “person” includes an individual, a company, or any other body or group of persons;
- (m) “principal class of shares” means the class or classes of shares representing a majority of the voting power and value of the company;
- (n) “public collective investment fund or scheme” means any collective investment fund or scheme, in which the purchase, sale or redemption of shares or other interests is not implicitly or explicitly restricted to a limited group of investors;
- (o) “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;
- (p) “recognised stock exchange” means any stock exchange agreed upon by the competent authorities of the Contracting Parties;

- (q) "Requested Party" means the party to this Agreement which is requested to provide or has provided information in response to a request;
  - (r) "Requesting Party" means the party to this Agreement submitting a request for or having received information from the Requested Party;
  - (s) "tax" means any tax covered by this Agreement.
2. As regards the application of this Agreement at any time by a Contracting Party, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that Contracting Party, any meaning under the applicable tax laws of that Contracting Party prevailing over a meaning given to the term under other laws of that Contracting Party.

## **ARTICLE 5**

### **EXCHANGE OF INFORMATION UPON REQUEST**

1. The competent authority of a Requested Party shall provide upon request in writing by the Requesting Party information for the purposes referred to in Article 1. Such information shall be exchanged without regard to whether the conduct being investigated would constitute a crime under the laws of the Requested Party if it occurred in the territory of the Requested Party. If the information received by the competent authority of the Requested Party is not sufficient to enable it to comply with the request for information, it shall, in accordance with the terms provided in paragraph 7 (a), advise the competent authority of the Requesting Party of that fact and request such additional information as may be required to enable the effective processing of the request.
2. If the information in possession of the competent authority of the Requested Party is not sufficient to enable it to comply with the request for the information, the Requested Party shall use all relevant information gathering measures 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 Contracting Party shall ensure that its competent authority, for the purposes of this Agreement, has the authority to obtain and provide 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) information regarding the legal and beneficial ownership of companies, partnerships 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, beneficiaries and protectors; and in the case of foundations, information on founders, members of the foundation council and beneficiaries, and equivalent information in the case of entities that are neither trust nor foundations.

5. Notwithstanding the preceding paragraphs, this Agreement does not create an obligation on the Contracting Parties to obtain or provide:

- (a) 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;
- (b) information relating to a period more than six years prior to the tax period under consideration;
- (c) information in the possession or control of a person other than the taxpayer that does not directly relate to the taxpayer.

6. The competent authority of the Requesting Party shall provide the following information to the competent authority of the Requested Party when making a request for information under this Agreement in order to demonstrate the foreseeable relevance of the information to the request:

- (a) the identity of the person under examination or investigation;
- (b) the period for which the information is requested;
- (c) the nature and type of the information requested, including a description of the specific evidence sought and the form in which the Requesting Party would prefer to receive the information;
- (d) the tax purposes for which the information is sought and the reasons why the information requested is foreseeably relevant to the administration or enforcement of the domestic laws of the Requesting Party;
- (e) grounds for believing that the information requested is present in the territory of the Requested Party or is in the possession or control of a person subject to the jurisdiction of the Requested Party;
- (f) to the extent known, the name and address of any person believed to be in possession or control of the information requested;
- (g) a declaration that the request is in conformity with this Agreement and the laws and administrative practices of the Requesting Party, and that if the requested information were 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;

- (h) a statement that the Requesting Party has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.
7. The competent authority of the Requested Party shall forward the requested information as promptly as possible to the competent authority of the Requesting Party. To ensure a prompt response:
- (a) the competent authority of the Requested party shall confirm the receipt of a request in writing to the competent authority of the Requesting Party and shall notify the competent authority of the Requesting Party of any deficiencies in the request within 60 days of receipt of the request; and
  - (b) if the competent authority of the Requested Party has been unable to obtain and provide the information requested within 90 days of receipt of the request, or if obstacles are encountered in furnishing the information, or if the competent authority of the Requested Party refuses to provide the information, it shall immediately inform the competent authority of the Requesting Party in writing, explaining the reasons for its inability to obtain and provide the information, or the obstacles encountered, or for its refusal.

## **ARTICLE 6**

### **TAX EXAMINATIONS OR INVESTIGATIONS ABROAD**

4. The Requested Party may, to the extent permitted under its domestic laws, and following reasonable notice from the Requesting Party, allow representatives of the competent authority of the Requesting Party to enter the territory of the Requested Party in connection with a request to interview persons and examine records with the written consent of the 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 meeting with the persons concerned.
5. At the request of the competent authority of the Requesting Party, the competent authority of the Requested Party may, in accordance with its domestic laws, permit representatives of the competent authority of the Requesting Party to be present at the appropriate part of a tax examination in the territory of the Requested Party.
6. If the request referred to in paragraph 2 of this Article 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 in accordance with its domestic laws.

## **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; or
  - (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 difficulties; or
  - (c) where the disclosure of the information requested would be contrary to the public policy (ordre public).
2. The provisions of this Agreement shall not impose upon a party any obligation to provide information which would disclose any trade, business, industrial, commercial or professional secret or trade process. Information described in paragraph 4 of Article 5 shall not by reason of that fact alone constitute such a secret or process.
3. (a) The provisions of this Agreement shall not impose on a party the obligation to obtain or provide information which would reveal confidential communications between a client and a attorney, solicitor or barrister where such communications are:
  - (i) produced for the purposes of seeking or providing legal advice, or
  - (ii) produced for the purposes of use in existing or contemplated legal proceedings.
- (b) Information held with the intention of furthering an offence is not subject to legal privilege, and nothing in this Article shall prevent an attorney, solicitor or barrister from providing the name and address of a client where doing so would not constitute a breach of legal privilege.
4. A request for information shall not be refused on the ground that the tax liability giving rise to the request is disputed by the taxpayer.
5. 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.
6. 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 resident or national of the Requested Party as compared with a resident or national of the Requesting Party in the same circumstances.

## **ARTICLE 8**

### **CONFIDENTIALITY**



1. All information provided and received by the competent authorities of the Contracting Parties shall be kept confidential and 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 or the oversight of the above. For these purposes, information may be disclosed in public court proceedings or in judicial proceedings.
2. The information may not be disclosed to any other person or entity or authority without the express written consent of the competent authority of the Requested Party.
3. Information provided to a Requesting Party shall not be disclosed to any other jurisdiction.

## **ARTICLE 9**

### **SAFEGUARDS**

Nothing in this Agreement shall affect the rights and safeguards secured to persons by the laws or administrative practice of the Requested Party. However, these rights and safeguards may not be applied by the Requested Party in a manner that unduly prevents or delays effective exchange of information.

## **ARTICLE 10**

### **ADMINISTRATIVE COSTS**

1. Incidence of ordinary costs incurred in the course of responding to a request for information will be borne by the Requested Party. Such ordinary costs would normally cover internal administration costs and any minor external costs.
2. All other costs that are not ordinary costs are considered extraordinary costs and will be borne by the Requesting Party. Extraordinary costs include, but are not limited to, the following:
  - (a) reasonable fees charged by third parties for carrying out research;
  - (b) reasonable fees charged by third parties for copying documents;
  - (c) reasonable costs of engaging experts, interpreters, or translators;
  - (d) reasonable costs of conveying documents to the Requesting Party;
  - (e) reasonable litigation costs of the Requested Party in relation to a specific request for information; and
  - (f) reasonable costs for obtaining depositions or testimony.

3. The competent authorities of the Contracting Parties will consult each other in any particular case where extraordinary costs are likely to exceed \$US500 to determine whether the Requesting Party will continue to pursue the request and bear the cost.

## **ARTICLE 11**

### **NO PREJUDICIAL OR RESTRICTIVE MEASURES**

1. So long as this Agreement is in force and effective, it is the intention of the Contracting Parties not to apply or introduce prejudicial or restrictive measures based on harmful tax practices to residents or nationals of either Contracting Party. However, in the event that a Contracting Party has reason to believe that the other Contracting Party has introduced such prejudicial or restrictive measures, both Contracting Party shall immediately initiate proceedings to resolve the matter.
2. A prejudicial or restrictive measure based on harmful tax practices means a measure applied by one Contracting party to residents or nationals of the other Contracting Party on the basis that the other Contracting Party does not engage in effective exchange of information 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 the term “prejudicial or restrictive measure”, the term includes the denial of a deduction, credit or exemption, the imposition of a tax, charge or levy, or special reporting requirements. Such measures include any measure which relates, directly or indirectly, to taxation matters. However, they do not include any generally applicable measure, applied by either Contracting Party against, amongst others, members of the OECD generally.

## **ARTICLE 12**

### **IMPLEMENTING LEGISLATION**

The Contracting Parties shall (where they have not already done so) enact any legislation necessary to comply with, and give effect to, the terms of this Agreement.

## **ARTICLE 13**

### **LANGUAGE**

Requests for assistance and responses thereto shall be drawn up in English

## **ARTICLE 14**

### **MUTUAL AGREEMENT PROCEDURE**

1. Where difficulties or doubts arise between the Contracting Parties regarding the implementation or interpretation of this Agreement, the competent authorities shall use their best efforts to resolve the matter by mutual agreement.

2. In addition to the efforts referred to in paragraph 1 of this Article, the competent authorities of the Contracting Parties may mutually determine the procedures to be used under Articles 5, 6 and 10.
3. The competent authorities of the Contracting Parties may communicate with each other directly for the purposes of reaching agreement under this Article.

## **ARTICLE 15**

### **ENTRY INTO FORCE**

Each of the Contracting Parties shall notify to the other the completion of the procedures required by its law for the bringing into force of this Agreement. The Agreement shall enter into force on the date of the later of the notifications. The provisions of this Agreement shall have effect:

- (a) with respect to criminal tax matters upon the entry into force of this Agreement;  
and
- (b) with respect to all other matters covered in Article 1 for taxable periods beginning on or after the date of entry into force of this Agreement.

## **ARTICLE 16**

### **TERMINATION**

1. This Agreement shall remain in force until terminated by either Contracting Party.
2. Either Contracting 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 the notice of termination by the other Contracting Party.
3. If the Agreement is terminated the Contracting Parties shall remain bound by the provisions of Article 8 with respect to any information obtained under this Agreement.

**IN WITNESS WHEREOF**, the undersigned, being duly authorised in that behalf by the respective parties, have signed this Agreement.

Signed by the Contracting Parties at \_\_\_\_\_ this day of \_\_\_\_\_ 200 , in  
duplicate in the English language.

For the Government of  
Greenland:

Tove Søvndahl Pedersen  
Head of Representation

For the Government of  
the British Virgin Islands:

Honourable Dancia Penn  
Deputy Premier

**AGREEMENT BETWEEN  
GREENLAND  
AND  
THE BRITISH VIRGIN ISLANDS  
FOR THE AVOIDANCE OF DOUBLE TAXATION ON INDIVIDUALS**

The Government of the British Virgin Islands and the Government of Greenland,

- desiring to supplement the Agreement for the exchange of information relating to tax matters concluded on 18 May 2009 by concluding an Agreement for the avoidance of double taxation on individuals with respect to taxes on income,
- considering that Greenland, under the terms of the legislation on Greenland Home Rule and the conclusion of agreements under international law by the Greenland Government, has the jurisdiction to negotiate, conclude and enter into agreements on tax matters,

have agreed as follows:

**ARTICLE 1**

**INDIVIDUALS COVERED**

This Agreement shall apply to individuals who are residents of one or both of the Parties.

**ARTICLE 2**

**TAXES COVERED**

1. The existing taxes to which the Agreement shall apply are:
  - a) in the case of the British Virgin Islands, the income tax (hereinafter referred to as “British Virgin Islands tax”);
  - b) in the case of Greenland:
    - (i) the homerule tax;
    - (ii) the special homerule tax;
    - (iii) the municipal tax and
    - (iv) the intermunicipal tax.(hereinafter referred to as “Greenlandic tax”).
2. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Parties shall notify each other of any significant changes that have been made in their taxation laws concerning individuals.

### **Article 3**

#### **GENERAL DEFINITIONS**

1. For the purposes of this Agreement, unless the context otherwise requires:
  - (a) the term “a Party” means the British Virgin Islands or Greenland, as the context requires; the term “Parties” means the British Virgin Islands and Greenland ;
  - (b) the term “the British Virgin Islands” means the territory of the Virgin Islands as referred to in the Virgin Islands Constitution Order 2007;
  - (c) the term “Greenland” means the landmass of Greenland and its territorial waters and any area outside the territorial waters where Denmark or Greenland according to domestic legislation and in accordance with international law, may exercise its rights with respect to the seabed and subsoil and their natural resources;
  - (d) the term “competent authority” means:
    - (i) in the case of the British Virgin Islands, the Financial Secretary or a person or authority designated by him in writing;
    - (ii) in Greenland, the Minister of Finance or his authorised representative or the authority which is designated as a competent authority for the purpose of this Agreement;
  - (e) the term “enterprise” applies to the carrying on of any business;
  - (f) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Party, except when the ship or aircraft is operated solely between places in the other Party.

2. As regards the application of the 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 law of that Party for the purposes of the taxes to which the Agreement applies, 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 4**

#### **RESIDENT**

1. For the purposes of this Agreement, the term “resident of a Party” means:
  - a) in the British Virgin Islands in respect of an individual who, under the laws of the British Virgin Islands is ordinarily resident.
  - b) in Greenland in respect of an individual any individual who, under the laws of Greenland, is liable to tax therein by reason of his domicile, residence or any other criterion of a similar nature. This term, however, does not include an individual

who is liable to tax in Greenland in respect only of income from sources in Greenland;

2. Where by reason of the provisions of paragraph 1 an individual is a resident in both Parties, then his status shall be determined as follows:

- a) a) he shall be deemed to be a resident only of the Party in which he has a permanent home available to him; if he has a permanent home available to him in both Parties, he shall be deemed to be a resident only of the Party with which his personal and economic relations are closer (centre of vital interests);
- b) if the Party in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Party, he shall be deemed to be a resident only of the Party in which he has an habitual abode;
- c) if he has a habitual abode in both Parties or in neither of them, the competent authorities of the Parties shall settle the question by mutual agreement.

## **ARTICLE 5**

### **INCOME FROM EMPLOYMENT**

1. Subject to the provisions of Articles 6, 7, 8 and 9, salaries, wages and other similar remuneration derived by a resident of a Party in respect of an employment shall be taxable only in that Party unless the employment is exercised in the other Party. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Party.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Party in respect of an employment exercised in the other Party shall be taxable only in the first-mentioned Party if:
  - (d) the recipient is present in the other Party for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned; and
  - (e) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Party; and
  - (f) the remuneration is not borne by a fixed place of business through which the business is wholly or partly carried on which the employer has in the other Party.
3. Paragraph 2 of this Article shall not apply to remuneration derived by a resident of a Party in respect of an employment exercised in the other Party and paid by, or on behalf of, an employer who is not a resident of that other Party if:

- a) the recipient renders services in the course of that employment to a person other than the employer and that person, directly or indirectly, supervises, directs or controls the manner in which those services are performed, and;
  - b) those services constitute an integral part of the business activities carried on by that person.
4. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Party, may be taxed in that Party. Where a resident of Greenland derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by the Air Greenland, such remuneration shall be taxable only in Greenland .

## **ARTICLE 6**

### **DIRECTORS' FEES**

Directors' fees and other similar payments derived by a resident of a Party in his capacity as a member of the board of directors or any other similar organ of a company which is resident of the other Party may be taxed in that other Party.

## **ARTICLE 7**

### **ARTISTES AND SPORTSMEN**

1. Income derived by a resident of a Party as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Party, may be taxed in that other Party.
2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another individual or legal entity, that income may be taxed in the Party in which the activities of the entertainer or sportsman are exercised.

## **ARTICLE 8**

### **PENSIONS**

Pensions and other similar remuneration arising in a Party, payments under the social security legislation of a Party and payments under any other scheme out of funds created by a Party, may be taxed in that Party.

## **ARTICLE 9**

### **GOVERNMENT SERVICE**

1. a) Salaries, wages and other similar remuneration, other than a pension, paid by a Party or a political subdivision or a statutory body or a local authority thereof to an individual in respect of services rendered to that Party or subdivision or body or authority shall be taxable only in that Party.  
  
b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Party if the services are rendered in that Party and the individual is a resident of that Party who did not become a resident of that Party solely for the purpose of rendering the services.
2. The provisions of Articles 5, 6 and 7 shall apply to salaries, wages, and other similar remuneration in respect of services rendered in connection with a business carried on by a Party or a political subdivision or a statutory body or a local authority thereof.

## **ARTICLE 10**

### **STUDENTS**

Payments which a student or business apprentice who is or was immediately before visiting a Party a resident of the other Party and who is present in the first-mentioned Party solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that Party, provided that such payments arise from sources outside that Party.

## **ARTICLE 11**

### **ELIMINATION OF DOUBLE TAXATION**

3. In the British Virgin Islands double taxation shall be avoided in accordance with the laws of the British Virgin Islands;
2. In Greenland double taxation shall be avoided as follows:
  - (c) subject to the provisions of sub-paragraph iii), where a resident of Greenland derives income which, in accordance with the provisions of this Agreement, may be taxed in the British Virgin Islands, Greenland shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in the British Virgin Islands;
    - b) such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in the British Virgin Islands;
    - b) where a resident of Greenland derives income which, in accordance with the provisions of this Agreement shall be taxable only in the British Virgin Islands,



Greenland may include this income in the tax base, but shall allow as a deduction from the income tax that part of the income tax which is attributable to the income derived from the British Virgin Islands.

## **ARTICLE 12**

### **MUTUAL AGREEMENT PROCEDURE**

1. Where an individual considers that the actions of one or both of the Parties result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those Parties, present his case to the competent authority of the Party of which he is a resident. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Parties.
3. The competent authorities of the Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement.
4. The competent authorities of the Parties may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

## **Article 13**

### **ENTRY INTO FORCE**

1. This Agreement shall enter into force on the thirtieth day after the later of the dates on which each of the Parties has notified the other in writing that the procedures required by its law have been complied with.
2. The Agreement shall have effect:
  - (a) in the British Virgin Islands:

in respect of British Virgin Islands tax, on tax chargeable for any fiscal year of any April beginning on or after the first day of January of the year next following that in which this Agreement enters in force;
  - (b) in Greenland :

in respect of Greenland tax, on tax chargeable for any tax year beginning on or after the first day of January of the year next following that in which this Agreement enters into force.

3. Notwithstanding paragraph 2 of this Article, the Agreement shall only be applicable when the Agreement signed on 18 May 2009 between the British Virgin Islands and Greenland for the exchange of information relating to tax matters signed shall have effect.

#### **Article 14**

#### **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 at least six months before the end of any calendar year. In such case, the Agreement shall cease to have effect on taxes chargeable for any tax year beginning on or after the first day of January of the year next following the end of the six months period.

2. Notwithstanding paragraph 1 of this Article, this Agreement will be terminated, without giving notice of termination, on the date of termination of the Agreement signed on 18 ay 2009 between the British Virgin Islands and the Greenland for the exchange of information relating to tax matters.

In witness whereof the undersigned, being duly authorised thereto, have signed this Agreement.

Done at Copenhagen this 18th day of May 2009, in duplicate in the English language.

**FOR THE GOVERNMENT  
OF GREENLAND:**

Tove Søvndahl Pedersen  
Head of Representation

**FOR THE GOVERNMENT OF  
THE BRITISH VIRGIN ISLANDS:**

Honourable Dancia Penn  
Deputy Premier

**AGREEMENT BETWEEN  
GREENLAND  
AND  
THE BRITISH VIRGIN ISLANDS  
FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO  
ENTERPRISES OPERATING SHIPS OR AIRCRAFT IN INTERNATIONAL  
TRAFFIC**

The Government of the British Virgin Islands and the Government of Greenland, desiring to conclude an agreement for the avoidance of double taxation with respect to enterprises operating ships or aircraft in international traffic,

have agreed as follows:

**Article 1**

**DEFINITIONS**

1. For the purposes of this Agreement, unless the context otherwise requires:
  - a) the terms "a Party" means the British Virgin Islands or Greenland, as the context requires; the term "Parties" means the British Virgin Islands and Greenland;
  - b) the term "the British Virgin Islands" means the of territory of the Virgin Islands as referred to in the Virgin Islands Constitution Order 2007;
  - c) the term "Greenland" means the landmass of the Greenland and its territorial waters and any area outside the territorial waters where Denmark or Greenland according to domestic legislation and in accordance with international law, may exercise its rights with respect to the seabed and subsoil and their natural resources;
  - d) the term "person" includes an individual, a company and any other body of persons;
  - e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
  - f) the term "resident of a Party" means
    - (i) in the British Virgin Islands, an individual ordinarily resident in the British Virgin Islands, and a company, partnership or other entity created under the laws of the British Virgin Islands; provided that an entity

created under the laws of the British Virgin Islands shall not be deemed to be resident in the British Virgin Islands unless its effective management is carried on in the British Virgin Islands;

- (ii) in Greenland any person, who under the law of that Party is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature; this term, however, does not include an individual who is liable to tax in that Party in respect only of income from sources in that Party;
- g) the term “enterprise” applies to the carrying on of any business;
- h) the term “enterprise of a Party” means an enterprise carried on by a resident of a Party;
- i) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Party, except when the ship or aircraft is operated solely between places in the other Party;
- j) the term “income derived from the operation of ships or aircraft in international traffic” means revenues, gross receipts and profits derived from:
  - (i) such operation of ships or aircraft for the transport of passengers or cargo;
  - (ii) the rental on a charter basis of ships or aircraft where the rental is ancillary to the operation of ships or aircraft in international traffic;
  - (iii) the sale of tickets or similar documents and the provision of services connected with such operation, either for the enterprise itself or for any other enterprise, where such sale of tickets or similar documents or provision of services is directly connected with or ancillary to the operation of ships or aircraft in international traffic;
  - (iv) the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise, where the use, maintenance or rental is directly connected with or ancillary to the operation of ships or aircraft in international traffic;
  - (v) interest on funds deposited directly in connection with the operation of ships or aircraft in international traffic.

- k) the term "competent authority" means:
  - (i) in the case of the British Virgin Islands, the Financial Secretary or a person or authority designated by him in writing;
  - (ii) in the case of Greenland, the Minister of Finance or his delegate;
  
- 3. As regards the application of the 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 law of that Party for the purposes of the taxes to which the Agreement applies, 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 2**

### **AVOIDANCE OF DOUBLE TAXATION**

1. Income derived from the operation of ships or aircraft in international traffic by an enterprise of a Party shall be taxable only in that Party.
  
2. Gains derived from the alienation of ships or aircraft or movable property pertaining to the operation of ships and aircraft in international traffic by an enterprise of a Party shall be taxable only in that Party.
  
3. The provisions of paragraphs 1 and 2 shall also apply to income and gains derived by an enterprise of a Party from the participation in a pool, a joint business or an international operating agency.

## **Article 3**

### **MUTUAL AGREEMENT PROCEDURE**

1. Where a person considers that the actions of one or both of the Parties result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those Parties, present his case to the competent authority of the Party of which he is a resident. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.
  
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Parties.

3. The competent authorities of the Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement.

4. The competent authorities of the Parties may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

#### **Article 4**

#### **ENTRY INTO FORCE**

1. This Agreement shall enter into force on the thirtieth day after the later of the dates on which each of the Parties has notified the other in writing that the procedures required by its law have been complied with. The Agreement shall have effect on taxes chargeable for any tax year beginning on or after the first day of January of the year next following that in which this Agreement enters into force.

2. Notwithstanding paragraph 1 of this Article, the Agreement shall only be applicable when the Agreement between the British Virgin Islands and Greenland for the exchange of information relating to tax matters signed on 18 May 2009 shall have effect.

#### **Article 5**

#### **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 at least six months before the end of any calendar year. In such event, the Agreement shall cease to have effect on taxes chargeable for any tax year beginning on or after the first day of January of the year next following the end of the six months period.

2. Notwithstanding paragraph 1 of this Article, this Agreement will be terminated, without giving notice of termination, on the date of termination of the Agreement signed on 18 May 2009 between the British Virgin Islands and Greenland for the exchange of information relating to tax matters.

In witness whereof the undersigned, being duly authorised thereto, have signed this Agreement.

Done at Copenhagen this 18th day of May 2009, in duplicate in the English language.

**FOR THE GOVERNMENT OF  
GREENLAND:**

Tove Søvndahl Pedersen  
Head of Representation

**FOR THE GOVERNMENT OF  
THE BRITISH VIRGIN ISLANDS:**

Honourable Dancia Penn  
Deputy Premier

**AGREEMENT BETWEEN  
GREENLAND  
AND  
THE BRITISH VIRGIN ISLANDS**

**ON THE ACCESS TO MUTUAL AGREEMENT PROCEDURES IN CONNECTION  
WITH THE ADJUSTMENT OF PROFITS OF ASSOCIATED ENTERPRISES**

The Government of the British Virgin Islands and the Government of Greenland, desiring to conclude an agreement on the access to mutual agreement procedures in connection with the adjustment of profits of associated enterprises, have agreed as follows:

**ARTICLE 1**

**TAXES COVERED**

This Agreement shall apply to taxes on income and profits.

**ARTICLE 2**

**DEFINITIONS**

1. For the purposes of this Agreement, unless the context otherwise requires:
  - a) the term “Party” means the British Virgin Islands or Greenland as the context requires;
  - b) the term “the British Virgin Islands” means the territory of the Virgin Islands as referred to in the Virgin Islands Constitution Order 2007;
  - c) the term “Greenland” means the landmass of Greenland and its territorial waters and any area outside the territorial waters where Denmark or Greenland according to domestic legislation and in accordance with international law, may exercise its rights with respect to the seabed and subsoil and their natural resources;
  - d) the term “resident of a Party” means
    - (i) in the British Virgin Islands, an individual ordinarily resident in the British Virgin Islands, and a company, partnership or other entity created under the laws of the British Virgin Islands; provided that an entity created under the laws of the British Virgin Islands shall not be deemed to be resident in the British Virgin Islands unless its effective management is carried on in the British Virgin Islands;
    - (ii) in Greenland any person, who under the law of that Party is liable to tax therein by reason of his domicile, residence, place of

management, place of incorporation or any other criterion of a similar nature; this term, however, does not include an individual who is liable to tax in that Party in respect only of income from sources in that Party;

- e) the term “enterprise” applies to the carrying on of any business;
- f) the term “enterprise of a Party” mean an enterprise carried on by a resident of a Party;
- g) the term “competent authority” means
  - (i) in the case of the British Virgin Islands, the Financial Secretary or a person or authority designated by him in writing;
  - (ii) in the case of Greenland, the Minister of Finance or his authorised representative;

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 law of that Party for the purposes of the taxes to which the Agreement applies, 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 3**

#### **PRINCIPLES APPLYING TO THE ADJUSTMENT OF PROFITS OF ASSOCIATED ENTERPRISES**

Where:

- (a) an enterprise of a Party participates directly or indirectly in the management, control or capital of an enterprise of the other Party, or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Party and an enterprise of the other Party,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

### **ARTICLE 4**

#### **MUTUAL AGREEMENT PROCEDURES**

1. Where an enterprise considers that, in any case to which this Agreement applies, the principles set out in Article 3 have not been observed, it may, irrespective of the remedies provided by the domestic law of the Party concerned, present its case to the competent authority of the Party of which it is a resident. The case must be presented within three



years of the first notification of the action which is contrary or is likely to be contrary to the principles set out in Article 3. The competent authority shall then without delay notify the competent authority of the other Party.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Parties.

3. The competent authorities of the Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement.

4. The competent authorities of the Parties may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

## **ARTICLE 5**

### **ENTRY INTO FORCE**

1. This Agreement shall enter into force on the thirtieth day after the later of the dates on which each of the Parties has notified the other in writing that the procedures required by its law have been complied with. The Agreement shall have effect on taxes chargeable for any tax year beginning on or after the first day of January of the year next following that in which this Agreement enters into force.

2. Notwithstanding paragraph 1, this Agreement shall only have effect when the Agreement signed on 18 May 2009 between the British Virgin Islands and Greenland for the exchange of information relating to tax matters shall have effect.

## **ARTICLE 6**

### **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 at least six months before the end of any calendar year. In such event, the Agreement shall cease to have effect on taxes chargeable for any tax year beginning on or after the first day of January of the year next following the end of the six month period.

2. Notwithstanding paragraph 1, this Agreement will be terminated, without giving notice of termination, on the date of termination of the Agreement signed on 18 May 2009 between the British Virgin Islands and Greenland for the exchange of information relating to tax matters.

In witness whereof the undersigned, being duly authorised thereto, have signed this Agreement.

Done at Copenhagen this 18th day of May 2009, in duplicate in the English language.

**FOR THE GOVERNMENT  
OF GREENLAND:**

Tove Søvndahl Pedersen  
Head of Representation

**FOR THE GOVERNMENT OF  
THE BRITISH VIRGIN ISLANDS:**

Honourable Dancia Penn  
Deputy Premier

### 3.

## **AGREEMENT BETWEEN THE GOVERNMENT OF THE BRITISH VIRGIN ISLANDS AND THE GOVERNMENT OF THE FAROES FOR THE EXCHANGE OF INFORMATION RELATING TO TAXES**

Whereas the Government of the British Virgin Islands and the Government of The Faroes (“the Contracting Parties”) recognise the need for cooperation and the exchange of information in criminal and civil tax matters;

Whereas the Contracting Parties have long been active in international efforts in the fight against financial and other crimes, including the targeting of terrorist financing;

Whereas it is acknowledged that the Government of the British Virgin Islands is competent to negotiate and conclude a tax information exchange agreement with the Faroes;

Whereas it is acknowledged that the Government of the Faroes concludes this agreement on behalf of the Kingdom of Denmark pursuant to the Act on the Conclusion of Agreements under International Law by the Government of the Faroes;

Whereas the British Virgin Islands on the 2nd April 2002 entered into a formal written commitment to the Organisation for Economic Cooperation and Development’s (OECD) principles of transparency and exchange of information and have subsequently actively participated in the OECD Global Forum on Taxation;

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

Whereas the Contracting Parties recognise that they will never engage in “fishing expeditions”;

Now, therefore, the Contracting Parties have concluded the following Agreement which contains obligations on the part of the Contracting Parties only.

### **ARTICLE 1**

#### **SCOPE OF AGREEMENT**

1. The competent authorities of the Contracting Parties shall provide assistance through exchange of information that is foreseeably relevant to the administration or enforcement of the domestic laws of the parties concerning the taxes and the tax matters covered by this Agreement, including information that is foreseeably relevant to the determination, assessment, verification, enforcement, recovery or collection of tax claims with respect to persons subject to such taxes, or the investigation or 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.

## **ARTICLE 2**

### **JURISDICTION**

To enable the appropriate implementation of this Agreement, information shall be provided in accordance with this Agreement by the competent authority of the Requested Party:

- (a) without regard to whether the person to whom the information relates is a resident or national of a Contracting Party, or whether the person by whom the information is held is a resident or national of a Contracting Party; and
- (b) provided that the information is present within the territory, or in the possession or control of a person subject to the jurisdiction, of the Requested Party.

## **ARTICLE 3**

### **TAXES COVERED**

- 3. The taxes covered by this Agreement are:
  - (a) in the case of the British Virgin Islands,
    - (i) the income tax;
    - (ii) the payroll tax; and
    - (iii) the property tax
  - (b) in the case of the Faroes,
    - (i) taxes on income or profit; and
    - (ii) VAT (meirviroisgjald).
- 4. This Agreement shall also apply to any identical or substantially similar taxes imposed by either party after the date of signature of this Agreement in addition to, or in place of, any of the taxes listed in paragraph 1 of this Article. The competent authorities of the Contracting Parties shall notify each other of any relevant changes to the taxation and related information gathering measures covered by this Agreement.

## **ARTICLE 4**

### **DEFINITIONS**

- 3. In this Agreement unless the context otherwise requires-

- (a) “British Virgin Islands” means the territory of the Virgin Islands as referred to in the Virgin Islands Constitution Order 2007;
- (b) “The Faroes” means the landmass of the Faroes and their territorial waters and any area outside the territorial waters where the Faroes according to Faroese legislation and in accordance with international law, may exercise rights with respect to the seabed and subsoil and their natural resources;
- (c) “collective investment fund or scheme” means any pooled investment vehicle irrespective of legal form;
- (d) “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;
- (e) “competent authority” means
  - (i) in the case of the British Virgin Islands, the Financial Secretary or a person or authority designated by him in writing;
  - (ii) in the case of the Faroes, the Minister of Finance or his authorised representative or the authority which is designated as a competent authority for the purpose of this Agreement;
- (f) “Contracting Party” means the British Virgin Islands or the Faroes as the context requires;
- (g) “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 laws;
- (h) “criminal tax matters” means tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the Requesting Party;
- (i) “information” means any fact, statement, document or record in whatever form;
- (j) “information gathering measures” means laws, regulations and administrative or judicial procedures that enable a Requested Party to obtain and provide the requested information;
- (k) “national” means –
  - (i) in relation to the British Virgin Islands, any person who belongs to the British Virgin Islands by virtue of the Virgin Islands Constitution Order 2007 (Statutory Instrument 2007 No. 1678) or has a certificate of residence of the British Virgin Islands by virtue of the Immigration and Passport Ordinance (Cap.130); and any legal person, partnership, association or other entity deriving its status as such from the laws in force in the British Virgin Islands;
  - (ii) in relation to the Faroes , any legal person, partnership, association or other entity deriving its status as such from the laws in force in the Faroes;

- (l) "person" includes an individual, a company, or any other body or group of persons;
  - (m) "principal class of shares" means the class or classes of shares representing a majority of the voting power and value of the company;
  - (n) "public collective investment fund or scheme" means any collective investment fund or scheme, in which the purchase, sale or redemption of shares or other interests is not implicitly or explicitly restricted to a limited group of investors;
  - (o) "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;
  - (p) "recognised stock exchange" means any stock exchange agreed upon by the competent authorities of the Contracting Parties;
  - (q) "Requested Party" means the party to this Agreement which is requested to provide or has provided information in response to a request;
  - (r) "Requesting Party" means the party to this Agreement submitting a request for or having received information from the Requested Party;
  - (s) "tax" means any tax covered by this Agreement.
4. As regards the application of this Agreement at any time by a Contracting Party, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that Contracting Party, any meaning under the applicable tax laws of that Contracting Party prevailing over a meaning given to the term under other laws of that Contracting Party.

## **ARTICLE 5**

### **EXCHANGE OF INFORMATION UPON REQUEST**

1. The competent authority of a Requested Party shall provide upon request in writing by the Requesting Party information for the purposes referred to in Article 1. Such information shall be exchanged without regard to whether the conduct being investigated would constitute a crime under the laws of the Requested Party if it occurred in the territory of the Requested Party. If the information received by the competent authority of the Requested Party is not sufficient to enable it to comply with the request for information, it shall, in accordance with the terms provided in paragraph 7 (a), advise the competent authority of the Requesting Party of that fact and request such additional information as may be required to enable the effective processing of the request.

2. If the information in possession of the competent authority of the Requested Party is not sufficient to enable it to comply with the request for the information, the Requested Party shall use all relevant information gathering measures 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 Contracting Party shall ensure that its competent authority, for the purposes of this Agreement, has the authority to obtain and provide 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) information regarding the legal and beneficial ownership of companies, partnerships and other persons, including, within the constraints of Article 2, ownership information on all such persons in an ownership chain; and in the case of trusts, information on settlors, trustees, beneficiaries and protectors; and in the case of foundations, information on founders, members of the foundation council and beneficiaries, and equivalent information in the case of entities that are neither trust nor foundations.

5. Notwithstanding the preceding paragraphs, this Agreement does not create an obligation on the Contracting Parties to obtain or provide:

(a) 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;

(b) information relating to a period more than six years prior to the tax period under consideration;

(c) information in the possession or control of a person other than the taxpayer that does not directly relate to the taxpayer.

6. The competent authority of the Requesting Party shall provide the following information to the competent authority of the Requested Party when making a request for information under this Agreement in order to demonstrate the foreseeable relevance of the information to the request:

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

(b) the period for which the information is requested;

(c) the nature and type of the information requested, including a description of the specific evidence sought and the form in which the Requesting Party wishes to receive the information;

- (d) the tax purposes for which the information is sought and the reasons why the information requested is foreseeably relevant to the administration or enforcement of the domestic laws of the Requesting Party;
  - (e) grounds for believing that the information requested is present in the territory of the Requested Party or is in the possession or control of a person subject to the jurisdiction of the Requested Party;
  - (f) to the extent known, the name and address of any person believed to be in possession or control of the information requested;
  - (g) a declaration that the request is in conformity with this Agreement and the laws and administrative practices of the Requesting Party, and that if the requested information were 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;
  - (h) a statement that the Requesting Party has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.
7. The competent authority of the Requested Party shall forward the requested information as promptly as possible to the competent authority of the Requesting Party. To ensure a prompt response:
- (a) the competent authority of the Requested party shall confirm the receipt of a request in writing to the competent authority of the Requesting Party and shall notify the competent authority of the Requesting Party of any deficiencies in the request within 60 days of receipt of the request; and
  - (b) if the competent authority of the Requested Party has been unable to obtain and provide the information requested within 90 days of receipt of the request, or if obstacles are encountered in furnishing the information, or if the competent authority of the Requested Party refuses to provide the information, it shall immediately inform the competent authority of the Requesting Party in writing, explaining the reasons for its inability to obtain and provide the information, or the obstacles encountered, or for its refusal.

## **ARTICLE 6**

### **TAX EXAMINATIONS OR INVESTIGATIONS ABROAD**

7. The Requested Party may, to the extent permitted under its domestic laws, following reasonable notice from the Requesting Party, allow representatives of the competent authority of the Requesting Party to enter the territory of the Requested Party in connection with a request to interview persons and examine records with the prior written consent of the 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 meeting with the persons concerned.

8. At the request of the competent authority of the Requesting Party, the competent authority of the Requested Party may, in accordance with its domestic laws, permit representatives of the competent authority of the Requesting Party to be present at the appropriate part of a tax examination in the territory of the Requested Party.
9. If the request referred to in paragraph 2 of this Article 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 in accordance with its domestic laws.

## **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; or
  - (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 difficulties; or
  - (c) where the disclosure of the information requested would be contrary to the public policy (ordre public).
2. The provisions of this Agreement shall not impose upon a party any obligation to provide information which would disclose any trade, business, industrial, commercial or professional secret or trade process. Information described in paragraph 4 of Article 5 shall not by reason of that fact alone constitute such a secret or process.
3. (a) The provisions of this Agreement shall not impose on a party the obligation to obtain or provide information which would reveal confidential communications between a client and a attorney, solicitor or barrister where such communications are:
  - (i) produced for the purposes of seeking or providing legal advice, or
  - (ii) produced for the purposes of use in existing or contemplated legal proceedings.
- (b) Information held with the intention of furthering an offence is not subject to legal privilege, and nothing in this Article shall prevent an attorney, solicitor or barrister

from providing the name and address of a client where doing so would not constitute a breach of legal privilege

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

5. 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.

6. 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 resident or national of the Requested Party as compared with a resident or national of the Requesting Party in the same circumstances.

## **ARTICLE 8**

### **CONFIDENTIALITY**

1. All information provided and received by the competent authorities of the Contracting Parties shall be kept confidential and 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 or the oversight of the above. For these purposes, information may be disclosed in public court proceedings or in judicial proceedings.
2. The information may not be disclosed to any other person or entity or authority without the express written consent of the competent authority of the Requested Party.
3. Information provided to a Requesting Party shall not be disclosed to any other jurisdiction.

## **ARTICLE 9**

### **SAFEGUARDS**

Nothing in this Agreement shall affect the rights and safeguards secured to persons by the laws or administrative practice of the Requested Party. However, these rights and safeguards may not be applied by the Requested Party in a manner that unduly prevents or delays effective exchange of information.

## **ARTICLE 10**

### **ADMINISTRATIVE COSTS**

1. Incidence of ordinary costs incurred in the course of responding to a request for information will be borne by the Requested Party. Such ordinary costs would normally cover internal administration costs and any minor external costs.
2. All other costs that are not ordinary costs are considered extraordinary costs and will be borne by the Requesting Party. Extraordinary costs include, but are not limited to, the following:
  - (a) reasonable fees charged by third parties for carrying out research;
  - (b) reasonable fees charged by third parties for copying documents;
  - (c) reasonable costs of engaging experts, interpreters, or translators;
  - (d) reasonable costs of conveying documents to the Requesting Party;
  - (e) reasonable litigation costs of the Requested Party in relation to a specific request for information; and
  - (f) reasonable costs for obtaining depositions or testimony.
3. The competent authorities of the Contracting Parties will consult each other in any particular case where extraordinary costs are likely to exceed \$US500 to determine whether the Requesting Party will continue to pursue the request and bear the cost.

## **ARTICLE 11**

### **NO PREJUDICIAL OR RESTRICTIVE MEASURES**

1. So long as this Agreement is in force and effective, it is the intention of the Contracting Parties not to apply or introduce prejudicial or restrictive measures based on harmful tax practices to residents or nationals of either Contracting Party. However, in the event that a Contracting Party has reason to believe that the other Contracting Party has introduced such prejudicial or restrictive measures, both Contracting Parties shall immediately initiate proceedings to resolve the matter.
2. A prejudicial or restrictive measure based on harmful tax practices means a measure applied by one Contracting Party to residents or nationals of the other Contracting Party on the basis that the other Contracting Party does not engage in effective exchange of information 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 the term “prejudicial or restrictive measure”, the term includes the denial of a deduction, credit or exemption, the imposition of a tax, charge or levy, or special reporting requirements. Such measures include any measure which relates, directly or indirectly, to taxation matters. However, they do not include any generally applicable measure, applied by either Contracting Party against, amongst others, members of the OECD generally.

## **ARTICLE 12**

### **IMPLEMENTING LEGISLATION**

The Contracting Parties shall (where they have not already done so) enact any legislation necessary to comply with, and give effect to, the terms of this Agreement.

## **ARTICLE 13**

### **LANGUAGE**

Requests for assistance and responses thereto shall be drawn up in English

## **ARTICLE 14**

### **MUTUAL AGREEMENT PROCEDURE**

1. Where difficulties or doubts arise between the Contracting Parties regarding the implementation or interpretation of this Agreement, the competent authorities shall use their best efforts to resolve the matter by mutual agreement.
2. In addition to the efforts referred to in paragraph 1 of this Article, the competent authorities of the Contracting Parties may mutually determine the procedures to be used under Articles 5, 6 and 10.
3. The competent authorities of the Contracting Parties may communicate with each other directly for the purposes of reaching agreement under this Article.

## **ARTICLE 15**

### **ENTRY INTO FORCE**

Each of the Contracting Parties shall notify to the other the completion of the procedures required by its law for the bringing into force of this Agreement. The Agreement shall enter into force on the date of the later of the notifications. The provisions of this Agreement shall have effect:

- (a) with respect to criminal tax matters upon the entry into force of this Agreement;  
and
- (b) with respect to all other matters covered in Article 1 for taxable periods beginning on or after the date of entry into force of this Agreement.

## **ARTICLE 16**

### **TERMINATION**

1. This Agreement shall remain in force until terminated by either Contracting Party.
2. Either Contracting 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 Contracting Party.

3. If the Agreement is terminated the Contracting Parties shall remain bound by the provision of Article 8 with respect to any information obtained under this Agreement.

**IN WITNESS WHEREOF**, the undersigned, being duly authorised thereto have signed this Agreement.

Done at Copenhagen this 18<sup>th</sup> day of May 2009, in duplicate in the English language

For the Government of the  
British Virgin Islands

For the Government of  
the Faroes

The Honourable Dancia Penn  
Deputy Premier

Herálvur Joensen  
Head of the Representation

**AGREEMENT  
BETWEEN THE BRITISH VIRGIN ISLANDS AND THE FAROES  
FOR THE AVOIDANCE OF DOUBLE TAXATION ON INDIVIDUALS**

The Government of the British Virgin Islands and the Government of the Faroes

- desiring to supplement the Agreement for the exchange of information relating to tax matters concluded on [...] by concluding an Agreement for the avoidance of double taxation on individuals with respect to taxes on income,
- considering that the Government of the Faroes concludes this agreement on behalf of the Kingdom of Denmark pursuant to the Act on the Conclusion of Agreements under International Law by the Government of the Faroes,

have agreed as follows:

**Article 1**

**INDIVIDUALS COVERED**

This Agreement shall apply to individuals who are residents of one or both of the Parties.

**Article 2**

**TAXES COVERED**

2. The existing taxes to which the Agreement shall apply are:
  - a) in the case of the British Virgin Islands, the income tax (hereinafter referred to as “British Virgin Islands tax”);
  - b) in the case of Faroes:

taxes on income or profit (hereinafter referred to as “Faroese tax”).
2. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Parties shall notify each other of any significant changes that have been made in their taxation laws concerning individuals.

**Article 3**

**GENERAL DEFINITIONS**

2. For the purposes of this Agreement, unless the context otherwise requires:

- a) the term “a Party” means the British Virgin Islands or the Faroes, as the context requires; the term “Parties” means the British Virgin Islands and the Faroes ;
- b) the term “the British Virgin Islands” means the territory of the Virgin Islands as referred to in the Virgin Islands Constitution Order 2007;
- (e) the term “the Faroes” means the landmass of the Faroes and their territorial waters and any area outside the territorial waters where the Faroes according to Faroese legislation and in accordance with international law, may exercise rights with respect to the seabed and subsoil and their natural resources;
- (f) the term “competent authority” means:
  - (i) in the case of the British Virgin Islands, the Financial Secretary or a person or authority designated by him in writing;
  - (ii) in Faroes, the Minister of Finance or his authorised representative or the authority which is designated as a competent authority for the purpose of this Agreement;
- e) the term “enterprise” applies to the carrying on of any business;
- f) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Party, except when the ship or aircraft is operated solely between places in the other Party.

2. As regards the application of the 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 law of that Party for the purposes of the taxes to which the Agreement applies, 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 4**

#### **RESIDENT**

- 3. For the purposes of this Agreement, the term “resident of a Party” means:
  - a) in the Faroes in respect of an individual any individual who, under the laws of the Faroes, is liable to tax therein by reason of his domicile, residence or any other criterion of a similar nature. This term, however, does not include an individual who is liable to tax in the Faroes in respect only of income from sources in the Faroes;
  - b) in the British Virgin Islands in respect of an individual who, under the laws of the British Virgin Islands is ordinarily resident.

2. Where by reason of the provisions of paragraph 1 an individual is a resident in both Parties, then his status shall be determined as follows:

- b) he shall be deemed to be a resident only of the Party in which he has a permanent home available to him; if he has a permanent home available to him in both Parties, he shall be deemed to be a resident only of the Party with which his personal and economic relations are closer (centre of vital interests);
- c) if the Party in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Party, he shall be deemed to be a resident only of the Party in which he has an habitual abode;
- d) if he has a habitual abode in both Parties or in neither of them, the competent authorities of the Parties shall settle the question by mutual agreement.

## **ARTICLE 5**

### **INCOME FROM EMPLOYMENT**

1. Subject to the provisions of Articles 6, 7, 8 and 9, salaries, wages and other similar remuneration derived by a resident of a Party in respect of an employment shall be taxable only in that Party unless the employment is exercised in the other Party. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Party.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Party in respect of an employment exercised in the other Party shall be taxable only in the first-mentioned Party if:
  - (g) the recipient is present in the other Party for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned; and
  - (h) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Party; and
  - (i) the remuneration is not borne by a fixed place of business through which the business is wholly or partly carried on which the employer has in the other Party.
3. Paragraph 2 of this Article shall not apply to remuneration derived by a resident of a Party in respect of an employment exercised in the other Party and paid by, or on behalf of, an employer who is not a resident of that other Party if:
  - a) the recipient renders services in the course of that employment to a person other than the employer and that person, directly or indirectly, supervises, directs or controls the manner in which those services are performed, and;
  - b) those services constitute an integral part of the business activities carried on by that person.



4. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Party, may be taxed in that Party.

#### **Article 6**

#### **DIRECTORS' FEES**

Directors' fees and other similar payments derived by a resident of a Party in his capacity as a member of the board of directors or any other similar organ of a company which is resident of the other Party may be taxed in that other Party.

#### **Article 7**

#### **ARTISTES AND SPORTSMEN**

1. Income derived by a resident of a Party as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Party, may be taxed in that other Party.
2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another individual or legal entity, that income may be taxed in the Party in which the activities of the entertainer or sportsman are exercised.

#### **Article 8**

#### **PENSIONS**

Pensions and other similar remuneration arising in a Party, payments under the social security legislation of a Party and payments under any other scheme out of funds created by a Party, may be taxed in that Party.

#### **Article 9**

#### **GOVERNMENT SERVICE**

1.
  - a) Salaries, wages and other similar remuneration, other than a pension, paid by a Party or a political subdivision or a statutory body or a local authority thereof to an individual in respect of services rendered to that Party or subdivision or body or authority shall be taxable only in that Party.
  - b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Party if the services are rendered in that Party and the individual is a resident of that Party who did not become a resident of that Party solely for the purpose of rendering the services.
2. The provisions of Articles 5, 6 and 7 shall apply to salaries, wages, and other similar remuneration in respect of services rendered in connection with a business carried on by a Party or a political subdivision or a statutory body or a local authority thereof.

## **Article 10**

### **STUDENTS**

Payments which a student or business apprentice who is or was immediately before visiting a Party a resident of the other Party and who is present in the first-mentioned Party solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that Party, provided that such payments arise from sources outside that Party.

## **Article 11**

### **ELIMINATION OF DOUBLE TAXATION**

4. In the British Virgin Islands double taxation shall be avoided in accordance with the laws of the British Virgin Islands;
5. In the Faroes double taxation shall be avoided as follows:

Subject to the provisions of the laws of the Faroes regarding the allowance as a credit against Faroese tax of tax payable in a territory outside the Faroes (which shall not affect the general principle hereof);

- a) Subject to the provisions of sub-paragraph c), where a resident of the Faroes derives income which, in accordance with the provisions of this Agreement, may be taxed in the British Virgin Islands, the Faroes shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in the British Virgin Islands;
- b) Such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in the British Virgin Islands;
- c) where a resident of the Faroes derives income which, in accordance with any provision of the Agreement shall be taxable only in the British Virgin Islands, the Faroes may include this income in the tax base, but shall allow as a deduction from the income tax that part of the income tax which is attributable to the income derived from the British Virgin Islands.

## **Article 12**

### **MUTUAL AGREEMENT PROCEDURE**

1. Where an individual considers that the actions of one or both of the Parties result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those Parties, present his case to the competent authority of the Party of which he is a resident. The

case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Parties.
3. The competent authorities of the Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement.
4. The competent authorities of the Parties may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

### **Article 13**

#### **ENTRY INTO FORCE**

1. This Agreement shall enter into force on the thirtieth day after the later of the dates on which each of the Parties has notified the other in writing that the procedures required by its law have been complied with.
2. The Agreement shall have effect:
  - (c) in the British Virgin Islands:

in respect of British Virgin Islands tax, on tax chargeable for any tax year beginning on or after the first day of January of the calendar year next following that in which this Agreement enters in force;
  - (d) in the Faroes :

on taxes chargeable for any tax year beginning on or after the first day of January of the year next following that in which this Agreement enters into force.
3. Notwithstanding paragraph 2 of this Article, the Agreement shall only be applicable when the Agreement signed on [...] between the British Virgin Islands and the Faroes for the exchange of information relating to tax matters shall have effect.

### **Article 14**

#### **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 at least six months before the end of any calendar year. In such case, the Agreement shall cease to have effect on taxes chargeable for any tax year beginning on or after the first day of January of the year next following the end of the six months period.

2. Notwithstanding paragraph 1 of this Article, this Agreement will be terminated, without giving notice of termination, on the date of termination of the Agreement signed on [...] between the British Virgin Islands and the Faroes for the exchange of information relating to tax matters.

In witness whereof the undersigned being duly authorised thereto have signed this Agreement.

Done at Copenhagen this 18th day of May 2009, in duplicate in the English language.

For the Government of  
The British Virgin Islands:

The Honourable Dancia Penn  
Deputy Premier

For the Government of  
the Faroes:

Herálvur Joensen  
Head of the Representation

**AGREEMENT BETWEEN  
THE BRITISH VIRGIN ISLANDS AND THE FAROES  
FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO  
ENTERPRISES OPERATING SHIPS OR AIRCRAFT IN INTERNATIONAL  
TRAFFIC**

The Government of the British Virgin Islands and the Government of the Faroes

- desiring to conclude an agreement for the avoidance of double taxation with respect to enterprises operating ships or aircraft in international traffic,
- considering that the Government of the Faroes concludes this agreement on behalf of the Kingdom of Denmark pursuant to the Act on the Conclusion of Agreements under International Law by the Government of the Faroes,

have agreed as follows:

**Article 1**

**DEFINITIONS**

1. For the purposes of this Agreement, unless the context otherwise requires:
  - a) the terms "a Party" means the Faroes or the British Virgin Islands, as the context requires; the term "Parties" means the Faroes and the British Virgin Islands;
  - b) the term "the Faroes" means the landmass of the Faroes and their territorial waters and any area outside the territorial waters where the Faroes according to Faroese legislation and in accordance with international law, may exercise rights with respect to the seabed and subsoil and their natural resources;
  - c) the term "the British Virgin Islands" means the of territory of the Virgin Islands as referred to in the Virgin Islands Constitution Order 2007;
  - d) the term "person" includes an individual, a company and any other body of persons;
  - e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
  - g) The term "resident of a Party" means
    - (i) in the Faroes any person, who under the law of that Party is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature; this term, however, does not include a individual

who is liable to tax in that Party in respect only of income from sources in that Party;

(ii) in the British Virgin Islands, an individual ordinarily resident in the British Virgin Islands, and a company, partnership or other entity created under the laws of the British Virgin Islands; provided that an entity created under the laws of the British Virgin Islands shall not be deemed to be resident in the British Virgin Islands unless its effective management is carried on in the British Virgin Islands;

- g) the term “enterprise” applies to the carrying on of any business;
- h) the term “enterprise of a Party” means an enterprise carried on by a resident of a Party;
- i) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Party, except when the ship or aircraft is operated solely between places in the other Party;
- j) the term “income derived from the operation of ships or aircraft in international traffic” means revenues, gross receipts and profits derived from:
  - (i) such operation of ships or aircraft for the transport of passengers or cargo;
  - (ii) the rental on a charter basis of ships or aircraft where the rental is ancillary to the operation of ships or aircraft in international traffic;
  - (iii) the sale of tickets or similar documents and the provision of services connected with such operation, either for the enterprise itself or for any other enterprise, where such sale of tickets or similar documents or provision of services is directly connected with or ancillary to the operation of ships or aircraft in international traffic;
  - (iv) the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise, where the use, maintenance or rental is directly connected with or ancillary to the operation of ships or aircraft in international traffic;
  - (v) interest on funds deposited directly in connection with the operation of ships or aircraft in international traffic.
- k) the term "competent authority" means:

(i) in the case of the Faroes, the Minister of Finance or his authorised representative or the authority which is designated as a competent authority for the purpose of this Agreement.

(ii) in the case of the British Virgin Islands, the Financial Secretary or a person or authority designated by him in writing;

4. As regards the application of the 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 law of that Party for the purposes of the taxes to which the Agreement applies, 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 2**

### **AVOIDANCE OF DOUBLE TAXATION**

1. Income derived from the operation of ships or aircraft in international traffic by an enterprise of a Party shall be taxable only in that Party.
2. Gains derived from the alienation of ships or aircraft or movable property pertaining to the operation of ships and aircraft in international traffic by an enterprise of a Party shall be taxable only in that Party.
3. The provisions of paragraphs 1 and 2 shall also apply to income and gains derived by an enterprise of a Party from the participation in a pool, a joint business or an international operating agency.

## **Article 3**

### **MUTUAL AGREEMENT PROCEDURE**

1. Where a person considers that the actions of one or both of the Parties result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those Parties, present his case to the competent authority of the Party of which he is a resident. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Parties.
3. The competent authorities of the Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement.

4. The competent authorities of the Parties may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

#### **Article 4**

#### **ENTRY INTO FORCE**

1. This Agreement shall enter into force on the thirtieth day after the later of the dates on which each of the Parties has notified the other in writing that the procedures required by its law have been complied with. The Agreement shall have effect on taxes chargeable for any tax year beginning on or after the first day of January of the year next following that in which this Agreement enters into force.

2. Notwithstanding paragraph 1 of this Article, the Agreement shall only be applicable when the Agreement between the British Virgin Islands and the Faroes for the exchange of information relating to tax matters signed on [...] shall have effect.

#### **Article 5**

#### **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 at least six months before the end of any calendar year. In such event, the Agreement shall cease to have effect on taxes chargeable for any tax year beginning on or after the first day of January of the year next following the end of the six months period.

2. Notwithstanding paragraph 1 of this Article, this Agreement will be terminated, without giving notice of termination, on the date of termination of the Agreement signed on [...] between the British Virgin Islands and the Faroes for the exchange of information relating to tax matters.

In witness whereof the undersigned, being duly authorised thereto, have signed this Agreement.

Done at Copenhagen this 18th day of May 2009, in duplicate in the English language.

**FOR THE GOVERNMENT OF  
THE BRITISH VIRGIN ISLANDS:**

**FOR THE GOVERNMENT  
THE FAROES**

The Honourable Dancia Penn  
Deputy Premier

Herálvur Joensen  
Head of the Representation



**AGREEMENT BETWEEN THE BRITISH VIRGIN ISLANDS AND THE FAROES  
ON THE ACCESS TO MUTUAL AGREEMENT PROCEDURES IN CONNECTION  
WITH THE ADJUSTMENT OF PROFITS OF ASSOCIATED ENTERPRISES**

The Government of the British Virgin Islands and the Government of the Faroes,

- desiring to conclude an agreement on the access to mutual agreement procedures in connection with the adjustment of profits of associated enterprises,
- considering that the Government of the Faroes concludes this agreement on behalf of the Kingdom of Denmark pursuant to the Act on the Conclusion of Agreements under International Law by the Government of the Faroes,

have agreed as follows:

**Article 1**

**Taxes covered**

This Agreement shall apply to taxes on income and profits.

**Article 2**

**Definitions**

1. For the purposes of this Agreement, unless the context otherwise requires:
  - (a) the term “Party” means the British Virgin Islands or the Faroes as the context requires;
  - (b) the term “the Faroes” means the landmass of the Faroes and their territorial waters and any area outside the territorial waters where the Faroes according to the Faroese legislation and in accordance with international law, may exercise rights with respect to the seabed and subsoil and their natural resources;
  - (c) the term “the British Virgin Islands” means the territory of the Virgin Islands as referred to in the Virgin Islands Constitution Order 2007;
  - (d) the term “resident of a Party” means
    - (i) in the Faroes any person, who under the law of that Party is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature; this term, however, does not include an individual who is liable to tax in that Party in respect only of income from sources in that Party;
    - (ii) in the British Virgin Islands, an individual ordinarily resident in the British Virgin Islands, and a company, partnership or other entity created under the laws of the British Virgin Islands; provided that an entity created under the laws of the British Virgin Islands shall not

be deemed to be resident in the British Virgin Islands unless its effective management is carried on in the British Virgin Islands;

(e) the term “enterprise” applies to the carrying on of any business;

(f) the term “enterprise of a Party” mean an enterprise carried on by a resident of a Party;

(g) the term “competent authority” means

(i) in the case of the British Virgin Islands, the Financial Secretary or a person or authority designated by him in writing;

(ii) in the case of the Faroes, the Minister of Finance or his authorised representative or the authority which is designated as a competent authority for the purpose of 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 law of that Party for the purposes of the taxes to which the Agreement applies, 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 3**

#### **Principles applying to the adjustment of profits of associated enterprises**

Where:

(a) an enterprise of a Party participates directly or indirectly in the management, control or capital of an enterprise of the other Party, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Party and an enterprise of the other Party,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

### **Article 4**

#### **Mutual agreement procedures**

1. Where an enterprise considers that, in any case to which this Agreement applies, the principles set out in Article 3 have not been observed, it may, irrespective of the remedies provided by the domestic law of the Party concerned, present its case to the competent authority of the Party of which it is a resident. The case must be presented within three

years of the first notification of the action which is contrary or is likely to be contrary to the principles set out in Article 3. The competent authority shall then without delay notify the competent authority of the other Party.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Parties.

3. The competent authorities of the Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement.

4. The competent authorities of the Parties may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

## **Article 5**

### **Entry into force**

1. This Agreement shall enter into force on the thirtieth day after the later of the dates on which each of the Parties has notified the other in writing that the procedures required by its law have been complied with. The Agreement shall have effect on taxes chargeable for any tax year beginning on or after the first day of January of the year next following that in which this Agreement enters into force.

2. Notwithstanding paragraph 1, this Agreement shall only have effect when the Agreement signed on [...] between the Faroes and the British Virgin Islands for the exchange of information relating to tax matters shall have effect.

## **Article 6**

### **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 at least six months before the end of any calendar year. In such event, the Agreement shall cease to have effect on taxes chargeable for any tax year beginning on or after the first day of January of the year next following the end of the six month period.

2. Notwithstanding paragraph 1, this Agreement will be terminated, without giving notice of termination, on the date of termination of the Agreement signed on [...] between the Faroes and the British Virgin Islands for the exchange of information relating to tax matters.

In witness whereof the undersigned being duly authorised thereto have signed this Agreement.

Done at Copenhagen this 18th day of May 2009, in duplicate in the English language.

For the Government of  
The British Virgin Islands

For the Government  
of the Faroes

The Honourable Dancia Penn  
Deputy Premier

Herálvur Joensen  
Head of the Representation

**4.**

**AGREEMENT BETWEEN THE REPUBLIC OF FINLAND AND THE BRITISH VIRGIN ISLANDS FOR THE EXCHANGE OF INFORMATION RELATING TO TAXES**

Whereas the Government of the British Virgin Islands and the Government of The Republic of Finland (“the Contracting Parties”) recognise the need for cooperation and the exchange of information in criminal and civil tax matters;

Whereas the Contracting Parties have long been active in international efforts in the fight against financial and other crimes, including the targeting of terrorist financing;

Whereas it is acknowledged that Contracting Parties are competent to negotiate and conclude a tax information exchange agreement;

Whereas the British Virgin Islands on the 2nd April 2002 entered into a formal written commitment to the Organisation for Economic Cooperation and Development’s (OECD) principles of transparency and exchange of information and have subsequently actively participated in the OECD Global Forum on Taxation;

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

Whereas the Contracting Parties recognise that they will never engage in “fishing expeditions”;

Now, therefore, the Contracting Parties have concluded the following Agreement, which contains obligations on the part of the Contracting Parties only.

## **ARTICLE 1**

### **SCOPE OF AGREEMENT**

The competent authorities of the Contracting Parties shall provide assistance through exchange of information that is foreseeably relevant to the administration or enforcement of the domestic laws of the Contracting Parties concerning the taxes and the tax matters covered by this Agreement, including information that is foreseeably relevant to the determination, assessment, verification, enforcement, recovery or collection of tax claims with respect to persons subject to such taxes, or the investigation or 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.

## **ARTICLE 2**

### **JURISDICTION**

To enable the appropriate implementation of this Agreement, information shall be provided in accordance with this Agreement by the competent authority of the Requested Party:

- (a) without regard to whether the person to whom the information relates is a resident or national of a Contracting Party, or whether the person by whom the information is held is a resident or national of a Contracting Party; and
- (b) provided that the information is present within the territory, or in the possession or control of a person subject to the jurisdiction, of the Requested Party.

## **ARTICLE 3**

### **TAXES COVERED**

3. The taxes covered by this Agreement are:

(a) in the case of the British Virgin Islands,

- (i) the income tax;
- (ii) the payroll tax; and
- (iii) the property tax

(b) in the case of Finland,

- (i) the state income taxes (valtion tuloverot; de statliga inkomstskatterna);
  - (ii) the corporate income tax (yhteisöjen tulovero; inkomstskatten för samfund);
  - (iii) the communal tax (kunnallisvero; kommunalskatten);
  - (iv) the church tax (kirkollisvero; kyrkoskatten);
  - (v) the tax withheld at source from interest (korkotulon lähdevero; källskatten på ränteinkomst);
  - (vi) the tax withheld at source from non-residents' income; (rajoitetusti verovelvollisen lähdevero; källskatten för begränsat skattskyldig);
  - (vii) the withholding tax for foreign employees (ulkomailta tulevan palkansaajan lähdevero; källskatten för löntagare från utlandet);
  - (viii) the value added tax (aronlisävero; mervärdesskatt).
4. This Agreement shall also apply to any identical or substantially similar taxes imposed by either Party after the date of signature of this Agreement in addition to, or in place of, any of the taxes listed in paragraph 1 of this Article. The competent authorities of the Contracting Parties shall notify each other of any relevant changes to the taxation and related information gathering measures covered by this Agreement.

## **ARTICLE 4**

### **DEFINITIONS**

1. In this Agreement unless the context otherwise requires:
  - (a) “British Virgin Islands” means the territory of the Virgin Islands as referred to in the Virgin Islands Constitution Order 2007;
  - (b) “Finland” means the Republic of Finland and, when used in a geographical sense, means the territory of the Republic of Finland, and any area adjacent to the territorial waters of the Republic of Finland within which, under the laws of Finland and in accordance with international law, the rights of Finland with respect to the exploration for and exploitation of the natural resources of the sea bed and its sub-soil and of the superjacent waters may be exercised;
  - (c) “collective investment fund or scheme” means any pooled investment vehicle irrespective of legal form;

- (d) “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;
- (e) “competent authority” means
  - (i) in the case of the British Virgin Islands, the Financial Secretary or a person or authority designated by him in writing;
  - (ii) in the case of Finland, the Minister of Finance, its authorised representative or the authority which, by the Ministry of Finance, is designated as a competent authority;
- (f) “Contracting Party” means the British Virgin Islands or Finland as the context requires;
- (g) “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 laws;
- (h) “criminal tax matters” means tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the Requesting Party;
- (i) “information” means any fact, statement, document or record in whatever form;
- (j) “information gathering measures” means laws, regulations and administrative or judicial procedures that enable a Requested Party to obtain and provide the requested information;
- (k) “national” means –
  - (i) in relation to the British Virgin Islands, any person who belongs to the British Virgin Islands by virtue of the Virgin Islands Constitution Order 2007 (Statutory Instrument 2007 No. 1678) or has a certificate of residence of the British Virgin Islands by virtue of the Immigration and Passport Ordinance (Cap.130); and any legal person, partnership, association or other entity deriving its status as such from the laws in force in the British Virgin Islands;
  - (ii) in relation to Finland, (A) any Finnish citizen, and (B) any legal person, partnership, association or other entity deriving its status as such from the laws in force in Finland;
- (l) “person” includes an individual, a company and any other body or group of persons;
- (m) “principal class of shares” means the class or classes of shares representing a majority of the voting power and value of the company;



- (n) “public collective investment fund or scheme” means any collective investment fund or scheme, in which the purchase, sale or redemption of shares or other interests is not implicitly or explicitly restricted to a limited group of investors;
- (o) “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;
- (p) “recognised stock exchange” means any stock exchange agreed upon by the competent authorities of the Contracting Parties;
- (q) “Requested Party” means the Contracting Party to this Agreement which is requested to provide or has provided information in response to a request;
- (r) "Requesting Party" means the Contracting Party to this Agreement submitting a request for or having received information from the Requested Party;
- (s) "tax" means any tax covered by this Agreement.

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

## **ARTICLE 5**

### **EXCHANGE OF INFORMATION UPON REQUEST**

1. The competent authority of a Requested Party shall provide upon request in writing by the Requesting Party information for the purposes referred to in Article 1. Such information shall be exchanged without regard to whether the conduct being investigated would constitute a crime under the laws of the Requested Party if it occurred in the territory of the Requested Party. If the information received by the competent authority of the Requested Party is not sufficient to enable it to comply with the request for information, it shall, in accordance with the terms provided in paragraph 7 (a), advise the competent authority of the Requesting Party of that fact and request such additional information as may be required to enable the effective processing of the request.

2. If the information in possession of the competent authority of the Requested Party is not sufficient to enable it to comply with the request for the information, the Requested Party shall use all relevant information gathering measures 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 Contracting Party shall ensure that its competent authority, for the purposes of this Agreement, has the authority to obtain and provide 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) information regarding the legal and beneficial ownership of companies, partnerships and other persons, including, within the constraints of Article 2, ownership information on all such persons in an ownership chain; and in the case of trusts, information on settlors, trustees, beneficiaries and protectors; and in the case of foundations, information on founders, members of the foundation council and beneficiaries, and equivalent information in the case of entities that are neither trust nor foundations.

5. Notwithstanding the preceding paragraphs, this Agreement does not create an obligation on the Contracting Parties to obtain or provide:

- (a) 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;
- (b) information relating to a period more than six years prior to the tax period under consideration;
- (c) information in the possession or control of a person other than the taxpayer that does not directly relate to the taxpayer.

6. The competent authority of the Requesting Party shall provide the following information to the competent authority of the Requested Party when making a request for information under this Agreement in order to demonstrate the foreseeable relevance of the information to the request:

- (a) the identity of the person under examination or investigation;
- (b) the period for which the information is requested;
- (c) the nature and type of the information requested, including a description of the specific evidence sought and the form in which the Requesting Party would prefer to receive the information;

- (d) the tax purposes for which the information is sought and the reasons why the information requested is foreseeably relevant to the administration or enforcement of the domestic laws of the Requesting Party;
- (e) grounds for believing that the information requested is present in the territory of the Requested Party or is in the possession or control of a person subject to the jurisdiction of the Requested Party;
- (f) to the extent known, the name and address of any person believed to be in possession or control of the information requested;
- (g) a declaration that the request is in conformity with this Agreement and the laws and administrative practices of the Requesting Party, and that if the requested information were 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;
- (h) a statement that the Requesting Party has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

7. The competent authority of the Requested Party shall forward the requested information as promptly as possible to the competent authority of the Requesting Party. To ensure a prompt response:

- (a) the competent authority of the Requested party shall confirm the receipt of a request in writing to the competent authority of the Requesting Party and shall notify the competent authority of the Requesting Party of any deficiencies in the request within 60 days of receipt of the request; and
- (b) if the competent authority of the Requested Party has been unable to obtain and provide the information requested within 90 days of receipt of the request, or if obstacles are encountered in furnishing the information, or if the competent authority of the Requested Party refuses to provide the information, it shall immediately inform the competent authority of the Requesting Party in writing, explaining the reasons for its inability to obtain and provide the information, or the obstacles encountered, or the reasons for its refusal.

## **ARTICLE 6**

### **TAX EXAMINATIONS OR INVESTIGATIONS ABROAD**

1. The Requested Party may, to the extent permitted under its domestic laws, and following reasonable notice from the Requesting Party, allow representatives of the competent authority of

the Requesting Party to enter the territory of the Requested Party in connection with a request to interview persons and examine records with the written consent of the 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 meeting with the persons concerned.

2. At the request of the competent authority of the Requesting Party, the competent authority of the Requested Party may, in accordance with its domestic laws, permit representatives of the competent authority of the Requesting Party to be present at the appropriate part of a tax examination in the territory of the Requested Party.

3. If the request referred to in paragraph 2 of this Article 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 in accordance with its domestic laws.

## **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; or
- (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 difficulties; or
- (c) where the disclosure of the information requested would be contrary to the public policy (*ordre public*).

2. The provisions of this Agreement shall not impose upon a Contracting Party any obligation to provide information which would disclose any trade, business, industrial, commercial or professional secret or trade process. Information described in paragraph 4 of Article 5 shall not by reason of that fact alone constitute such a secret or process.

3. (a) The provisions of this Agreement shall not impose on a Contracting Party the obligation to obtain or provide information which would reveal confidential communications between a client and a attorney, solicitor or barrister where such communications are:

- (i) produced for the purposes of seeking or providing legal advice, or
- (ii) produced for the purposes of use in existing or contemplated legal proceedings.

(b) Information held with the intention of furthering an offence is not subject to legal privilege, and nothing in this Article shall prevent an attorney, solicitor or barrister from providing the name and address of a client where doing so would not constitute a breach of legal privilege.

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

5. 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.

6. 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 resident or national of the Requested Party as compared with a resident or national of the Requesting Party in the same circumstances.

## **ARTICLE 8**

### **CONFIDENTIALITY**

1. All information provided and received by the competent authorities of the Contracting Parties shall be kept confidential and 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 or the oversight of the above. For these purposes, information may be disclosed in public court proceedings or in judicial proceedings.
2. The information may not be disclosed to any other person or entity or authority without the express written consent of the competent authority of the Requested Party.
3. Information provided to a Requesting Party shall not be disclosed to any other jurisdiction.

## **ARTICLE 9**

### **SAFEGUARDS**

Nothing in this Agreement shall affect the rights and safeguards secured to persons by the laws or administrative practice of the Requested Party. However, these rights and safeguards may not be applied by the Requested Party in a manner that unduly prevents or delays effective exchange of information.

## **ARTICLE 10**

## **ADMINISTRATIVE COSTS**

4. Incidence of ordinary costs incurred in the course of responding to a request for information will be borne by the Requested Party. Such ordinary costs would normally cover internal administration costs and any minor external costs.
5. All other costs that are not ordinary costs are considered extraordinary costs and will be borne by the Requesting Party. Extraordinary costs include, but are not limited to, the following:
  - (a) reasonable fees charged by third parties for carrying out research;
  - (b) reasonable fees charged by third parties for copying documents;
  - (c) reasonable costs of engaging experts, interpreters, or translators;
  - (d) reasonable costs of conveying documents to the Requesting Party;
  - (e) reasonable litigation costs of the Requested Party in relation to a specific request for information; and
  - (f) reasonable costs for obtaining depositions or testimony.
6. The competent authorities of the Contracting Parties will consult each other in any particular case where extraordinary costs are likely to exceed \$US500 to determine whether the Requesting Party will continue to pursue the request and bear the cost.

## **ARTICLE 11**

### **NO PREJUDICIAL OR RESTRICTIVE MEASURES**

1. So long as this Agreement is in force and effective, it is the intention of the Contracting Parties not to apply or introduce prejudicial or restrictive measures based on harmful tax practices to residents or nationals of either Contracting Party. However, in the event that a Contracting Party has reason to believe that the other Contracting Party has introduced such prejudicial or restrictive measures, both Contracting Parties shall immediately initiate proceedings to resolve the matter.
2. A prejudicial or restrictive measure based on harmful tax practices means a measure applied by one Contracting party to residents or nationals of the other Contracting Party on the basis that the other Contracting Party does not engage in effective exchange of information 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 the term “prejudicial or restrictive measure”, the term includes the denial of a deduction, credit or exemption, the imposition of a tax, charge or levy, or special reporting requirements. Such measures include any measure which relates, directly or indirectly, to taxation matters. However, they do not include any generally applicable measure, applied by either Contracting Party against, amongst others, members of the OECD generally.

## **ARTICLE 12**

### **IMPLEMENTING LEGISLATION**

The Contracting Parties shall (where they have not already done so) enact any legislation necessary to comply with, and give effect to, the terms of this Agreement.

## **ARTICLE 13**

### **LANGUAGE**

Requests for assistance and responses thereto shall be drawn up in English

## **ARTICLE 14**

### **MUTUAL AGREEMENT PROCEDURE**

1. Where difficulties or doubts arise between the Contracting Parties regarding the implementation or interpretation of this Agreement, the competent authorities shall use their best efforts to resolve the matter by mutual agreement.

2. In addition to the efforts referred to in paragraph 1 of this Article, the competent authorities of the Contracting Parties may mutually determine the procedures to be used under Articles 5, 6 and 10.

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

## **ARTICLE 15**

### **ENTRY INTO FORCE**

1. Each of the Contracting Parties shall notify to the other the completion of the procedures required by its law for the bringing 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:

(a) with respect to criminal tax matters upon the entry into force of this Agreement; and

(b) with respect to all other matters covered in Article 1 for taxable periods beginning on or after the date of entry into force of this Agreement.

## **ARTICLE 16**

### **TERMINATION**

1. This Agreement shall remain in force until terminated by either Contracting Party.
2. Either Contracting 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 Contracting Party.
3. If the Agreement is terminated the Contracting Parties shall remain bound by the provisions of Article 8 with respect to any information obtained under this Agreement.

**IN WITNESS WHEREOF**, the undersigned, being duly authorised in that behalf by the respective parties, have signed this Agreement.

Signed by the Contracting Parties at Copenhagen this 18<sup>th</sup> day of May 2009, in duplicate in the English language

**FOR GOVERNMENT OF  
THE BRITISH VIRGIN ISLANDS:**

**FOR THE GOVERNMENT OF  
THE REPUBLIC OF FINLAND:**

Honourable Dancia Penn  
Deputy Premier

Mr. Antero TOIVAINEN  
Director of International Tax Affairs



**AGREEMENT  
BETWEEN THE BRITISH VIRGIN ISLANDS AND THE REPUBLIC OF FINLAND  
FOR THE AVOIDANCE OF DOUBLE TAXATION ON INDIVIDUALS**

The Government of the British Virgin Islands and the Government of the Republic of Finland, desiring to conclude an Agreement for the avoidance of double taxation on individuals with respect to taxes on income,

have agreed as follows:

**Article 1**

**Individuals covered**

This Agreement shall apply to individuals who are residents in one or both of the Parties.

**Article 2**

**Taxes covered**

1. The existing taxes to which the Agreement shall apply are:
  - a) in the case of the British Virgin Islands, the income tax (hereinafter referred to as “British Virgin Islands tax”);
  - b) in the case of Finland:
    - (i) the state income tax (earned income);
    - (ii) the communal tax;
    - (iii) the church tax;
    - (iv) the tax withheld at source from non-residents’ income; (hereinafter referred to as “Finnish tax”).
2. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Parties shall notify each other of any significant changes that have been made in their taxation laws concerning individuals.

**Article 3**

**General definitions**

1. For the purposes of this Agreement, unless the context otherwise requires:
  - a) the term “a Party” means the British Virgin Islands or Finland, as the context requires; the term “Parties” means the British Virgin Islands and Finland;
  - b) the term “the British Virgin Islands” means the territory of the Virgin Islands as referred to in the Virgin Islands Constitution Order 2007;
  - c) The term “Finland” means the Republic of Finland and, when used in a geographical sense, means the territory of the Republic of Finland, and any area adjacent to the territorial waters of the Republic of Finland within which, under the laws of Finland and in accordance with international law, the rights of Finland with respect to the exploration for and exploitation of the natural resources of the sea bed and its sub-soil and of the superjacent waters may be exercised;
  - d) the term “competent authority” means;
    - (i) in the case of the British Virgin Islands, the Financial Secretary or a person or authority designated by him in writing;
    - (ii) in the case of Finland the Ministry of Finance, its authorised representative or the authority which, by Ministry of Finance, is designated as competent authority;
  - e) the term “enterprise” applies to the carrying on of any business;
  - f) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Party, except when the ship or aircraft is operated solely between places in the other Party.
2. As regards the application of the 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 law of that Party for the purposes of the taxes to which the Agreement applies, 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 4**

##### **Resident**

1. For the purposes of this Agreement, the term “resident of a Party” means:
  - a) in the British Virgin Islands in respect of an individual who, under the laws of the British Virgin Islands is ordinarily resident;

- b) in Finland in respect of an individual any individual who, under the laws of Finland, is liable to tax therein by reason of his domicile, residence or any other criterion of a similar nature. This term, however, does not include an individual who is liable to tax in Finland in respect only of income from sources in Finland;
2. Where by reason of the provisions of paragraph 1 an individual is a resident in both Parties, then his status shall be determined as follows:
- a) he shall be deemed to be a resident only of the Party in which he has a permanent home available to him; if he has a permanent home available to him in both Parties, he shall be deemed to be a resident only of the Party with which his personal and economic relations are closer (centre of vital interests);
  - b) if the Party in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Party, he shall be deemed to be a resident only of the Party in which he has an habitual abode;
  - c) if he has a habitual abode in both Parties or in neither of them, the competent authorities of the Parties shall settle the question by mutual agreement.

## **Article 5**

### **Income from employment**

1. Subject to the provisions of Articles 6, 7, 8 and 9, salaries, wages and other similar remuneration derived by a resident of a Party in respect of an employment shall be taxable only in that Party unless the employment is exercised in the other Party. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Party.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Party in respect of an employment exercised in the other Party shall be taxable only in the first-mentioned Party if:

- (a) the recipient is present in the other Party for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned; and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Party; and
- (c) the remuneration is not borne by a fixed place of business through which the business is wholly or partly carried on which the employer has in the other Party.

3. Paragraph 2 of this Article shall not apply to remuneration derived by a resident of a Party in respect of an employment exercised in the other Party and paid by, or on behalf of, an employer who is not a resident of that other Party if:

- (a) the recipient renders services in the course of that employment to a person other than the employer and that person, directly or indirectly, supervises, directs or controls the manner in which those services are performed, and;
- (b) those services constitute an integral part of the business activities carried on by that person.

4. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Party, may be taxed in that Party.

## **Article 6**

### **Directors' fees**

Directors' fees and other similar payments derived by a resident of a Party in his capacity as a member of the board of directors or any other similar organ of a company which is resident of the other Party may be taxed in that other Party.

## **Article 7**

### **Artistes and sportmen**

1. Income derived by a resident of a Party as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Party, may be taxed in that other Party.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another individual or legal entity, that income may be taxed in the Party in which the activities of the entertainer or sportsman are exercised.

## **Article 8**

### **Pensions**

1. Pensions paid and other benefits, whether periodic or lump-sum compensation, awarded under the social security legislation of a Party or under any public scheme organized by a Party for social welfare purposes, or any annuity arising in a Party, may be taxed in that Party.

2. The term “annuity” as used in this Article means a stated sum payable periodically to an individual at stated times during his life, or during a specified or ascertainable period of time, under an obligation to make the payments in return of adequate and full consideration in money or money’s worth (other than services rendered).

## **Article 9**

### **Government services**

1. a) Salaries, wages and other similar remuneration, other than a pension, paid by a Party or a political subdivision or a statutory body or a local authority thereof to an individual in respect of services rendered to that Party or subdivision or body or authority shall be taxable only in that Party.  
  
b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Party if the services are rendered in that Party and the individual is a resident of that Party who did not become a resident of that Party solely for the purpose of rendering the services.
2. The provisions of Articles 5, 6 and 7 shall apply to salaries, wages, and other similar remuneration in respect of services rendered in connection with a business carried on by a Party or a political subdivision or a statutory body or a local authority thereof.

## **Article 10**

### **Students**

Payments which a student or business apprentice who is or was immediately before visiting a Party a resident of the other Party and who is present in the first-mentioned Party solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that Party, provided that such payments arise from sources outside that Party.

## **Article 11**

### **Elimination of double taxation**

1. In the British Virgin Islands double taxation shall be avoided in accordance with the laws of the British Virgin Islands;
2. Subject to the provisions of Finnish law regarding the elimination of international double taxation (which shall not affect the general principle hereof), double taxation shall be eliminated in Finland as follows:

- (a) Where a resident of Finland derives income which, in accordance with the provisions of this Agreement, may be taxed in the British Virgin Islands, Finland shall allow as a deduction from the Finnish tax of that person, an amount equal to the British Virgin Islands tax paid under British Virgin Islands law and in accordance with the Agreement, as computed by reference to the same income by reference to which Finnish tax is computed.
- (b) Where in accordance with any provision of the Agreement income derived by a resident of Finland is exempt from tax in the Finland, Finland may nevertheless, in calculating the amount of tax on the remaining income of such person, take into account the exempted income.

## **Article 12**

### **Mutual agreement procedure**

1. Where an individual considers that the actions of one or both of the Parties result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those Parties, present his case to the competent authority of the Party of which he is a resident. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Parties.
3. The competent authorities of the Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement.
4. The competent authorities of the Parties may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

## **Article 13**

### **Entry into force**

1. This Agreement shall enter into force on the thirtieth day after the later of the dates on which each of the Parties has notified the other in writing that the procedures required by its law have been complied with.
2. The Agreement shall have effect:

(c) in the British Virgin Islands:

in respect of British Virgin Islands tax, on taxes chargeable for tax year beginning on or after the first day of January of the calendar year next following that in which this Agreement enters in force;

(d) in Finland:

in respect of Finnish tax, on taxes chargeable for any tax year beginning on or after the first day of January of the year next following that in which this Agreement enters into force.

3. Notwithstanding paragraph 2 of this Article, the Agreement shall only be applicable when the Agreement signed on 18<sup>th</sup> May 2009 between the British Virgin Islands and the Republic of Finland for the exchange of information relating to taxes shall have effect.

## **Article 14**

### **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 at least six months before the end of any calendar year. In such case, the Agreement shall cease to have effect on taxes chargeable for any tax year beginning on or after the first day of January of the year next following the end of the six months period.

2. Notwithstanding paragraph 1 of this Article, this Agreement will be terminated, without giving notice of termination, on the date of termination of the Agreement signed on 18<sup>th</sup> May 2009 between the British Virgin Islands and the Republic of Finland for the exchange of information relating to taxes.

In witness whereof the undersigned being duly authorised thereto have signed this Agreement.

Done at Copenhagen, this 18 day of May 2009, in duplicate in the English language.

**FOR THE GOVERNMENT  
THE BRITISH VIRGIN ISLANDS:**

**FOR THE GOVERNMENT OF  
THE REPUBLIC OF FINLAND:**

Honourable Dancia Penn  
Deputy Premier

Mr. Antero TOIVAINEN  
Director of International Tax Affairs

**AGREEMENT BETWEEN  
THE BRITISH VIRGIN ISLANDS AND THE REPUBLIC OF FINLAND  
FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO  
ENTERPRISES OPERATING SHIPS OR AIRCRAFT IN INTERNATIONAL TRAFFIC**

The Government of the British Virgin Islands and the Government of Republic of Finland, desiring to conclude an agreement for the avoidance of double taxation with respect to enterprises operating ships or aircraft in international traffic,

have agreed as follows:

**Article 1**

**DEFINITIONS**

1. For the purposes of this Agreement, unless the context otherwise requires:
  - a) the terms "a Party" means the British Virgin Islands or Finland, as the context requires; the term "Parties" means the British Virgin Islands and Finland;
  - b) the term "the British Virgin Islands" means the of territory of the Virgin Islands as referred to in the Virgin Islands Constitution Order 2007;
  - c) the term "Finland" means the Republic of Finland and, when used in a geographical sense, means the territory of the Republic of Finland, and any area adjacent to the territorial waters of the Republic of Finland within which, under the laws of Finland and in accordance with international law, the rights of Finland with respect to the exploration for and exploitation of the natural resources of the sea bed and its sub-soil and of the superjacent waters may be exercised;
  - d) the term "person" includes an individual, a company and any other body of persons;
  - e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
  - h) the term "resident of a Party" means
    - (iii) in the British Virgin Islands, an individual ordinarily resident in the British Virgin Islands, and a company, partnership or other entity created under the laws of the British Virgin Islands; provided that an entity created under the laws of the British Virgin Islands shall not be deemed to be resident in the British Virgin Islands unless its effective management is carried on in the British Virgin Islands;



- (iv) in Finland any person, who under the law of that Party is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature; this term, however, does not include an individual who is liable to tax in that Party in respect only of income from sources in that Party;
- g) the term “enterprise” applies to the carrying on of any business;
- h) the term “enterprise of a Party” means an enterprise carried on by a resident of a Party;
- i) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Party, except when the ship or aircraft is operated solely between places in the other Party;
- j) the term “income derived from the operation of ships or aircraft in international traffic” means revenues, gross receipts and profits derived from:
  - (i) such operation of ships or aircraft for the transport of passengers or cargo;
  - (ii) the rental on a charter basis of ships or aircraft where the rental is ancillary to the operation of ships or aircraft in international traffic;
  - (iii) the sale of tickets or similar documents and the provision of services connected with such operation, either for the enterprise itself or for any other enterprise, where such sale of tickets or similar documents or provision of services is directly connected with or ancillary to the operation of ships or aircraft in international traffic;
  - (iv) the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise, where the use, maintenance or rental is directly connected with or ancillary to the operation of ships or aircraft in international traffic;
  - (v) interest on funds deposited directly in connection with the operation of ships or aircraft in international traffic.
- k) the term "competent authority" means:
  - (i) in the case of the British Virgin Islands, the Financial Secretary or a person or authority designated by him in writing;
  - (ii) in the case of Finland, the Ministry of Finance, its authorised representative or the authority which, by the Ministry of Finance, is designated as a competent authority;

2. As regards the application of the 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 law of that Party for the purposes of the taxes to which the Agreement applies, 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 2**

### **AVOIDANCE OF DOUBLE TAXATION**

1. Income derived from the operation of ships or aircraft in international traffic by an enterprise of a Party shall be taxable only in that Party.
2. Gains derived from the alienation of ships or aircraft or movable property pertaining to the operation of ships and aircraft in international traffic by an enterprise of a Party shall be taxable only in that Party.
3. The provisions of paragraphs 1 and 2 shall also apply to income and gains derived by an enterprise of a Party from the participation in a pool, a joint business or an international operating agency.

## **Article 3**

### **MUTUAL AGREEMENT PROCEDURE**

1. Where a person considers that the actions of one or both of the Parties result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those Parties, present his case to the competent authority of the Party of which he is a resident. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Parties.
3. The competent authorities of the Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement.
4. The competent authorities of the Parties may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

## **Article 4**

### **ENTRY INTO FORCE**

1. This Agreement shall enter into force on the thirtieth day after the later of the dates on which each of the Parties has notified the other in writing that the procedures required by its law have been complied with. The Agreement shall have effect on taxes chargeable for any tax year beginning on or after the first day of January of the year next following that in which this Agreement enters into force.

2. Notwithstanding paragraph 1 of this Article, the Agreement shall only be applicable when the Agreement between the British Virgin Islands and the Republic of Finland for the exchange of information relating to taxes signed on 18<sup>th</sup> May 2009 shall have effect.

## **Article 5**

### **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 at least six months before the end of any calendar year. In such event, the Agreement shall cease to have effect on taxes chargeable for any tax year beginning on or after the first day of January of the year next following the end of the six months period.

2. Notwithstanding paragraph 1 of this Article, this Agreement will be terminated, without giving notice of termination, on the date of termination of the Agreement signed on 18<sup>th</sup> May 2009 between the British Virgin Islands and the Republic of Finland for the exchange of information relating to tax matters.

In witness whereof the undersigned, being duly authorised thereto, have signed this Agreement.

Done at Copenhagen this 18 day of May 2009, in duplicate in the English language.

**FOR THE GOVERNMENT OF  
THE BRITISH VIRGIN ISLANDS:**

Honourable Dancia Penn  
Deputy Premier

**FOR THE GOVERNMENT OF  
THE REPUBLIC OF FINLAND**

Mr. Antero TOIVAINEN  
Director of International Tax Affairs

**AGREEMENT BETWEEN THE BRITISH VIRGIN ISLANDS AND THE REPUBLIC  
OF FINLAND ON THE ACCESS TO MUTUAL AGREEMENT PROCEDURES IN  
CONNECTION WITH THE ADJUSTMENT OF PROFITS OF ASSOCIATED  
ENTERPRISES**

The Government of the British Virgin Islands and the Government of Republic of Finland, desiring to conclude an agreement on the access to mutual agreement procedures in connection with the adjustment of profits of associated enterprises, have agreed as follows:

**Article 1**

**Taxes covered**

This Agreement shall apply to taxes on income and profits.

**Article 2**

**Definitions**

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

- a) the term “Party” means the British Virgin Islands or Finland as the context requires;
- b) the term “the British Virgin Islands” means the territory of the Virgin Islands as referred to in the Virgin Islands Constitution Order 2007;
- c) the term “Finland” means the Republic of Finland and, when used in a geographical sense, means the territory of the Republic of Finland, and any area adjacent to the territorial waters of the Republic of Finland within which, under the laws of Finland and in accordance with international law, the rights of Finland with respect to the exploration for and exploitation of the natural resources of the sea bed and its sub-soil and of the superjacent waters may be exercised;
- d) the term “resident of a Party” means
  - (i) in the British Virgin Islands, an individual ordinarily resident in the British Virgin Islands, and a company, partnership or other entity created under the laws of the British Virgin Islands; provided that an entity created under the laws of the British Virgin Islands shall not be deemed to be resident in the British Virgin Islands unless its effective management is carried on in the British Virgin Islands;

(iii) in Finland any person, who under the laws of Finland is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature; this term, however, does not include an individual who is liable to tax in Finland in respect only of income from sources in Finland;

e) the term “enterprise” applies to the carrying on of any business;

f) the term “enterprise of a Party” mean an enterprise carried on by a resident of a Party;

g) the term “competent authority” means

(i) in the case of the British Virgin Islands, the Financial Secretary or a person or authority designated by him in writing;

(ii) in the case of Finland, the Ministry of Finance, its authorised representative or the authority which, by the Ministry of Finance, is designated as competent authority;

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 law of that Party for the purposes of the taxes to which the Agreement applies, 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 3**

#### **Principles applying to the adjustment of profits of associated enterprises**

Where:

(a) an enterprise of a Party participates directly or indirectly in the management, control or capital of an enterprise of the other Party, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Party and an enterprise of the other Party,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

### **Article 4**

## **Mutual agreement procedures**

1. Where an enterprise considers that, in any case to which this Agreement applies, the principles set out in Article 3 have not been observed, it may, irrespective of the remedies provided by the domestic law of the Party concerned, present its case to the competent authority of the Party of which it is a resident. The case must be presented within three years of the first notification of the action which is contrary or is likely to be contrary to the principles set out in Article 3. The competent authority shall then without delay notify the competent authority of the other Party.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Parties.
3. The competent authorities of the Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement.
4. The competent authorities of the Parties may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

## **Article 5**

### **Entry into force**

1. This Agreement shall enter into force on the thirtieth day after the later of the dates on which each of the Parties has notified the other in writing that the procedures required by its law have been complied with. The Agreement shall have effect on taxes chargeable for any tax year beginning on or after the first day of January of the year next following that in which this Agreement enters into force.
2. Notwithstanding paragraph 1, this Agreement shall only have effect when the Agreement signed on 18th May 2009 between the British Virgin Islands and the Republic of Finland for the exchange of information relating to taxes shall have effect.

## **Article 6**

### **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 at least six months before the end of any calendar year. In such event, the Agreement shall cease to have effect on taxes chargeable for any tax year beginning on or after the first day of January of the year next following the end of the six month period.

2. Notwithstanding paragraph 1, this Agreement will be terminated, without giving notice of termination, on the date of termination of the Agreement signed on 18th May 2009 between the Republic of Finland and the British Virgin Islands for the exchange of information relating to taxes.

In witness whereof the undersigned being duly authorised thereto have signed this Agreement.

Done at Copenhagen, this 18 day of May 2009, in duplicate in the English language.

**FOR THE GOVERNMENT OF  
THE BRITISH VIRGIN ISLANDS:**

Honourable Dancia Penn  
Deputy Premier

**FOR THE GOVERNMENT OF  
THE REPUBLIC OF FINLAND:**

Mr. Antero TOIVAINEN  
Director of International Tax Affairs

Made by the Minister this 15<sup>th</sup> day of March, 2010.

(Sgd.) RALPH T. O'NEAL,  
Minister for Finance.