

**AGREEMENT  
BETWEEN  
THE REPUBLIC OF SAN MARINO  
AND  
THE REPUBLIC OF SEYCHELLES  
FOR THE AVOIDANCE OF DOUBLE TAXATION  
WITH RESPECT TO TAXES ON INCOME**

The Government of the Republic of San Marino and the Government of the Republic of Seychelles, hereunder the “Contracting States”, wishing to conclude an Agreement for the avoidance of double taxation with respect to taxes on income and to strengthen the disciplined development of economic relations between the two States in the framework of greater cooperation, have agreed the following:

**Article 1  
PERSONS COVERED**

This Agreement shall apply to persons who are residents of one or both of the Contracting States.

**Article 2  
TAXES COVERED**

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.
3. The existing taxes to which the Agreement shall apply are in particular:
  - a) in the case of San Marino:

the general income tax which is levied:

    - (i) on individuals;
    - (ii) on bodies corporate and proprietorships;even if collected through a withholding tax  
(hereunder referred to as “San Marino tax”);
  - b) in the case of Seychelles:
    - (i) the business tax;
    - (ii) income and non-monetary benefits tax act; and
    - (iii) the petroleum income tax;(hereunder referred to as “Seychelles tax”).
4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of this Agreement in addition to, or in place of, the

existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their taxation laws and if it seems desirable to amend any Article of the Agreement without affecting the general principles thereof, the necessary amendments may be made by mutual consent by means of exchange of diplomatic notes. Such amendments shall make integral part of this Agreement and shall enter into force subject to the provisions of the Article 27 of this Agreement.

### **Article 3** **GENERAL DEFINITIONS**

1. For the purposes of this Agreement, unless the context otherwise requires:
  - a) the term “San Marino” means the territory of the Republic of San Marino, including any other area within which the Republic of San Marino, in accordance with international law, exercises sovereign rights or jurisdiction;
  - b) the term “Seychelles” means the territory of the Republic of Seychelles including its exclusive economic zone and continental shelf where Seychelles exercises sovereign rights and jurisdiction in conformity with the provisions of the United Nations Agreement on the Law of the Sea;
  - c) the terms “a Contracting State” and “the other Contracting State” mean San Marino or Seychelles, as the context requires;
  - d) the term “person” includes an individual, a company and any other body of persons that is treated as an entity for tax purposes;
  - e) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;
  - f) the terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
  - g) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
  - h) the term “national” means:
    - (i) any individual possessing the nationality or citizenship of a Contracting State; and
    - (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;
  - i) the term “competent authority” means:
    - (i) in San Marino, the Ministry of Finance or its authorised representative, and, for the purposes of Article 25 “Exchange of information”, the Central Liaison Office of the Republic of San Marino;
    - (ii) in Seychelles, the Minister of Finance or an authorised representative of the Minister of Finance.
2. As regards the application of the Agreement at any time by a Contracting State, 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 State for the purposes of the taxes to which the

Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

#### **Article 4 RESIDENT**

1. For the purposes of this Agreement, the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital therein.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:
  - a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);
  - b) if the State 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 States, he shall be deemed to be a resident only of the State in which he has an habitual abode;
  - c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;
  - d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.

#### **Article 5 PERMANENT ESTABLISHMENT**

1. For the purposes of this Agreement, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term “permanent establishment” includes especially:
  - a) a place of management;
  - b) a branch;
  - c) an office;
  - d) a factory;
  - e) a workshop;
  - f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;

- g) a building site or construction or assembly or installation project or supervisory activity connected therewith where such site, project or activity continues for a period of more than 183 days; and
  - h) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue for the same or a connected project within the Contracting State for a period or periods exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned.
3. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include:
- a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
  - b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
  - c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
  - d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
  - e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
  - f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
4. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 5 applies – is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 3 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.
5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.
6. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

**Article 6**  
**INCOME FROM IMMOVABLE PROPERTY**

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other Contracting State.
2. The term “immovable property” shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of private law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in another form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.

**Article 7**  
**BUSINESS PROFITS**

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of a permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking

enterprise by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by the way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

## **Article 8**

### **SHIPPING AND AIR TRANSPORT**

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
2. For the purpose of this Article, profits from the operation in international traffic of ships or aircraft shall include in particular:
  - a) profits derived from the rental or lease by the enterprise on a bare boat charter basis of ships or aircraft used in international traffic where such rental or lease is ancillary to the transportation of passengers or cargo;
  - b) profits derived from the use, maintenance, rental or lease of containers by the enterprise where such use, maintenance, rental or lease is ancillary to the transportation of cargo.
3. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

4. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

#### **Article 9** **ASSOCIATED ENTERPRISES**

1. Where
  - a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
  - b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

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.

2. Where a Contracting State includes in the profits of an enterprise of that State – and taxes accordingly – profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall consult each other.

#### **Article 10** **DIVIDENDS**

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:
  - a) 5% of the gross amount of the dividends if the beneficial owner is a company which has held directly at least 10 percent of the capital of the company paying the dividends for an uninterrupted period of at least 12 months prior to the decision to distribute the dividends;

b) 0% of the gross amount of the dividends in all other cases.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term “dividends” as used in this Article means income from shares, “jouissance” shares or “jouissance” rights, mining shares, founders’ shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the Contracting State of which the company making the distribution is a resident.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State, nor subject the company’s undistributed profits to a tax on the company’s undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

## **Article 11**

### **INTEREST**

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the interest shall:
  - a) be exempted from tax if it is interest on debt-claims or loans of any nature - not represented by bearer instruments - paid to banking and financial institutions;
  - b) be exempted from tax if it is interest on deposits made with a banking or financial institution;
  - c) be exempted from tax if it is interest paid to the other Contracting State;
  - d) not be charged a tax exceeding 5% in all other cases.

3. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.
4. The provisions of paragraphs 1 to 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
5. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment, in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.
6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

## **Article 12 ROYALTIES**

1. Royalties arising in a Contracting State and beneficially owned by the resident of the other Contracting State shall be taxable only in that other State.
2. The term "royalties" as used in this Article means payments of any kind received as a consideration for:
  - a) the use of, or right to use any patent, invention, design or model, secret formula or process, trademark, or other like property or right;
  - b) the use of, or right to use any copyright of a literary, artistic, or scientific work (including computer software, cinematograph films or films or video tapes or discs for use in connection with radio or television broadcasting);
  - c) the receipt of, or right to receive, any visual images or sounds, or both, transmitted by satellite, cable, optic fibre, or similar technology in connection with television, radio, or internet broadcasting;

- d) the supply of any technical, industrial, commercial, or scientific knowledge, experience, or skill;
  - e) the use of or right to use any industrial, commercial, or scientific equipment; or
  - f) the supply of any assistance that is ancillary and subsidiary to, and is furnished as a means of enabling the application or enjoyment of, any property or right referred to in paragraphs (a) through (e).
3. The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
4. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

### **Article 13**

#### **CAPITAL GAINS**

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.
3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3 shall be taxable only in the Contracting State of which the alienator is a resident.

### **Article 14**

#### **INCOME FROM EMPLOYMENT**

1. Subject to the provisions of Articles 15, 17, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment

shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
  - a) the recipient is present in the other State 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 State, and
  - c) the remuneration is not borne by a permanent establishment which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic may only be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

#### **Article 15 DIRECTORS' FEES**

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

#### **Article 16 ENTERTAINERS AND SPORTSPERSONS**

1. Notwithstanding the provisions of Articles 7 and 14, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.
3. Income derived by a resident of a Contracting State from activities exercised in the other Contracting State as envisaged in paragraphs 1 and 2 of this Article, shall be exempt from tax in that other State if the visit to that other State is supported wholly or mainly by public funds of the first-mentioned Contracting State or takes place under a cultural agreement or arrangement between the Governments of the Contracting States.

## **Article 17 PENSIONS**

1. Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.
2. The provisions of paragraph 1 shall not apply if the recipient is not liable to tax in respect of such income in the State of which he is a resident and according to the laws of that State. In such case such income shall be taxable in the State in which it arises.
3. Notwithstanding the provisions of paragraph 1, pensions and other similar payments made under the social security system of a Contracting State or under a public scheme organized by that State in order to supplement the benefits of its social security legislation shall be taxable only in that State.

## **Article 18 GOVERNMENT SERVICE**

1. a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State to an individual in respect of services rendered to that State shall be taxable only in that State.  
  
b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
  - (i) is a national of that State; or
  - (ii) did not become a resident of that State solely for the purpose of rendering the services.
2. a) Any pension paid by, or out of funds created by, a Contracting State to an individual in respect of services rendered to that State shall be taxable only in that State.  
  
b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.
3. The provisions of Articles 14, 15, 16 and 17 shall apply to salaries, wages and other similar remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a Contracting State.

## **Article 19 PROFESSORS, TEACHERS AND RESEARCHERS**

1. A professor, teacher or researcher who makes a temporary visit to a Contracting State for a period not exceeding 2 years for the purpose of teaching or conducting research at a university, college, school, or other similar educational institution, and who is, or immediately before such visit was, a resident of the other Contracting State shall be

exempt from tax in the first-mentioned Contracting State in respect of remuneration from such teaching or research.

2. The provisions of this Article shall not apply to income from research if such research is undertaken not in the public interest but wholly or mainly for the private benefit of a specific person or persons.

## **Article 20**

### **STUDENTS AND BUSINESS APPRENTICES**

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State 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 State, provided that such payments arise from sources outside that State.

## **Article 21**

### **OTHER INCOME**

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that State.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

## **Article 22**

### **ELIMINATION OF DOUBLE TAXATION**

1.
  - a) Where a resident of a Contracting State derives income which, in accordance with the provisions of this Agreement, may be taxed in the other Contracting State, the first-mentioned State shall allow, as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in that other State. Such deduction in either case shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable, as the case may be, to the income which may be taxed in that other State.
  - b) Where, in accordance with any provision of this Agreement, income derived by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.
2. The tax payable in a Contracting State mentioned in paragraph 1 shall be deemed to include the tax which would have been payable but for the tax incentives granted under

the laws of that Contracting State and which are designed to promote economic development.

### **Article 23**

#### **NON-DISCRIMINATION**

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
3. Except where the provisions of paragraph 1 of Article 9, paragraph 6 of Article 11, or paragraph 4 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.
4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.
5. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

### **Article 24**

#### **MUTUAL AGREEMENT PROCEDURE**

1. Where a person considers that the actions of one or both of the Contracting States 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 States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting State of which he is a national. The case must be presented within two years from the first notification of the action resulting in taxation not in accordance with the provisions of this 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 Contracting State, 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 Contracting States.
3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.
4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

## **Article 25**

### **EXCHANGE OF INFORMATION**

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes covered by this Agreement insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.
2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.
3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:
  - a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
  - b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
  - c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).
4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for

its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.
6. The competent authorities of the Contracting States shall agree upon the mode of application of this Article.

#### **Article 26**

### **MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS**

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

#### **Article 27**

### **ENTRY INTO FORCE**

This Agreement shall enter into force on the date of the last notification by both Contracting States of the completion of their domestic procedures of ratification necessary for its entry into force. The provisions of the Agreement shall have effect:

- a) with respect to taxes withheld, to the amounts collected as from 1 January of the calendar year next following that in which this Agreement enters into force; and
- b) with respect to the other taxes on income, to the taxes referred to taxable periods as from 1 January of the calendar year next following that in which this Agreement enters into force.

#### **Article 28**

### **TERMINATION**

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement not earlier than 5 years from its entry into force, through diplomatic channels, by giving notice of termination at least six months before the end of the calendar year. In such event, the Agreement shall cease to have effect:

- a) with respect to taxes withheld, to the amounts collected as from 1 January of the calendar year next following that in which the notification of termination is given; and

- b) with respect to the other taxes on income, to the taxes referred to taxable periods as from 1 January of the calendar year next following that in which the notification of termination is given.

IN WITNESS THEREOF, the undersigned, duly authorised to this end, have signed this Agreement.

Done in duplicate at New York, on September 28, 2012, in the English language.

**FOR THE GOVERNMENT OF THE  
REPUBLIC OF SAN MARINO**

Antonella Mularoni

**FOR THE GOVERNMENT OF THE  
REPUBLIC OF SEYCHELLES**

Jean Paul Adam

## **PROTOCOL**

### **MODE OF APPLICATION FOR EXCHANGE OF INFORMATION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SAN MARINO AND THE GOVERNMENT OF THE REPUBLIC OF SEYCHELLES REGARDING ARTICLE 25 OF THE AGREEMENT**

Desiring to facilitate the exchange of information with respect to taxes in accordance with the Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Income, the Government of the Republic of the San Marino and the Government of the Republic of Seychelles have added the following provisions with respect to the application of Article 25 of the Agreement.

1. It is agreed that the competent authority of the requested State shall provide on request of the competent authority of the State requesting the information for purposes referred to in Article 25.
2. The competent authority of the applicant State shall provide in support of its written request to the competent authority of the requested State, relevant evidences and include the following information when presenting a request for information under the Agreement, to demonstrate the foreseeable relevance of the information to the request:
  - a) the identity of the person under examination or investigation and, if banking records are sought by the applicant State, the identity of the specific bank from which information is sought; and in every case a statement of all supporting evidences and other circumstantial proofs which the request is based upon;
  - b) the precise period on which information is requested;
  - c) the indications on the information sought, notably its nature and the form in which the applicant State wishes to receive information from the requested State;
  - d) the tax purpose for which the information is requested;
  - e) a statement of whether or not the person under examination or investigation has committed or is suspected of having committed an offence under the laws of the applicant State; and, if so, specify what offence or suspected offence, with reference to the applicable statute or other law of the applicant State;
  - f) reasons which allow the requested State to conclude that the information requested is held in the requested State or is in the possession or under the control of a person within the jurisdiction of the requested State;

- g) the name and, to the extent known, address of any person which the applicant State believes to be in possession of the requested information;
  - h) a written declaration that the request is in conformity with the law, regulations and the recognised administrative practices of the requesting State, that if the requested information was within the jurisdiction of the applicant State, then the competent authority of the applicant State would be able to obtain the information under the laws of the applicant State or in the normal course of administrative practices and that it is in conformity with this Agreement;
  - i) a statement that the applicant State has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.
3. The competent authority of the requested State may decline to provide the requested information when the request is not made in conformity with the Agreement or in accordance with this Arrangement.
4. Each competent authority agrees that each of them shall reimburse the other for all direct/extraordinary costs incurred in providing information pursuant to this Agreement.

Direct/extraordinary costs do not include ordinary administrative and overhead expenses incurred in reviewing and responding to information requests submitted by the requesting State.

If a direct/extraordinary cost pertaining to a specific request is expected to exceed four hundred Euros, the requested State will contact the competent authority of the requesting State to determine whether the requesting State wishes to pursue the request and to bear the cost.

Examples of direct/extraordinary costs include, but are not limited to, the following:

- i) legal fees for non Government counsel appointed or retained with approval of the competent authority of the applicant State, for litigations in the courts or pre-litigations processes of requested State related to a specific request for information;
- ii) reasonable costs for stenographic reports of interviews, depositions or testimony;
- iii) reasonable costs of locating, reproducing and transporting documents or records to the competent authority of the applicant State;
- iv) fees and expenses, determined in accordance with amounts allowed under applicable law or common practices, of a person who voluntarily appears in the requested State for interview, deposition or testimony relating to a particular information request; and
- v) reasonable remuneration for persons, if any, hired by the Government of the requested State, specifically and exclusively to administer requests received under the Agreement.

5. The competent authorities may jointly decide, in writing, to amend this Arrangement at any time, including in the case of introducing a form of request.

Any amendment will take effect from the date of the jointly signed letter confirming the amendment.

This Arrangement shall be binding between our two Governments and shall become an integral part of the Agreement.

Done in duplicate at New York, on September 28, 2012, in the English language.

**FOR THE GOVERNMENT  
OF THE REPUBLIC OF SAN MARINO**

Antonella Mularoni

**FOR THE GOVERNMENT  
OF THE REPUBLIC OF SEYCHELLES**

Jean Paul Adam