



AGREEMENT BETWEEN

THE GOVERNMENT OF THE CAYMAN ISLANDS

AND

**THE GOVERNMENT OF THE FEDERATIVE
REPUBLIC OF BRAZIL**

**CONCERNING THE EXCHANGE OF INFORMATION
ON TAX MATTERS**

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The Government of the Cayman Islands and the Government of the Federative Republic of Brazil, desiring to conclude an Agreement concerning exchange of information on tax matters, have agreed as follows:

Article 1

Object and scope of the agreement

The competent authorities of the Contracting Parties shall provide assistance through exchange of information that is foreseeably relevant to the administration and enforcement of the domestic laws of the Contracting Parties concerning taxes covered by this Agreement. Such information shall include information that is foreseeably relevant to the determination, assessment and collection of such taxes with respect to persons subject to such taxes, the recovery and enforcement of tax claims, or the investigation or prosecution of tax matters, including criminal tax matters, in relation to such persons. Information shall be exchanged in accordance with the provisions of this Agreement and shall be treated as confidential in the manner provided in Article 8. The rights and safeguards secured to persons by the laws or administrative practice of the requested Party remain applicable to the extent that they do not unduly prevent or delay effective exchange of information.

Article 2
Jurisdiction

A requested Party is not obligated to provide information which is neither held by its authorities nor in the possession or control of persons who are within its territorial jurisdiction. Information shall be provided by a requested Party without regard to whether the person to whom the information relates is, or whether the information is held by, a resident or national of a Party.

Article 3
Taxes covered

1. The taxes which are the subject of this Agreement are:
 - a) in Brazil:
 - (i) the federal income tax;
 - b) in the Cayman Islands:
 - (i) any tax imposed by the Cayman Islands which is substantially similar to existing taxes of Brazil to which this agreement applies..
2. This Agreement shall also apply to any identical or any substantially similar taxes imposed after the date of signature of the Agreement in addition to or in place of the existing taxes. The competent authorities of the Contracting Parties shall notify each other of any substantial changes to the taxation and related information gathering measures covered by the Agreement.

Article 4
Definitions

1. For the purposes of this Agreement, unless otherwise defined:
 - a) the term "Contracting Party" means the Cayman Islands or Brazil as the context requires;
 - b) the term "the Cayman Islands" means the territory of the Cayman Islands and includes the territorial sea, areas within the maritime boundaries of the Cayman Islands and any area within which in accordance with international law the rights of the Cayman Islands with respect to the seabed and sub-soil and their natural resources may be exercised;
 - c) the term "Brazil" means the Federative Republic of Brazil;
 - d) the term "competent authority" means:
 - (i) in the Cayman Islands, the Tax Information Authority or a person or authority designated by it;
 - (ii) in Brazil, the Minister of Finance, the Secretary of the Federal Revenue or their authorized representatives;
 - e) the term "person" includes an individual, a company and any other body or group of persons;
 - f) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - g) the term "publicly traded company" means any company whose principal class of shares is listed on a 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;
 - h) the term "principal class of shares" means the class or classes of shares representing a majority of the voting power and value of the company;
 - i) the term "recognised stock exchange" means any stock exchange agreed

- upon by the competent authorities of the Contracting Parties;
- j) the term “collective investment fund or scheme” means any pooled investment vehicle, irrespective of legal form. The term “public collective investment fund or scheme” means any collective investment fund or scheme provided the units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed by the public. Units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed “by the public” if the purchase, sale or redemption is not implicitly or explicitly restricted to a limited group of investors;
 - k) the term “tax” means any tax to which the Agreement applies;
 - l) the term “applicant Party” means the Contracting Party requesting information;
 - m) the term “requested Party” means the Contracting Party requested to provide information;
 - n) the term “information gathering measures” means laws and administrative or judicial procedures that enable a Contracting Party to obtain and provide the requested information;
 - o) the term “information” means any fact, statement or record in any form whatever;
 - p) the term “criminal tax matters” means tax matters involving intentional conduct, whether before or after the entry into force of this Agreement, which is liable to prosecution under the criminal laws of the applicant Party;
 - q) the term “criminal laws” means all criminal laws designated as such under domestic law irrespective of whether contained in the tax laws, the criminal code or other statutes.
 - r) the term “national” means:
 - (i) in the case of Brazil, any individual possessing the Brazilian nationality and any legal entity or any other collective entity deriving its status as such from the laws in force in Brazil;
 - (ii) in the case of the Cayman Islands, any individual who possesses

Caymanian status or who is a British Overseas Territory Citizen by virtue of a connection with the Cayman Islands and any company, partnership, trust, estate, association or any other entity deriving its status as such from the laws in force in the Cayman Islands.

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

Article 5

Exchange of Information Upon Request

1. The competent authority of the requested Party shall provide upon request 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 such conduct occurred in the requested Party.
2. If the information in the possession of the competent authority of the requested Party is not sufficient to enable it to comply with the request for information, that Party shall use all relevant information gathering measures to provide the applicant Party with the information requested, notwithstanding that the requested Party may not need such information for its own tax purposes.
3. If specifically requested by the competent authority of an applicant Party, the competent authority of the requested Party shall provide information under this Article, to the extent allowable under its domestic laws, in the form of depositions of witnesses and authenticated copies of original records.

4. Each Contracting Party shall ensure that its competent authorities for the purposes specified in Article 1 and in accordance with Article 2 of the Agreement, have the authority to obtain and provide upon request:
 - a) information held by banks, other financial institutions, and any person acting in an agency or fiduciary capacity, including nominees and trustees;
 - b) information regarding the legal and beneficial ownership of companies, partnerships, trusts, foundations, and other persons, including, within the constraints of Article 2, ownership information on all such persons in an ownership chain as well as, in the case of collective investment schemes or funds, information on shares, units and other interests; in the case of trusts, information on settlors, trustees and beneficiaries; and in the case of foundations, information on founders, members of the foundation council and beneficiaries. Further, this Agreement does not create an obligation on the Contracting Parties to obtain or provide ownership information with respect to publicly traded companies or public collective investment funds or schemes unless such information can be obtained without giving rise to disproportionate difficulties.

5. The competent authority of the applicant Party shall provide the following information to the competent authority of the requested Party when making a written 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;
 - b) a statement of the information sought including its nature and the form in which the applicant Party wishes to receive the information from the requested Party as well as the period for which the information is requested;
 - c) the tax purpose for which the information is sought;
 - d) grounds for believing that the information requested is held in the requested Party or is in the possession or control of a person within the jurisdiction of the requested Party;

- e) to the extent known, the name and address of any person believed to be in possession of the requested information;
 - f) a statement that the request is in conformity with the law and administrative practices of the applicant Party, that if the requested information was within the jurisdiction of the applicant Party then the competent authority of the applicant Party would be able to obtain the information under the laws of the applicant Party or in the normal course of administrative practice and that it is in conformity with this Agreement;
 - g) a statement that the applicant Party has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.
6. The competent authority of the requested Party shall forward the requested information as promptly as possible to the applicant Party. To ensure a prompt response, the competent authority of the requested Party shall:
- a) confirm receipt of a request in writing to the competent authority of the applicant Party and shall notify the competent authority of the applicant Party of deficiencies in the request, if any, within 60 days of the receipt of the request.
 - b) if the competent authority of the requested Party has been unable to obtain and provide the information within 90 days of receipt of the request, including if it encounters obstacles in furnishing the information or it refuses to furnish the information, it shall immediately inform the applicant Party, explaining the reason for its inability, the nature of the obstacles or the reasons for its refusal.

Article 6
Tax Examinations Abroad

1. Upon reasonable written notice given in advance, a Contracting Party may, to the extent permitted under its laws, allow representatives of the competent authority of the other Contracting Party to enter the territory of the first-mentioned Party to interview individuals and examine records with the prior written consent of the persons concerned. The competent authority of the second-mentioned Party shall notify the competent authority of the first-mentioned Party of the time and place of the intended meeting with the individuals concerned.

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

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

Article 7
Possibility of Declining a Request

1. The requested Party shall not be required to obtain or provide information that the applicant Party would not be able to obtain under its own laws for purposes of the

administration or enforcement of its own tax laws. The competent authority of the requested Party may decline to assist where the request is not made in conformity with this Agreement.

2. The provisions of this Agreement shall not impose on a Contracting Party the obligation to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process. Notwithstanding the foregoing, information of the type referred to in Article 5, paragraph 4 shall not be treated as such a secret or trade process merely because it meets the criteria in that paragraph.
3. The 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 other admitted legal representative where such communications are:
 - a) produced for the purposes of seeking or providing legal advice or
 - b) produced for the purposes of use in existing or contemplated legal proceedings.
4. The requested Party may decline a request for information if the disclosure of the information would be contrary to public policy (“ordre public”).
5. A request for information shall not be refused on the ground that the tax claim giving rise to the request is disputed.
6. The requested Party may decline a request for information if the information is requested by the applicant Party to administer or enforce a provision of the tax law of the applicant Party, or any requirement connected therewith, which discriminates against a national of the requested Party as compared with a national of the applicant Party in the same circumstances.

Article 8
Confidentiality

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

Article 9
Costs

Ordinary costs (such as ordinary administrative and overhead expenses) incurred in providing assistance shall be borne by the requested Party, and direct extraordinary costs incurred in providing assistance shall be borne by the requesting Party. If the direct extraordinary costs of providing information with respect to a specific request are expected to be significant the competent authority of the requested Party shall consult with the competent authority of the applicant Party.

Article 10
Mutual agreement procedure

1. Where difficulties or doubts arise between the Parties regarding the implementation or interpretation of this Agreement, the respective competent authorities shall endeavour

to resolve the matter by mutual agreement.

2. In addition to the agreement referred to in paragraph 1, the competent authorities of the Contracting Parties may mutually agree on the procedures to be used under Articles 5, 6 and 9.
3. The competent authorities of the Contracting Parties may communicate with each other directly for purposes of reaching agreement under this Article.

Article 11

Entry into Force

1. Each of the Parties shall notify the other in writing of the completion of the procedures required by its law for the entry into force of this Agreement.
2. The Agreement shall enter into force on the thirtieth day after the receipt of the later of these notifications and shall thereupon have effect for criminal tax matters as well as for all other matters covered in Article 1 on the date of entry into force, for taxable periods beginning on or after that date or, where there is no taxable period, for all charges to tax arising on or after that date.

Article 12

Termination

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

2. In the event of termination, both Parties shall remain bound by the provisions of Article 8 with respect to any information obtained under the Agreement. All requests received up to the effective date of termination shall be dealt with in accordance with the terms of this Agreement.

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

Done at Brasilia, Brazil, in duplicate, this 19th day of March 2013, in the English and the Portuguese languages, both texts being equally authentic.

For the Government
of the Cayman Islands



For the Government
of the Federative Republic of
Brazil

