

**CHAPTER 202D**  
**MUTUAL EXCHANGE OF INFORMATION ON**  
**TAXATION MATTERS ACT**

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• Act • Subsidiary Legislation •

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**ACT**

Act No. 24 of 2011

**Amended by**

SRO 33 of 2011

SRO 37 of 2011

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## CHAPTER 202D

### MUTUAL EXCHANGE OF INFORMATION ON TAXATION MATTERS ACT

#### **An Act to make general provisions for the mutual exchange of information on taxation matters between Grenada and other jurisdictions, and for incidental and connected purposes.**

[Act No. 24 of 2011 amended by SRO 33 of 2011, SRO 37 of 2011.]

[11th November, 2011.]

#### PART I

##### *Preliminary*

#### **Short title and commencement**

1. This Act may be cited as the Mutual Exchange of Information on Taxation Matters Act and shall come into force on such date as may be appointed, by Order made by the Minister published in the *Gazette*.

#### **Interpretation**

2. (1) In this Act, unless the context otherwise requires—

“agreement” means tax information exchange agreements entered into by the Government of Grenada with another jurisdiction;

“Authority” means the Tax Co-operation Authority designated under section 4;

“electronic” means relating to technology and having electrical, magnetic, optical, electromagnetic, or similar capabilities, whether digital, analogue or otherwise;

“electronic record” means a record processed and maintained by electronic means;

“information” means any fact, statement, document or record in whatever form, and includes—

- (i) any fact, statement, document or record held by any bank, other financial institution, or any person, including any nominee and trustee, acting in an agency or fiduciary capacity, and
- (ii) any fact, statement, document or record regarding the beneficial ownership of any company, partnership and any other person, including—
  - (a) in the case of a collective investment fund, information on any shares, units and other interests; and
  - (b) in the case of a trust, information on any settlors, trustees and beneficiaries;

“items subject to legal privilege” means—

- (i) any communication between an attorney-at-law and his client, or any person representing his client, made in connection with the giving of legal advice to the client,
- (ii) any communication between an attorney-at-law and his client, or any person representing his client or between such attorney-at-law or his client, or any such representative and any other person made in connection with or in contemplation of legal proceedings, and for the purposes of such proceedings, and
- (iii) any item enclosed with or referred to in such communications and made—
  - (a) in connection with the giving of legal advice; or
  - (b) in connection with or in contemplation of legal proceedings and for the purposes of such proceedings, when they are in the possession of a person who is entitled to possession of them,

except that any item held with the intention of furthering a criminal purpose, are not subject to legal privilege;

“Judge” has the meaning assigned to it under the Interpretation and General Provisions Act, Chapter 153 of the 1990 Revised Laws of Grenada;

“Minister” means the Minister of Finance;

“Party” means a party to a scheduled agreement;

“proceedings” means civil or criminal proceedings;

“request” means—

- (i) a request made by one of the Parties to the other Party, pursuant to a scheduled agreement,
- (ii) a request made by a scheduled competent authority of a scheduled country, or
- (iii) a request made by Grenada to a scheduled country;

“requesting Party” means a Party making a request for information in taxation matters, pursuant to the provisions of this Act;

“scheduled agreement” means an agreement entered into by Grenada, pursuant to section 3(5)(i);

“scheduled competent authority” means a competent authority specified in any scheduled Agreement, or the designated competent authority of a scheduled country.

“scheduled country” means a country designated by the Minister in accordance with section 3(6)(i)(a);

“taxation matters” includes any matters relating to the collection, calculation, or assessment of a tax referred to in a scheduled agreement, or specified in the Rules for the Exchange of Information on Tax Matters, set out in the First Schedule to this Act.

[First Schedule.]

(2) In any scheduled agreement to this Act, any reference to the Grenada Tax Co-operation Authority shall be construed as a reference to the Tax Co-operation Authority designated under section 4.

### **Application**

3. (1) This Act shall apply for the purpose of—

- (i) giving effect to the terms of a scheduled agreement for the provision of information in taxation matters; and
- (ii) the provision of information in taxation matters on request, pursuant to the Rules for the Exchange of the Information on Tax Matters set out in the First Schedule to this Act; including, for the purposes of any proceedings taken by any party or scheduled country, as the case maybe, or by any persons acting on their behalf, connected with, arising from, related to, or resulting from taxation matters.

(2) Nothing in this Act shall require the provision of information under a scheduled agreement, or under the Rules for the Exchange of Information on Tax Matters set out in the First Schedule to this Act—

- (i) in relation to any taxation matter that arose prior to the date of entry into force stipulated in the respective scheduled agreement, or
- (ii) the operative date specified in relation to a scheduled country or, in any event, prior to the date of commencement of this Act,

except that, in the case of a scheduled agreement, nothing in this Act shall require the provision of information in relation to taxation matters that arose prior to the respective dates stipulated in the relevant Agreement, as the dates upon which the provisions of an Agreement shall have effect.

(3) A scheduled agreement shall, for such period as is specified in the agreement, have legal effect in Grenada.

(4) Nothing in this Act or any scheduled agreement, shall be taken to require the provision of information to a requesting Party, otherwise than—

- (i) with respect to a tax of the jurisdiction of the requesting Party that is covered in the relevant scheduled agreement, or a tax of a scheduled country, pursuant to rule 3 of the Rules for the Exchange of Information on Tax Matters set out in the First Schedule to this Act,
- (ii) with respect to—

- (a) a person who is subject or potentially subject to such tax; and
  - (b) any interest which is relevant to the determination or calculation in relation to such person of such tax, and which such person may have in an entity subject, or potentially subject to such tax.
- (5) The Minister may, by order, subject to negative resolution—
  - (i) add a schedule to this Act, for the purpose of setting out and giving effect to any agreement for the provision of information in taxation matters, to which Schedule shall be added, subsequent agreements made with other countries, or
  - (ii) amend, revoke or replace any such schedule.
- (6) The Minister may by order—
  - (i) add a schedule or schedules to this Act for the purpose of specifying—
    - (a) the countries, (hereinafter referred to as the “scheduled countries”), that are entitled to make requests for information, pursuant to the Rules outlined in the First Schedule to this Act;
    - (b) the competent authority of each such country;
    - (c) the operative dates of this Act in relation to each such country; and
    - (d) the scope of assistance that may be offered to each such country; or
  - (ii) amend, revoke or replace any such schedule.

## PART II

### *The Tax Co-Operation Authority*

#### **Tax Co-operation Authority**

4. (1) The Comptroller of Inland Revenue is hereby designated as the Tax Co-operation Authority for the purposes of this Act and any scheduled agreement and in relation to any scheduled country.

(2) The Authority shall exercise its functions under this Act, and under any scheduled agreement, and in relation to any scheduled country acting alone or through a person designated by the Authority to act on his behalf, and shall be deemed to act in an administrative capacity.

#### **Functions of the Authority**

5. (1) Subject to this Act, the Authority has the power to do all things necessary or convenient to be done for, or in connection with, the performance of his functions under this or any other Act or any scheduled agreement, or in relation to any scheduled country.

(2) Without prejudice to the generality of subsection (1), the principal functions of the Authority include—

- (i) subject to sections 8 and 16, executing requests, including, but not limited to, providing assistance in relation to—
  - (a) taking the testimony or statement of any person;
  - (b) providing information and articles of evidence;
  - (c) serving documents; and
  - (d) executing searches and seizures;
- (ii) ensuring compliance with any scheduled agreements, and with the Rules for the Exchange of Information on Tax Matters set out in the First Schedule to this Act,
- (iii) advising the Minister on matters relating to any proposal or agreement for the provision of information in tax matters, any matter touching upon or relating thereto, and any other related matter, at the request of the Minister,

- (iv) making determinations, pursuant to the terms of any scheduled agreement or the Rules for the Exchange of Information on Tax Matters set out in the First Schedule to this Act, as to any costs and the apportionment of such costs relating to, or arising from, any request,
- (v) entering into agreements with competent authorities under agreements on matters relating to the operation thereof, or issuing operating procedures to scheduled competent authorities, and
- (vi) performing such other functions as may be prescribed under this or any other Act.

#### **Procedures for public policy determination**

6. (1) Without prejudice to section 5, the Authority may, in his discretion, or shall, where in his opinion there are issues of public policy, notify the Attorney-General of any request received by the Authority, with particulars thereof; and the Attorney-General shall be entitled, in a manner analogous to *amicus curiae*, to appear, or to take part in any proceedings in Grenada, whether judicial or administrative, arising directly or indirectly from a request received by the Authority.

(2) The Authority shall deny a request, in accordance with the relevant provisions of a scheduled agreement or, in the case of a request from a scheduled country, in accordance with the Rules for the Exchange of Information in Tax Matters set out in the First Schedule to this Act, where the Attorney-General has issued a certificate to the effect, that the execution of the request is contrary to the public policy of Grenada.

### PART III

#### *Execution of Requests*

#### **Procedures for the execution of a request**

7. (1) Upon receipt of a request, and subject to the provisions of sections 6(2) and 10(1), the Authority shall determine whether the request is in compliance with the relevant scheduled agreement, or the Rules for the Exchange of Information in Tax Matters set out in the First Schedule to this Act as the case may be and, if it is determined that there is compliance, the Authority shall execute the request in accordance with, but subject to, the provisions of the relevant scheduled agreement, or the Rules for the Exchange of Information in Tax Matters set out in the First Schedule to this Act, as the case may be, and this Act.

(2) The Authority may request such additional information from the requesting Party, as may be necessary, to assist the Authority in executing the request.

(3) A certificate given by the Authority that a request is in compliance with the relevant scheduled agreement, or the Rules for the Exchange of Information in Tax Matters set out in the First Schedule to this Act, as the case may be, shall be taken into account by the Judge, pursuant to an application under section 8(4)(i).

(4) Notwithstanding any other Act, if the execution of any request requires the service of any document or order, or the seizure of any article, in pursuance of any order or directions by a Judge of the High Court, any police officer of the rank of Inspector or above, if so required by the Judge of the High Court, shall assist in such service or seizure.

#### **Powers of Judge to compel witness or for production of evidence**

8. (1) Where, pursuant to a request, any person is required to testify, the Authority shall apply to a Judge, for the Judge to receive such testimony as appears to him to be appropriate, for the purpose of giving effect to the request, and such testimony shall be provided to the competent authority of the requesting Party.

(2) The Judge may, in pursuance of an application under subsection (1), issue a subpoena, take evidence under oath, and exercise any other power which the High Court may exercise for the purpose of compelling testimony.

(3) A person shall not be compelled in any proceedings under this section, to give evidence which he could not be compelled to give in proceedings in Grenada.

(4) Where, pursuant to a request, the Authority considers it necessary to obtain specified information, or information of a specified description from any person, the Authority shall—

- (i) in the case of information required for proceedings in the territory of the requesting Party or related investigations, apply to a Judge for an order to produce such information, or

- (ii) in any case other than that referred to in paragraph (i), issue a notice, in writing, requiring the production of such information as may be specified in the notice; and such notice may require the information—
  - (a) to be provided within a specified time;
  - (b) to be provided in such form as the Authority may require; and
  - (c) to be verified or authenticated in such manner as the Authority may require.

(5) Where information is produced pursuant to subsection (4)(ii)—

- (i) the Authority may take copies or extracts of any information, and
- (ii) where a person claims a lien on a document, the production is without prejudice to his lien.

(6) An order under subsection (7) or a notice under subsection (4)(ii)—

- (i) shall not confer any right to production of, or access to, items subject to legal privilege, and
- (ii) shall have effect notwithstanding any obligation as to confidentiality, or other restriction upon the disclosure of information, whether imposed by any other law or the common law.

(7) If, on an application under subsection (4)(i), the Judge is satisfied that the conditions in subsection (9) are fulfilled, he may make an order that the person who appears to him to be in possession or control of the information to which the application relates, shall—

- (i) produce it to a police officer to take away, or
- (ii) give a police officer access to it,

within such period as the order may specify.

(8) The period to be specified in an order under subsection (7) shall be fourteen days, unless it appears to the Judge, that a longer or shorter period would be appropriate in the particular circumstances of the application.

(9) The conditions referred to in subsection (7) is that the Judge is satisfied that—

- (i) the Authority has certified the request in accordance with section 7(3),
- (ii) the information to which the request relates is under the possession or control of a person in Grenada,
- (iii) the information to which the request relates, does not include items subject to legal privilege, or items subject to protection as secret, pursuant to the terms of a scheduled agreement or the Rules for the Exchange of Information in Tax Matters set out in the First Schedule to this Act, as the case may be,
- (iv) the provisions of section 16(1) have been complied with, and
- (v) pursuant to the terms of the relevant scheduled agreement, the Rules for the Exchange of Information in Tax Matters set out in the First Schedule to this Act, as the case may be, there are no reasonable grounds for not granting the request.

(10) Where the Judge makes an order under subsection (7)(ii) in relation to information held on any premises he may, on the application of the Authority, order any person who appears to him to be entitled to grant entry to the premises, to allow a police officer to enter the premises to obtain access to the information.

(11) The Chief Justice of the Eastern Caribbean Supreme Court may make rules governing the procedure in relation to—

- (i) applications for the grant, discharge and variation of orders under subsection (7), and
- (ii) proceedings relating to such orders.

(12) Where the information to which an order under subsection (7) or a notice under subsection (4)(ii) relates, consists of information maintained as an electronic record, such information shall be produced in a form in which it can be taken away, and in which it is visible and legible, or in a form in which it is visible and legible, as the case may be.

(13) Where, pursuant to a request concerning criminal proceedings or investigations—

- (i) an order under subsection (7) has been made or has been applied for, and has not been refused,
- (ii) or a warrant under section 16(3) has been issued,

any person, knowing or suspecting that a request has been made, or that an investigation into any matter to which a request relates is taking place, makes any disclosure which is likely to prejudice the proceedings or the investigation to which the request may relate, commits an offence, and is liable, on summary conviction, to a fine not exceeding fifty thousand dollars, or to imprisonment for a term not exceeding five years, or to both such fine and imprisonment.

(14) In proceedings against a person for an offence under subsection (12), it is a defence to prove that the person—

- (i) did not know or believe that the disclosure was likely to prejudice the request or investigation, or
- (ii) had lawful authority or reasonable excuse for making the disclosure.

(15) Any documents or other information obtained under an order by virtue of subsection (7), shall be brought immediately to the Authority to be dealt with according to this Act.

(16) Any person required to testify or to produce information under subsection (7), shall have the right to be represented by an attorney-at-law when he does so.

## PART IV

### *General*

#### **Authentication of official documents**

**9.** Any person may be authorised by the Authority for the purpose of the authentication of any official documents or records of Grenada.

#### **Notification**

**10.** (1) Subject to subsection (2), a person who is the subject of a request for information solely in relation to a matter which is not a criminal matter or an alleged criminal matter, shall, if his whereabouts or address is made known to the Authority, be served with a notice by the Authority, advising of the existence of a request, specifying that person, the jurisdiction making the request and the general nature of the information sought.

(2) Any person notified pursuant to subsection (1) may, within fifteen days from the date of receipt of the notice, make a written submission to the Authority, specifying any grounds which he wishes the Authority to consider in making its determination as to whether or not the request is in compliance with the Rules for the Exchange of Information on Tax Matters set out in the First Schedule to this Act, or with provisions in any scheduled agreement as the case may be, including any assertions that the information requested is subject to legal privilege.

(3) The Authority shall consider any written submission made in compliance with subsection (2), but shall not be obliged to permit or consider any oral submission by, or on behalf of, any person who is the subject of a request for information.

(4) Save as expressly provided in this Act, the Authority shall hold all information received as confidential, and the proceedings and deliberations of the Authority shall accordingly be closed to all persons not specifically authorised by the Authority or by this Act, to be present at such proceedings or deliberations.

(5) Nothing in this Act shall require the Authority to search for or conduct enquiries into the address or whereabouts of any person who is the subject of a request, in order to serve a notice to that person, pursuant to subsection (1).

(6) For the purposes of subsection (1), the date of receipt of notice from the Authority is deemed to be fifteen days from the date of issuance indicated on the notice.

### **Protection of persons disclosing confidential information**

11. (1) A person who divulges any confidential information, or gives any evidence in conformity with an order or notice issued pursuant to a request, shall be deemed not to commit any offence under any law for the time being in force in Grenada, by reason only of such disclosure, or the giving of such evidence.

(2) Any disclosure or evidence referred to in subsection (1), shall be deemed not to be a breach of any confidential relationship between that person and any other person, and no civil claim or action whatsoever shall lie against the person making such disclosure or giving such evidence, or against such person's principal or employer by reason of such disclosure or evidence.

### **Confidentiality with regard to a request**

12. (1) Without prejudice to the provisions of section 8(13), if so instructed by the Authority, the particulars of and all matters relating to a request shall be treated as confidential.

(2) A person who is notified of a request, or is required to take any action, or produce any document, or supply any information in response to or in relation to any matter to which a request relates, shall not disclose the fact of the receipt of such request, or any of the particulars required, or documents produced, or information supplied to any other person, except that person's attorney-at-law and such other persons as the Authority may authorise, for such period as he may be notified by the Authority.

(3) This section shall be binding on the attorney-at-law of any person to whom subsection (1) applies, as if he were that person.

### **Restriction on use of information**

13. (1) The requesting Party shall not, without the prior written consent of the Authority, transmit or use information or evidence provided pursuant to this Act, for purposes, investigations or proceedings, other than those stated in the request which are consistent with the agreement.

(2) Before the Authority gives consent under subsection (1), in relation to evidence provided or an order issued pursuant to section 8, the Authority shall apply to a Judge for directions.

### **Interviews and examinations with consent**

14. (1) Where—

- (i) pursuant to the Rules for the Exchange of Information on Tax Matters set out in the First Schedule to this Act, or any relevant scheduled agreement as the case may be, the competent authority of a requesting Party requests permission for its representative to enter Grenada, for the purposes of interviewing and examining the records of a specified person in Grenada, and
- (ii) the person concerned notifies the Authority, in writing, that he consents to the interview and examination, the representative may conduct such interview and examination, at such time and place as are agreed upon, in writing, by the Authority and the person concerned.

(2) In conducting an interview and examination under subsection (1), a representative may—

- (i) take statements from the specified person, and
- (ii) with the consent of the specified person, make copies of, or take extracts from, any record.

(3) A representative shall not have the power—

- (i) to compel a specified person to answer any question,
- (ii) to compel a specified person to remain in any place for the purpose of an interview,
- (iii) to compel a specified person to produce any information or thing,
- (iv) to enter and search premises without the consent of the owner or occupier of the premises, or



(v) to take information or things without the consent of the specified person.

(4) A person who consents to an interview and examination, shall have the right to be advised by his attorney-at-law during the course thereof.

(5) A statement made to a representative under this section shall not, in any proceedings, be used in evidence against the person making the statement.

(6) In this section, “specified person” means a person who is subject to—

- (i) a tax of the jurisdiction of a requesting Party that is covered in the relevant scheduled agreement, or
- (ii) a tax of a scheduled country that is specified pursuant to this Act.

### **Services of notices and documents**

15. (1) For the purposes of this Act and any scheduled agreement, the service of any document shall be sufficient, if delivered by hand or posted by registered post, to the registered or other office of the addressee, or to his last known address.

(2) An affidavit of service of delivery of the notice or document by hand or supporting the registration certificate, shall be deemed sufficient proof of such service.

### **Enforcement**

16. (1) A person who, having been required under this Act to produce any information which is in his possession or under his control—

- (i) without lawful excuse fails to do so, within such time as may be specified by a Judge by order, or by the Authority by notice, or
- (ii) alters, destroys, mutilates, defaces, hides or removes any information,

commits an offence, and is liable, on summary conviction, to a fine not exceeding twenty thousand dollars or to a term of imprisonment not exceeding two years, or to both such fine and imprisonment.

(2) A person who, contrary to section 12, informs any person, other than his attorney-at-law, of the fact of the issue of a request or of any communication relevant to the matter to which the request relates, commits an offence, and is liable, on summary conviction, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

(3) Where pursuant to a request, the Authority considers it necessary to enter and search any premises, the Authority shall apply to the High Court for the issue of a search warrant for specified premises, to search for and seize specified information or information of a specified description.

(4) On application made under subsection (3), the High Court may issue a warrant authorising the search and seizure, if it is satisfied that—

- (i) an order made or notice issued under section 8, in relation to information on the premises, has not been complied with, or
- (ii) the request for the purposes of which the application is made, might be seriously prejudiced, unless a police officer could secure immediate access to the information, or
- (iii) the conditions in section 8(9) are fulfilled, in relation to any information on the premises, and
- (iv) it would not be appropriate to make an order under section 8(7) in relation to the material because—
  - (a) it is not practicable to communicate with any person entitled to produce the information;
  - (b) it is not practicable to communicate with any person entitled to grant access to the information, or entitled to grant entry to the premises on which the information is situated; or
  - (c) the request for the purposes of which the application is made, might be seriously prejudiced, unless a police officer could secure immediate access to the information.

(5) Any information seized under a warrant issued under subsection (4), shall be brought immediately to the Authority to be dealt with according to law.

(6) A person who, when required so to do in accordance with the instructions given by a Judge, pursuant to section 8, or any subpoena served upon him, refuses to attend, as required, or to

provide testimony in response to a request, is guilty of an offence, and is liable, on summary conviction to a fine of five thousand dollars and to imprisonment for one year, or to both such fine and imprisonment.

### **Immunity**

17. Neither the Authority, nor any person designated under section 4 to act on his behalf, shall be liable in damages for anything done or omitted in the discharge of their functions under this Act, unless it is shown that the act or omission was in bad faith.

### **Regulations**

18. The Minister may make Regulations generally for carrying out the purposes of this Act and without prejudice to the generality of the foregoing, the Minister may make Regulations prescribing the forms to be used for the purposes of this Act.

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## FIRST SCHEDULE

### MUTUAL EXCHANGE OF INFORMATION ON TAXATION MATTERS ACT

#### *The Rules for the Exchange of Information on Tax Matters*

These Rules shall govern the exchange of information with respect to taxes between Grenada and scheduled countries.

#### RULE 1

##### *Object and Scope*

1. The competent authorities of Grenada and the scheduled countries, shall provide assistance, through exchange of information that is foreseeably relevant to the administration and enforcement of the domestic laws of the respective countries concerning taxes covered within these Rules. Such information shall include information that is foreseeably relevant to the determination, assessment and collection of such taxes, the recovery and enforcement of tax claims, or the investigation or prosecution of tax matters.

2. Information shall be exchanged in accordance with the provisions of these Rules, and shall be treated as confidential in the manner provided in rule 8.

3. The rights and safeguards secured to persons by the laws or administrative practice of the requested country, remain applicable to the extent that they do not unduly prevent or delay effective exchange of information.

#### RULE 2

##### *Jurisdiction*

A requested country 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.

#### RULE 3

##### *Taxes Covered*

1. These Rules shall apply—

(i) to the following taxes imposed by, or on behalf of Grenada or any scheduled country—

- (a) taxes on income or profits;
- (b) taxes on capital;
- (c) taxes on net wealth;
- (d) estate, inheritance or gift taxes;

(ii) to the taxes in categories referred to in subparagraph (i) above, which are imposed by, or on behalf of political sub-divisions or local authorities of a scheduled country, if official notice of this is provided to and accepted by Grenada.

2. Grenada and any scheduled country, may mutually agree that these Rules shall also apply to indirect taxes.

3. These Rules shall also apply to any identical taxes imposed after the date of a country being included in this Schedule, in addition to, or in place of the existing taxes. These Rules shall also apply to any substantially similar taxes imposed after the date of a country being included in this Schedule in addition to, or in place of the existing taxes, if the competent authorities of Grenada and any scheduled country, so agree. Furthermore, the taxes covered may be expanded or modified by mutual agreement of Grenada and any scheduled country, in the form of an exchange of letters. The competent authorities of Grenada and scheduled countries, shall notify each other of any substantial changes to the taxation, and related information gathering measures covered by these Rules.

#### RULE 4

##### *Definitions*

1. For the purposes of these Rules unless otherwise defined—

“applicant country” means Grenada or a scheduled country requesting information;

“collective investment fund or scheme” means any pooled investment vehicle, irrespective of legal form;

“company” means any body corporate or any entity that is treated as a body corporate for tax purposes;

“competent authority” means the authorities designated by Grenada and any scheduled country, as indicated by notice in writing, as the authority to make and receive requests for exchange of information under this Act;

“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;

“criminal tax matters” means tax matters involving intentional conduct, which is liable to prosecution under the criminal laws of the applicant country;

“information” means any fact, statement or record in any form whatever;

“information gathering measures” means laws and administrative or judicial procedures that enable Grenada and any scheduled country, to obtain and provide the requested information;

“person” includes an individual, a company and any other body of persons;

“principal class of shares” means the class or classes of shares representing a majority of the voting power and value of the company;

“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;

“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;

“recognised stock exchange” means any stock exchange agreed upon by the competent authorities of Grenada and a scheduled country;

“requested country” means Grenada or a scheduled country requested to provide information;

“scheduled country” means any country that has been approved by the Government of Grenada to be included in this Schedule, as a result of—

- (i) the existence of a bilateral agreement or arrangement between Grenada and that country, that facilitates trade and investment in Grenada by nationals or residents of that country, or
- (ii) the existence of a Double Taxation Agreement between Grenada and that country, if that Agreement does not cover exchange of information in tax matters to the OECD standard;

“tax” means any tax to which these Rules applies.

2. In the application of these Rules by Grenada or a scheduled country, any term not defined herein shall, unless the context otherwise requires, have the meaning that it had at that time under the laws of Grenada or the relevant scheduled country applying these Rules.

#### RULE 5

##### *Exchange of Information Upon Request*

1. The competent authority of the requested country, shall provide upon request, information for the purposes referred to in rule 1. Such information shall be exchanged without regard to whether the conduct being investigated would constitute a crime under the laws of the requested country, if such conduct occurred in the requested country.

2. If the information in the possession of the competent authority of the requested country is not sufficient to enable it to comply with the request for information, that country shall use all relevant in-

formation gathering measures to provide the applicant country with the information requested, notwithstanding that the requested country may not need such information for its own tax purposes.

3. If specifically requested by the competent authority of an applicant country, the competent authority of the requested country shall provide information under this Rule, to the extent allowable under its domestic laws, in the form of depositions of witnesses and authenticated copies of original records.

4. Grenada, and each scheduled country shall ensure that its competent authorities for the purposes specified in rule 1, have the authority to obtain and provide upon request—

- (i) information held by banks, other financial institutions, and any person acting in an agency or fiduciary capacity including nominees and trustees;
- (ii) information regarding the ownership of companies, partnerships, trusts, foundations, “Anstalten” and other persons, including, within the constraints of rule 2, ownership information on all such persons in an ownership chain; in the case of trusts, information on settlors, trustees and beneficiaries; and
- (iii) in the case of foundations, information on founders, members of the foundation council and beneficiaries.

These Rules do not create an obligation on Grenada or scheduled countries 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 country shall provide the following information to the competent authority of the requested country when making a request for information pursuant to these Rules to demonstrate the foreseeable relevance of the information to the request—

- (i) the identity of the person under examination or investigation,
- (ii) a statement of the information sought including its nature and the form in which the applicant country wishes to receive the information from the requested country,
- (iii) the tax purpose for which the information is sought,
- (iv) grounds for believing that the information requested is held in the requested country or is in the possession or control of a person within the jurisdiction of the requested country,
- (v) to the extent known, the name and address of any person believed to be in possession of the requested information,
- (vi) a statement that the request is in conformity with the law and administrative practices of the applicant country, that if the requested information was within the jurisdiction of the applicant country then the competent authority of the applicant country would be able to obtain the information under the laws of the applicant country or in the normal course of administrative practice and that it is in conformity with these Rules, and
- (vii) a statement that the applicant country 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 country shall forward the requested information as promptly as possible to the applicant country. To ensure a prompt response, the competent authority of the requested country shall—

- (i) confirm receipt of a request in writing to the competent authority of the applicant country and shall notify the competent authority of the applicant country of deficiencies in the request, if any, within 60 days of the receipt of the request,
- (ii) where the competent authority of the requested country is 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 country, explaining the reason for its inability, the nature of the obstacles or the reasons for its refusal.

## RULE 6

### *Tax Examinations Abroad*

1. Grenada may allow representatives of the competent authority of a scheduled country to enter the territory of Grenada and a scheduled country may allow representatives of the competent authority of Grenada to enter into its territory to interview individuals and examine records with the written consent of the persons concerned. The competent authority of the requesting country shall notify the competent authority of the requested country of the time and place of the meeting with the individuals concerned.

2. At the request of the competent authority of Grenada or a scheduled country, the competent authority of the requested country may allow representatives of the competent authority of the requesting country to be present at the appropriate part of a tax examination in the requested country.

3. where a request referred to in subrule (2) is acceded to, the competent authority of the country conducting the examination shall, as soon as possible, notify the competent authority of the requested country 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 requesting country for the conduct of the examination. All decisions with respect to the conduct of the tax examination shall be made by the country conducting the examination.

## RULE 7

### *Declining a Request*

1. The requested country shall not be required to obtain or provide information that the applicant country 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 country 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 Grenada or a scheduled country 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 rule 5(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 Grenada or a scheduled country 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—

- (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.

4. The requested country may decline a request for information if the disclosure of the information would be contrary to public policy.

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

## RULE 8

### *Confidentiality*

Any information received by Grenada or a scheduled country under these Rules shall be treated as confidential and may be disclosed only to persons or authorities (including courts and administrative bodies) in the jurisdiction of Grenada and the scheduled country concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by this Agreement. 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 express written consent of the competent authority of the requested country.

## RULE 9

### *Costs*

Incidence of costs incurred in providing assistance shall be agreed between Grenada and the Scheduled Country concerned with any particular request for information.

## RULE 10

### *Implementation Legislation*

Grenada and scheduled countries shall enact any legislation necessary to comply with, and give effect to, the terms of these Rules.

## RULE 11

### *Language*

Requests for assistance and answers thereto shall be drawn up in English, French or any other language agreed bilaterally between Grenada and a scheduled country.

## RULE 12

### *Other International Agreements or Arrangements*

The possibilities of assistance provided by these Rules do not limit, nor are they limited by, those contained in existing international agreements or other arrangements between Grenada and any scheduled country which relate to co-operation in tax matters.

## RULE 13

### *Mutual Agreement Procedure*

1. Where difficulties or doubts arise between Grenada and any scheduled country regarding the implementation or interpretation of these Rules, the competent authorities of Grenada and the relevant scheduled country shall endeavour to resolve the matter by mutual agreement.

2. In addition to the Rules referred to in paragraph 1, the competent authorities of Grenada and any scheduled country may mutually agree—

- (a) on the procedures to be used under rules 5 and 6;
- (b) on the language to be used in making and responding to requests in accordance with rule 11.

3. The competent authorities of Grenada and any scheduled country may communicate with each other directly for purposes of reaching agreement under this Rule.

4. Any agreement between the competent authorities of Grenada and any scheduled country shall be effective only between Grenada and the relevant scheduled country.

5. Grenada and a scheduled country may also agree on other forms of dispute resolution.

## RULE 14

### *Termination*

1. Grenada or any scheduled country may terminate their mutual cooperation under these Rules by serving a notice of termination either through diplomatic channels or by letter to the competent authority of the other country.

2. Such termination shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of the notification of termination.

3. Grenada or a scheduled country that terminates their mutual cooperation under these Rules shall remain bound by the provisions of rule 8 with respect to any information obtained under these Rules.

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## SECOND SCHEDULE

### MUTUAL EXCHANGE OF INFORMATION AND TAXATION MATTERS ACT

#### AGREEMENT

#### BETWEEN

THE GOVERNMENT OF GRENADA

#### AND

THE GOVERNMENT OF DENMARK

#### CONCERNING INFORMATION ON TAX MATTERS

The Government of Grenada and the Government of Denmark, desiring to conclude an Agreement concerning 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, the recovery and enforcement of tax claims, or the investigation or prosecution of tax matters. 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.

## ARTICLE 3

### *Taxes Covered*

1. The taxes which are subject of this Agreement are taxes of every kind and description existing on the date of signature.

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 define—

- (a) the term “Contracting Party” means Denmark or Grenada as the context requires;
- (b) the term “Grenada” means the country of Grenada;
- (c) the term “Denmark” means the Kingdom of Denmark including any area outside its 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 seabed 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—
  - (i) in the case of Grenada, the Minister of Finance or his authorised representative,
  - (ii) in Denmark, the Minister for Taxation or his authorised representative;
- (e) the term “person” includes an individual, a company and any other body 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 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.

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 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 ownership of companies, partnerships, trusts, foundations, “Anstalten” 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 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 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;
- (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 in-



form 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. A Contracting Party may 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 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 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 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 express written consent of the competent authority of the requested Party.

## ARTICLE 9

### *Costs*

Incidence of costs incurred in providing assistance shall be agreed by the Contracting Parties.

## ARTICLE 10

### *Mutual Agreement Procedure*

1. Where difficulties or doubts arise between the Contracting 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 agreements referred to in paragraph 1, the competent authorities of the Contracting Parties may mutually agree on the procedures to be used under Articles 5 and 6.

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 Contracting 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—

- (a) for criminal tax matters on that date;
- (b) for all other matters covered in Article 1, for taxable periods beginning on or after the first day of January of the year next following the date on which the Agreement enters into force, or where there is no taxable period, for all charges to tax arising on or after the first day of January of the year next following the date on which the Agreement enters into force.

#### ARTICLE 12

##### *Termination*

1. This Agreement shall remain in force until terminated by a Contracting Party. Either Contracting Party may terminate the Agreement by giving written notice of termination to the other Contracting 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 contracting Parties shall remain bound by the provisions of Article 8 with respect to any information obtained under the Agreement.

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

Done at Paris this 19th day May of 2010, in duplicate in the English language.

For the Government of Grenada

For the Government of Denmark

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#### AGREEMENT

#### BETWEEN

THE GOVERNMENT OF GRENADA

#### AND

THE GOVERNMENT OF AUSTRALIA

#### FOR THE

#### EXCHANGE OF INFORMATION RELATING TO TAX MATTERS

The Government of Grenada and the Government of Australia (“the Contracting Parties”) desiring to facilitate the exchange of information relating to 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, the recovery and enforcement of tax claims, or the investigation or prosecution of tax matters. Infor-

mation 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 State remain applicable. The Requested State will use its best endeavours to ensure that any such rights and safeguards are not applied in a manner that unduly prevents or delays 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.

## ARTICLE 3

### *Taxes Covered*

1. The existing taxes which are the subject of this Agreement are—

- (a) in Australia, taxes of every kind and description imposed under federal laws administered by the Commissioner of Taxation; and
- (b) in Grenada, taxes of every kind and description.

2. This Agreement shall also apply to any identical or substantially similar taxes imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The Agreement shall also apply to such other taxes as may be agreed in an exchange of letters between the Contracting Parties. 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 this Agreement.

3. This Agreement shall not apply to taxes imposed by states, municipalities, or other political subdivisions, or possessions of a Contracting Party.

## ARTICLE 4

### *Definitions*

1. For the purposes of this Agreement, unless otherwise defined—

- (a) the term “Applicant Party” means the Contracting Party requesting information;
- (b) the term “Australia” when used in a geographical sense, excludes all external territories other than—
  - (i) the territory of Norfolk Island,
  - (ii) the territory of Christmas Island,
  - (iii) the territory of Cocos (Keeling) Island,
  - (iv) the Territory Ashmore and Cartier Islands,
  - (v) the Territory of Heard Island and McDonald Islands,
  - (vi) the Coral Sea Islands Territory,

and includes any area adjacent to the territorial limits of Australia (including the Territories specified in this subparagraph) in respect of which there is for the or time being in force consistently with international law, a law of Australia dealing with the exploration for exploitation of any of the natural resources of the exclusive economic zone or the seabed and subsoil of the continental shelf;

- (c) the term “Grenada” means the State of Grenada;
- (d) 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;
- (e) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;
- (f) the term “competent authority” means—
  - (i) in the case of Australia, the Commissioner of Taxation or an authorised representative of the Commissioner,
  - (ii) in the case of Grenada, the Minister of Finance or his authorised representative;
- (g) the term “Contracting Party” means Australia or Grenada as the context requires;
- (h) 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;
- (i) the term “criminal tax matters” means tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the Applicant Party;

- (j) the term “information” means any fact, statement or record in any form whatever;
- (k) the term “information gathering measures” means laws and administrative or judicial procedures that enable a Contracting Party to obtain and provide the requested information;
- (l) the term “person” includes an individual, a company and any other body of persons;
- (m) 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;
- (n) 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;
- (o) the term “recognised stock exchange” means any stock exchange agreed upon by the competent authorities of the Contracting Parties;
- (p) the term “Requested Party” means the Contracting Party requested to provide information; and
- (q) the term “tax” means any tax to which the Agreement applies.

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.

3. The Commentary to the OECD Model Agreement on Exchange of Information on Tax Matters shall apply to the interpretation of this Agreement.

## 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 jurisdiction of 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 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; and
- (b) information regarding the ownership of companies, partnerships, trusts, foundations, “Anstalten” 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. 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 request for information under this 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;
- (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; and
- (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 sixty days of the receipt of the request; and
- (b) if the competent authority of the Requested Party has been unable to obtain and provide the information within ninety 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. A Contracting Party may 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 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 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 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 by the taxpayer.

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 covered by this Agreement. 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 express written consent of the competent authority of the Requested Party.

## ARTICLE 9

### *Costs*

Unless the competent authorities of the Contracting States otherwise agree, ordinary costs incurred in providing assistance shall be borne by the Requested State, and extraordinary costs incurred in providing assistance (including reasonable costs of engaging external advisors in connection with litigation or otherwise) shall be borne by the Applicant State. At the request of either Contracting State, the competent authorities shall consult as necessary with regard to this Article, and in particular the competent authority of the Requested State shall consult with the competent authority of the Applicant State in advance if the costs of providing information with respect to a specific request are expected to be significant.

## ARTICLE 10

### *Implementation Legislation*

The Contracting Parties shall enact any legislation necessary to comply with, and give effect to, the terms of this Agreement.

## ARTICLE 11

### *No Prejudicial or Restrictive Measures*

1. Neither of the Contracting Parties shall apply prejudicial or restrictive measures based on harmful tax practices to residents or nationals of either Contracting Party so long as this Agreement is in force and effective.

2. A “prejudicial or restrictive measure based on harmful tax practices” is a measure applied by one Contracting Party to residents or nationals of either Contracting Party on the basis that the other Contracting Party does not engage in effective exchange of information and/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 paragraph 2 the term “prejudicial or restrictive measure” includes the denial of a deduction, credit or exemption, the imposition of a tax, charge or levy, or special reporting requirements.

4. A “prejudicial or restrictive measure” does not include generally applicable measures, applied by either Contracting Party, such as controlled foreign companies, foreign investment funds, transferor trusts, Transfer pricing, Thin Capitalisation, operation of relief from double taxation provisions or general information reporting rules that relate to the disclosure of information from other countries or jurisdictions, or transactions with such countries or jurisdictions, such as record keeping requirements imposed on foreign owned subsidiaries to ensure access to information concerning parent companies.

## ARTICLE 12

### *Mutual Agreement Procedure*

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

2. In addition to the endeavours referred to in paragraph 1, the competent authorities of the Contracting Parties may mutually agree on the procedures to be used under Articles 5 and 6.

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

4. The Contracting Parties may also agree on other forms of dispute resolution.

#### ARTICLE 13

##### *Entry into Force*

The Contracting Parties shall notify each other in writing through diplomatic channels of the completion of their constitutional and legal procedures for the entry into force of this Agreement. This Agreement shall enter into force on the date of the last notification, and shall thereupon have effect—

- (a) for criminal tax matters, 01 July 2010; and
- (b) for all other matters covered in Article 1, 01 July 2010, but only in respect of taxable periods beginning on or after that date, or where there is no taxable period, all charges to tax arising on or after that date.

#### ARTICLE 14

##### *Termination*

1. Either Contracting Party may terminate the Agreement by serving a notice of termination either through diplomatic channels or by letter to the competent authority of the other Contracting Party.

2. Such termination shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of notice of termination by the other Contracting Party.

3. Following termination of the Agreement the Contracting Parties shall remain bound by the provisions of Article 8 with respect to any information obtained under the Agreement.

In Witness Whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Agreement.

Done at New York this thirtieth day of March 2010, in duplicate.

For the Government of Grenada

For the Government of Australia

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#### AGREEMENT BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND GRENADA FOR THE EXCHANGE OF INFORMATION RELATING TO TAX MATTERS

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Grenada desiring to facilitate the exchange of information with respect to taxes 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, the recovery and enforcement of tax claims, or the investigation or prosecution of tax matters. 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 requested Party should take all steps to ensure that any rights and safeguards secured to persons by the laws or administrative practices of the requested Party are not applied in a manner that unduly prevents or delays 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.

#### ARTICLE 3

##### *Taxes Covered*

The taxes which are the subject of this Agreement are all taxes imposed or administered by either Contracting Party including any identical or substantially similar taxes imposed after the date of signature of the Agreement.

#### ARTICLE 4

## *Definitions*

**1.** For the purposes of this Agreement, unless otherwise defined—

- (a) the term “Contracting Party” means the United Kingdom or Grenada as the context requires;
- (b) the term “United Kingdom” means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom designated under its laws concerning the Continental Shelf and in accordance with international law as an area within which the rights of the United Kingdom with respect to the seabed and sub-soil and their natural resources may be exercised;
- (c) the term “Grenada” means the State of Grenada;
- (d) the term “competent authority” means—
  - (i) in the case of the United Kingdom, the Commissioners for Her Majesty’s Revenue and Customs or their authorised representative,
  - (ii) in the case of Grenada, the Minister of Finance or his authorised re-presentative;
- (e) the term “person” includes an individual, a company and any other body 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 applicant 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 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.

**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.

**3.** The Commentary to the OECD Model Agreement on Exchange of Information on Tax Matters shall apply to the interpretation of this Agreement where this Agreement is in conformity with the OECD Model Agreement on Exchange of Information on Tax Matters.

## 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 jurisdiction of 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 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 ownership of companies, partnerships, trusts, foundations, “Anstalten” 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 and beneficiaries; 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. 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 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;
- (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 sixty 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 ninety 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. A Contracting Party may 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 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 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 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,

information held with the intention of furthering a criminal purpose is not subject to legal privilege and nothing in this Article shall prevent an attorney, solicitor or other admitted legal representative from providing the name and address of a client here doing so would not constitute a breach of legal privilege.

4. The requested Party may decline a request for information if the disclosure of the information would be contrary to public policy.

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 covered by this Agreement or the oversight of the above. 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 express written consent of the competent authority of the requested Party.

## ARTICLE 9

### *Costs*

Incidence of costs incurred in providing assistance shall be agreed by the Contracting Parties.

## ARTICLE 10

### *Implementation Legislation*

The Contracting Parties shall enact any legislation necessary to comply with, and give effect to, the terms of the Agreement.

## ARTICLE 11

### *Other International Agreements or Arrangements*

The possibilities of assistance provided by this Agreement do not limit, nor are they limited by, those contained in existing international agreements or other arrangements between the Contracting Parties which relate to co-operation in tax matters.

## ARTICLE 12

### *Mutual Agreement Procedure*

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

2. In addition to the agreements referred to in paragraph 1, the competent authorities of the Contracting Parties may mutually agree on the procedures to be used under Articles 5 and 6.

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

4. The Contracting Parties may also agree on other forms of dispute resolution.

## ARTICLE 13

### *Entry into Force*

Each of the Contracting Parties shall notify to the other through diplomatic channels the completion of the procedures required by its law for the bringing into force of this Agreement. This Agreement shall come into force on the date of the later of these notifications and shall thereupon have effect—

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

## ARTICLE 14

### *Termination*

1. Either Contracting Party may terminate the Agreement by serving a notice of termination either through diplomatic channels or by letter to the competent authority of the other Contracting Party.

2. Such termination shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of notice of termination by the other Contracting Party.

3. Following termination of the Agreement the Contracting Parties shall remain bound by the provisions of Article 8 with respect to any information obtained under Agreement.

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

Done in duplicate at London on this thirty-first day of March, 2010, in the English language.

For the Government of the United Kingdom of  
Great Britain and Northern Ireland

For the Government of Grenada:

STEPHEN TIMMS

RUTH ROUSE

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## AGREEMENT BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC

AND

## THE GOVERNMENT OF GRENADA FOR THE EXCHANGE OF INFORMATION RELATING TO TAX MATTERS

Whereas the Government of the French Republic and the Government of Grenada (“the Contracting Parties”) wish to enhance and facilitate the terms and conditions governing the exchange of information relating to taxes;

Now, therefore the Contracting Parties have agreed to conclude the following Agreement.

## ARTICLE 1

### *Object and Scope of the Agreement*

1. 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 and tax matters covered by this Agreement. Such information shall include information that is foreseeably relevant to the determination, assessment, verification and collection of such taxes, the recovery and enforcement of tax claims, or the investigation or prosecution of tax matters.

2. 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*

To enable the provisions of this Agreement to be implemented, information shall be provided in accordance with this Agreement by the competent authority of the 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 or citizen of a Contracting Party. A Requested Party is not obliged to provide information, which is neither held by its authorities nor in the possession of or in the control of or obtainable by persons who are within its territorial jurisdiction.

### ARTICLE 3

#### *Taxes Covered*

1. The taxes covered by this Agreement are the existing taxes imposed by the laws of the Contracting Parties.

2. This Agreement shall also apply to any identical or substantially similar taxes imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes.

3. The Agreement shall also apply to other taxes as may be agreed in an exchange of letters between the Contracting Parties.

4. 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. For the purposes of this Agreement, unless otherwise defined—

- (a) “France” means the European and overseas department of the French Republic including the territorial sea, and any area outside the territorial sea within which, in accordance with international law, the French Republic has sovereign rights for the purpose of exploring and exploiting the natural resources of the seabed and its subsoil and the superjacent waters;
- (b) “Grenada” means the country of Grenada;
- (c) the term “competent authority” means—
  - (i) in the case of France, the Minister of Finance, or the Minister’s authorised representative,
  - (ii) in the case of Grenada the Minister of Finance, or the Minister’s authorised representative;
- (d) the term “person” includes a natural person, a legal person or any body or group of such persons;
- (e) the term “tax” means any tax to which the Agreement applies;
- (f) the term “Requesting Party” means the Party requesting information;
- (g) the term “Requested Party” means the Party requested to provide information;
- (h) the term “information gathering measures” means laws and administrative or judicial procedures that enable a Contracting Party to obtain and provide the requested information;

- (i) the term “information” means any fact, statement, document or record in any form whatever;
- (j) the term “criminal tax matters” means tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the Requesting Party;
- (k) 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.

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 the Requested Party shall provide upon request in writing information for the purposes referred to in Article 1. Such information shall be exchanged without regard to whether the Requested Party needs such information for its own tax purposes or the conduct being investigated would constitute a crime under the laws of the Requested Party if 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 Contracting 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 witness and authenticated copies of original records.

4. Each Contracting Party shall ensure that its competent authorities, for the purpose of this Agreement, have 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) (i) information regarding the legal ownership and the beneficial ownership of companies, partnerships, collective investment, schemes and other persons,  
(ii) in the case of trusts, information on settlers, trustees beneficiaries and protectors, and  
(iii) in the case of a foundation, information on the founders, members of the foundation council and beneficiaries.

5. The competent authority of the Requesting Party shall provide the following information to the competent authority of the Requested Party—

- (a) the identity of the person under examination or investigation;
- (b) the period of time with respect to which information is requested;
- (c) the nature of the information requested and the form in which the Requesting Party wishes to receive it;
- (d) the tax purpose for which the information is sought;
- (e) grounds for believing that the information requested is present in the Requested Party or is in the possession of, or in the control of or obtainable by a person within the jurisdiction of the Requested Party;
- (f) to the extent known, the name and address of any person believed to be in possession of or in control of or able to obtain the requested information;
- (g) a statement that the request conforms with the law and administrative practices of the Requesting Party;
- (h) a statement that the Requesting Party has pursued all means available in its own territory to obtain the information, except where that would give rise to disproportionate difficulties.

6. To ensure a prompt response, the competent authority of the Requested Party shall—

- (a) 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;
- (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, it shall inform the Requesting Party, explaining the reason for its inability.

## ARTICLE 6

### *Tax Examinations or Investigations Abroad*

1. 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 to interview individuals 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 allow representatives of the competent authority of the Requesting Party to attend a tax examination in the territory of the Requested Party.

3. If the request referred to in paragraph 2 is granted, the competent authority of the Requested Party conducting the examination shall, as soon as possible, notify the competent authority of the Requesting Party of the time and place of the examination, the authority or official 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 tax examination shall be made by the Requested Party conducting the examination.

## ARTICLE 7

### *Possibility of Declining a Request*

1. The competent authority of the Requested Party may decline to assist where the request is not made in conformity with this Agreement or where the disclosure of the information requested would be contrary to public policy (ordre public).

2. The provisions of this Agreement shall not impose upon a Contracting Party the obligation to supply information which would disclose any trade, business, industrial, commercial or professional secret (confidential communications between a client and an attorney, solicitor or other admitted legal representative where such communications are produced for the purposes of seeking or providing legal advice or for the purposes of use in existing or contemplated legal proceedings) or trade process, provided that information described in Paragraph 4 of Article 5 shall not by reason of that fact alone be treated as such a secret or trade process.

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

4. The Requested Party shall not be required to obtain and provide information which the Requesting Party would be unable to obtain under its own laws for the purpose of the administration or enforcement of its own tax laws or in response to a valid request made in similar circumstances from the Requested Party under this Agreement.

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

## ARTICLE 8

### *Confidentiality*

1. All information received by the competent authority of a Contracting Party shall be kept confidential.

2. Information provided to the competent authority of the Requesting Party may be used for purposes other than the purposes stated in Article 1 with the prior express written consent of the Requested Party.

3. Information provided shall be disclosed only to persons or authorities (including judicial and administrative authorities) concerned with the purposes specified in this Agreement and used by such persons or authorities only for such purposes. For these purposes information may be disclosed in public court proceedings or in judicial decisions.

4. Information provided to a Requesting Party under this Agreement may not be disclosed to any other jurisdiction.

## ARTICLE 9

### *Administrative Costs*

Ordinary costs incurred in providing assistance shall be borne by the Requested Party. The Requested Party may request from the Requesting Party the reimbursement of direct extraordinary costs incurred in providing assistance.

#### ARTICLE 10

##### *Implementing Legislation*

The Contracting Parties shall enact any legislation necessary to comply with, and give effect to, the terms of this Agreement. This includes availability of information, access to information, exchange of information.

#### ARTICLE 11

##### *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 endeavour to resolve the matter by mutual agreement.

2. In addition to these latter agreements, 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 the purposes of reaching an agreement under this Article.

4. The Contracting Parties may also agree in writing on other forms of dispute resolution should this become necessary.

#### ARTICLE 12

##### *Entry into Force*

This Agreement shall enter into force when each Contracting Party has notified the other of the completion of its necessary internal procedures for entry into force. Upon the date of entry into force, it shall have effect—

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

#### ARTICLE 13

##### *Termination*

1. Either Contracting Party may terminate this Agreement by serving a notice of termination.

2. 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. All requests received up to the effective date of termination will be dealt with in accordance with the terms of this Agreement.

In Witness Whereof the undersigned, being duly authorised by the respective Parties, have signed this Agreement.

Done at ....., on ....., in duplicate, in the French and English languages, both texts being equally authentic.

\*

FOR THE GOVERNMENT OF  
THE FRENCH REPUBLIC

FOR THE GOVERNMENT OF GRENADA

\* This Agreement was signed by way of exchange of letters, subject to the requisite authorisation for both counter-parties, between the Minister of Finance of Grenada, Hon. V. Nazim Burke, and the Minister of Foreign and European Affairs of the French Republic. The letter from the French Republic was dated March 3, 2011 while the letter from Grenada was dated March 31, 2011, which makes the effective date of the Agreement March 31, 2011.

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## CHAPTER 202D

### MUTUAL EXCHANGE OF INFORMATION ON TAXATION MATTERS ACT

#### SUBSIDIARY LEGISLATION

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*No Subsidiary Legislation*

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