

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA  
AND THE GOVERNMENT OF THE PRINCIPALITY OF LIECHTENSTEIN ON TAX  
COOPERATION AND THE EXCHANGE OF INFORMATION RELATING TO TAXES

Preamble

Whereas the Government of the United States of America and the Government of the Principality of Liechtenstein ("the parties") recognize that the well-developed economic ties between the parties call for further cooperation;

Whereas the parties wish to develop their relationship further by cooperating to their mutual benefits in the field of taxation;

Whereas the parties wish to strengthen the ability of both parties to enforce their respective tax laws; and

Whereas the parties wish to establish the terms and conditions governing the exchange of information relating to taxes.

Now, therefore, the parties have agreed as follows:

Article 1

Scope of the Agreement

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

Article 2

Jurisdiction

Information shall be exchanged 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 of a party. However, a requested party is not obliged to provide information which is neither held by its authorities nor in the possession or control of persons who are within its territorial jurisdiction. For purposes of the preceding sentence, "authorities" includes all government agencies, political subdivisions, and local authorities.

Article 3

Taxes Covered

1. This Agreement shall apply only to the following taxes imposed by the parties:

- (a) in the case of the United States, all federal taxes,
- (b) in the case of the Principality of Liechtenstein, all taxes imposed on the countrywide level.

2. This Agreement shall apply also 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 only if the parties so agree. The competent authority of each party shall notify the other of changes in laws which may affect the obligations of that party pursuant to this Agreement.

#### Article 4 Definitions

1. In this Agreement:

“competent authority” means, for the United States, the Secretary of the Treasury or his delegate, and for Liechtenstein, the Government or its authorized representative.

“criminal tax matters” means tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the requesting party;

“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;

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

“person” means a natural or legal person, an estate, a trust, a partnership, a company, and any other body of persons;

“requested party” means the party to this Agreement which is requested to provide or has provided information in response to a request;

“requesting party” means the party to this Agreement submitting a request for or having received information from the requested party;

“tax” means any tax covered by this Agreement that is imposed at the national or federal level by a party, not including customs duties.

2. For purposes of determining the geographical area within which jurisdiction to compel production of information may be exercised, the term “United States” means the United States of America, including Puerto Rico, the Virgin Islands, Guam, and any other United States possession or territory.

For purposes of determining the geographical area within which jurisdiction to compel production of information may be exercised, the term “Liechtenstein” means the Principality of Liechtenstein.

3. As regards the application of this Agreement at any time by a party, any term not defined in this Agreement, unless the context otherwise requires or the competent authorities agree to a common meaning pursuant to the provisions of Article 10 of this Agreement, shall have the meaning which it has under the laws 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 by the

requesting party information for the purposes referred to in Article 1 of this Agreement and in accordance with its further provisions.

2. Any request for information made by a party shall be framed with the greatest degree of specificity possible. In all cases, such requests shall specify in writing the following:

- (a) the identity of the taxpayer whose tax or criminal liability is at issue;
- (b) the period of time with respect to which the information is requested;
- (c) the nature of the information requested and the form in which the requesting party would prefer to receive it;
- (d) the matter under the requesting party's tax law with respect to which the information is sought;
- (e) the reasons for believing that the information requested is foreseeably relevant to tax administration and enforcement of the requesting party, with respect to the person identified in subparagraph (a) of this paragraph;
- (f) grounds for believing that the information requested is present in the requested party or is in the possession or control of a person within the jurisdiction of the requested party;
- (g) to the extent known, the name and address of any person believed to be in possession or control of the information requested;
- (h) a statement that the requesting party would be able to obtain and provide the requested information if a similar request were made by the requested party;
- (i) a statement that the requesting party has pursued all reasonable means available in its own territory to obtain the information, except where that would give rise to disproportionate difficulty.

3. Information shall be obtained and exchanged under this Agreement without regard to whether the requested party needs such information for its own tax purposes or whether the conduct being investigated would constitute a crime under the laws of the requested party if it had occurred in the territory of the requested party. The competent authority of the requesting party shall only make a request for information pursuant to this Article when it is unable to obtain the requested information by other means available in its own territory, except where recourse to such means would give rise to disproportionate difficulty.

4. 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, the requested party shall take all relevant information gathering measures to provide the requesting party with the information requested, notwithstanding that the requested party may not, at that time, need such information for its own tax purposes. Privileges under the laws and practices of the requesting party shall not apply in the execution of a request by the requested party and such matters shall be reserved for resolution by the requesting party.

5. Each party shall take all necessary measures to compel production of the information requested, and if specifically requested, the information shall be provided in the

form specified by the competent authority of the requesting party, including depositions of witnesses and authenticated copies of original documents.

6. Each party shall ensure that it has the authority, for the purposes referred to in Article 1 of this Agreement and subject to Article 2 of this Agreement, to obtain and provide, through its competent authority and upon a 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 ownership of companies and other legal entities, including within the constraints of Article 2 of this Agreement, information on all persons in an ownership chain; (ii) in the case of partnerships, information regarding the identities of the members of the partnership; (iii) in the case of trusts, information on the settlors, trustees and beneficiaries; and (iv) in the case of foundations, information on the founders, members of the foundation council, and beneficiaries.

#### Article 6

##### Tax Investigations Abroad

1. By reasonable notice given in advance, the authorities of the requested party may allow officials of the requesting party to enter the territory of the requested party, to the extent permitted under its domestic laws, to interview individuals and examine records with the prior written consent of the individuals concerned. The competent authority of the requesting party shall notify the competent authority of the requested party of the time and place of the intended meeting with the individuals concerned. At the option of the requested party, an official of the requested party may attend such meeting.

2. At the request of the competent authority of the requesting party, the competent authority of the requested party may permit representatives of the competent authority of the requesting party to attend a tax examination in the territory of the requested party, in which case the competent authority of the requested party conducting the examination shall, as soon as possible, notify the competent authority of the requesting party of the time and place of the examination, the authority or person authorized to carry out the examination and the procedures and conditions required by the requested party for the conduct of the examination. All decisions regarding the conduct of the examination shall be made by the requested party conducting the examination.

#### Article 7

##### Possibility of Declining a Request

1. The competent authority of the requested party may decline to assist:

- (a) where the request is not made in conformity with this Agreement and, in particular, where the requirements of Article 5 are not met;
- (b) where the requesting party has not pursued all means available in its own territory to obtain the information, except where recourse to such means would give rise to disproportionate difficulty; or
- (c) where the disclosure of the information requested would be contrary to the public policy of the requested party.

2. This Agreement shall not impose upon a party any obligation:

- (a) to provide information that under the laws of the requested party is (i) subject to legal privilege or (ii) contains any trade, business, industrial, commercial or professional secret, or trade process, provided that information that would not otherwise constitute a trade, business, industrial, commercial or professional secret or trade process, shall not be treated as such merely because it is held by banks, other financial institutions, and any person, including nominees and trustees, acting in an agency or fiduciary capacity; or
- (b) to carry out administrative measures at variance with its laws and administrative practices, provided that nothing in this subparagraph shall affect the obligations of a party under paragraph 6 of Article 5 of this Agreement.

For purposes of paragraph 2(a), the term "information subject to legal privilege" means information that would reveal confidential communications between a client and an attorney, where such communications are made for the purpose of seeking or providing legal advice or for the purpose of use in existing or contemplated legal proceedings.

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

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

5. Notwithstanding paragraph 4, the statute of limitations of the requesting party pertaining to the taxes described in paragraph 1 of Article 3 of this Agreement shall govern a request for information. The expiration of a statute of limitations for taxes of the requested party shall not preclude the requested party from obtaining and providing the requested information.

## Article 8 Confidentiality

Any information received by the requesting party under this Agreement shall be treated as confidential and may only be disclosed to persons or authorities (including courts and administrative bodies) in the jurisdiction of the requesting 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 to supervisory bodies, and only to the extent necessary for those persons, authorities or supervisory bodies to perform their respective responsibilities. 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 shall not be disclosed to any other person, entity, or authority, or used for any purpose other than for the purposes stated in Article 1, except in cases where the requested party provides prior, written consent that the information may also be used for purposes allowed under the provisions of the existing Treaty on Mutual Legal Assistance in Criminal Matters between the parties, signed July 8, 2002, that allows for the exchange of certain tax information. In no event shall information provided under this Agreement be disclosed to another country without the express written consent of the competent authority of the requested party. Information received by the requested party in conjunction with a

request for assistance under this Agreement shall likewise be treated as confidential in the requested party.

#### Article 9 Costs

Unless the competent authorities of the parties otherwise agree, ordinary costs incurred in providing assistance shall be borne by the requested party and extraordinary costs incurred in providing assistance shall be borne by the requesting party.

#### Article 10 Mutual Agreement Procedure

1. Where difficulties or doubts arise between the parties regarding the implementation or interpretation of this Agreement, the respective competent authorities shall use their best efforts to resolve the matter by mutual agreement.
2. The competent authorities may adopt and implement procedures to facilitate the implementation of this Agreement.
3. The competent authorities of the parties may consult and exchange information as necessary regarding this Agreement or any related matter.

#### Article 11 Mutual Assistance Procedure

If both competent authorities of the parties consider it appropriate to do so they may agree to exchange technical know-how, develop new audit techniques, identify new areas of non-compliance, and jointly study non-compliance areas.

#### Article 12 Dialogue on further Cooperation

The parties shall continue the dialogue on the possibilities for further cooperation in the taxation area. The parties have the right to submit proposals for discussion and to ask for a meeting with the other party to address such proposals. In the context of such discussions the parties may inform each other of possible changes to their internal tax legislation and they may take into account any such changes.

#### Article 13 Implementing Legislation

Legislation necessary to comply with and give effect to the terms of this Agreement shall be enacted by December 31, 2009, to the extent necessary.

#### Article 14 Appendix The Appendix to this Agreement constitutes an integral part thereof.

Article 15  
Entry into Force

This Agreement shall enter into force when each party has notified the other in writing of the completion of its necessary internal procedures for entry into force. Upon entry into force, it shall have effect for requests made on or after the date of entry into force with regard to tax years beginning on or after January 1, 2009. This agreement is not intended to prejudice or interfere with any investigations or other proceedings that are in process as of the date of entry into force of this Agreement.

Article 16  
Termination

1. This Agreement shall remain in force until terminated by either party.
2. Either party may terminate this Agreement by giving notice of termination in writing. Such termination shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of notice of termination by the other party.
3. If a party terminates this Agreement, notwithstanding such terminations, both parties shall remain bound by the provisions of Article 8 of this Agreement with respect to any information obtained under this Agreement.

In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

Done at \_\_\_\_\_, in duplicate, in the English and German languages, each text being equally authentic, this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE PRINCIPALITY OF LIECHTENSTEIN:

## APPENDIX

At the signing of the Agreement between the Government of the United States of America and the Government of the Principality of Liechtenstein on Tax Cooperation and the Exchange of Information Relating to Taxes (hereinafter referred to as "the Agreement"), the Government of the United States and the Government of the Principality of Liechtenstein have agreed to the following provisions:

1. With respect to Article 4 of the Agreement (Definitions), the term "person" also includes foundations ("Stiftungen") and "Anstalten."
2. For purposes of paragraph 3 of Article 5 of the Agreement (Exchange of Information Upon Request), the requesting party shall look only to domestic recourse in determining disproportionate difficulty, and it is not contemplated that the requesting party pursue the requested information through extraterritorial measures beyond those measures specified in the Agreement in determining disproportionate difficulty.
3. For purposes of paragraph 4 of Article 5 of the Agreement (Exchange of Information Upon Request), the term "information gathering measures" includes measures such as requiring the presentation of records for examination; gaining direct access to records; copying such records; and interviewing persons having knowledge, possession, control, or custody of pertinent information.
4. With respect to paragraph 5 of Article 5 of the Agreement (Exchange of Information Upon Request), the requested party shall have procedures and enforcement mechanisms under its domestic laws permitting the competent authority of the requested party to obtain the following information from or perform the following acts on all persons on behalf of the requesting party:
  - (a) specify the time and place for the taking of testimony or the production of books, papers, records, and other tangible property;
  - (b) place the individual giving testimony or producing books, papers, records and other tangible property under oath;
  - (c) permit the presence of individuals designated by the competent authority of the requesting party as being involved in or affected by execution of the request, including an accused, counsel for the accused, individuals charged with the administration and enforcement of the domestic laws of the requesting party covered by the Agreement, or a commissioner or magistrate for the purpose of rendering evidentiary rulings or determining issues of privilege under the laws of the requesting party;
  - (d) provide individuals permitted to be present with an opportunity to question, directly or through the executing authority, the individual giving testimony or producing books, papers, records and other tangible property;
  - (e) secure original and unedited books, papers, and records, and other tangible property;
  - (f) secure or produce true and correct copies of original and unedited books, papers and records;
  - (g) determine the authenticity of books, papers, records and other tangible property produced, and provide authenticated copies of original records;



- (h) examine the individual producing books, papers, records and other tangible property regarding the purpose for which and the manner in which the item produced is or was maintained;
- (i) permit the competent authority of the requesting party to provide written questions to which the individual producing books, papers, records and other tangible property is to respond regarding the items produced;
- (j) perform any other act not in violation of the laws or at variance with the administrative practice of the requested party;
- (k) certify either that procedures requested by the competent authority of the requesting party were followed or that the procedures requested could not be followed, with an explanation of the deviation and the reason therefor.

5. Pursuant to Article 8 of the Agreement (Confidentiality), any information received pursuant to the Agreement is confidential and the parties shall take appropriate measures to safeguard the confidentiality of information received pursuant to the Agreement.

6. If an information request under the Agreement is believed to be deficient in some respect, but other parts of the request meet the requirements of the Agreement, the competent authority of the requested party shall provide any information that is responsive to that part of the request that meets the requirements of the Agreement.

7. The parties express their wish to further their cooperation in tax matters beyond this Agreement. In particular, the parties intend to explore whether additional agreements or actions, such as agreements related to transfer pricing, may be undertaken.

8. Although the Agreement allows only for requests for information with regard to tax years beginning on or after January 1, 2009, the Agreement provides for exchange of documents or information created in or derived from a date preceding January 1, 2009, that are foreseeably relevant to a request relating to tax years beginning on or after January 1, 2009. Such information may be used only if there is an ongoing investigation or examination with respect to a tax year that begins on or after January 1, 2009. For example, if assistance is requested with respect to a taxpayer's bank transactions occurring after December 31, 2008, and documents such as, but not limited to, a signature card for the account in question were executed prior to January 1, 2009, the parties would exchange the documents.

9. The parties acknowledge the availability of programs generally applicable to taxpayers, including the voluntary disclosure practice of the Internal Revenue Service.

10. Upon signature of the Agreement, the United States is extending Liechtenstein's treatment as an eligible Qualified Intermediary (QI) jurisdiction until December 31, 2009. Following agreement by the competent authorities that Liechtenstein has taken the steps necessary to implement fully the Agreement, the United States shall extend Liechtenstein's eligibility as a QI jurisdiction for the same period and subject to the same restrictions, that the United States extends QI eligibility generally, with the understanding that, under applicable regulatory and administrative rules, the terms of a QI agreement between the Internal Revenue Service and any individual financial institution may vary depending on the needs of sound tax administration.