

AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF SEYCHELLES

AND

THE GOVERNMENT OF THE KINGDOM OF SWAZILAND

FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE

**PREVENTION OF FISCAL EVASION
WITH RESPECT TO**

TAXES ON INCOME

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Preamble

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and to promote and strengthen the economic relations between the two countries, the Government of the Kingdom of Swaziland and the Government of the Republic of Seychelles (hereinafter referred to as the Contracting States)

Have agreed as follows:

Article 1

General Definitions

1. For the purposes of this Agreement, unless the context otherwise requires:
 - a) the term "business" includes the performance of professional services and of other activities of an independent character;
 - b) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - c) the term "competent authority" means:
 - (i) in the case of Swaziland, the Minister of Finance or an authorized representative;
 - (ii) in the case of Seychelles, the Minister of Finance or an authorized representative of the Minister of Finance;
 - d) the terms "a Contracting State" and "the other Contracting State" mean Swaziland or Seychelles, as the context requires;
 - e) the term "enterprise" applies to the carrying on of any business;
 - f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
 - g) the term "international traffic" means any transport by a ship, aircraft or rail or road transport vehicle operated by an enterprise of a Contracting State, except when the ship, aircraft or rail or road transport vehicle is operated solely between places in the other Contracting State;
 - h) the term "national" means:

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- (i) any individual possessing the nationality or citizenship of a Contracting State; and
 - (ii) any legal person or association deriving its status as such from the laws in force in a Contracting State
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- i) the term "Seychelles" means the territory of the Republic of Seychelles including its exclusive economic zone and continental shelf where Seychelles exercises sovereign rights and jurisdiction in conformity with the provisions of the United Nations Convention on the Law of the Sea;
 - j) the term "Swaziland" means the Kingdom of Swaziland.
 - k) the term "tax" means Swaziland tax or Seychelles tax, as the context requires, but shall not include any amount which is payable in respect of any default or omission in relation to the taxes to which this Agreement applies or which represents a penalty imposed relating to those taxes.
2. As regards the application of the provisions of this Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which this Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 2

Persons Covered

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

Article 3

Taxes Covered

- 1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions or local authorities irrespective of the manner in which they are levied.
- 2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property.
- 3. The existing taxes to which the Agreement shall apply are:
 - a) in the case of Swaziland, the taxes covered under the Income Tax Order, 1975 as amended

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(hereinafter referred to as "Swaziland tax"); and

b) in the case of Seychelles:

- (i) the business tax;
- (ii) the income and non-monetary benefits tax; and
- (iii) the petroleum income tax;

(hereinafter referred to as "Seychelles tax").

- 4 This Agreement shall also apply to any identical or substantially similar taxes that are imposed after the date of signature of this Agreement in addition to or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in the respective taxation laws.

Article 4

Resident

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax in that State by reason of that person's domicile, residence, place of incorporation or registration, place of management, or any other criterion of a similar nature, and also includes that State or any political subdivision or local authority of that State. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then that individual's status shall be determined as follows:
 - a) an individual shall be deemed to be a resident solely of the Contracting State in which a permanent home is available to him; if a permanent home is available to that individual in both States, that individual shall be deemed to be a resident only of the State with which that individual personal and economic relations are closer (centre of vital interests);
 - b) if sole residence cannot be determined under the provisions sub-paragraph (a), that individual shall be deemed to be a resident solely of the State in which that individual has an habitual abode;
 - c) if that individual has an habitual abode in both States or in neither of them, he shall be deemed to be a resident solely of the State of which that individual is a national;

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- d) if that individual is a national of both States or of neither of them, The competent authorities of the Contracting State shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident solely of the State in which its place of effective management is situated.

Article 5

Permanent Establishment

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially:
 - a) a place of management;
 - b) a branch;
 - c) an office;
 - d) a factory;
 - e) a workshop;
 - f) a mine, an oil or gas well, a quarry or any other place of extraction or exploitation of natural resources;
 - g) a building site, a construction, assembly or installation project or supervisory activity connected therewith where such site, project or activity continues for a period of more than 183 days; and
 - h) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purposes, but only where activities of that nature continue for the same or a connected project within a Contracting State for a period or periods exceeding in the aggregate 90 days in any twelve month period commencing or ending in the year of assessment concerned.
 - i) the performance of professional services or other activities of an independent character by an individual, but only where those services or activities continue within a Contracting State for a period or periods exceeding in the aggregate of 183 days in any twelve-month period commencing or ending in the year of assessment concerned.

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3. Notwithstanding the preceding provisions of this Article. The term "permanent establishment" shall be deemed not to include:
- a) the use of facilities solely for the purpose of storage, display of goods or merchandise belonging to the enterprise;
 - b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display;
 - c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
 - e) the maintenance of fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
 - f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
4. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 5 applies- is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first- mentioned State in respect of any activities which that person undertakes for the enterprise, if such a person:
- (a) has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 3 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or
 - (b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which such person regularly delivers goods or merchandise on behalf of the enterprise.
5. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it caters on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.
6. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or

which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

7. Notwithstanding the preceding provisions of this Article insurance enterprise of a Contracting State shall, except in regard to reinsurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 5 applies.

Article 6

Income from Immovable Property

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

Article 7

Business Profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of the profits as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent

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establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purpose of the business of the permanent establishment, including executive and general administrative expenses so incurred, whether in the Contracting State in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by the way of royalty fees or other similar payments in return for the use of patents or other rights or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise by way of interest on moneys lent to the head office of the enterprise or any of its other offices.
4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary. The method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

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Article 8

International Transport

1. Profits of an enterprise of a Contracting State from the operation of ships, aircraft or rail or road transport vehicles in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
2. For the purpose of this Article, profits from the operation in international traffic of ships or aircraft shall include in particular:
 - a) profits derived from the rental or lease by the enterprise on a bare boat charter basis of ships or aircraft used in international traffic where such rental or lease is ancillary to the transportation of passengers or cargo:
 - b) profits derived from the use, maintenance, rental or lease of containers by the enterprise where such use, maintenance, rental or lease is ancillary to the transportation of cargo.
3. If the place of effective management of a shipping enterprise is aboard a ship or boat, then it shall be deemed to be situated in the Contracting State in which the home harbor of the ship or boat is situated, or if there is no such home harbor in the Contracting State of which the operator of the ship or boat is a resident.
4. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9

Associated Enterprises

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

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

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

Article 10

Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:
 - (a) 7.5 per cent of the gross amount of the dividends if the beneficial owner is a company which holds at least 25 per cent of the capital of the company paying the dividends; or
 - (b) 10 per cent of the gross amount of the dividends in all other case.

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

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

undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11

Interest

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 7.5 percent of the gross amount of the interest.
3. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State, in which the interest arises through a permanent establishment situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case, the provisions of Article 7 shall apply.
5. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether that person is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated.
6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount of interest. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

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Article 12**Royalties**

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.
3. The term "royalties" as used in this Article means payments of any kind received as a consideration for:
 - a) the use of, or right to use any patent, invention, design or model, secret formula or process, trademark, or other like property or right;
 - b) the use of, or right to use any copyright of a literary, artistic, or scientific work (including computer software, cinematograph films or films or video tapes or discs for use in connection with radio or television broadcasting;
 - c) the receipt of, or right to receive, any visual images or sounds, or both, transmitted by satellite, cable, optic fibre, or similar technology in connection with television, radio, or internet broadcasting;
 - d) the supply of any technical, industrial, commercial, or scientific knowledge, experience, or skill;
 - e) the use of or right to use any industrial, commercial or scientific equipment; or
 - f) the supply of any assistance that is ancillary and subsidiary to, and is furnished as a means of enabling the application or enjoyment of, any property or right referred to in paragraphs (a) through (e).
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply. .
5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether that person is a resident of a Contracting State or not, has in a Contracting State a permanent establishment with which the right or property in respect of which the royalties are paid is effectively connected, and such royalties are borne by **I**,

such permanent establishment, then such royalties shall be deemed to arise in the State in which the permanent establishment is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 13

Technical Fees

1. Technical fees arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such technical fees may also be taxed in the Contracting State in which they arise, and according to the laws of that State, but if the beneficial owner of the technical fees is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the technical fees.
3. The term "technical fees" as used in this Article means payments of any kind to any person, other than to an employee of the person making the payments, in consideration of any services of a technical, managerial or consultancy nature.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the technical fees, being a resident of a Contracting State, carries on business in the other Contracting State in which the technical fees arise, though a permanent establishment situated therein and the technical fees are effectively connected with such permanent establishment. In such case, the provisions of Article 7 shall apply.
5. Technical fees shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the technical fees, whether that person is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the obligation to pay the technical fees was incurred, and such technical fees are borne by the permanent establishment, then such technical fees shall be deemed to arise in the State in which the permanent establishment is situated.
6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the technical fees paid exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

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Article 14

Capital Gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.
3. Gains of an enterprise of a Contracting State from the alienation of ships, aircraft or rail or road transport vehicles operated in international traffic or movable property pertaining to the operation of such ships, aircraft or rail or road transport vehicles shall be taxable only in that State.
4. Gains from the alienation of shares of the capital stock of a company the property of which consists directly or indirectly principally of immovable property situated in a Contracting State may be taxed in that State.
5. Gains from the alienation of any property other than that referred to in the preceding paragraphs, shall be taxable only in the Contracting State of which the alienation is a resident.

Article 15

Income from Employment

1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
 - a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the year of assessment concerned, and
 - b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and

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- c) the remuneration is not borne by a permanent establishment which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship, aircraft or road or rail transport vehicle operated in international traffic by an enterprise of a Contracting State may be taxed in that State.

Article 16

Director's Fees

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

Article 17

Entertainers and Sportspersons

1. Notwithstanding the provisions of Articles 7 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from that person's personal activities as such exercised in the other Contracting State, may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in that capacity accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.
3. Income derived by a resident of a Contracting State from activities of an entertainer or sportsperson exercised in the other Contracting State as envisaged in paragraphs 1 and 2 of this Article, shall be exempt from tax in that other State if the visit to that other State is supported wholly or mainly by public funds of the first-mentioned Contracting State or takes place under a cultural agreement or arrangement between the Governments of the Contracting States.

Article 18

Pensions and Annuities

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration, and annuities, arising in a Contracting State and paid to a resident of the other Contracting State, may be taxed in the first-mentioned State

2. The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.
3. Notwithstanding the provisions of paragraph 1, pensions paid and other payments made under a public scheme which is part of the social security system of a Contracting State, a political subdivision or a local authority of that Contracting State shall be taxable only in that State.

Article 19

Government Service

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 - a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
 - b) However such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
 - (i) is a national of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.
2.
 - a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
 - b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.
3. The provisions of Articles 15, 16, 17 and 18 shall apply to salaries, wages and, other similar remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority of that Contracting State.

Article 20

Students, Apprentices and Business Trainees

A student, apprentice or business trainee who is present in a Contracting State solely for the purpose of the education or training of the student, apprentice or business trainee and who is, or immediately before being so present was, a resident of the other Contracting State, shall be exempt from tax in the first-mentioned State on payments

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received from outside that first-mentioned State for the maintenance, education or training of the student, apprentice or business trainee.

Article 21

Professors and Teachers

1. Notwithstanding the provisions of Article 15, a professor or teacher who makes a temporary visit to one of the Contracting States for a period not exceeding two years from the date of first arrival in that State, solely for the purpose of teaching or carrying out research at a university, college, school or other educational institution in that State and who is, or immediately before such visit was, a resident of the other Contracting State shall, in respect of remuneration for such teaching or research, be exempt from tax in the first-mentioned State, provided that such remuneration is derived by the professor or teacher from outside that State or such remuneration is not borne by a university, college, school or other educational institution in the first-mentioned State.
2. The provisions of this Article shall not apply to income from research if such research is undertaken not in the public interest but wholly or mainly for the private benefit of a specific person or persons.

Article 22

Other Income

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

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Article 23**Elimination of Double Taxation**

1. Double taxation shall be eliminated as follows:
 - a) In Swaziland, subject to the provisions of the law of Swaziland, from time to time in force, which relates to the allowance of credit against Swaziland tax of tax paid in a country outside Swaziland (which shall not affect the general principle of this Article), Seychelles tax paid under the law of Seychelles and in accordance with this Agreement, whether directly or by deduction, in respect of income derived by a person who is a resident of Swaziland from sources in Seychelles shall be allowed as a credit against Swaziland tax payable in respect of that income but such credit shall not exceed the average rate of Swaziland income tax on that income.
 - b) In Seychelles, subject to the provisions of the law of Seychelles, from time to time in force, which relates to the allowance of credit against Seychelles tax of tax paid in a country outside Seychelles (which shall not affect the general principle of this Article), Swaziland tax paid under the law of Swaziland and in accordance with this Agreement, whether directly or by deduction, in respect of income derived by a person who is a resident of Seychelles from sources in Swaziland shall be allowed as a credit against Seychelles tax payable in respect of that income but such credit shall not exceed the average rate of Seychelles income tax on that income.
2. For the purposes of paragraph , the terms "Swaziland tax paid" and "Seychelles tax paid" shall be deemed to include the amount of tax which would have been paid in Swaziland or Seychelles, as the case may be, but for an exemption or reduction granted in accordance with laws which establish schemes for the promotion of economic development in Swaziland or Seychelles, as the case may be, such schemes having been mutually agreed by the competent authorities of the Contracting States as qualifying for the purpose of this paragraph.
3. A grant given by a Contracting State or a political subdivision of that Contracting State to a resident of the other Contracting State in accordance with laws which establish schemes for the promotion of economic development in Swaziland or Seychelles, as the case may be, such schemes having been mutually agreed by the competent authorities of the Contracting States as qualifying for the purposes of this paragraph, shall not be taxable in the other State.

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Article 24

Non-Discrimination

1. Nationals of Contracting States shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 2, also apply to persons who are not residents of one or both of the Contracting States.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
3. Nothing in this Agreement shall be construed as preventing a Contracting State from imposing under its laws an income tax (referred to as a "branch profits tax") on the deemed repatriated income of a company which is a resident of the other Contracting State in addition to the income tax imposed on the chargeable income of the company in accordance with this Agreement; provided that any branch profits tax so imposed shall not exceed 10 per cent of the amount of the deemed repatriated income in the year of assessment.
4. Except where the provisions of paragraph 1 of Article 9, paragraph 6 of Article 11, paragraph 6 of Article 12 or paragraph 6 of Article 13 apply, interest, royalties technical fees and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.
5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

Article 25

Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for that person in taxation not in accordance with the provisions of this Agreement, that person may, irrespective of the remedies provided by the domestic law of those States, present a case to the competent authority of the Contracting State of which the person is a resident or if the case comes under paragraph 1 of Article 24, to that of the Contracting State of which the person is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provision of the Agreement.
2. The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the

- 3 The competent authorities of the Contracting State shall endeavor to resolve by mutual agreement any difficulties or doubt arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.
- 4 The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.
- 5 If it seems desirable to amend any Article of the Agreement without affecting the general principles thereof, the necessary amendments may be made by mutual consent by means of exchanging of diplomatic notes.

Article 26

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes covered by this Agreement. The exchange of information is not restricted by Article 2 of the Agreement.
2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.
3. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:
 - a) to carry out administrative measures at variance with the laws and the administrative practice of that or of the other Contracting State:

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- b) to supply information which is not obtainable under the laws in the normal course of the administration of that ,of the other Contracting State:
 - c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (*ordre public*).
4. If information is requested by a Contracting State in accordance with this Article. the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.
 5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information requested by the other Contracting State because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

Article 27

Members of Diplomatic Missions and Consular Posts

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

Article 28

Assistance in Recovery

1. The Contracting States shall, to the extent permitted by their respective domestic law, lend assistance to each other in order to recover the taxes referred to in Article 2 as well as interest and penalties with regard to such taxes, provided that reasonable steps to recover such taxes have been taken by the Contracting State requesting such assistance.
2. Claims which are the subject of requests for assistance shall not have priority over taxes owing in the Contracting State rendering assistance and the provisions of paragraph 1 of Article 25 shall also apply to any information which, by virtue of this Article, is supplied to the competent authority of a Contracting State.
3. It is understood that unless otherwise agreed by the competent authorities of both Contracting States,

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- a) Ordinary costs incurred by a Contracting State in providing assistance shall be borne by that State;
- b) extraordinary costs incurred by a Contracting State in providing assistance shall be borne by that other State and shall be payable regardless of the amount collected on its behalf by the first-mentioned State.

As soon as a Contracting State anticipates that extraordinary costs may be incurred, it shall so advise the other Contracting State and indicate the estimated amount of such costs.

- 4. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of the provisions of this Article.

Article 29

Entry into Force

- 1. Each of the Contracting States shall notify to the other, by means of exchange of diplomatic notes, the completion of the procedures required by its law for the bringing into force of this Agreement. The Agreement shall enter into force on the date of receipt of the later of these notifications.
- 2. The provisions of the Agreement shall apply:
 - a) with regard to taxes withheld at source, in respect of amounts paid or credited on or after the thirtieth day following the date upon which the Agreement enters into force; and
 - b) with regard to other taxes, in respect of years of assessment beginning on or after the date upon which this Agreement enters into force.

Article 30

Termination

- I. This Agreement shall remain in force indefinitely but either of the Contracting States may terminate the Agreement, through the diplomatic channels, by giving to the other Contracting State written notice of termination not later than 30 June of any calendar year starting five years after the year in which the Agreement entered into force.
- 2. In such event the Agreement shall cease to apply:
 - a) with regard to taxes withheld at source, in respect of amounts paid or credited after the end of the calendar year in which such notice is given; and

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b) with regard to other taxes, in respect of years of assessment beginning after the end of the calendar year in which such notice is given.

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

DONE atin duplicate, this.....day of
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FOR THE GOVERNMENT OF
THE KINGDOM OF SWAZILAND



FOR THE GOVERNMENT OF
THE REPUBLIC OF SEYCHELLES