

**AGREEMENT BETWEEN  
THE STATES OF GUERNSEY AND  
THE GOVERNMENT OF THE REPUBLIC OF TURKEY  
FOR THE EXCHANGE OF INFORMATION  
RELATING TO TAX MATTERS**

**Whereas** the States of Guernsey and the Government of the Republic of Turkey wish to enhance and facilitate the terms and conditions governing the exchange of information with respect to taxes;

**Whereas** it is acknowledged that the States of Guernsey under the terms of its Entrustment from the United Kingdom has the right to negotiate, conclude, perform and subject to the terms of this Agreement terminate a tax information exchange agreement with the Republic of Turkey;

**Now, therefore,** the Parties have agreed to conclude the following Agreement, which contains obligations on the part of the Parties only:

## **Article 1**

### **Object and 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 taxes covered by this Agreement, including information that is foreseeably relevant to the determination, assessment and collection of tax with respect to persons subject to such taxes, the recovery and enforcement of tax claims, or the investigation of tax matters or the prosecution of criminal 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. The requested Party shall use its best endeavours to ensure that no deliberate actions are taken to unduly prevent or delay the 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 of or in the control of or obtainable by persons who are within its territorial jurisdiction.

## **Article 3**

### **Taxes Covered**

1. The taxes which are the subject of this Agreement are taxes of every kind and description imposed by the laws of the Parties, as of the date of entry into force of this Agreement, other than customs duties and tariffs.
2. This Agreement shall also apply to any identical or substantially similar taxes imposed by either Party after the date of entry into force of this Agreement in addition to, or in place of, any of the taxes referred to in paragraph 1.

3. The competent authorities of the Parties shall notify each other of any substantial changes to the taxation and related information gathering measures which may affect the obligations of the Parties pursuant to this Agreement.

#### **Article 4**

#### **Definitions**

1. For the purposes of this Agreement, unless otherwise defined, the term:
  - a) "Turkey" means the Turkish territory including territorial sea and air space above it, as well as the maritime areas over which it has jurisdiction or sovereign rights for the purpose of exploration, exploitation and conservation of natural resources, pursuant to international law;
  - b) "Guernsey" means the States of Guernsey and, when used in a geographical sense, means Guernsey, Alderney and Herm, including the territorial sea adjacent to those islands, in accordance with international law;
  - c) "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;
  - d) "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
  - e) "competent authority" means:

- (i) in the case of Turkey, the Minister of Finance or his authorized representative;
  - (ii) in the case of Guernsey, the Director of Income Tax, or his delegate;
- f) "criminal laws" means all criminal laws designated as such under domestic law irrespective of whether such are contained in the tax laws, the criminal code or other statutes;
  - g) "criminal tax matters" means tax matters involving intentional conduct whether before or after the entry into force of this Agreement which is liable to prosecution under the criminal laws of the requesting Party;
  - h) "information" means any fact, statement, document or record in any form whatever;
  - i) "information gathering measures" means laws and administrative or judicial procedures that enable a requested Party to obtain and provide the requested information;
  - j) "Party" means the Government of the Republic of Turkey or the States of Guernsey, as the context requires;
  - k) "person" includes an individual, a company and any other body of persons;
  - l) "principal class of shares" means the class or classes of shares representing a majority of the voting power and value of the company;
  - m) "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;

- n) "recognised stock exchange" means any stock exchange agreed upon by the competent authorities of the Parties;
- o) "requested Party" means the Party to this Agreement which is requested to provide or has provided information in response to a request;
- p) "requesting Party" means the Party to this Agreement submitting a request for or having received information from the requested Party;
- q) "tax" means any tax to which this Agreement applies.

2. As regards the application of this Agreement at any time by a 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 by the requesting Party 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 it had occurred in the territory of the requested Party or whether the requested Party needs such information for its own tax purposes.

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, the requested Party shall use all relevant information gathering measures necessary 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 witnesses and authenticated copies of original records.

4. Each Party shall ensure that it has the authority, subject to the terms of Article 1, and within the constraints of Article 2, to obtain and provide through its competent authority and 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 and beneficial ownership of companies, partnerships, foundations and other persons, including ownership information on all such persons in an ownership chain and in the case of collective investment funds or schemes, information on shares, units and other interests;
- (ii) in the case of trusts, information on settlors, trustees, protectors, enforcers and beneficiaries;
- (iii) in the case of foundations, information on founders, members of the foundation council and beneficiaries;

provided that this Agreement does not create an obligation for a Party 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. Any request for information shall be formulated with the greatest detail possible and shall specify in writing:

- a) the identity of the person under examination or investigation;
- b) the period for 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 tax purpose for 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) the 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;
  - g) to the extent known, the name and address of any person believed to be in possession of or able to obtain the requested information;
  - h) a statement that the request is in conformity with the law and administrative practices of the requesting Party, that if the requested information was within the jurisdiction of the requesting Party then the competent authority of the requesting Party would be able to obtain the information under the laws of the requesting Party or in the normal course of administrative practice and that it is in conformity with this Agreement;
  - i) a statement that the requesting 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 acknowledge receipt of the request to the competent authority of the requesting Party and shall use its best endeavours to forward the requested information to the requesting Party as soon as possible.

**Article 6**  
**Tax Examinations Abroad**

1. By reasonable notice given in advance, a Party may allow representatives of the competent authority of the other Party to enter the territory of the first-mentioned Party, to interview individuals and examine records with the prior written consent of the persons concerned. The competent authority of the second-mentioned Party shall notify the competent authority of the first-mentioned Party of the time and place of the intended meeting with the individuals concerned.
2. At the request of the competent authority of one Party, the competent authority of the other 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 Party conducting the examination shall, as soon as possible, notify the competent authority of the other Party of 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 competent authority of the requested Party may decline to assist:
  - a) where the request is not made in conformity with this Agreement;
  - 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 public policy.
2. This Agreement shall not impose on a requested Party the obligation to supply items subject to legal privilege or information which would disclose any trade, business, industrial,



commercial or professional secret or trade process, provided that information described in Article 5, paragraph 4 shall not by reason of that fact alone be treated as such a secret or trade process. The term "legal privilege" shall be interpreted as to include legal privilege which is established by the Courts, based on settled case law.

3. The requested Party shall not be required to obtain and provide information which if the requested information was within the jurisdiction of the requesting Party the competent authority of the requesting Party would not be able to obtain under its laws or in the normal course of administrative practice.

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

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 provided and received by the competent authorities of the Parties shall be kept confidential.

2. Such information shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the purposes specified in Article 1, and used by such persons or authorities only for such purposes, including the determination of any appeal. For these purposes, information may be disclosed in public court proceedings or in judicial decisions.

3. Such information may not be used for any purpose other than for the purposes stated in Article 1 without the express written consent of the competent authority of the requested Party.

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

### **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 in providing assistance (including costs of engaging external advisers in connection with litigation or otherwise) shall be borne by the requesting Party. The respective competent authorities shall consult from time to time with regard to this Article, and in particular the competent authority of the requested Party shall consult with the competent authority of the requesting Party if the costs of providing information with respect to a specific request are expected to be significant.

### **Article 10**

#### **Implementation Legislation**

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

### **Article 11**

#### **Mutual Agreement Procedure**

1. Where difficulties or doubts arise between the 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 the agreements referred to in paragraph 1, the competent authorities of the Parties may mutually agree on the procedures to be used under Articles 5, 6 and 9.

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

4. The Parties shall agree on other forms of dispute resolution should this become necessary.

**Article 12**  
**Entry into Force**

This Agreement shall enter into force 30 days after receipt of written notification by the latter Party of completion of all legal formalities required 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. This Agreement shall remain in force until terminated by a Party. Either Party may terminate this Agreement at any time after it enters into force, by giving notice of termination in writing to the other Party through appropriate channels.
  
2. Such termination shall become effective on the first day of the month following the expiration of a period of 3 months after the date of receipt of notice of termination by the other Party.
  
3. If the Agreement is terminated the 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 authorized in that behalf by their respective Governments, have signed the Agreement.

Done at London, this 13<sup>th</sup> day of March, 2012, in duplicate, in the English and Turkish languages, both texts being equally authentic.

**For the States of  
Guernsey**

**For the Government of  
the Republic of Turkey**

**Lyndon S. TROTT  
Chief Minister**

**Mehmet KILCI  
President of Revenue Administration**

## PROTOCOL

At the moment of the signing of the Agreement Between the States of Guernsey and the Government of the Republic of Turkey for The Exchange of Information Relating to Tax Matters (the "Agreement"), the undersigned have reached the following understandings that constitute an integral part of the Agreement:

1. With respect to paragraph 6 of Article 5 (*Exchange of Information Upon Request*) of the Agreement, it is understood that the competent authority of the requested Party shall forward the requested information as promptly as possible to the requesting 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 requesting Party and shall notify the competent authority of the requesting Party of deficiencies in the request, if any, within 60 days of the receipt of the request.
- b) If the competent authority of the requested Party has been unable to obtain and provide the information within 90 days of receipt of the request, including if it encounters obstacles in furnishing the information or it refuses to furnish the information, it shall immediately inform the requesting Party, explaining the reason for its inability, the nature of the obstacles or the reasons for its refusal.
- c) For the purposes of b) above, it is understood, for the avoidance of doubt that the period of 90 days commences only when a request has been made fully in accordance with Article 5 of the Agreement.

2. With respect to Article 6 (*Tax Examinations Abroad*) it is understood that where a Party accedes to a request under paragraph 1 or 2, entry into the territory of the Party acceding to the request must nevertheless be subject to laws or instruments governing entry into, or exit from the territory of that Party.

3. With respect to Article 9 (*Costs*) it is understood that:

- a) The term "extraordinary costs" includes, but is not limited to:

- (i) reasonable costs for stenographic reports and interviews, depositions or testimony;
  - (ii) reasonable fees and expenses, determined in accordance with amounts allowed under applicable law, of a person who voluntarily appears in Turkey or in Guernsey for an interview, deposition or testimony relating to a particular information request;
  - (iii) reasonable legal fees for non-government counsel appointed or retained, with the approval of the competent authority of the requesting Party, for litigation in the courts of the requested Party related to a specific request for information;
  - (iv) reasonable costs of reproducing and transporting an extraordinary amount of documents or records to the competent authority of the requesting Party.
- b) The term "ordinary costs" includes, but is not limited to, ordinary administrative, postal and overhead expenses incurred by the requested Party in reviewing and responding to information requests submitted by the requesting Party.
- c) The extraordinary costs amounting to £500 (five hundred sterling pounds) or less shall be borne by the requested Party. If the extraordinary costs exceed the aforementioned amount, only the excess shall be borne by the requesting Party. However, in such a case, the competent authority of the requested Party will contact the competent authority of the requesting Party to determine whether the requesting Party wants to pursue the request.
- d) The competent authorities will consult, if necessary, after the date the Agreement enters into force, and upon request of either competent authority thereafter, with respect to costs incurred or potentially to be incurred under the Agreement and with a view to minimizing such costs.
4. Formal communications, including requests for information, made in connection with or pursuant to the provisions of the Agreement will be in writing directly to the competent

authority of the other Party at the addresses given below, or such other address as may be notified by one Party to the other from time to time. Any subsequent communications regarding requests for information will also be in writing between the earlier mentioned competent authorities or their authorized representative.

In the case of Turkey the address is –

Ministry of Finance  
The Presidency of Revenue Administration  
Dikmen İlkadım Cad. 06450  
Ankara/TURKEY

In the case of Guernsey the address is –

Guernsey Income Tax  
PO Box 37  
2 Cornet Street  
St Peter Port  
Guernsey GY1 3AZ  
British Isles

In witness whereof the undersigned being duly authorized in that behalf by their respective Governments, have signed the present Protocol.

Done at London this 13<sup>th</sup> day of March 2012, in duplicate, in the English and Turkish languages, both texts being equally authentic.

**For the States of  
Guernsey**

**For the Government of  
the Republic of Turkey**



**Lyndon S. TROTT**  
Chief Minister

**Mehmet KILCI**  
President of Revenue Administration