

AGREEMENT

BETWEEN

THE SWISS CONFEDERATION

AND

THE SULTANATE OF OMAN

FOR THE AVOIDANCE OF DOUBLE TAXATION  
WITH RESPECT TO TAXES ON INCOME

THE SWISS FEDERAL COUNCIL

AND

THE GOVERNMENT OF THE SULTANATE OF OMAN

DESIRING to conclude an Agreement for the avoidance of double taxation with respect to taxes on income and

HAVE AGREED as follows:

**CHAPTER I**  
**SCOPE OF THE AGREEMENT**

Article 1

Persons covered

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

Article 2

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, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.
3. The existing taxes to which the Agreement shall apply are in particular:
  - a) in Switzerland:

the federal, cantonal and communal taxes on income (total income, earned income, income from capital, industrial and commercial profits, capital gains, and other items of income);

(hereinafter referred to as "Swiss tax");
  - b) in Sultanate of Oman:

the income tax

(hereinafter referred to as "Omani tax").

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

5. The Agreement shall not apply to taxes withheld at source on prizes in a lottery.

## **CHAPTER II**

### **DEFINITIONS**

#### Article 3

##### General definitions

1. For the purposes of this Agreement, unless the context otherwise requires:
  - a)
    - (i) the term “Switzerland“ means the Swiss Confederation;
    - (ii) the term “Sultanate of Oman“ means the territory of the Sultanate of Oman and the islands belonging thereto, including the territorial waters and any area outside the territorial waters over which the Sultanate of Oman may, in accordance with international law and the laws of the Sultanate of Oman, exercise sovereign rights with respect to the exploration and exploitation of the natural resources of the sea-bed and the sub-soil and the superjacent waters;
  - b) the terms “a Contracting State” and “the other Contracting State” mean the Sultanate of Oman or Switzerland as the context requires;
  - c) the term “person“ includes an individual, a company and any other body of persons;
  - d) the term “company“ means any body corporate or any entity that is treated as a body corporate for tax purposes;
  - e) 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;

- f) the term “international traffic“ means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- g) the term “competent authority“ means:
  - (i) in the case of Switzerland, the Head of the Federal Department of Finance or its authorized representative;
  - (ii) in the case of the Sultanate of Oman, the Ministry of Finance or its authorized representative;
- h) the term “national“ in relation to a Contracting State means:
  - (i) any individual possessing the nationality of a Contracting State;
  - (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;
- i) the term “pension scheme” or “pension fund” means any plan, scheme, fund, foundation, trust or other arrangement established in a Contracting State which is:
  - (i) regulated by, and generally exempt from income taxation in, that Contracting State; and
  - (ii) operated principally to administer or provide pension or retirement benefits or to earn income for the benefit of one or more of such schemes.

2. As regards the application of the 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 the 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 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 therein by reason of his

domicile, residence, place of management, place of registration or any other criterion of a similar nature.

In the case of the Sultanate of Oman, an individual who has a permanent home, his center of vital interest, or habitual abode in the Sultanate of Oman is considered to be a resident of that Contracting State.

2. For the purposes of paragraph 1 above the term “resident” shall include:

- a) a Contracting State itself, local governments and any political subdivision or local authority thereof;
- b) any governmental institutions created under public law such as the Central Bank, funds, corporations, authorities, foundations, agencies or any other similar entities.

3. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

- a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);
- b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;
- c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;
- d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

4. 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 only 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, and
  - f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
3. A building site, construction or installation project constitutes a permanent establishment only if it lasts more than nine months.
4. 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 or delivery 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 or delivery;
  - 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 a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or similar activities which have a preparatory or auxiliary character for the enterprise;
- f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs 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.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 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.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries 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.

7. 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.

**CHAPTER III**  
**TAXATION OF INCOME**

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 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 (including the breeding and cultivation of fish) 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 and aircraft 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 property of an enterprise and to income from immovable property used for the performance of independent personal services.

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 them 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 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 purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

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 Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

## Article 8

### Shipping and air transport

1. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that Contracting State.

2. 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 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 shall 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 this 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) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends;
  - b) 15 per cent of the gross amount of the dividends in all other cases.
3. Notwithstanding the provisions of paragraph 2, the Contracting State of which the company is a resident shall exempt from tax dividends paid by that company, if the beneficial owner of the dividends is
  - a) the other Contracting State, a political subdivision or the Central Bank thereof;
  - b) a pension scheme or pension fund of the other Contracting State; or
  - c) in the case of the Sultanate of Oman, the State General Reserve Fund, the Omani Investment Fund and any other statutory body or institution wholly owned by the Government of the Sultanate of Oman, as may be agreed from time to time between the competent authorities of the Contracting States.
4. Paragraphs 2 and 3 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

5. The term “dividends” as used in this Article means income from shares, “jouissance” shares or “jouissance” rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, 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 State of which the company making the distribution is a resident.

6. The provisions of paragraphs 1, 2 and 3 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, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

7. Where a company which is a 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 or a fixed base 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 beneficially owned by 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 5 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to a resident of the other Contracting State who is the beneficial owner thereof shall be taxable only in that other State to the extent that such interest is paid

- a) to the Government of that other State, a political subdivision or local authority thereof or to the Central Bank of that other State;
- b) in the case of the Sultanate of Oman, the State General Reserve Fund, the Omani Investment Fund and any other statutory body or institution wholly owned by the Government of the Sultanate of Oman, as may be agreed from time to time between the competent authorities of the Contracting States.
- c) with respect to indebtedness arising as a consequence of the sale on credit of any equipment, merchandise or services;
- d) on any loan of whatever kind granted by a bank;
- e) to a pension scheme or pension fund; or
- f) on intercompany loans.

4. 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.

5. The provisions of paragraphs 1, 2 and 3 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, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. 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 he is a resident of a

Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7. 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. 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 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 8 per cent of the gross amount of the royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment or for information concerning industrial, commercial or scientific experience.

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, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively

connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, 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 a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the obligation to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base 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 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 Convention.

### Article 13

#### 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 or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in that Contracting State.

4. Gains derived by a resident of a Contracting State from the alienation of shares or other corporate rights in a company the assets of which consist directly or indirectly of more than 50 per cent of immovable property referred to in Article 6 situated in the other Contracting State may be taxed in that other State.

5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3 and 4, shall be taxable only in the Contracting State of which the alienator is a resident.

#### Article 14

##### Independent personal services

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

#### 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 the tax year concerned, and
- b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
- c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding paragraphs of this Article, remuneration derived by any employee of an enterprise of a Contracting State in respect of the employment exercised aboard a ship or aircraft in international traffic, may be taxed in that Contracting State.

#### Article 16

##### Directors' fees

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

#### Article 17

##### Artistes and sportsmen

1. Notwithstanding the provisions of Articles 14 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 sportsman, from his 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 sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to

another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised. The provisions of the preceding sentence shall not apply if it is established that neither the entertainer or the sportsman himself, nor persons related to him, participate directly in the profits of such person.

3. Paragraphs 1 and 2 shall not apply to income from activities performed in a Contracting State by entertainers or sportsmen if such income is derived, directly or indirectly, wholly or mainly from public funds of the other Contracting State, a political subdivision or a local authority thereof. In such a case, the income shall be taxable only in the Contracting State of which the entertainer or sportsman is a resident.

#### Article 18

##### Pensions and other similar retirement benefits

Pensions and other similar remuneration in consideration of past employment, and other retirement benefits arising in a Contracting State and paid to a resident of the other Contracting State, may be taxed in the first-mentioned State.

#### Article 19

##### Government service

1. a) Salaries, wages and other similar remuneration 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) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration 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 pensions and other similar remuneration 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, pensions, and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

#### Article 20

##### Students

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

#### Article 21

##### Other income

1. 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, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent

establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

**CHAPTER IV**  
**METHODS FOR THE ELIMINATION OF**  
**DOUBLE TAXATION**

Article 22

Elimination of double taxation

1. In the case of Switzerland, double taxation shall be avoided as follows:
  - a) Where a resident of Switzerland derives income which, in accordance with the provisions of this Agreement, may be taxed in the Sultanate of Oman, Switzerland shall, subject to the provisions of subparagraph b), exempt such income from tax but may, in calculating tax on the remaining income of that resident, apply the rate of tax which would have been applicable if the exempted income had not been so exempted. However, such exemption shall apply to gains referred to in paragraph 4 of Article 13 only if actual taxation of such gains in the Sultanate of Oman is demonstrated.
  - b) Where a resident of Switzerland derives dividends and interest which, in accordance with the provisions of Article 10, 11 and 12 may be taxed in the Sultanate of Oman, Switzerland shall allow, upon request, a relief to such resident. The relief may consist of:
    - (i) a deduction from the tax on the income of that resident of an amount equal to the tax levied in the Sultanate of Oman in accordance with the provisions of Articles 10, 11 and 12; such deduction shall not, however, exceed that part of the Swiss tax, as computed before the deduction is given, which is appropriate to the income which may be taxed in the Sultanate of Oman; or
    - (ii) a lump sum reduction of the Swiss tax; or
    - (iii) a partial exemption of such dividends or interest from Swiss tax, in any case consisting at least of the deduction of the tax levied in the Sultanate of Oman. from the gross amount of the dividends.

Switzerland shall determine the applicable relief and regulate the procedure in accordance with the Swiss provisions relating to the carrying out of international Agreements of the Swiss Confederation for the avoidance of double taxation.

- c) Where a resident of Switzerland derives income covered by Article 18, Switzerland shall allow, upon request, a deduction from the Swiss tax on this income of an amount equal to the tax levied in the Sultanate of Oman in accordance with Article 18; such deduction shall not, however, exceed that part of the Swiss income tax, as computed before the deduction is given, which is appropriate to the income which may be taxed in the Sultanate of Oman.
- d) A company which is a resident of Switzerland and which derives dividends from a company which is a resident of the Sultanate of Oman shall be entitled, for the purposes of taxation in Switzerland with respect to such dividends, to the same relief which would be granted to the company if the company paying the dividends were a resident of Switzerland.

2. In the case of the Sultanate of Oman, double taxation shall be avoided as follows:

Where a resident of the Sultanate of Oman derives income which in accordance with the provisions of this Agreement, may be taxed in Switzerland, the Sultanate of Oman shall allow as a deduction from the tax on the income of that resident an amount equal to the tax on the income paid in Switzerland, whether directly or by deduction. Such deduction shall not, however, exceed that part of tax (as computed before the deduction is given) which is attributable to the income which may be taxed in Switzerland. Where, in accordance with any provision of this Agreement, income derived by a resident of the Sultanate of Oman is exempt from tax in that State, that State may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

**CHAPTER V**  
**SPECIAL PROVISIONS**

Article 23

Non-discrimination

1. Nationals of a Contracting State 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 I, 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 favourably 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. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties 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.
  
4. 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.
  
5. The provisions of this Article shall apply to taxes covered by this Agreement.

## Article 24

### Mutual agreement procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting State of which he 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 provisions of the Agreement.
2. The competent authority shall endeavour, 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.
3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts 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.

## Article 25

### 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 the Agreement insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Article 1.
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, or the determination of appeals in relation to the taxes referred to in paragraph 1. 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 paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

- a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or 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 solely 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. In order to obtain such information, the tax authorities of the requested Contracting State, if necessary to comply with its obligations under this paragraph, shall have the power to enforce the disclosure of information covered by this paragraph, notwithstanding paragraph 3 or any contrary provisions in its domestic laws.



## Article 26

### Members of diplomatic missions and consular posts

1. 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.
2. Notwithstanding the provisions of Article 4, an individual who is a member of a diplomatic mission, consular post or permanent mission of a Contracting State which is situated in the other Contracting State or in a third State shall be deemed, for the purposes of this Agreement, to be a resident of the sending State if:
  - a) in accordance with international law he is not liable to tax in the receiving Contracting State in respect of income from sources outside that State and
  - b) he is liable in the sending State to the same obligations in relation to tax on his total income as are residents of that State.
3. The Agreement shall not apply to international organisations, to organs or officials thereof and to persons who are members of a diplomatic mission, consular post or permanent mission of a third State, being present in a Contracting State and not treated in either Contracting State as residents in respect of taxes on income.

## **CHAPTER VI**

### **FINAL PROVISIONS**

## Article 27

### Entry into force

1. Each Contracting State shall notify to the other, through diplomatic channels, the completion of the procedures required by its law for the bringing into force of this Agreement. The Agreement shall enter into force on the date on which the later of those notifications has been received.
2. The provisions of the Agreement shall have effect:

- a) in respect of taxes withheld at source on amounts paid or credited on or after the first day of January of the calendar year next following the entry into force of the Agreement;
  - b) in respect of other taxes for taxation years beginning on or after the first day of January of the calendar year next following the entry into force of the Agreement;
  - c) in respect to Article 25, to information that relates to tax years beginning on or after the first day of January of the calendar year next following the entry into force of the Agreement.
3. The Agreement between the Swiss Federal Council and the Government of the Sultanate of Oman for the avoidance of double taxation of income derived from international air transport, signed on 3<sup>rd</sup> November 2007, shall cease to have effect and is therefore suspended for any tax years to which this Agreement applies.

#### Article 28

##### Termination

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving a written notice of termination at least six months before the end of any calendar year. In such event, the Agreement shall cease to have effect:

- a) in respect of taxes withheld at source on amounts paid or credited on or after the first day of January of the calendar year next following that in which the notice was given;
- b) in respect of other taxes for tax years beginning on or after the first day of January of the calendar year next following that in which the notice was given.

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

Done in duplicate at ..... this ....., in the French, Arabic and English languages, all texts being equally authentic. In case there is any divergence of interpretation between any of these texts, the English text shall prevail.

For the Swiss  
Federal Council:

For the Government of the  
Sultanate of Oman:

## PROTOCOL

The Swiss Confederation

and

The Sultanate of Oman

Have agreed at the signing at ..... on the ..... of the Agreement between the two States for the avoidance of double taxation with respect to taxes on income upon the following provisions which shall form an integral part of the said Agreement.

1. In general
  - a) The competent authorities may consult each other in order to take appropriate measures to prevent the improper use of the Agreement. Such measures may aim, in particular, to prevent persons who are not residents of a Contracting State to abuse the benefits provided under this Agreement.
  - b) In any case the provisions of Articles 10, 11 and 12 shall not apply if the main reason of any person concerned with the creation or assignment of the shares, debt-claims or other rights in respect of which the dividends, interest or royalties are paid is to obtain a tax advantage under Articles 10, 11 and 12 by means of that creation or assignment.
2. ad sub-paragraph i) of paragraph 1 of Article 3

It is understood that the term “pension scheme” or “pension fund” includes the following and any identical or substantially similar schemes which are established pursuant to legislation introduced after the date of signature of this Agreement:

- a) in the Sultanate of Oman, any pension funds set up under the laws of the Sultanate of Oman.

- b) in Switzerland, any pension schemes covered by
  - (i) the Federal Act on old age and survivors' insurance, of 20 December 1946;
  - (ii) the Federal Act on disabled persons' insurance of 19 June 1959;
  - (iii) the Federal Act on supplementary pensions in respect of old age, survivors' and disabled persons' insurance of 6 October 2006;
  - (iv) the Federal Act on old age, survivors' and disabled persons' insurance payable in respect of employment or self-employment of 25 June 1982, including the non-registered pension schemes which offer occupational pension plans, and
  - (v) the forms of individual recognised pension schemes comparable with the occupational pension plans, in accordance with article 82 of the Federal Act on old age, survivors' and disabled persons' insurance payable in respect of employment or self-employment of 25 June 1982.

3. ad Article 4

- a) With respect to paragraph 1 of Article 4, the criteria of permanent home, centre of vital interest, or habitual abode in the case of an individual imply that he has a substantial presence in the Sultanate of Oman.
- b) In respect of paragraph 1 of Article 4, it is understood and confirmed that the term "resident of a Contracting State" includes in particular:
  - (i) a pension scheme or pension fund established in that State; and
  - (ii) an organization that is established and is operated exclusively for religious, charitable, scientific, cultural, sporting, or educational purposes (or for more than one of those purposes), notwithstanding that all or part of its income or gains may be exempt from tax under the domestic law of that State.

4. ad Article 7

In respect of paragraphs 1 and 2 of Article 7, where an enterprise of a Contracting State sells goods or merchandise or carries on business in the other State through a permanent establishment situated therein, the profits of that permanent establishment shall not be determined on the basis of the total amount received by the enterprise, but shall be

determined only on the basis of that part of the total receipts which is attributable to the actual activity of the permanent establishment for such sales or business.

In the case of contracts for the survey, supply, installation or construction of industrial, commercial or scientific equipment or premises, or of public works, when the enterprise has a permanent establishment, the profits of such permanent establishment shall not be determined on the basis of the total amount of the contract, but shall be determined only on the basis of that part of the contract which is effectively carried out by the permanent establishment in the State where the permanent establishment is situated.

The profits related to that part of the contract which is carried out by the head office of the enterprise shall be taxable only in the State of which the enterprise is a resident.

5. ad Article 7, paragraph 3

It is understood that in the determination of the profits of a permanent establishment, expenses proven to be commercially justified, including any allocation of head office expenses, shall be allowed as deductions in accordance with the relevant provisions of the tax laws of the respective State.

6. ad Article 8

For the purposes of this Article, the term "operation of ships or aircraft in international traffic" by an enterprise, includes:

- a) the charter, lease or rental of ships or aircraft fully equipped, manned and supplied, and used in the operation international traffic;
- b) the charter, lease or rental on a bare boat charter basis of ships or aircraft, where such charter, lease or rental is incidental to the operation of ships or aircraft in international traffic;
- c) the use, maintenance or rental of containers, where such use, maintenance or rental is incidental to the operation of ships or aircraft in international traffic;

Income and profits derived by a ship or an air transport enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall also include interest on funds generated directly from such operation, provided that such interest is incidental to the operation.

7. ad Article 12

In respect of Article 12 (royalties), if under any Convention, Agreement or Protocol between the Sultanate of Oman and a third State, signed after the signature of this Agreement, the Sultanate of Oman limits its taxation at source on royalties to a rate lower than the rate provided for in this Agreement or restricts the scope of such income compared to this Agreement, the same rate or the same scope as provided for in that Convention, Agreement or Protocol on royalties shall also apply between both Contracting States under this Agreement as from the date in which such Convention, Agreement or Protocol enters into force.

8. ad Articles 18 and 19

It is understood that the term “pensions” as used in Articles 18 and 19, respectively, does not only cover periodic payments, but also includes lump sum payments.

9. ad Articles 18 and 23

As regards Article 18 and Article 23 contributions to a pension scheme of a Contracting State that are made by or on behalf of an individual who renders services in the other Contracting State shall, for the purposes of determining the individual's tax payable and the profits of an enterprise which may be taxed in that State, be treated in that State in the same way and subject to the same conditions and limitations as contributions made to a pension scheme in that Contracting State, provided that the individual was not a resident of that State, and was participating in the pension scheme, immediately before beginning to provide services in that State.

10. ad Article 25

- a) It is understood that an exchange of information will only be requested once the requesting Contracting State has exhausted all regular sources of information available under the internal taxation procedure.
- b) It is understood that the tax authorities of the requesting State shall provide the following information to the tax authorities of the requested State when making a request for information under Article 25:
  - (i) the identity of the person under examination or investigation;

- (ii) the period of time for which the information is requested;
  - (iii) a statement of the information sought including its nature and the form in which the requesting State wishes to receive the information from the requested State;
  - (iv) the tax purpose for which the information is sought;
  - (v) to the extent known, the name and address of any person believed to be in possession of the requested information.
- c) It is understood that the standard of “foreseeable relevance” is intended to provide for exchange of information in tax matters to the widest possible extent and, at the same time, to clarify that the Contracting States are not at liberty to engage in “fishing expeditions” or to request information that is unlikely to be relevant to the tax affairs of a given taxpayer. While subparagraph 10(b) contains important procedural requirements that are intended to ensure that fishing expeditions do not occur, clauses (i) through (v) of subparagraph 10(b) nevertheless are not to be interpreted in order to frustrate effective exchange of information.
- d) It is understood that Article 25 of the Agreement does not require the Contracting States to exchange information on an automatic or a spontaneous basis.
- e) It is understood that in case of an exchange of information, the administrative procedural rules regarding taxpayers’ rights provided for in the requested Contracting State remain applicable before the information is transmitted to the requesting Contracting State. It is further understood that this provision aims at guaranteeing the taxpayer a fair procedure and not at preventing or unduly delaying the exchange of information process.

Done in duplicate at ..... this ....., in the French, Arabic and English languages, all texts being equally authentic. In case there is any divergence of interpretation between any of these texts, the English text shall prevail.

For the Swiss  
Federal Council:

For the Government of the  
Sultanate of Oman: