

AGREEMENT

BETWEEN

**THE COMPETENT AUTHORITY OF
THE REPUBLIC OF SOUTH AFRICA**

AND

**THE COMPETENT AUTHORITY OF
THE HONG KONG SPECIAL ADMINISTRATIVE
REGION OF THE PEOPLE'S REPUBLIC OF CHINA**

ON THE AUTOMATIC EXCHANGE OF

FINANCIAL ACCOUNT INFORMATION

TO IMPROVE INTERNATIONAL TAX COMPLIANCE

Whereas, the Governments of the Hong Kong Special Administrative Region of the People's Republic of China ("Hong Kong") and the Republic of South Africa ("South Africa") have a longstanding and close relationship with respect to mutual assistance in tax matters and desire to improve international tax compliance by further building on that relationship;

Whereas, the laws of the respective jurisdictions require or are expected to require financial institutions to report information regarding certain accounts and follow related due diligence procedures, consistent with the scope of exchange contemplated by Section 2 of this Agreement and the reporting and due diligence procedures set out in the Common Reporting Standard;

Whereas, Article 24 of the Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Republic of South Africa for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (the "DTA"), authorises the exchange of information for tax purposes, including the exchange of information on an automatic basis, and allows the competent authorities of Hong Kong and South Africa (the "Competent Authorities") to agree the scope and modalities of such automatic exchanges;

Whereas, Hong Kong and South Africa have in place (i) appropriate safeguards to ensure that the information received pursuant to this Agreement remains confidential and is used solely for the purposes set out in the DTA, and (ii) the infrastructure for an effective exchange relationship (including established processes for ensuring timely, accurate, and confidential information exchanges, effective and reliable communications, and capabilities to promptly resolve questions and concerns about exchanges or requests for exchanges and to administer the provisions of Section 4 of this Agreement);

Whereas, the Competent Authorities of the jurisdictions desire to conclude an agreement to improve international tax compliance based on reciprocal automatic exchange pursuant to the DTA, and subject to the confidentiality and other protections provided for therein, including the provisions limiting the use of the information exchanged under the DTA;

Now, therefore, the Competent Authorities have agreed as follows:

SECTION 1

DEFINITIONS

1. For the purposes of this agreement (“Agreement”), the following terms have the following meanings:
 - (a) the term “Hong Kong Special Administrative Region (Hong Kong)” means any territory where the tax laws of the Hong Kong Special Administrative Region of the People’s Republic of China apply;
 - (b) the term “South Africa” means the Republic of South Africa and, when used in a geographical sense, includes the territorial sea thereof as well as any area outside the territorial sea, including the continental shelf, which has been or may hereafter be designated, under the laws of South Africa and in accordance with international law, as an area within which South Africa may exercise sovereign rights or jurisdiction;
 - (c) the term “Competent Authority” means:
 - (i) in the case of Hong Kong, the Commissioner of Inland Revenue or an authorised representative of the Commissioner; and
 - (ii) in the case of South Africa, the Commissioner for the South African Revenue Service or an authorised representative of the Commissioner;
 - (d) the term “Hong Kong Financial Institution” means (i) any Financial Institution that is resident in Hong Kong, but excludes any branch of that Financial Institution that is located outside Hong Kong, and (ii) any branch of a Financial Institution that is not resident in Hong Kong, if that branch is located in Hong Kong;

- (e) the term “South African Financial Institution” means (i) any Financial Institution that is resident in South Africa, but excludes any branch of that Financial Institution that is located outside South Africa, and (ii) any branch of a Financial Institution that is not resident in South Africa, if that branch is located in South Africa;
- (f) the term “Reporting Financial Institution” means any Hong Kong Financial Institution or South African Financial Institution, as the context requires, that is not a Non-Reporting Financial Institution;
- (g) the term “Reportable Account” means a Hong Kong Reportable Account or a South African Reportable Account, as the context requires, provided it has been identified as such pursuant to due diligence procedures, consistent with the Common Reporting Standard, in place in Hong Kong or South Africa;
- (h) the term “Hong Kong Reportable Account” means a Financial Account that is maintained by a South African Reporting Financial Institution and held by one or more Hong Kong Persons that are Reportable Persons or by a Passive Non-Financial Entity (“NFE”) with one or more Controlling Persons that is a Hong Kong Reportable Person;
- (i) the term “South African Reportable Account” means a Financial Account that is maintained by a Hong Kong Reporting Financial Institution and held by one or more South African Persons that are Reportable Persons or by a Passive NFE with one or more Controlling Persons that is a South African Reportable Person;
- (j) the term “Hong Kong Person” means an individual or Entity that is identified by a South African Reporting Financial Institution as resident in Hong Kong pursuant to due diligence procedures consistent with the Common Reporting Standard, or an estate of a decedent that was a resident of Hong Kong;
- (k) the term “South African Person” means an individual or Entity that is identified by a Hong Kong Reporting Financial Institution as resident in South Africa pursuant to due diligence procedures consistent with the Common Reporting Standard, or an estate of a decedent that was a resident of South Africa;
- (l) the term “TIN” means a Hong Kong TIN or a South African TIN, as the context requires;

- (m) the term “Hong Kong TIN” means the Hong Kong Identity Card number in the case of an individual, or the Business Registration number in the case of an entity;
 - (n) the term “South African TIN” means a South African taxpayer identifying number.
2. Any capitalised term not otherwise defined in this Agreement will have the meaning that it has at that time under the law of the jurisdiction applying the Agreement, such meaning being consistent with the meaning set forth in the Common Reporting Standard. Any term not otherwise defined in this Agreement or in the Common Reporting Standard will, unless the context otherwise requires or the Competent Authorities agree to a common meaning (as permitted by its law), have the meaning that it has at that time under the law of the jurisdiction applying this Agreement, any meaning under the applicable tax laws of that jurisdiction prevailing over a meaning given to the term under other laws of that jurisdiction.

SECTION 2

EXCHANGE OF INFORMATION WITH RESPECT TO REPORTABLE ACCOUNTS

1. Pursuant to the provisions of Article 24 of the DTA and subject to the applicable reporting and due diligence rules consistent with the Common Reporting Standard, each Competent Authority will annually exchange with the other Competent Authority on an automatic basis the information obtained pursuant to such rules and specified in paragraph 2.
2. The information to be exchanged is, in the case of Hong Kong with respect to each South African Reportable Account, and in the case of South Africa with respect to each Hong Kong Reportable Account:
 - (a) the name, address, TIN(s) and date and place of birth (in the case of an individual) of each Reportable Person that is an Account Holder of the account and, in the case of any Entity that is an Account Holder and that, after application of due diligence procedures consistent with the Common Reporting Standard, is identified as having one or more Controlling Persons that is a Reportable Person, the name, address, and TIN(s) of the Entity and the name, address, TIN(s) and date and place of birth of each Reportable Person;

- (b) the account number (or functional equivalent in the absence of an account number);
- (c) the name and identifying number (if any) of the Reporting Financial Institution;
- (d) the account balance or value (including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value) as of the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year or period, the closure of the account;
- (e) in the case of any Custodial Account:
 - (i) the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period; and
 - (ii) the total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder;
- (f) in the case of any Depository Account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period; and
- (g) in the case of any account not described in subparagraph 2(e) or (f), the total gross amount paid or credited to the Account Holder with respect to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period.

SECTION 3

TIME AND MANNER OF EXCHANGE OF INFORMATION

1. For the purposes of the exchange of information in Section 2, the amount and characterisation of payments made with respect to a Reportable Account may be determined in accordance with the principles of the tax laws of the jurisdiction exchanging the information.
2. For the purposes of the exchange of information in Section 2, the information exchanged will identify the currency in which each relevant amount is denominated.
3. With respect to paragraph 2 of Section 2, and subject to the notification procedure set out in Section 7, including the dates specified therein, information is to be first exchanged with respect to the period commencing on the earlier of: (i) 1 July 2017, or (ii) the date stipulated in the law of Hong Kong for this purpose, and ending on 31 December 2017, and then with respect to all subsequent calendar years. The information will be exchanged commencing from the years specified in Annex A within nine months after the end of the reporting period to which the information relates. Notwithstanding the foregoing sentence, information is only required to be exchanged with respect to a reporting period if both jurisdictions have in effect legislation that requires reporting with respect to such reporting period that is consistent with the scope of exchange provided for in Section 2 and the reporting and due diligence procedures contained in the Common Reporting Standard.
4. Notwithstanding paragraph 3, the information to be exchanged with respect to the period commencing on the earlier of: (i) 1 July 2017, or (ii) the date stipulated in the law of Hong Kong for this purpose, and ending on 31 December 2017 is the information described in paragraph 2 of Section 2, except for gross proceeds described in subparagraph 2(e)(ii) of Section 2, which is to be exchanged with respect to the year 2018 and all subsequent years.
5. The Competent Authorities will automatically exchange the information described in Section 2 in the Common Reporting Standard schema in Extensible Markup Language.
6. The Competent Authorities will work towards and agree on one or more methods for data transmission, including encryption standards.

SECTION 4

COLLABORATION ON COMPLIANCE AND ENFORCEMENT

A Competent Authority will notify the other Competent Authority when the first-mentioned Competent Authority has reason to believe that an error may have led to incorrect or incomplete information reporting or there is non-compliance by a Reporting Financial Institution with the applicable reporting requirements and due diligence procedures consistent with the Common Reporting Standard. The notified Competent Authority will take all appropriate measures available under its law to address the errors or non-compliance described in the notice.

SECTION 5

CONFIDENTIALITY AND DATA SAFEGUARDS

1. All information exchanged is subject to the confidentiality rules and other safeguards provided for in the DTA, including the provisions limiting the use of the information exchanged and, to the extent needed to ensure the necessary level of protection of personal data, in accordance with the safeguards which may be specified by the supplying Competent Authority as required under its law.
2. Each Competent Authority will notify the other Competent Authority immediately regarding any breach of confidentiality or failure of safeguards and any sanctions and remedial actions consequently imposed.

SECTION 6

CONSULTATIONS AND AMENDMENTS

1. If any difficulties in the implementation or interpretation of this Agreement arise, either Competent Authority may request consultations to develop appropriate measures to ensure that this Agreement is fulfilled.

2. This Agreement may be amended by written agreement between the Competent Authorities. Unless otherwise agreed upon, such an amendment is effective on the first day of the month following the expiration of a period of one month after the date of the later of the notifications exchanged for purposes of such written agreement.

SECTION 7

TERM OF AGREEMENT

1. This Agreement will come into effect on the date of the later of the notifications to be provided by each Competent Authority that its jurisdiction has the necessary laws in place to implement the Common Reporting Standard and specifying the relevant effective dates with respect to Preexisting Accounts, New Accounts, and the application or completion of the reporting and due diligence procedures.
2. A Competent Authority may suspend the exchange of information under this Agreement by giving notice in writing to the other Competent Authority that it has determined that there is or has been significant non-compliance by the other Competent Authority with this Agreement. Such suspension will have immediate effect. For the purposes of this paragraph, significant non-compliance includes, but is not limited to, non-compliance with the confidentiality and data safeguard provisions of this Agreement and the DTA, a failure by the Competent Authority to provide timely or adequate information as required under this Agreement or defining the status of Entities or accounts as Non-Reporting Financial Institutions and Excluded Accounts in a manner that frustrates the purposes of the Common Reporting Standard.
3. Either Competent Authority may terminate this Agreement by giving notice of termination in writing to the other Competent Authority. Such termination will become effective on the first day of the month following the expiration of a period of 12 months after the date of the notice of termination. In the event of termination, all information previously received under this Agreement will remain confidential and subject to the terms of the DTA.

SIGNED in two originals in the English language, both texts being equally authentic.

DONE at in the Republic of South Africa on this day of in the year 20..... and in the Hong Kong Special Administrative Region of the People's Republic of China on this day of in the year 20.....

**Competent Authority for the
Republic of South Africa**

**Competent Authority for the
Hong Kong Special
Administrative Region of the
People's Republic of China**

**Mr Thomas S. Moyane
Commissioner for the
South African Revenue Service**

**Mr WONG Kuen-fai
Commissioner of
Inland Revenue**

ANNEX A: INTENDED EXCHANGE DATES

SOUTH AFRICA AND HONG KONG

| Accounts | Intended to be defined as | Intended dates to exchange information by | | |
|-----------------------------|--|--|--|--|
| New Accounts | A Financial Account maintained by a Reporting Financial Institution opened on or after 1 January 2017. | September 2018 | | |
| | | Individual High-Value Accounts | Individual Low-Value Accounts | Entity Accounts |
| Preexisting Accounts | A Financial Account maintained by a Reporting Financial Institution as of 31 December 2016. | September 2018 | September 2018 or September 2019, depending on when identified as reportable | September 2018 or September 2019, depending on when identified as reportable |