AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND
THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
(ON BEHALF OF THE GOVERNMENT OF BERMUDA)
FOR THE EXCHANGE OF INFORMATION
WITH RESPECT TO TAXES

Article 1
Taxes covered

1. This Agreement shall apply to the following taxes imposed by or on behalf of a Covered Jurisdiction:

(a) in the case of the United States of America:
- (i) Federal income taxes;
- (ii) Federal taxes on self-employment income;
- (iii) Federal taxes on transfers to avoid income tax;
- (iv) Federal estate and gift taxes;
- (v) Federal excise taxes; and

(b) in the case of Bermuda:
- -- any tax imposed by Bermuda which is substantially similar to the existing United States taxes to which this Agreement applies.

2. This Agreement shall apply also to any identical or substantially similar taxes imposed after the date of signature of this Agreement in addition to or in place of the existing taxes. The competent authority of a Covered Jurisdiction shall notify the competent authority of the other Covered Jurisdiction of any significant changes in laws which may affect the obligations of that Covered Jurisdiction pursuant to the Agreement and of any official published material relating to the application of the Agreement.

3. This Agreement shall not apply to the extent that an action or proceeding concerning taxes covered by this Agreement is barred by the applicant Jurisdiction's statute of limitations.

4. This Agreement shall not apply to taxes imposed by states, municipalities or other political subdivisions, or possessions of a Covered Jurisdiction.

Article 2
Definitions

In this Agreement, unless otherwise defined:

(a) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

(b) the term "competent authority" means:
- (i) in the case of the United States of America, the Secretary of the Treasury or his delegate; and
- (ii) in the case of Bermuda, the Minister of Finance or his delegate;

(c) the term "Covered Jurisdiction" means the United States of America or Bermuda, as the context requires;

(d) the term "national" means:
- (i) in the case of the United States, any United States citizen and any legal person, partnership, company, trust, estate, association, or other entity deriving its status as such from the laws in force in the United States; and
- (ii) in the case of Bermuda, any legal person, partnership, company, trust, estate, association, or other entity deriving its status as such from the laws in force in Bermuda;

(e) the term "resident" means:
- (i) in the case of the United States:
  - (a) any person, other than a company, resident in the United States for the purpose

of United States tax; but in the case of a partnership, estate or trust, only to the extent that the income derived by such partnership, estate or trust is subject to United States tax as the income of a resident, either in its hands or in the hands of its partners or beneficiaries; and

(b) a company created under the laws of the United States or a political subdivision thereof; and

(ii) in the case of Bermuda:

(a) an individual who has the status of a legal resident of Bermuda; and

(b) a company, partnership, trust, or association created under the laws of Bermuda;

(f) the term "person" includes an individual and a partnership, company, trust, estate, association or other legal entity;

(g) for purposes of determining the geographical area within which jurisdiction to require production of information may be exercised:

(i) the term "United States" means the United States of America but does not include Puerto Rico, the Virgin Islands, Guam or any other United States possession or territory; and

(ii) the term "Bermuda" means the islands in the Atlantic Ocean known as Bermuda;

(h) the term "tax" means any tax to which the Agreement applies;

(i) the term "information" means any fact or statement, in any form whatever, that is relevant or material to tax administration enforcement, including (but not limited to):

(i) testimony of an individual; and

(ii) documents or records of a person or Covered Jurisdiction;

(j) the terms "applicant Jurisdiction" and "requested Jurisdiction" mean, respectively, the Covered Jurisdiction applying for or receiving information and the Covered Jurisdiction providing or requested to provide such information.

2. Any term not defined in this Agreement, unless the context otherwise requires or the competent authorities agree to a common meaning, shall have the meaning which it has under the laws of the Covered Jurisdiction relating to the taxes which are the subject of this Agreement.

3. To the extent that any requirement contained in Article 3 or 5 of this Agreement conflicts with the provisions of the Convention between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland (on behalf of the Government of Bermuda) relating to the Taxation of Insurance Enterprises and Mutual Assistance in Tax Matters (the "Convention"), with a related exchange of notes, signed at Washington on July 11, 1986, the provisions of said Convention and said notes shall prevail.

Article 3
Exchange of information

1. The competent authorities of the Covered Jurisdictions shall provide assistance as appropriate in carrying out the laws of the respective Covered Jurisdictions relating to the prevention of tax fraud and the evasion of taxes.

2. The competent authorities of the Covered Jurisdictions shall, through consultations, develop appropriate conditions, methods, and techniques for providing, and shall thereafter provide, assistance as appropriate in carrying out the fiscal laws of the respective Covered Jurisdictions other than those relating to tax fraud and the evasion of taxes.

3. Where a Covered Jurisdiction requests information with respect to a matter which (i) relates to a person not resident in one of the Covered Jurisdictions or (ii) does not constitute a criminal or tax fraud investigation, a senior official designated by the Secretary of the Treasury or the Minister of Finance respectively, of the applicant Jurisdiction shall certify such request as being relevant to and necessary for the determination of the tax liability of a taxpayer of the applicant Jurisdiction, or the criminal tax liability of a person under the laws of the applicant Jurisdiction. If information is requested relating to persons not resident in one of the two Covered Jurisdictions, it also shall be established to the satisfaction of the competent authority of the requested Jurisdiction that such information is necessary for the proper

administration and enforcement of the fiscal laws of the applicant Jurisdiction. Where such necessity has been duly established, the competent authorities shall consult as to the appropriate form of assistance.

4. If specifically requested by the competent authority of one of the Covered Jurisdictions, the competent authority of the other Covered Jurisdiction shall provide information in specified forms to be admissible in judicial or administrative proceedings of the applicant Jurisdiction to the same extent that such specified forms can be obtained under the laws and administrative practices of the requested Jurisdiction. The specified forms shall include depositions of witnesses and authenticated copies of original documents, including books, papers, statements, records, accounts, and writings.

5. Where documents, records, or other materials are in the custody of a resident of a Covered Jurisdiction and are located in such Covered Jurisdiction, the other Covered Jurisdiction shall, where practicable, request assistance of the competent authority of the Covered Jurisdiction where such documents, records, or other materials are located before resorting to unilateral compulsory measures to obtain such information.

6. The provisions of this Article shall not impose on either Covered Jurisdiction the obligation to provide information which is subject to the solicitor-client (or attorney-client) privilege in the hands of the person from whom the information is sought. Notwithstanding paragraph 9(b) of this Article, and except as provided in Article 5, no other privilege or confidentiality restriction shall be recognized for the purposes of this Agreement. Claims of privilege under the laws or practices of the applicant Jurisdiction shall be determined exclusively by the courts of that Jurisdiction, and claims of privilege under the laws or practices of the requested Jurisdiction shall be determined exclusively by the courts of that Jurisdiction.

7. The information received by an applicant Jurisdiction pursuant to this Agreement shall be treated as confidential in the same manner as such information or matters would be treated under the domestic laws of the applicant Jurisdiction.

8. The disclosure and use of information exchanged pursuant to this Agreement shall be limited to those persons or authorities
(including courts and administrative bodies) involved in the assessment, collection, or administration of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, taxes. The persons to whom such information is disclosed may use the information only for purposes of the assessment, collection, or administration of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, taxes. Information exchanged pursuant to this Agreement may be disclosed in public court proceedings or public decisions of either Covered Jurisdiction but shall not be disclosed to any country, for any purpose, other than one of the Covered Jurisdictions.

9. The provisions of the preceding paragraphs shall not be construed so as to impose on a Covered Jurisdiction the obligation:

(a) to carry out administrative measures at variance with the laws and administrative practices of that Jurisdiction or of the other Covered Jurisdiction;

(b) to supply particular items of information which are not obtainable under the laws of that Jurisdiction or of the other Covered Jurisdiction;

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process;

(d) to supply information, the disclosure of which would be contrary to public policy;

(e) to supply information requested by the applicant Jurisdiction to administer or enforce a provision of the tax laws of the applicant Jurisdiction, or any requirement connected there with, which discriminates against a national of the requested Jurisdiction. A provision of tax law, or connected requirement, will be considered to be discriminatory against a national of the requested Jurisdiction if it is more burdensome with respect to a national of the requested Jurisdiction than with respect to a national of the applicant Jurisdiction in the same circumstances. For the purposes of the preceding sentence, a national of the applicant Jurisdiction who is subject to tax on worldwide income is not in the same circumstances as a national of the requested Jurisdiction who is not subject to tax on worldwide income. The provisions of this subparagraph shall not be

construed to prevent the exchange of information with respect to the taxes imposed by a Covered Jurisdiction on branch profits or the excess interest of a branch or on the premium income of foreign insurers.

Except as provided in this paragraph, the provisions of Article 3 shall be construed so as to impose on a Covered Jurisdiction the obligation to use all legal means and its best efforts to execute a request.

Article 4
Other applications of the Agreement
This Agreement is consistent with the standards for an exchange of information agreement described in Section 274(h)(6)(C) of the United States Internal Revenue Code of 1986 (the "Code") (relating to deductions for attendance at foreign conventions), and referred to by cross-reference in Section 927(e)(3)(A) Of the Code (relating foreign sales corporations).

Article 5
Entry into force
This Agreement shall enter into force upon signature by the duly authorized representatives of the Covered Jurisdictions and its provisions shall have effect:

(a) in respect of information covered by paragraph 1 of Article 3, for taxable years not barred by the statute of limitations of the applicant Jurisdiction, provided, however, that neither Covered Jurisdiction shall be required to provide information with respect to taxable years beginning prior to January 1, 1977;

(b) in respect of information covered by paragraph 2 (and not also covered by paragraph 1) of Article 3, for taxable years not barred by the statute of limitations of the applicant Jurisdiction, provided that such assistance is not with respect to:
  (i) taxable years beginning prior to January 1, 1977; or
  (ii) taxable years beginning prior to the entry into force of this Agreement (but beginning on or after January 1, 1977) if the provision of such assistance would cause or result in the breach of an obligation to maintain confidentiality of information under the laws of the requested Jurisdiction in effect on the date of signature of the Convention. For purposes of this subsection, confidential information includes information protected by the common law solicitor-client privilege and banker-client privilege. If a taxpayer claims that other categories of information are protected under the common law of the requested Jurisdiction, and if the applicant Jurisdiction so requests, the government of the requested Jurisdiction shall have such claim determined in the courts of the requested Jurisdiction; and

(c) in respect of information covered by paragraph 2 (and not also covered by paragraph 1) of Article 3, for taxable years beginning after the entry into force of this Agreement unless:
  (i) the document or information sought was created in or derived from periods prior to the entry into force of this Agreement;
  (ii) the provision of such assistance would require the requested Jurisdiction to cause the person from whom such document or information is sought to breach a legal obligation to maintain confidentiality of such document under the laws of the requested Jurisdiction as in effect on July 11, 1986; and
  (iii) such document or information is not of a kind that has a continuing operational effect.

Article 6
1. This Agreement may be modified or amended by the mutual consent of the competent authorities of the Covered Jurisdictions.

2. This Agreement shall continue in force indefinitely, but either party may give notice of termination to the other party on or after June 30 of the year following the calendar year in which this Agreement is executed and in such event the Agreement shall terminate on the first day of the seventh full calendar month following that in which the notice is given.

Done at Washington, in duplicate, this second day of December, 1988.