AGREEMENT BETWEEN THE GOVERNMENT OF COSTA RICA AND THE GOVERNMENT OF AUSTRALIA ON THE EXCHANGE OF INFORMATION WITH RESPECT TO TAXES

The Government of Costa Rica, and the Government of Australia,

Desiring to facilitate the exchange of information with respect to taxes,

Have agreed as follows:

ARTICLE 1

OBJECT AND SCOPE OF THIS AGREEMENT

The competent authorities of the Contracting States shall provide assistance through exchange of information that is foreseeably relevant to the administration and enforcement of the domestic laws of those States concerning taxes covered by this Agreement. Such information shall include information that is foreseeably relevant to the determination, assessment and collection of such taxes, the recovery and enforcement of tax claims, or the investigation or prosecution of 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 State remain applicable. The Requested State will use its best endeavours to ensure that any such rights and safeguards are not applied in a manner that unduly prevents or delays effective exchange of information.

ARTICLE 2

JURISDICTION

A Requested State is not obligated to provide information which is neither held by its authorities nor in the possession or control of persons who are within its territorial jurisdiction.

ARTICLE 3

TAXES COVERED

1 The existing taxes which are the subject of this Agreement are:

(a) in Australia, taxes of every kind and description imposed under federal laws administered by the Commissioner of Taxation; and

(b) in the Republic of Costa Rica, taxes of every type and description, including customs duties, collected by the Ministry of Finance.

2 This Agreement shall also apply 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 Agreement shall also apply to such other taxes as may be agreed in an exchange of letters between the Contracting States. The competent authorities of the Contracting States shall notify each other of any substantial changes to the taxation and related information gathering measures covered by this Agreement.

3 This Agreement shall not apply to taxes imposed by states, municipalities, or other political subdivisions, or possessions of a Contracting State.

ARTICLE 4

DEFINITIONS

1 For the purposes of this Agreement, unless otherwise defined:

(a) the term "Applicant State" means the Contracting State requesting information;

(b) the term "Australia", when used in a geographical sense, excludes all external territories other than:

(i) the Territory of Norfolk Island;

(ii) the Territory of Christmas Island;

(iii) the Territory of Cocos (Keeling) Islands;

(iv) the Territory of Ashmore and Cartier Islands;

(v) the Territory of Heard Island and McDonald Islands; and

(vi) the Coral Sea Islands Territory,

and includes any area adjacent to the territorial limits of Australia (including the Territories specified in this subparagraph) in respect of which there is for the time being in force, consistently with international law, a law of Australia dealing with the exploration for or exploitation of any of the natural resources of the exclusive economic zone or the seabed and subsoil of the continental shelf;

(c) the term "Costa Rica" means the land, maritime, and air space under its sovereignty and the exclusive economic zone and the continental shelf within which it exercises sovereign rights and jurisdiction in accordance with international law and its domestic law;

(d) the term "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;

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

(f) the term "competent authority" means in the case of Australia, the Commissioner of Taxation or an authorised representative of the Commissioner and, in the case of Costa Rica, the Director of the Tax Administration or his authorised representative;

(g) the term "Contracting State" means Australia or Costa Rica as the context requires;

(h) the term "criminal laws" means all criminal laws designated as such under domestic law irrespective of whether contained in the tax laws, the criminal code or other statutes;

(i) the term "criminal tax matters" means tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the Applicant State;

(j) the term "information" means any fact, statement or record in any form whatever;

(k) the term "information gathering measures" means laws and administrative or judicial procedures that enable a Contracting State to obtain and provide the requested information;

(l) the term "person" includes an individual, a company and any other body of persons;

(m) the term "principal class of shares" means the class or classes of shares representing a majority of the voting power and value of the company;

(n) the term "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;

(o) the term "recognised stock exchange" means any stock exchange agreed upon by the competent authorities of the Contracting Parties;

(p) the term "Requested State" means the Contracting State requested to provide information; and

(q) the term "tax" means any tax to which this Agreement applies.

2 As regards the application of this Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State, 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 5

EXCHANGE OF INFORMATION UPON REQUEST

1 The competent authority of the Requested State shall provide upon request 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 State if such conduct occurred in the Requested State.

2 If the information in the possession of the competent authority of the Requested State is not sufficient to enable it to comply with the request for information, that State shall use all relevant information gathering measures to provide the Applicant State with the information requested, notwithstanding that the Requested State may not need such information for its own tax purposes.

3 If specifically requested by the competent authority of an Applicant State, the competent authority of the Requested State 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 Contracting State shall ensure that its competent authority for the purposes specified in Article 1 of this Agreement, has the authority to obtain and provide upon request:

(a) information held by banks, other financial institutions, and any person acting in an agency or fiduciary capacity including nominees and trustees;

(b) information regarding the ownership of companies, partnerships, trusts, foundations, "Anstalten" and other persons, including, within the constraints of Article 2, ownership information on all such persons in an ownership chain; in the case of trusts, information on settlors, trustees, beneficiaries and protectors; and in the case of foundations, information on founders, members of the foundation council and beneficiaries. Further, this Agreement does not create an obligation on the Contracting Parties 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 The competent authority of the Applicant State shall provide the following information to the competent authority of the Requested State when making a request for information under this Agreement to demonstrate the foreseeable relevance of the information to the request:

(a) the identity of the person under examination or investigation;

(b) a statement of the information sought including its nature and the form in which the Applicant State wishes to receive the information from the Requested State;

(c) the tax purpose for which the information is sought;

(d) the grounds for believing that the information requested is held in the Requested State or is in the possession or control of a person within the jurisdiction of the Requested State;

(e) to the extent known, the name and address of any person believed to be in possession of the requested information;

(f) a statement that the request is in conformity with the law and administrative practices of the Applicant State, that if the requested information was within the jurisdiction of the Applicant State then the competent authority of the Applicant State would be able to obtain the information under the laws of the Applicant State or in the normal course of administrative practice and that the information request is in conformity with this Agreement; and

(g) a statement that the Applicant State 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 State shall forward the requested information as promptly as possible to the Applicant State. To ensure a prompt response, the competent authority of the Requested State shall:

(a) confirm receipt of a request in writing to the competent authority of the Applicant State and shall notify the competent authority of the Applicant

State of deficiencies in the request, if any, within 60 days of the receipt of the request; and

(b) if the competent authority of the Requested State 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 Applicant State, explaining the reason for its inability, the nature of the obstacles or the reasons for its refusal.

ARTICLE 6

TAX EXAMINATIONS ABROAD

1 A Contracting State may allow representatives of the competent authority of the other Contracting State to enter the territory of the first-mentioned State to interview individuals and examine records with the written consent of the persons concerned. The competent authority of the second-mentioned State shall notify the competent authority of the first-mentioned State of the time and place of the meeting with the individuals concerned.

2 At the request of the competent authority of one of the Contracting States, the competent authority of the other Contracting State may allow representatives of the competent authority of the first-mentioned State to be present at the appropriate part of a tax examination in the second-mentioned State.

3 If the request referred to in paragraph 2 is acceded to, the competent authority of the Contracting State conducting the examination shall, as soon as possible, notify the competent authority of the other State about 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 State for the conduct of the examination. All decisions with respect to the conduct of the tax examination shall be made by the State conducting the examination.

ARTICLE 7

POSSIBILITY OF DECLINING A REQUEST

1 The Requested State shall not be required to obtain or provide information that the Applicant State would not be able to obtain under its own laws for purposes of the administration or enforcement of its own tax laws. The competent authority of the Requested State may decline to assist where the request is not made in conformity with this Agreement.

2 The provisions of this Agreement shall not impose on a Contracting State the obligation to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process. Notwithstanding the foregoing, information of the type referred to in paragraph 4 of Article 5 shall not be treated as such a secret or trade process merely because it meets the criteria in that paragraph.

3 The provisions of this Agreement shall not impose on a Contracting State the obligation to obtain or provide information, which would reveal confidential communications between a client and an attorney, solicitor or other admitted legal representative where such communications are:

(a) produced for the purposes of seeking or providing legal advice; or

(b) produced for the purposes of use in existing or contemplated legal proceedings.

4 The Requested State may decline a request for information if the disclosure of the information would be contrary to public policy (ordre public).

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

6 The Requested State may decline a request for information if the information is requested by the Applicant State to administer or enforce a provision of the tax law of the Applicant State, or any requirement connected therewith, which discriminates against a national of the Requested State as compared with a national of the Applicant State in the same circumstances.

ARTICLE 8

CONFIDENTIALITY

Any information received by a Contracting State under this Agreement shall be treated as confidential and may be disclosed only to persons or authorities (including courts and administrative bodies) in the jurisdiction of the Contracting State concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by this Agreement. Such persons or authorities shall use such information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. The information may not be disclosed to any other person or entity or authority or any other jurisdiction without the express written consent of the competent authority of the Requested State.

ARTICLE 9

COSTS

Unless the competent authorities of the Contracting States otherwise agree, ordinary costs incurred in providing assistance shall be borne by the Requested State, and extraordinary costs incurred in providing assistance (including reasonable costs of engaging external advisors in connection with litigation or otherwise) shall be borne by the Applicant State. At the request of either Contracting State, the competent authorities shall consult as necessary with regard to this Article, and in particular the competent authority of the Requested State shall consult with the competent authority of the Applicant State in advance if the costs of providing information with respect to a specific request are expected to be significant.

ARTICLE 10

IMPLEMENTATION LEGISLATION

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

ARTICLE 11

MUTUAL AGREEMENT PROCEDURE

1 The competent authorities of the Contracting States shall jointly endeavour to resolve any difficulties or doubts arising as to the interpretation or application of this Agreement.

2 In addition to the endeavours referred to in paragraph 1, the competent authorities of the Contracting States may mutually determine the procedures to be used under Articles 5 and 6.

3 The competent authorities of the Contracting States may communicate with each other directly for the purposes of this Article.

4 The Contracting States may also agree on other forms of dispute resolution.

ARTICLE 12

ENTRY INTO FORCE

1 The Government of Australia and the Government of Costa Rica shall notify each other in writing through the diplomatic channel of the completion of their constitutional and legal procedures for the entry into force of this Agreement. This Agreement shall enter into force on the date of the last notification, and shall thereupon have effect:

a) for criminal tax matters on 1 July 2011; and

b) for all other matters covered in Article 1 on 1 July 2011, 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 continue in effect indefinitely, but either of the Contracting States may, after the expiration of 3 years from the date of its entry into force, give to the other Contracting State through the diplomatic channel written notice of termination.

2 Such termination shall become effective on the first day of the month following the expiration of a period of 6 months after the date of receipt of notice of termination by the other Contracting State.

3 Notwithstanding any termination of this Agreement, the Contracting States shall remain bound by the provisions of Article 8 with respect to any information obtained under this Agreement.

IN WITNESS WHEREOF the undersigned, duly authorised thereto by their respective Governments, have signed this Agreement.

DONE at Mexico City, this 01 day of july, 2011, in duplicate in the English and Spanish languages. In case of divergence between both texts, the English version shall prevail.

FOR THE GOVERNMENT OF
COSTA RICA

Her Excellency Gabriela Jiménez Cruz
Ambassador Extraordinary
and Plenipotentiary

FOR THE GOVERNMENT OF
AUSTRALIA

Her Excellency Katrina Anne Cooper
Ambassador Extraordinary
and Plenipotentiary