THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

REVISION OF THE DOUBLE TAXATION ARRANGEMENTS MADE WITH THE ISLE OF MAN AND NEW ZEALAND, AND NEW DOUBLE TAXATION ARRANGEMENT WITH ESTONIA

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled "Revision of the Double Taxation Arrangements made with the Isle of Man and New Zealand, and new Double Taxation Arrangement with Estonia", dated 20 February 2020, they are of the opinion:-

1. To declare that:

   (a) the "Protocol Amending the Agreement Between the States of Guernsey and the Government of the Isle of Man for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income", signed by Guernsey on 12 November 2019; the "Protocol Amending the Agreement Between the States of Guernsey and the Government of New Zealand for the Exchange of Information with Respect to Taxes and the Allocation of Taxing Rights with Respect to Certain Income of Individuals", signed by Guernsey on 16 September 2019; and the "Agreement Between Guernsey and the Republic of Estonia for the Elimination of Double Taxation with Respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance"**,** signed by Guernsey on 18 November 2019, have been made with the governments of other territories with a view to affording relief from double taxation in relation to income tax and any tax of a similar character imposed by the laws of those territories; and

   (b) it is expedient that the double taxation agreements that Guernsey has with the Isle of Man, signed on 24 January 2013, and New Zealand, signed on 21 July 2009, as so amended, and the Double Taxation Agreement that Guernsey has entered into with the Republic of Estonia for the elimination of double taxation with respect to taxes on income and the prevention of tax evasion and avoidance, should have effect, with the consequence that those Agreements shall have effect in relation to income tax in accordance with section 172(1) of the

Income Tax Law, notwithstanding anything contained in the Income Tax Law, or any other enactment.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

REVISION OF THE DOUBLE TAXATION ARRANGEMENTS MADE WITH THE ISLE OF MAN AND NEW ZEALAND, AND NEW DOUBLE TAXATION ARRANGEMENT WITH ESTONIA

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

20th February, 2020

Dear Sir

1. Executive Summary

1.1 In September and November 2019, Guernsey entered into three new tax agreements with other jurisdictions:

(i) On 16 September 2019, Guernsey signed the "Protocol Amending the Agreement Between the States of Guernsey and the Government of New Zealand for the Exchange of Information with Respect to Taxes and the Allocation of Taxing Rights with Respect to Certain Income of Individuals" ("the NZ Protocol").

(ii) On 12 November 2019 Guernsey signed the "Protocol Amending the Agreement Between the States of Guernsey and the Government of the Isle of Man for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income" ("the IoM Protocol"), and,

(iii) On 18 November 2019, Guernsey signed the "Agreement Between Guernsey and the Republic of Estonia for the Elimination of Double Taxation with Respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance" ("the Estonia DTA").

Collectively, in this Policy Letter, the new agreements with the Isle of Man and New Zealand are referred to as the "new Protocols".

1.2 The principal purpose of a DTA is for two governments to agree procedures for the prevention of double taxation and tax avoidance and evasion, with respect to their domestic taxes.

1.3 In recent years, the Organisation for Economic Development & Co-operation ("OECD") has been developing the Base Erosion & Profit Shifting ("BEPS") initiative which is aimed at combatting tax avoidance. One outcome of the BEPS initiative was the creation of a multilateral instrument which committed jurisdictions could sign. Once the provisions of the multilateral instrument are adopted into domestic legislation by a signatory, all Double Taxation Arrangements ("DTAs") affected by the multilateral instrument are revised accordingly, and are then compliant with BEPS minimum standards.

1.4 Whilst Guernsey signed the multilateral instrument, in 2017, not all of Guernsey's pre-existing DTAs (including those with the Isle of Man and New Zealand) are covered by it. If those DTAs not covered by the multilateral instrument are to meet BEPS minimum standards, to which Guernsey is committed, they have to be amended by bilateral agreement.

1.5 The new Protocols represent the outcome of such bilateral agreements held with the Isle of Man and New Zealand. The original DTAs (that the new Protocols will amend) were signed, with the Isle of Man, on 24 January 2013 and, with New Zealand, on 21 July 2009.

1.6 The Guernsey - Estonia DTA is the first such tax agreement between the two jurisdictions.

1.7 The Estonia DTA already contains provisions which ensure that the agreement meets BEPS minimum standards without the need to engage the multilateral instrument.

1.8 The purpose of this policy letter is to seek States approval, in accordance with section 172(1) of the Income Tax (Guernsey) Law, 1975, as amended ("the Income Tax Law") for the provisions of the two new Protocols and the Estonia DTA to be given domestic effect.

2. Background

2.1. Section 172(1) of the Income Tax Law provides:

"If the States by Resolution declare that arrangements specified in the Resolution have been made with the government of any other territory with a view to affording relief from double taxation in relation to income tax and any tax of a similar character imposed by the laws of that territory, and that it is expedient that those arrangements should have effect, the arrangements shall have effect in relation to income tax notwithstanding anything in any enactment."

Section (1AA) provides that:

"The arrangements that may be specified in a Resolution under this section include (without prejudice to subsection (1A) –

(a) arrangements amending, modifying or extending –
    (i) double taxation arrangements entered into by or otherwise binding upon Guernsey, or
    (ii) any arrangements of a description set out in paragraph (b) for the time being specified in a Resolution under this section, including, without limitation, the arrangements effected by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting done at Paris on the 24th November, 2016, and
(b) other arrangements containing provisions that relate to, or are consequential, incidental, supplementary or ancillary to, such double taxation arrangements or double taxation matters."

Section (1A) further provides that:

"For the avoidance of doubt, arrangements made with the government of another territory and specified in a Resolution under this section may, without limitation, and provided that the main purpose or one of the main purposes of the arrangements is that they are made with a view to affording relief from double taxation, make provision in respect of the following matters –

(a) the apportionment of taxing rights,
(b) variations in the rates of tax, and methods of computing a person's liability to tax, in relation to particular sources of income,
(c) the exemption from tax of particular sources of income,
(d) other methods of affording relief from double taxation, in addition to those provided for by section 173 (tax credits), and
(e) consequential, incidental, supplementary and transitional matters."

Section 172(1) of the Income Tax Law would therefore be the mechanism for both the new Estonia DTA, and subsequent amendments to existing DTAs (the new Protocols will revise the original DTAs with the Isle of Man and New Zealand).

2.2 Guernsey currently has fully comprehensive DTAs with 13 jurisdictions, including the Isle of Man.

2.3. Guernsey also has "partial" DTAs (dealing with such issues as personal tax matters; shipping and aircraft and/or mutual agreement procedures) with 12 jurisdictions, including New Zealand (contained in the same agreement as the Tax Information Exchange Agreement).

2.4. In recent years, in response to a request from the G20, the OECD has been working on the Base Erosion and Profit Shifting ("BEPS") initiative.

2.5. BEPS is based on the premise that, in an increasingly interconnected world, national tax laws, many of which have their origins over 100 years ago, have not always kept pace with global corporations, fluid movement of capital, and, most recently, the rise of the digital economy, leaving gaps and mismatches that can be exploited, in some cases to generate double non-taxation, which can undermine the fairness and integrity of tax systems.

2.6. Part of the BEPS outcomes involved designing a multilateral instrument to permit the current existing global framework of DTAs (numbering over 3,000) to be revised to meet BEPS objectives, as the alternative would be extensive bilateral negotiations, which could take decades to achieve.

2.7. Guernsey was amongst the first signatories of the multilateral instrument, in June 2017, and listed all of its comprehensive DTAs for the purpose of the multilateral instrument, other than those with the UK, Qatar, the Isle of Man and Jersey.

2.8. The DTAs with the other Crown Dependencies were not included because the multilateral instrument operates on an international law level, and the DTAs between the Crown Dependencies are not considered binding agreements under international law (because they are effectively between two parts of the same Sovereign State), and as such cannot be modified by the multilateral instrument. These 2 DTAs therefore require amendment bilaterally in order to insert the relevant multilateral instrument provisions. The Isle of Man accepted the proposal to bilaterally negotiate amendments to the DTA. Whilst Jersey has also accepted the proposal, it

has not been possible, to date, to finalise the negotiations and sign a Protocol with Jersey.

2.9 None of the "partial" DTAs entered into by Guernsey (see 2.3 above) were listed under the multilateral instrument, either by Guernsey or the partner jurisdiction. This was because they dealt with only limited aspects of what is normally covered by a DTA, and application of the full suite of provisions of the multilateral instrument to the partial DTAs was not considered appropriate.

2.10. Contact was made with the relevant jurisdictions, offering to negotiate amendments to the partial DTAs, on a bilateral basis, to make them compliant with BEPS principles. New Zealand (amongst others) accepted the proposal.

2.11. As a consequence, the new Protocols contain revisions to the original agreements with the Isle of Man and New Zealand as follows:

- For the preamble text to be modified to refer to the parties:

  "Intending to eliminate double taxation with respect to the taxes covered by this Agreement without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of residents of third jurisdictions),".

  The IoM Protocol also includes an additional paragraph acknowledging that the United Kingdom continues to be responsible for the international relations of Guernsey and the Isle of Man and that the Protocol does not create binding international obligations nor does it alter or affect the constitutional relationship with the United Kingdom.

- A provision is added to specify that a benefit under the DTA shall not be granted in respect of an item of income (or capital, in the case of the IoM Protocol), if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of the DTA.

- Providing also that, where a benefit under the DTA is denied to a person, under the provision referred to in the sub-paragraph immediately above, the competent authority of the party that would otherwise have granted this benefit shall nevertheless treat that person as being entitled to this benefit, or to different benefits with respect to a specific item of income (or capital, in the case of the IoM Protocol), if such competent authority, upon request from that person and after consideration of the relevant facts and circumstances, determines that such benefits would have been granted to that person in the absence of the transaction or arrangement. The competent authority of the party to which a request has been made under this provision by a resident of the other party is required to consult with the competent authority of the other party before rejecting the request.

- In the case of the IoM Protocol, making it explicit that, where a person considers that the actions of one or both of the parties to the DTA result, or will result, for that person in taxation not in accordance with the provisions of the agreement, he may, irrespective of the remedies provided by the domestic law of the parties, present the case to the competent authority of either party.

  The NZ Protocol contains a similar provision, but expanded to make it explicit that, in addition to the double taxation aspects of the agreement, it also applies to any adjustments considered not to be in accordance with the "arms length" principle (which is a concept that, for tax purposes, transactions with related persons should be on the same terms as would have applied if the transaction had been with unconnected persons). There is a further clarification that any such case must be made within 3 years from the first notification of the action to which the objection relates (such a provision is already contained in the original DTA with the Isle of Man).

- In the case of the NZ Protocol, making it explicit that:

  (a) where difficulties or doubts arise between the parties regarding the implementation, application or interpretation of the DTA, including the application of the arm's length principle, the respective competent authorities shall use their best efforts to resolve the matter by mutual agreement; and

  (b) if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, the competent authority

shall endeavour, to resolve the case by mutual agreement with the competent authority of the other party, with a view to the avoidance of taxation not in accordance with the DTA or the arm's length principle, and that any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the parties.

- In the case of the IoM Protocol:

  (a) the definition of "competent authority" has been revised, to reflect changes that have occurred since the original DTA was signed; and

  (b) a provision (that was first included in the new DTA with the United Kingdom) has been incorporated which provides that, where income is received from a trust or a deceased person's estate, the income is to be taxed as if it was derived from its original source (ie as it was received by the trustee or personal representative) and that, for the purposes of the DTA, tax paid by the trustee or personal representative is treated as tax paid by the beneficiary.

2.12 Copies of the new Protocols are attached at Appendix A.

2.13 The Estonia DTA has been negotiated to ensure that it incorporates provisions which meet BEPS minimum standards.

2.14 In DTA negotiations, Guernsey broadly follows the OECD's Model Tax Convention on Income and on Capital (one of two of the most commonly used templates for DTAs – the other being the United Nations Model Double Taxation Convention Between Developed and Developing Countries).

2.15 The main aim of the OECD Model is to provide a means of settling, on a uniform basis, the most common problems that arise in the field of international juridical double taxation. The Council of the OECD recommends OECD Member Countries, when concluding or revising bilateral conventions, to conform to the Model (as interpreted by the comprehensive commentaries attached to the Model).

2.16 The Estonia DTA is also broadly based on the OECD Model, a copy is attached at Appendix B.

2.17 The Estonia DTA specifically provides that:

- The party, in which a company paying dividends (to a resident of the other party) is resident, may tax the dividends, at a rate of no more than 10%, but only when the beneficial owner of the dividend is not a company.

- The party, in which the payer of interest (to a resident of the other party) is resident, may tax the interest, at a rate of no more than 10%, but only when the beneficial owner of the interest is not a company.

- Notwithstanding the principle contained in the bullet point immediately above, interest is exempt in the party in which the payer is resident if it is paid to; a party or one of its statutory bodies; a party's political subdivision or local authority; a party's central bank; an investment fund (including a pension scheme) that is established and supervised under the laws of a party; or is paid in respect of a loan granted, guaranteed or insured by a party or an entity or financial institution wholly owned by the party.

- The party in which royalties arise, and which are paid to a beneficial owner who is a resident of the other party, may tax the royalties, but only at a rate of no more than 5%.

- Notwithstanding the principle contained in the bullet point immediately above, royalties are exempt in the party in which they arise if paid to; a party or one of its statutory bodies; a party's political subdivision or local authority; or a party's central bank. ("Statutory bodies", for this purpose, includes an entity or institution wholly or mainly owned (directly or indirectly) by a party, if agreed by the parties by exchange of letters).

- Pensions paid to a resident of a party are taxable only in that party.

3. Recommendations

3.1. The Policy & Resources Committee is pleased to recommend that the States should declare that:-

(a) the "Protocol Amending the Agreement Between the States of Guernsey and the Government of the Isle of Man for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income", signed by Guernsey on 12 November 2019; the

"Protocol Amending the Agreement Between the States of Guernsey and the Government of New Zealand for the Exchange of Information with Respect to Taxes and the Allocation of Taxing Rights with Respect to Certain Income of Individuals" , signed by Guernsey on 16 September 2019; and the "Agreement Between Guernsey and the Republic of Estonia for the Elimination of Double Taxation with Respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance"**,** signed by Guernsey on 18 November 2019, have been made with the governments of other territories with a view to affording relief from double taxation in relation to income tax and any tax of a similar character imposed by the laws of those territories, and

(b) it is expedient that the double taxation agreements that Guernsey has with the Isle of Man, signed on 24 January 2013, and New Zealand, signed on 21 July 2009, as so amended, and the double taxation agreement that Guernsey has entered into with the Republic of Estonia for the elimination of double taxation with respect to taxes on income and the prevention of tax evasion and avoidance, should have effect in relation to income tax in accordance with section 172(1) of the Income Tax Law, notwithstanding anything in that Law or any other enactment.

4. Compliance with Rule 4

4.1. Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.

4.2. In accordance with Rule 4(1), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications. She has advised that there is no reason in law why the Propositions should not be put into effect.

4.3. In accordance with Rule 4(3), there are no Propositions which request the States to approve funding.

4.4. In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the Propositions attached to this Policy letter have the unanimous support of the Committee.

4.5. In accordance with Rule 4(5), the Propositions relate to the duties of the Committee in raising and collecting taxes and revenues and executing and

requesting the extension of international agreements to which the Island is invited to acquiesce.

Yours faithfully

G A St Pier
President

L Trott
Vice-President

A Brouard
J Le Tocq
J Stephens

Appendix A

PROTOCOL
AMENDING
THE AGREEMENT
BETWEEN
THE STATES OF GUERNSEY
AND
THE GOVERNMENT OF NEW ZEALAND

FOR THE EXCHANGE OF INFORMATION WITH RESPECT TO TAXES AND THE ALLOCATION OF TAXING RIGHTS WITH RESPECT TO CERTAIN INCOME OF INDIVIDUALS

DONE AT LONDON ON 21 JULY, 2009

The States of Guernsey and the Government of New Zealand ("the Parties"), desiring to amend the Agreement between the States of Guernsey and the Government of New Zealand for the Exchange of Information with Respect to Taxes and the Allocation of Taxing Rights with Respect to Certain Income of Individuals, done at London on 21 July, 2009 ("the 2009 Agreement"),

Have agreed as follows:

ARTICLE 1

The following shall be inserted immediately after the existing fifth recital of the Preamble to the 2009 Agreement:

"Intending to eliminate double taxation with respect to the taxes covered by this Agreement without creating opportunities for non-taxation or reduced

taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of residents of third jurisdictions);".

ARTICLE 2

In Article 11 (Mutual Agreement Procedure) of the 2009 Agreement:

1. The first paragraph shall be deleted and replaced by the following;

"1. Where difficulties or doubts arise between the Parties regarding the implementation, application or interpretation of this Agreement, including the application of the arm's length principle under Chapter III, the respective competent authorities shall use their best efforts to resolve the matter by mutual agreement.".

2. The fourth paragraph shall be deleted and replaced by the following;

"4. Where a person considers that the actions of one or both of the Parties result or will result for that person in taxation not in accordance with the provisions of Chapter III of this Agreement, or will result in a transfer pricing adjustment not in accordance with the arm's length principle, that person may, irrespective of the remedies provided by the domestic law of those Parties, present a case to the competent authority of either Party. 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 this Agreement.".

3. The fifth paragraph shall be deleted and replaced by the following;

"5. 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 Party, with a view to the avoidance of taxation which is not in accordance with Chapter III of this Agreement or the arm's length principle. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Parties.".

ARTICLE 3

The following shall be inserted immediately after Article 11 (Mutual Agreement Procedure) of the 2009 Agreement:

"**Article 11A**

ENTITLEMENT TO BENEFITS

1. Notwithstanding any provisions of this Agreement, a benefit under this Agreement shall not be granted in respect of an item of income if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Agreement.

2. Where a benefit under this Agreement is denied to a person under paragraph 1, the competent authority of the Party that would otherwise have granted this benefit shall nevertheless treat that person as being entitled to this benefit, or to different benefits with respect to a specific item of income, if such competent authority, upon request from that person and after consideration of the relevant facts and circumstances, determines that such benefits would have been granted to that person in the absence of the

transaction or arrangement referred to in paragraph 1. The competent authority of the Party to which a request has been made under this paragraph will consult with the competent authority of the other Party before rejecting the request.".

ARTICLE 4

The Parties shall notify each other, in writing, through the appropriate channel, of the completion of their constitutional and legal procedures for the entry into force of this Protocol. This Protocol shall enter into force on the date of the last notification and shall have effect from that date.

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

DONE at , on the day of 2019, in the English language.

For the States of Guernsey	**For the Government of New Zealand**
_____	_____
Deputy Jonathan Le Tocq *Member, Policy & Resources Committee*	*David Evans* *Deputy High Commissioner*

PROTOCOL

AMENDING THE

AGREEMENT BETWEEN

THE STATES OF GUERNSEY

AND

THE GOVERNMENT OF THE ISLE OF MAN

FOR THE AVOIDANCE OF DOUBLE TAXATION

AND THE PREVENTION OF FISCAL EVASION

WITH RESPECT TO TAXES ON INCOME

The States of Guernsey and the Government of the Isle of Man ("the Parties"), desiring to amend the Agreement between the Parties for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed on 24th January 2013 ("the Agreement"), have agreed as follows:

ARTICLE 1

The Preamble to the Agreement shall be modified to include the following text immediately before the existing Preamble text:

"Intending to eliminate double taxation with respect to the taxes covered by this Agreement without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of residents of third jurisdictions),

The Parties acknowledge that the United Kingdom continues to be responsible for the international relations of the Isle of Man and Guernsey in international law. This Agreement cannot therefore create obligations which are binding under international law and is not intended to alter or affect the respective constitutional relationships between the Isle of Man and Guernsey and the United Kingdom".

ARTICLE 2

In Article 3 (General Definitions), sub-paragraph e) of paragraph 1 shall be deleted and replaced with the following;

"e) the term "competent authority" means:

i) in the case of the Isle of Man, the Assessor of Income Tax or his or her delegate, and;

ii) in the case of Guernsey, the Director of the Revenue Service or his or
her delegate;".

ARTICLE 3

In Article 20 (Other Income):

(i) the present paragraph 2 shall be renumbered as paragraph 3; and,

(ii) the following shall be inserted as paragraph 2:

"2. Notwithstanding the provisions of paragraph 1, where an amount of income is paid to a resident of a Party out of income received by trustees, or by personal representatives administering the estates of deceased persons, and those trustees or personal representatives are residents of the other Party, that amount shall be treated as arising from the same sources, and in the same proportions, as the income received by the trustees or personal representatives out of which that amount is paid.

Any tax paid by the trustees or personal representatives in respect of the income paid to the beneficiary shall be treated as if it had been paid by the beneficiary.".

ARTICLE 4

The first sentence of the first paragraph of Article 23 (Mutual Agreement Procedure) shall be deleted and replaced with the following:

"Where a person considers that the actions of one or both of the Parties 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 Parties, present his case to the competent authority of either Party.".

ARTICLE 5

Immediately after Article 25 (Members of Diplomatic Missions and Consular Posts) the following Article shall be added:

"ARTICLE 25A

Entitlement to Benefits

1. Notwithstanding any provisions of this Agreement, a benefit under this Agreement shall not be granted in respect of an item of income or capital if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Agreement.

2. Where a benefit under this Agreement is denied to a person under paragraph 1, the competent authority of the Party that would otherwise have granted this benefit shall nevertheless treat that person as being entitled to this benefit, or to different benefits with respect to a specific item of income or capital, if such competent authority, upon request from that person and after consideration of the relevant facts and circumstances, determines that such benefits would have been granted to that person in the absence of the transaction or arrangement referred to in paragraph 1. The competent authority of the Party to which a request has been made under this

paragraph will consult with the competent authority of the other Party before rejecting the request.".

ARTICLE 6

1. Each Party shall notify the other Party in writing of the completion of the procedures required by its laws for the bringing into force of this Protocol.

2. This Protocol shall enter into force thirty days after the date of the later of the notifications referred to in paragraph 1 and shall have effect from that date.

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

DONE in duplicate at Douglas, Isle of Man, this ……. day of ……., 2019 and at St. Peter Port, Guernsey this ……. day of ……., 2019 in the English language.

_____	_____
For the States of Guernsey	**For the Government of the Isle of Man**

Appendix B

AGREEMENT BETWEEN

GUERNSEY AND THE REPUBLIC OF ESTONIA

FOR THE ELIMINATION OF DOUBLE TAXATION

WITH RESPECT TO TAXES ON INCOME AND

THE PREVENTION OF TAX EVASION AND AVOIDANCE

Guernsey and the Republic of Estonia,

Desiring to further develop their economic relationship and to enhance their co-operation in tax matters,

Intending to conclude an Agreement for the elimination of double taxation with respect to taxes on income without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of residents of third jurisdictions),

Have agreed as follows:

Article 1
PERSONS COVERED

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

Article 2
TAXES COVERED

1. This Agreement shall apply to taxes on income imposed on behalf of a Party or its 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.

3. The existing taxes to which the Agreement shall apply are in particular:

a) in Estonia, the income tax;

b) in Guernsey, the income 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 Parties shall notify each other of any significant changes that have been made in their respective taxation laws.

Article 3
GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:

a) the term "Estonia" means the Republic of Estonia and, when used in a geographical sense, the territory of Estonia and any other area adjacent to the territorial waters of Estonia within which, under the laws of Estonia and in accordance with international law, the rights of Estonia may be exercised with respect to the seabed and its subsoil and their natural resources;

b) the term "Guernsey" means the States of Guernsey and, when used in a geographical sense, means the islands of Guernsey, Alderney and Herm, and the territorial sea adjacent to those islands, in accordance with international law, save that any reference to the law of Guernsey is to the law of the island of Guernsey as it applies there and in the islands of Alderney and Herm;

c) the terms "a Party" and "the other Party" mean Estonia or Guernsey as the context requires; the term "Parties" means Estonia and Guernsey;

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

e) the term "company" means any legal person or any entity that is treated as a legal person for tax purposes;

f) the term "enterprise" applies to the carrying on of any business;

g) the terms "enterprise of a Party" and "enterprise of the other Party" mean respectively an enterprise carried on by a resident of a Party and an enterprise carried on by a resident of the other Party;

h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Party, except when the ship or aircraft is operated solely between places in the other Party;

i) the term "business" includes the performance of professional services and of other activities of an independent character;

j) the term "competent authority" means:

(i) in the case of Estonia, the Minister of Finance or his authorised representative;

(ii) in the case of Guernsey, the Director of the Revenue Service or their delegate; and

k) the term "national", in relation to a Party, means:

(i) any individual possessing the nationality or citizenship of a Party; and

(ii) any legal person, partnership or association deriving its status as such from the laws in force in a Party.

2. As regards the application of the Agreement at any time by a Party, any term not defined therein shall, unless the context otherwise requires or the competent authorities agree to a different meaning pursuant to the provisions of Article 23, have the meaning that it has at that time under the law of that Party for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

Article 4
RESIDENT

1. For the purposes of this Agreement, the term "resident of a Party" means any person who, under the laws of that Party, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature, and also includes that Party, any local authority thereof and an investment fund, including a pension scheme, that is established and supervised according to the laws of a Party. This term, however, does not include any person who is liable to tax in that Party in respect only of income from sources in that Party.

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

a) he shall be deemed to be a resident only of the Party in which he has a permanent home available to him; if he has a permanent home available to him in both Parties, he shall be deemed to be a resident only of the Party with which his personal and economic relations are closer (centre of vital interests);

b) if the Party 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 Party, he shall be deemed to be a resident only of the Party in which he has an habitual abode;

c) if he has an habitual abode in both Parties or in neither of them, he shall be deemed to be a resident only of the Party of which he is a national;

d) if he is a national of both Parties or of neither of them, the competent authorities of the Parties shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Parties, the competent authorities of the Parties shall settle the question by mutual agreement having regard to its place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors. In the absence of a mutual agreement by the competent authorities of the Parties, the person shall not be considered a resident of either Party for the purposes of claiming any benefit provided by this Agreement except those provided by Articles 21, 22 and 23.

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 or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.

4. Notwithstanding the provisions of paragraph 1, the furnishing of services, including consultancy or managerial services, by an enterprise of a Party in the other Party constitutes a permanent establishment, but only if the activities of that nature continue for the same or a connected project within that other Party for a period or periods aggregating more than 183 days in any twelve month period.

5. 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 carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e),

provided that such activity or, in the case of subparagraph f), the overall activity of the fixed place of business is of a preparatory or auxiliary character.

6. Paragraph 5 shall not apply to a fixed place of business that is used or maintained by an enterprise if the same enterprise or a closely related enterprise carries on business activities at the same place or at another place in the same Party and

a) that place or other place constitutes a permanent establishment for the enterprise or the closely related enterprise under the provisions of this Article, or

b) the overall activity resulting from the combination of the activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, is not of a preparatory or auxiliary character,

provided that the business activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, constitute complementary functions that are part of a cohesive business operation.

7. Notwithstanding the provisions of paragraphs 1 and 2 but subject to the provisions of paragraph 8, where a person is acting in a Party on behalf of an enterprise and, in doing so, habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the enterprise, and these contracts are

a) in the name of the enterprise, or

b) for the transfer of the ownership of, or for the granting of the right to use, property owned by that enterprise or that the enterprise has the right to use, or

c) for the provision of services by that enterprise,

that enterprise shall be deemed to have a permanent establishment in that Party 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 (other than a fixed place of business to which paragraph 5 would apply), would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

8. Paragraph 7 shall not apply where the person acting in a Party on behalf of an enterprise of the other Party carries on business in the first-mentioned Party as an independent agent and acts for the enterprise in the ordinary course of that business. Where, however, a person acts exclusively or almost exclusively on behalf of one or more enterprises to which it is closely related, that person shall not be considered to be an independent agent within the meaning of this paragraph with respect to any such enterprise.

9. The fact that a company which is a resident of a Party controls or is controlled by a company which is a resident of the other Party, or which carries on business in that other Party (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

10. For the purposes of this Article, a person or enterprise is closely related to an enterprise if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same persons or enterprises. In any case, a person or enterprise shall be considered to be closely related to an enterprise if one possesses directly or indirectly more than 50 per cent of the beneficial interest in the other (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) or if another person or enterprise possesses directly or indirectly more than 50 per cent of the beneficial interest (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) in the person and the enterprise or in the two enterprises.

Article 6
INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Party from immovable property (including income from agriculture or forestry) situated in the other Party may be taxed in that other Party.

2. The term "immovable property" shall have the meaning which it has under the law of the Party 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 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 or any other rights in connection with 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.

Article 7
BUSINESS PROFITS

1. Profits of an enterprise of a Party shall be taxable only in that Party unless the enterprise carries on business in the other Party through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits that are attributable to the permanent establishment in accordance with the provisions of paragraph 2 may be taxed in that other Party.

2. For the purposes of this Article and Article 21, the profits that are attributable in each Party to the permanent establishment referred to in paragraph 1 are the profits it might be expected to make, in particular in its dealings with other parts of the enterprise, if it were a separate and independent enterprise engaged in the same or similar activities under the same or similar conditions, taking into account the functions performed, assets used and risks assumed by the enterprise through the permanent establishment and through the other parts of the enterprise.

3. Where, in accordance with paragraph 2, a Party adjusts the profits that are attributable to a permanent establishment of an enterprise of one of the Parties and taxes accordingly profits of the enterprise that have been charged to tax in the other Party, the other Party shall, to the extent necessary to eliminate double taxation on these profits, make an appropriate adjustment to the amount of the tax charged on those profits. In determining such adjustment, the competent authorities of the Parties shall if necessary consult each other.

4. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8
SHIPPING AND AIR TRANSPORT

1. The profits of an enterprise of a Party from the operation of ships or aircraft in international traffic shall be taxable only in that Party.

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.

3. For the purposes of this Article, profits derived from the operation in international traffic of ships or aircraft include profits:

a) derived from the rental of ships or aircraft on a full (time or voyage) basis and on a bare-boat basis if operated in international traffic; and

b) derived from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise.

Article 9
ASSOCIATED ENTERPRISES

1. Where

a) an enterprise of a Party participates directly or indirectly in the management, control or capital of an enterprise of the other Party, or

b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Party and an enterprise of the other Party,

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 Party includes in the profits of an enterprise of that Party – and taxes accordingly – profits on which an enterprise of the other Party has been charged to tax in that other Party and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Party if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Party

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 Parties shall if necessary consult each other.

Article 10
DIVIDENDS

1. Dividends paid by a company which is a resident of a Party to a resident of the other Party may be taxed in that other Party.

2. However, such dividends may also be taxed in the Party of which the company paying the dividends is a resident and according to the laws of that Party, but if the beneficial owner of the dividends is a resident of the other Party, the tax so charged shall not exceed:

a) 0 per cent of the gross amount of the dividends if the beneficial owner is a company;

b) 10 per cent of the gross amount of the dividends in all other cases.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other rights which is subjected to the same taxation treatment as income from shares by the laws of the Party of which the company making the distribution is a resident.

4. The provisions of paragraph 1 shall not apply if the beneficial owner of the dividends, being a resident of a Party, carries on business in the other Party of which the company paying the dividends is a resident, through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

5. Where a company which is a resident of a Party derives profits or income from the other Party, that other Party 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 Party or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other Party, 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 Party.

Article 11
INTEREST

1. Interest arising in a Party and paid to a resident of the other Party may be taxed in that other Party.

2. However, such interest may also be taxed in the Party in which it arises and according to the laws of that Party, but if the beneficial owner of the interest is a resident of the other Party, the tax so charged shall not exceed:

a) 0 per cent of the gross amount of the interest, if the beneficial owner is a company;

b) 10 per cent of the gross amount of the interest in all other cases.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, interest arising in a Party shall be exempt from tax in that Party if it is paid:

a) to a Party, one of its statutory bodies, a political subdivision or a local authority thereof; or

b) to the Central Bank of a Party; or

c) in respect of a loan granted, guaranteed or insured by the Party or any entity or financial institution wholly owned by that Party; or

d) to an investment fund as referred to in paragraph 1 of Article 4.

For the purposes of subparagraph a), the term “statutory bodies” includes any institution or entity wholly or mainly owned directly or indirectly by either Party as may be agreed from time to time by exchange of letters between the competent authorities of the Parties.

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. The term "interest" shall not include any income, which is treated as a dividend

under the provisions of Article 10. Penalty charges for late payment shall not be regarded as interest for the purposes of this Article.

5. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a Party, carries on business in the other Party in which the interest arises, through a permanent establishment situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

6. Interest shall be deemed to arise in a Party when the payer is a resident of that Party. Where, however, the person paying the interest, whether he is a resident of a Party or not, has in a Party a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Party in which the permanent establishment 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 Party, due regard being had to the other provisions of this Agreement.

Article 12
ROYALTIES

1. Royalties arising in a Party and paid to a resident of the other Party may be taxed in that other Party.

2. However, royalties arising in a Party may also be taxed in that Party according to the laws of that Party, but if the beneficial owner of the royalties is a resident of the other Party, the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.

3. Notwithstanding the provisions of paragraphs 1 and 2, royalties arising in a Party shall be exempt from tax in that Party if they are paid to a Party, one of its statutory bodies, a political subdivision, a local authority or the Central Bank thereof. For the purposes of this

paragraph, the term “statutory bodies” includes any institution or entity wholly or mainly owned directly or indirectly by either Party as may be agreed from time to time by exchange of letters between the competent authorities of the Parties.

4. 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, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

5. The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of a Party, carries on business in the other Party in which the royalties arise through a permanent establishment situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

6. Royalties shall be deemed to arise in a Party when the payer is a resident of that Party. Where, however, the person paying the royalties, whether he is a resident of a Party or not, has in a Party a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Party in which the permanent establishment 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 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 Party, due regard being had to the other provisions of this Agreement.

Article 13
CAPITAL GAINS

1. Gains derived by a resident of a Party from the alienation of immovable property referred to in Article 6 and situated in the other Party may be taxed in that other Party.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Party has in the other Party, including such gains from the alienation of such a permanent establishment, may be taxed in that other Party.

3. Gains that an enterprise of a Party that operates ships or aircraft in international traffic derives from the alienation of such ships or aircraft or of movable property pertaining to the operation of such ships or aircraft shall be taxable only in that Party.

4. Gains derived by a resident of a Party from the alienation of shares or comparable interests, such as interests in a partnership, trust or investment fund, may be taxed in the other Party if, at any time during the 365 days preceding the alienation, these shares or comparable interests derived more than 50 per cent of their value directly or indirectly from immovable property referred to in Article 6 and situated in that other Party.

5. Gains from the alienation of any property, other than that referred to in the preceding paragraphs, shall be taxable only in the Party of which the alienator is a resident.

Article 14
INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a Party in respect of an employment shall be taxable only in that Party unless the employment is exercised in the other Party. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Party.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Party in respect of an employment exercised in the other Party shall be taxable only in the first-mentioned Party if:

a) the recipient is present in the other Party for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the taxable period concerned, and

b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Party, and

c) the remuneration is not borne by a permanent establishment which the employer has in the other Party.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Party, may be taxed in that Party.

Article 15
DIRECTORS' FEES

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

Article 16
ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 7 and 14, income derived by a resident of a Party 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 Party, may be taxed in that other Party.

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 and 14, be taxed in the Party in which the activities of the entertainer or sportsman are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities exercised in a Party by an entertainer or a sportsman if the visit to that Party is wholly or mainly supported by public funds of one or both of the Parties or local authorities thereof. In such case, the income shall be taxable only in the Party of which the entertainer or a sportsman is a resident.

Article 17
PENSIONS

Pensions paid to a resident of a Party shall be taxable only in that Party.

Article 18
GOVERNMENT SERVICE

1. Salaries, wages and other similar remuneration, paid by a Party or a local authority thereof to an individual in respect of services rendered to that Party or authority shall be taxable only in that Party. However, such salaries, wages and other similar remuneration shall be taxable only in the other Party if the services are rendered in that Party and the individual is a resident of that Party who is a national of that Party or did not become a resident of that Party solely for the purpose of rendering the services.

2. The provisions of Articles 14, 15 and 16 shall apply to salaries, wages and other similar remuneration in respect of services rendered in connection with a business carried on by a Party or a local authority thereof.

Article 19
STUDENTS

Payments which a student or business apprentice who is or was immediately before visiting a Party a resident of the other Party and who is present in the first-mentioned Party 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 Party, provided that such payments arise from sources outside that Party.

Article 20
OTHER INCOME

1. Items of income of a resident of a Party, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that Party.

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 Party, carries on business in the other Party through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

Article 21
METHODS FOR ELIMINATION OF DOUBLE TAXATION

1. In Estonia, double taxation shall be avoided in accordance with the provisions and subject to the limitations of the laws of Estonia (as it may be amended from time to time without changing the general principle hereof), as follows:

a) where a resident of Estonia derives income which, in accordance with the provisions of this Agreement, has been taxed in Guernsey, Estonia shall, subject to the provisions of subparagraph b) and paragraph 3, exempt such income from tax;

b) where a resident of Estonia derives income which in accordance with paragraph 2 of Articles 10, 11 and 12 or paragraphs 1 and 2 of Article 16 may be taxed in Guernsey, Estonia shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Guernsey. Such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in Guernsey.

2. In the case of Guernsey, double taxation shall be avoided as follows. Subject to the provisions of the laws of Guernsey regarding the allowance as a credit against Guernsey tax of tax payable in a territory outside Guernsey (which shall not affect the general principle hereof):

a) subject to the provisions of paragraph 3, where a resident of Guernsey derives income which, in accordance with the provisions of the Agreement, may be taxed in Estonia, Guernsey shall allow as a deduction from the tax payable in respect of that income, an amount equal to the income tax paid in Estonia;

b) such deduction shall not, however, exceed that part of the income tax, as computed before deduction is given, which is attributable to the income which may be taxed in Estonia.

3. Where, in accordance with any provision of this Agreement, income derived by a resident of a Party is not taxable in that Party, such Party may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

Article 22
NON-DISCRIMINATION

1. Nationals of a Party shall not be subjected in the other Party 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 Party in the same circumstances are or may be subjected.

2. The taxation on a permanent establishment which an enterprise of a Party has in the other Party shall not be less favourably levied in that other Party than the taxation levied on enterprises of that other Party carrying on the same activities.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 7 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Party to a resident of the other Party 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 Party.

4. Enterprises of a Party, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Party, shall not be subjected in the first-mentioned Party 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 Party are or may be subjected.

5. The provisions of this Article shall not be construed as obliging a Party to grant to residents of the other Party any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 23
MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Parties 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 Parties, present his case to the competent authority of either Party. 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 Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Parties.

3. The competent authorities of the Parties 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 Parties may communicate with each other directly, including through a joint commission consisting of themselves or their representatives for the purpose of reaching an agreement in the sense of the preceding paragraphs.

5. Where,

a) under paragraph 1, a person has presented a case to the competent authority of a Party on the basis that the actions of one or both of the Parties have resulted for that person in taxation not in accordance with the provisions of this Agreement, and

b) the competent authorities are unable to reach an agreement to resolve that case pursuant to paragraph 2 within two years from the presentation of the case to the competent authority of the other Party,

any unresolved issues arising from the case shall be submitted to arbitration if the person so requests. These unresolved issues shall not, however, be submitted to arbitration if a decision on these issues has already been rendered by a court or administrative tribunal of either Party. Unless a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision, that decision shall be binding on both Parties and shall be implemented notwithstanding any time limits in the domestic laws of these Party. The competent authorities of the Parties shall by mutual agreement settle the mode of application of this paragraph.

Article 24
EXCHANGE OF INFORMATION

1. The competent authorities of the Parties 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 this 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 Party shall be treated as secret in the same manner as information obtained under the domestic laws of that Party 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, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. 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 Party the obligation:

a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Party;

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 Party;

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 Party in accordance with this Article, the other Party shall use its information gathering measures to obtain the requested information, even though that other Party 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 Party 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 Party 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.

Article 25
MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

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.

Article 26
ENTITLEMENT TO BENEFITS

1. Notwithstanding the other provisions of this Agreement, a benefit under this Agreement shall not be granted in respect of an item of income if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Agreement.

2. Where a benefit under this Agreement is denied to a person under paragraph 1, the competent authority of the Party that would otherwise have granted this benefit shall nevertheless treat that person as being entitled to this benefit, or to different benefits with respect to a specific item of income, if such competent authority, upon request from that person and after consideration of the relevant facts and circumstances, determines that such benefits would have been granted to that person in the absence of the transaction or arrangement referred to in paragraph 1. The competent authority of the Party to which the

request has been made will consult with the competent authority of the other Party before rejecting a request made under this paragraph by a resident of that other Party.

Article 27
ENTRY INTO FORCE

1. Each Party shall notify the other Party in writing of the completion of the procedures required by its laws for the bringing into force of this Agreement. The Agreement shall enter into force on the date of the later of these notifications.

2. The provisions of the Agreement shall have effect in respect of taxes chargeable for any taxable period beginning on or after the first day of January next following the year in which the Agreement enters into force.

Article 28
TERMINATION

This Agreement shall remain in force until terminated by a Party but either Party may terminate the Agreement by giving to the other Party written notice of termination not later than the 30 June of any calendar year. In such event, the Agreement shall cease to have effect in respect of taxes chargeable for any taxable period beginning on or after the first day of January next following the year in which the notice is given.

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

DONE in duplicate at London, on 15 November 2019, in the English language.

For Guernsey

For the Republic of Estonia