

**CONVENTION
BETWEEN
THE REPUBLIC OF SAN MARINO
AND
THE PRINCIPALITY OF LIECHTENSTEIN
FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO
TAXES ON INCOME AND ON CAPITAL**

Preamble

The Republic of San Marino and the Principality of Liechtenstein hereinafter referred to as “Contracting States”, –
whereas the Contracting States recognise that the well-developed economic ties between the Contracting States call for further cooperation;
whereas the Contracting States wish to develop their relationship further by cooperating to their mutual benefits in the field of taxation; and
whereas the Contracting States wish to conclude a Convention for the avoidance of double taxation with respect to taxes on income and on capital –
have agreed as follows:

Article 1

Persons Covered

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

Article 2

Taxes Covered

(1) This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

(2) There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains

from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

(3) The existing taxes to which this Convention shall apply are in particular:

a) in the Principality of Liechtenstein:

- aa) the personal income tax (Erwerbssteuer);
- bb) the corporate income tax (Ertragssteuer);
- cc) the corporation taxes (Gesellschaftssteuern);
- dd) the real estate capital gains tax (Grundstücksgewinnsteuer);
- ee) the wealth tax (Vermögenssteuer); and
- ff) the coupon tax (Couponsteuer);

(hereinafter referred to as "Liechtenstein tax");

b) in the Republic of San Marino

aa) the general income tax which is levied

on individuals;

on bodies corporate and proprietorships

even if collected through a withholding tax

(hereinafter referred to as "San Marino tax");

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

Article 3

General Definitions

(1) For the purposes of this Convention, unless the context otherwise requires:

- a) the terms "a Contracting State" and "the other Contracting State" mean the Principality of Liechtenstein or the Republic of San Marino as the context requires;
- b) the term "Liechtenstein" means the Principality of Liechtenstein, and, when used in a geographical sense, the area in which the tax laws of the Principality of Liechtenstein apply;
- c) the term "San Marino" means the Republic of San Marino, and, when used in a geographical sense, the territory of the Republic of San Marino, including any other area within which the Republic of San Marino, in accordance with international law, exercises sovereign rights or jurisdiction;

- d) the term “person” includes individuals, companies, dormant inheritances and any other body of persons;
- e) the term “company” means any body corporate, as well as entities and special asset endowments that are treated as a body corporate for tax purposes;
- f) the term “enterprise” applies to the carrying on of any business;
- g) the terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- h) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- i) the term “competent authority” means:
 - aa) in Liechtenstein: the Government of the Principality Liechtenstein or its authorised representative;
 - bb) in San Marino: the Ministry of Finance
- j) the term “national”, in relation to a Contracting State, means:
 - aa) any individual possessing the nationality or citizenship of that Contracting State; and
 - bb) any person other than an individual deriving its status as such from the laws in force in that Contracting State;
- k) the term “business” includes the performance of professional services and of other activities of an independent character.

(2) As regards the application of this Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which this Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4

Resident

(1) For the purposes of this Convention, the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or establishment or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

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

- a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);
 - b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;
 - c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;
 - d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
- (3) Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.

Article 5

Permanent Establishment

(1) For the purposes of this Convention, 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 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 subparagraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

(5) Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the area of that State or insures risks situated therein through a person other than an agent of independent status to whom paragraph 6 applies.

(6) An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

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

Article 6

Income from Immovable Property

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

(2) The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture 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; ships, boats 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) The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

(2) Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

(3) In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

(4) Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

(5) No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

(6) For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

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

Article 8 *Shipping, Inland Waterways Transport and Air Transport*

(1) Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(2) Profits from the operation of boats engaged in inland waterways transport shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(3) If the place of effective management of a shipping enterprise or of an inland waterways transport enterprise is aboard a ship or boat, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship or boat is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship or boat is a resident.

(4) The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9

Associated Enterprises

(1) Where

- a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State; or
- b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State;

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

(2) Where a Contracting State includes in the profits of an enterprise of that State – and taxes accordingly – profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10

Dividends

(1) Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

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

- a) 0 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which at the time of the payment of dividends has held for

an uninterrupted period of 12 months directly at least 10 per cent of the capital of the company paying the dividends;

b) 5 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, “jouissance” shares or “jouissance” rights, mining shares, founders’ shares or other rights, not being debt-claims, participating in profits, as well as other income which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

(4) The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident through a permanent establishment situated therein 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 Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State, nor subject the company’s undistributed profits to a tax on the company’s undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11

Interest

(1) Interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State.

(2) 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. However, the term “interest” shall not include income referred to in Article 10. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

(3) The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein 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.

(4) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12

Royalties

(1) Royalties arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.

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

(3) The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein 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.

(4) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13

Capital Gains

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

(2) Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.

(3) Gains from the alienation of ships or aircraft operated in international traffic, boats engaged in inland waterways transport or movable property pertaining to the operation of such ships, aircraft or boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(4) Gains derived by a resident of a Contracting State from the alienation of shares deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.

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

Article 14

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 Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

- a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned; and
- b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
- c) the remuneration is not borne by a permanent establishment which the employer has in the other State.

(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, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 15

Directors' Fees

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

Article 16
Artistes and Sportsmen

(1) Notwithstanding the provisions of Articles 7 and 14, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

(2) Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

Article 17
Pensions

(1) Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

(2) Notwithstanding the provisions of paragraph 1, pensions and other payments made under the social security legislation of a Contracting State shall be taxable only in that State.

(3) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration (including lump-sum payments) arising in a Contracting State shall be taxable only in this State, provided that such payments derive from contributions paid to or from provisions made under a pension scheme by the recipient or on his behalf or from endowments made by an employer to a company pensions scheme and to the extent that these contributions, provisions or the pensions or other similar remuneration have been subjected to tax or have been tax deductible in this State under the ordinary rules of its tax laws.

Article 18
Government Service

(1)

a) Salaries, wages and other similar remuneration paid by a Contracting State, a political subdivision or a local authority thereof or some other legal entity under public law of that State to an individual in respect of services rendered to that State, subdivision or authority or other legal entity under public law of that State shall be taxable only in that State.

b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

aa) is a national of that State; or

bb) did not become a resident of that State solely for the purpose of rendering the services.

(2)

a) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof or some other legal entity under public law of that State to an individual in respect of services rendered to that State, subdivision or authority or other legal entity under public law of that State shall be taxable only in that State.

b) However, such pensions and other similar remuneration shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

(3) The provisions of Articles 14, 15, 16, and 17 shall apply to salaries, wages, pensions, and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State, a political subdivision or a local authority thereof or some other legal entity under public law of that State.

Article 19

Visiting Professors, Teachers and Researchers

An individual who visits a Contracting State at the invitation of that State or of a university, college, school, museum or other cultural institution of that State or under an official programme of cultural exchange for a period not exceeding three years solely for the purpose of teaching, giving lectures or carrying out research at such institution and who is, or was immediately before that visit, a resident of the other Contracting State shall be exempt from tax in the first-mentioned State on his remuneration for such activity.

Article 20

Students

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

Article 21

Other Income

(1) Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

(2) The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein 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 22

Capital

(1) Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.

(2) Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State may be taxed in that other State.

(3) Capital represented by ships and aircraft operated in international traffic and by boats engaged in inland waterways transport, and by movable property pertaining to the operation of such ships, aircraft and boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(4) All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 23

Elimination of Double Taxation

(1) Subject to the provisions of the Law of Liechtenstein regarding the elimination of double taxation which shall not affect the general principle hereof, double taxation shall be eliminated as follows:

- a) Where a resident of Liechtenstein derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in San Marino, Liechtenstein shall, subject to the provisions of subparagraphs b and c, exempt such income or capital from tax, but may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.
- b) Where a resident of Liechtenstein derives income which, in accordance with paragraph 2 of Article 10 and Article 16 of this Convention, may be taxed in San Marino, Liechtenstein shall credit against Liechtenstein tax on this income the tax paid in accordance with the law of San Marino and with the provisions of this Convention. The amount of tax to be credit must not, however, exceed the Liechtenstein tax due on the income derived from San Marino.
- c) Notwithstanding subparagraph b, income from dividends within the meaning of paragraph 2 subparagraph a and b of Article 10 paid by a company that is a resident of

Republic of San Marino to a company that is a resident of Liechtenstein and that are not deductible in determining the profits of the payor, shall not be taxed in Liechtenstein.

(2) Subject to the provisions of the Law of San Marino regarding the elimination of double taxation which shall not affect the general principle hereof, double taxation shall be eliminated as follows:

a) Where a resident of San Marino derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Liechtenstein, San Marino shall, subject to the provisions of paragraphs b and c, exempt such income from tax but may, nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

b) Where a resident of San Marino derives income which, in accordance with paragraph 2 of Article 10 and Article 16 of this convention, may be taxed in Liechtenstein, San Marino shall allow as a deduction from the tax on the income of that resident, an amount equal to the tax paid in Liechtenstein. 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 arising in Liechtenstein.

c) Notwithstanding paragraph b, where a company which is a resident of San Marino has held at least 10 percent of the capital of a company which is a resident of Liechtenstein paying dividends for an uninterrupted period of at least 12 months prior to the decision to distribute the dividends, San Marino shall exempt from tax the dividends paid by the company which is a resident of Liechtenstein to the company which is a resident of San Marino.

Article 24

Non-Discrimination

(1) Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

(2) Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of the State concerned in the same circumstances, in particular with respect to residence, are or may be subjected.

(3)

a) The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State

than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

b) Where a permanent establishment situated in a State receives dividends, interest or royalties arising in the other State corresponding to property or rights effectively connected with that permanent establishment, such income shall be taxable in the other State in accordance with the provisions of paragraph 2 of Article 10, paragraphs 1 and 4 of Article 11 and paragraphs 1 and 4 of Article 12. The first-mentioned State shall eliminate double taxation according to the terms set forth in paragraphs 1 and 2 of Article 23. This provision shall apply irrespective of the location of the head office of the enterprise on which the permanent establishment depends.

(4) Except where the provisions of paragraph 1 of Article 9, paragraph 6 of Article 11, or paragraph 4 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

(5) Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

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

Article 25

Mutual Agreement Procedure

(1) Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Convention.

(2) The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

(3) The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Convention. They may also consult together for the elimination of double taxation in cases not provided for in this Convention. To that regard, it is not necessary to present a case according to paragraph 1.

(4) The competent authorities of the Contracting States 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 Contracting State on the basis that the actions of one or both of the Contracting States have resulted for that person in taxation not in accordance with the provisions of this Convention; 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 Contracting State;

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 State. 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 Contracting States and shall be implemented notwithstanding any time limits in the domestic laws of these States. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this paragraph

Article 26

Exchange of Information

(1) The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Convention. The exchange of information is not restricted by Articles 1 and 2.

(2) Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, 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 Contracting State the obligation:

- a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (*ordre public*).

(4) If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

(5) In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

Article 27

Members of Diplomatic Missions and Consular Posts

Nothing in this Convention 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 28

Refunds

(1) Taxes collected in a Contracting State through a withholding tax shall be refunded upon request of the interested party where the right to levy such taxes is limited by the provisions of this Convention.

(2) Refund claims to be submitted within the time limits set forth in the laws of the Contracting State which has to make the refund, shall be accompanied by an official declaration of the Contracting State of which the taxpayer is a resident stating that such taxpayer meets the requirements to be entitled to the benefits of this Convention.

(3) The competent authorities of the Contracting States shall decide by mutual agreement, in accordance with the provisions of Article 25 of this Convention, the mode of application of this Article.

Article 29

Protocol

The attached Protocol shall be an integral part of this Convention.

Article 30

Entry into Force

(1) The Contracting States shall notify each other in writing, through diplomatic channels, that the procedures required by its law for the entry into force of this Convention have been satisfied. This Convention shall enter into force on the date of receipt of the last notification.

(2) This Convention shall have effect:

- a) in respect of taxes withheld at source, to income derived on or after 1 January of the calendar year next following the year in which this Convention enters into force;
- b) in respect of other taxes on income and taxes on capital, to taxes chargeable for any taxable year beginning on or after 1 January of the calendar year next following the year in which this Convention enters into force.

Article 31

Termination

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate this Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year following the

fifth year after the entry into force. In such event, this Convention shall cease to have effect:

- a) in respect of taxes withheld at source, to income derived on or after 1 January of the calendar year next following the year in which the notice is given;
- b) in respect of other taxes on income and taxes on capital, to taxes chargeable for any taxable year beginning on or after 1 January of the calendar year next following the year in which the notice is given.

IN WITNESS THEREOF, the undersigned, duly authorised to this end, have signed this Convention.

Done in duplicate at *Brussels*, on *23/9/09*, in the Italian, German and English languages, all texts being equally authentic. In case of divergence between the texts the English text shall prevail.

For the Government of
the Republic of San Marino

G-U JH

For the Government of
the Principality of Liechtenstein

M. M. M. M. M.

Protocol

At the signing today of the Convention between the Principality of Liechtenstein and the Republic of San Marino for the Avoidance of Double Taxation with respect to Taxes on Income and on Capital, the undersigned have agreed upon the following provisions, which shall form an integral part of this Convention:

1. With respect to paragraph 1 of Article 4 it is understood that investment funds or schemes constituted under the law of, and established in, a Contracting State which, irrespective of whether they are bodies corporate under that law;

- a) receive income arising in the other Contracting State;
- b) are not treated as bodies corporate for the purpose of taxing that income in the Contracting State under the law of which they are constituted; and
- c) are not subject to tax on that income in that State;

shall be treated for the purposes of this Convention as:

- a) residents of the State in which they are established; and
- b) beneficial owners of the aggregate amount of that income on which individuals and bodies corporate, who are residents of that or any further Contracting State, are subject to tax therein.

The extent of Convention benefits is to be determined by the extent of Convention benefits residents of that or any further Contracting State participating in the investment fund or scheme are entitled to.

For the purposes of this paragraph:

- a) "investment fund or scheme" means, in the case of Liechtenstein, an "Investment-unternehmen" within the meaning of the "Gesetz über Investmentunternehmen (IUG)" of 19 May 2005, LGBl. 2005, No. 156, and, in the case of San Marino, an "Fondo comune di investimento" within the meaning of the "Legge sulle imprese e sui servizi bancari e assicurativi" of 17 November 2005 N.165 and by "Regolamento in materia di servizi di investimento collettivo" N. 2006-3 of Republic of San Marino Central Bank;
- b) "further Contracting State" means each State which the other Contracting State has concluded a Convention for the avoidance of double taxation with respect to taxes on income and on capital with;
- c) a "resident participating in the investment fund or scheme" means a resident who is entitled to participate in or receive profits or income from the acquisition, holding, management or disposal of any part of the property (including money), which is subject to the arrangements constituting the investment fund or scheme, or sums paid out of such profits or income.

2. With respect to paragraph 1 of Article 4, it is understood that pension schemes constituted under the law of, and established in, a Contracting State which, irrespective of whether they are bodies corporate under that law;

- a) receive income arising in the other Contracting State; and
- b) are exempt from income taxation under the law of the State in which they are constituted,

shall be treated for the purposes of this Convention as:

- a) residents of the State in which they are established; and
- b) beneficial owners of the aggregate amount of that income on which individuals and bodies corporate, who are residents of that or any further Contracting State, are subject to tax therein.

The extent of Convention benefits is to be determined by the extent of Convention benefits of residents of that or any further Contracting State beneficially owning an interest in the pension scheme.

For the purposes of this paragraph:

- a) "pension scheme" means, in the case of Liechtenstein, any arrangement within the meaning of the "Gesetz über die betriebliche Pensionsvorsorge (BPVG)" of 20 October 1987, LGBI. 1988, No. 12, (including the associated regulations) and, in the case of San Marino any arrangement within the meaning of the " Legge di Riforma del Sistema Previdenziale" of 8 November 2005 N.157 and subsequent amendments and integrations;
- b) "further Contracting State" means each State which the other Contracting State has concluded a Convention for the avoidance of double taxation with respect to taxes on income and on capital with;
- c) a "resident beneficially owning an interest in the pension scheme" means a resident for whose benefit pensions or retirement benefits are administered or provided or income is earned.

3. With respect to paragraph 1 of Article 4, it is understood that persons other than individuals established in a Contracting State which, irrespective of whether they are bodies corporate under that law;

- a) receive income arising in the other Contracting State;
- b) solely and irrevocably serve charitable, cultural or idealistic purposes on a non-for-profit basis; and
- c) are exempt from income taxation by reason of their nature as such under the law of the Contracting State in which they are established;

shall be treated for the purposes of this Convention as residents of the State in which they are established.

4. With respect to paragraph 1 of Article 4, it is understood that persons other than individuals established in a Contracting State which, irrespective of whether they are bodies corporate under that law;

- a) receive income arising in the other Contracting State;
- b) are not treated as bodies corporate for the purpose of taxing that income in the Contracting State under the law of which they are constituted; and
- c) are not subject to tax on that income in that State;

shall be treated for the purposes of this Convention as:

- a) residents of the Contracting State in which they are established; and

b) beneficial owners of the aggregate amount of that income on which individuals and bodies corporate, who are residents of that or any further Contracting State, are subject to tax therein.

The extent of Convention benefits is to be determined by the extent of Convention benefits of residents of that or any further Contracting State who are participating in or beneficial owners of the person other than an individual.

For the purposes of this paragraph "further Contracting State" means each State which the other Contracting State has concluded a Convention for the avoidance of double taxation with respect to taxes on income and on capital with.