AGREEMENT BETWEEN IRELAND AND THE ISLE OF MAN FOR AFFORDING RELIEF FROM DOUBLE TAXATION WITH RESPECT TO CERTAIN INCOME OF INDIVIDUALS AND ESTABLISHING A MUTUAL AGREEMENT PROCEDURE IN CONNECTION WITH THE ADJUSTMENT OF PROFITS OF ASSOCIATED ENTERPRISES

The Government of Ireland and the Government of the Isle of Man ("the Parties"), recognising that the two Governments have concluded an Agreement for the Exchange of Information Relating to Tax Matters, and desiring to conclude an Agreement for affording relief from double taxation with respect to certain income of individuals and establishing a mutual agreement procedure in connection with the adjustment of profits of associated enterprises,

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 the following taxes imposed by the Parties:

(*a*) in the case of Ireland:

(i) the income tax; and
(ii) the corporation tax;
(hereinafter referred to as "Irish tax");

(*b*) in the case of the Isle of Man:
the taxes on income or profit;
(hereinafter referred to as "Manx tax").

2. This Agreement shall apply also to any identical taxes imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. This Agreement shall also apply to any substantially similar taxes imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes if the Parties so agree. The competent authority of each Party shall notify the other of substantial changes in laws which may affect the obligations of that Party pursuant to this Agreement.

ARTICLE 3

DEFINITIONS

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

(*a*) "Ireland" means the Republic of Ireland and includes any area outside the territorial waters of Ireland which, in accordance with international law, has been or may hereafter be designated under the laws of Ireland concerning the Continental Shelf as an area within which the rights of Ireland with respect to the sea bed and subsoil and their natural resources may be exercised;

(*b*) “Isle of Man” means the island of the Isle of Man;

(*c*) “competent authority” means in the case of Ireland, the Revenue Commissioners or their authorised representative, and in the case of the Isle of Man, the Assessor of Income Tax or his or her delegate;

(*d*) “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;

(*e*) “Party” means Ireland or the Isle of Man, as the context requires;

(*f*) “person” includes an individual, a company and any other body of persons; and

(*g*) “tax” means Irish tax or Manx tax as the context requires.

2. As regards the application of this Agreement at any time by a Party, 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 Party for the purposes of the taxes to which this 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 or any other criterion of a similar nature. 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 preceding provisions of this Article, a person, being an individual, is a resident of both Parties, then the person’s status shall be determined as follows:

(*a*) he shall be deemed to be a resident only of the Party in which a permanent home is available to him; if a permanent home is available in both Parties, or in neither of them, 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, the competent authorities of the Parties shall endeavour to resolve the question by mutual agreement.

3. Where by reason of paragraph 1 a person other than an individual is a resident of both Parties, then it shall be deemed to be a resident only of the Party in which its place of effective management is situated.

ARTICLE 5

PENSIONS AND ANNUITIES

1. Subject to the provisions of Article 6, pensions paid to an individual who is a resident of a Party in consideration of past employment and any annuity paid to such a resident in consideration of past employment shall be taxable only in that Party.

2. The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

ARTICLE 6

GOVERNMENT SERVICE

1. (*a*) 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 in the discharge of functions of a governmental nature shall be taxable only in that Party.

(*b*) 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 did not become a resident of that Party solely for the purpose of rendering the services.

2. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds created by, a Party or a local authority thereof to an individual in respect of services rendered to that Party or authority in the discharge of functions of a governmental nature shall be taxable only in that Party.

3. The provisions of this Article shall not apply to salaries, wages, pensions 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 7

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 8

PROFESSORS AND TEACHERS

1. A professor or teacher who visits one of the Parties for a period not exceeding two years for the sole purpose of teaching or carrying out advanced study (including research) at a university, college or other recognised research institute or other establishment for higher education in that Party and who was immediately before that visit a resident of the other Party shall be exempt from tax in the first-mentioned Party on any remuneration for such teaching or research for a period not exceeding two years from the date he first visits that Party for such purpose. An individual shall be entitled to the benefits of this Article only once.

2. The preceding provisions of this Article shall not apply to remuneration which a professor or teacher receives for conducting research if the research is undertaken primarily for the private benefit of a specific person or persons.

ARTICLE 9

ADJUSTMENT OF PROFITS OF 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, if it considers that the adjustment is justified, make an appropriate adjustment to the amount of the profits charged to tax therein. In determining such an adjustment, due regard shall be had to the other provisions of this Agreement.

3. Where a Party intends to adjust the profits of an enterprise in accordance with the principles set out in paragraph 1, it shall in accordance with its domestic law inform the enterprise of the intended action in due time and give it the opportunity to inform the other enterprise so as to give that other enterprise the opportunity to inform in turn the other Party. However, the Party providing such information shall not be prevented from making the proposed adjustment.

ARTICLE 10

MUTUAL AGREEMENT PROCEDURE

1. Where any persons consider that the actions of one or both of the Parties result or will result for them in taxation not in accordance with the provisions of this Agreement, they may, irrespective of the remedies provided by the domestic law of those Parties, present their case to the competent authority of the Party of which they are a resident. 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.

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. 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 this Agreement.

ARTICLE 11

ENTRY INTO FORCE

This Agreement shall enter into force when each Party has notified the other in writing of the completion of its necessary internal procedures for entry into force. Upon the date of entry into force, it shall have effect:

(*a*) in Ireland:

(i) in respect of income tax, for any year of assessment beginning on or after 1 January in the calendar year next following the year in which this Agreement enters into force;

(ii) in respect of corporation tax, for any financial year beginning on or after 1 January in the calendar year next following the year in which this Agreement enters into force, and;

(*b*) in the Isle of Man in respect of Manx tax, for any taxable period beginning on or after 6 April in the calendar year next following the year in which this Agreement enters into force.

ARTICLE 12

TERMINATION

1. This Agreement shall remain in force until terminated by either Party.

2. Either Party may terminate this Agreement by giving notice of termination in writing. Such termination shall become effective:

(*a*) in Ireland:

(i) in respect of income tax, for any year of assessment beginning on or after 1 January in the calendar year next following that in which the notice of termination is given;

(ii) in respect of corporation tax, for any financial year beginning on or after 1 January in the calendar year next following that in which the notice of termination is given, and;

(*b*) in the Isle of Man in respect of Manx tax, for any taxable period beginning on or after 6 April in the calendar year next following that in which the notice of termination is given.

3. Notwithstanding the provisions of paragraph 1 and 2, this Agreement shall, upon receipt of written notice of termination of the Agreement for the Exchange of Information Relating to Tax Matters between the Parties, terminate and cease to be effective on the first day of the month following the expiration of a period of six months after the date of receipt of such notice.

In witness whereof the undersigned, being duly authorised in that behalf by their respective Governments, have signed this Agreement.

Done at Dublin, Ireland this 24th day of April, 2008, in duplicate.