PROTOCOL AMENDING THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE AND THE GOVERNMENT OF THE CZECH REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

NOTE
This Protocol was signed on 26 June 2013.
However, the Protocol is not yet ratified and therefore **does not have the force of law**.

The Government of the Republic of Singapore and the Government of the Czech Republic,

Desiring to conclude a Protocol amending the Agreement between the Government of the Republic of Singapore and the Government of the Czech Republic for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed at Singapore on November 21, 1997 (in this Protocol referred to as "the Agreement"),

Have agreed as follows:

ARTICLE 1

1. Sub-paragraph (b) of paragraph 1 of Article 3 of the Agreement shall be replaced by the following:

> "(b) the term "Singapore" means the Republic of Singapore and, when used in a geographical sense, includes its land territory, internal waters and territorial sea, as well as any maritime area situated beyond the territorial sea which has been or might in the future be designated under its national law, in accordance with international law, as an area within which Singapore may exercise sovereign rights or jurisdiction with regards to the sea, the sea-bed, the subsoil and the natural resources;"

2. Paragraph 3 that shall read as follows shall be added to Article 3 of the Agreement:

> "3. For the purposes of Articles 10, 11 and 12, where a trustee of a trust is liable to tax in a Contracting State in respect of dividends, interest or royalties accruing to the trust from sources in the other Contracting State, such trustee shall be deemed to be the beneficial owner of the dividends, interest or royalties."

ARTICLE 2

Sub-paragraph (a) of paragraph 2 of Article 5 of the Agreement shall be replaced by the following:

"(a) a local place of management;"

ARTICLE 3

Article 8 of the Agreement shall be replaced by the following:

"ARTICLE 8 - SHIPPING 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. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

3. For the purposes of this Article and notwithstanding the provisions of Article 12, profits from the operation of ships or aircraft in international traffic also include:

(a) profits from the rental on a bare boat basis of ships or aircraft, and

(b) profits 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,

where such rental or such use, maintenance or rental, as the case may be, is incidental to the operation of ships or aircraft in international traffic.

4. Interest arising in a Contracting State and derived from funds formed as an integral part of the carrying on of the business of operating the ships or aircraft in international traffic in that Contracting State, shall be regarded as profits from the operation of such ships or aircraft in international traffic, and the provisions of Article 11 shall not apply in relation to such interest.

5. 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 4

Article 9 of the Agreement shall be replaced by the following:

"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 other Contracting State agrees that 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 Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

3. The provisions of paragraph 2 shall not apply in the case of fraud, gross negligence or willful default."

ARTICLE 5

Two sentences that shall read as follows shall be added to paragraph 2 of Article 11 of the Agreement:

"Penalty charges for late payment shall not be regarded as interest for the purposes of this Article. The term "interest" shall not include any item of income which is considered as a dividend under the provisions of paragraph 3 of Article 10."

ARTICLE 6

Paragraphs 2 and 3 of Article 12 of the Agreement shall be replaced by the following:

"2. However, such royalties, except in the case of payments of the kind referred to in sub-paragraph a) of paragraph 3, may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed:

(a) 5 per cent of the gross amount of the royalties, in the case of payments of the kind referred to in sub-paragraph b) of paragraph 3;

(b) 10 per cent of the gross amount of the royalties, in the case of payments of the kind referred to in sub-paragraph c) of paragraph 3.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

3. The term “royalties” means payments of any kind received as a consideration for the use of, or the right to use:

(a) any copyright of literary, artistic or scientific work except of computer software and including cinematograph films, and films or tapes for television or radio broadcasting;

(b) any industrial, commercial or scientific equipment;

(c) any patent, trade mark, design or model, plan, secret formula or process and computer software, or for information concerning industrial, commercial or scientific experience.”

ARTICLE 7

Paragraph 4 of Article 13 of the Agreement shall be deleted and the existing paragraph 5 of Article 13 of the Agreement shall be renumbered as paragraph 4 of Article 13 of the Agreement and it shall be replaced by the following:

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

ARTICLE 8

1. Paragraph 1 of Article 22 of the Agreement shall be replaced by the following:

“1. Subject to the provisions of the laws of Singapore regarding the elimination of double taxation, in the case of a resident of Singapore, double taxation shall be eliminated as follows:

Where a resident of Singapore derives income from the Czech Republic which, in accordance with the provisions of this Agreement, may be taxed in the Czech Republic, Singapore shall allow the Czech tax paid, whether directly or by deduction, as a credit against the Singapore tax payable on the income of that resident. Where such income is a dividend paid by a company which is a resident of the Czech Republic to a resident of Singapore which is a company owning directly or indirectly not less than 10 per cent of the capital of the first-mentioned company, the credit shall take into account the Czech tax paid by that company on the portion of its profits out of which the dividend is paid.”

2. The introductory part of paragraph 2 of Article 22 of the Agreement shall be replaced by the following:

“2. Subject to the provisions of the laws of the Czech Republic regarding the elimination of double taxation, in the case of a resident of the Czech Republic, double taxation shall be eliminated as follows:”

ARTICLE 9

1. Paragraph 2 of Article 23 of the Agreement shall be modified by deleting its second sentence.

2. Paragraph 3 of Article 23 of the Agreement shall be modified by replacing the phrase “the provisions of Article 9” by the phrase “the provisions of paragraph 1 of Article 9”.

3. Sub-paragraph b) of paragraph 4 of Article 23 of the Agreement shall be replaced by the following:

> “(b) nationals of the other Contracting State those personal allowances, reliefs and reductions for tax purposes which it grants to its own nationals who are not residents of the first-mentioned State or to other persons as may be specified in the taxation laws of the first-mentioned State.”

ARTICLE 10

Article 25 of the Agreement shall be replaced by the following:

“ARTICLE 25 - 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 Agreement 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 the Agreement. 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 11

It is understood for the purposes of the Agreement that:

(a) the provisions of the Agreement shall in no case prevent a Contracting State from the application of the provisions of its domestic laws aiming at the prevention of fiscal evasion and avoidance;

(b) the competent authority of a Contracting State may, after consultation with the competent authority of the other Contracting State, deny the benefits of the Agreement to any person, or with respect to any transaction, if in its opinion the granting of those benefits would constitute an abuse of the Agreement.

ARTICLE 12

1. The Contracting States shall notify to each other that the domestic laws requirements for the entry into force of this Protocol have been complied with.

2. The Protocol shall enter into force upon the date of the latter of the notifications referred to in paragraph 1 of this Article and its provisions shall have effect:

(a) in the Czech Republic:

(i) in respect of taxes withheld at source, to income paid or credited on or after 1st January in the calendar year next following that in which the Protocol enters into force;

(ii) in respect of other taxes on income, to income in any taxable year beginning on or after 1st January in the calendar year next following that in which the Protocol enters into force;

(iii) in respect of Article 10, to request made on or after the date of entry into force of the Protocol;

(b) in Singapore:

(i) in respect of tax chargeable for any year of assessment beginning on or after 1st January in the second calendar year following the year in which the Protocol enters into force;

(ii) in respect of Article 10, to request made on or after the date of entry into force of the Protocol.

ARTICLE 13

This Protocol, which shall form an integral part of the Agreement, shall remain in force as long as the Agreement remains in force and shall apply as long as the Agreement itself is applicable.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Protocol.

DONE in duplicate at Singapore this 26th day of June 2013 in the English language.

For the Government of the Republic of Singapore	**For the Government of the Czech Republic**