هيئة الزكاة والضريبة والجمارك
Zakat, Tax and Customs Authority

AGREEMENT BETWEEN

THE GOVERNMENT OF THE KINGDOM OF SAUDI ARABIA AND THE GOVERNMENT OF MALAYSIA

FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF TAX EVASION WITH RESPECT TO TAXES ON INCOME

THE GOVERNMENT OF THE KINGDOM OF SAUDI ARABIA

AND

THE GOVERNMENT OF MALAYSIA

DESIRING to conclude an Agreement for the avoidance of double taxation and the prevention of tax evasion with respect to taxes on income, have agreed as follows:

Article 1

PERSONS COVERED

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

Article 2

TAXES COVERED

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State or of its political sub-division or local authorities or a statutory body 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 Agreement shall apply to the following existing taxes:

   (a) in the case of the Kingdom of Saudi Arabia:

      (i) the Zakat; and

      (ii) the income tax including the natural gas investment tax;

   (hereinafter referred to as the "Saudi tax");

(b) in the case of Malaysia:

(i) the income tax; and

(ii) the petroleum income tax;

(hereinafter referred to as "Malaysian tax").

4. The provisions of this Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Agreement 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 respective taxation laws.

Article 3

GENERAL DEFINITIONS

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

(a) the term "Kingdom of Saudi Arabia" means the territory of the kingdom of Saudi Arabia which also includes the area outside the territorial waters, where the Kingdom of Saudi Arabia exercises its sovereign and jurisdictional rights in its waters, seabed, subsoil and natural resources by virtue of its law and international law;

(b) the term "Malaysia" means the territories of the Federation of Malaysia, the territorial waters of Malaysia and the sea-bed and subsoil of the territorial waters, and includes any area extending beyond the limits of the territorial waters of Malaysia, and the sea-bed and subsoil of any such area, which has been or may hereafter be designated under the laws of Malaysia and in accordance with international law as an area over which Malaysia has sovereign rights for the purposes of exploring and exploiting the natural resources, whether living or non-living;

(c) the terms "a Contracting State" and "the other Contracting State" means Malaysia or the Kingdom of Saudi Arabia as the context requires;

(d) the term "person" includes an individual, a company or any other body of persons, including the State, its political sub-divisions or local authorities, statutory bodies, trusts and foundations;

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

(f) 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;

(g) the term "national" means:

(i) any individual possessing the nationality of Saudi Arabia orcitizenship of Malaysia;

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

(h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which 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:

(i) in the case of the Kingdom of Saudi Arabia, the Ministry of Finance represented by the Minister of Finance or his authorised representative;

and

(ii) in the case of Malaysia, the Minister of Finance or his authorized representative.

2. As regards the application of this Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which this Agreement 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 Agreement, the term "resident of a Contracting State" means any person who, under the laws and regulations of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes that State, any political subdivision, local authority or a statutory body thereof.

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 of this Article a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

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) any place of extraction of natural resources.

3. The term "permanent establishment" also includes:

   (a) a building site, a construction, assembly or installation project, or supervisory activities, in connection therewith, but only where such site, project or activities continue for a period of more than six months;

   (b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the country for a period or periods aggregating more than six months within any twelve-month period.

4. Notwithstanding the preceding provisions of this Article, a permanent establishment does not include a fixed place of business used only for one or more of the following:

   (a) the use of facilities for the sole 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 for the sole purpose of storage, display or delivery;

(c) the maintenance of a stock of goods or merchandise belonging to the enterprise for the sole purpose of processing by another enterprise;

(d) the maintenance of a fixed place of business for the sole purpose of purchasing goods or merchandise, or of collecting information for the enterprise;

(e) the maintenance of a fixed place of business for the sole purpose of advertising, submitting data, conducting scientific research for the enterprise, or any similar activity is such activity is of preparatory or auxiliary nature.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting in one of the State on behalf of an enterprise of the other State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned State in respect of any activities which that person undertakes for the enterprise if the person:

(a) has, and habitually exercises in the first-mentioned State an authority to conclude contracts in the name of 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, would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or

(b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders and delivers goods or merchandise on behalf of the enterprise.

6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where 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 provided for in the laws and regulations of the Contracting State in which the property in question is situated. This 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 and to income from immovable property used for the performance of independent personal services.

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 the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business 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.However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of income from debt-claims on moneys lent to such permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way

of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management or, except in the case of a banking enterprise, by way of income from debt-claims on moneys lent to the head office of the enterprise or any of its other offices.

4. 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.

5. 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.

6. 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. 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 of which the operator of the ship is a resident.

3. 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 Agreement 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 taxedin 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 5 percent of the gross amount of the dividends. 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 income from other corporate rights 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, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, 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 or a fixed base 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

INCOME FROM DEBT-CLAIMS

1. Income from debt-claims arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such income from debt-claims may also be taxed in the Contracting State in which it arises, and according to the laws of that State, but if the beneficial owner of the income from debt-claims is a resident of the other Contracting State, the tax so charged shall not exceed 5percent of the gross amount of the income from debt-claims.

3. Notwithstanding the provisions of paragraph 2, income from debt-claims arising in a Contracting State shall be exempt from tax in that State if:

   (a) the payer of the income from debt-claims is the Government of that Contracting State, a political subdivision, a statutory body or a local authority thereof; or

   (b) the income from debt-claims is paid to the Government of the other Contracting State, a political subdivision, a statutory body, a local authority or any institutions, agency or instrumentality wholly owned by that Government, political subdivision, statutory body or local authority.

4. The term "income from debt-claims" 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 attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as income from debt-claims for the purpose of this Article.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the income from debt-claims, being a resident of a Contracting State, carries on business in the other Contracting State in which the income from debt-claims arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the income is paid is effectively connected with such permanent establishment or a fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Income from debt-claims shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the income from debt-claims, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the income from debt-claims is paid was incurred, and such income from debt-claims is borne by such permanent establishment or fixed base, then such income from debt-claims shall be deemed to arise in the State in which the permanent establishment or fixed base 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 income from debt-claims, 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 Agreement.

Article 12

ROYALTIES

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

2. However, such royalties 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 8 percent of the gross amount of the royalties.

3. 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, and films or tapes for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information (know-how) concerning industrial, commercial or scientific experience or the rendering of any services or assistance of a technical nature.

4. The provisions of paragraphs 1 and 2 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, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such a case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying such royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base

in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

6. 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 Agreement.

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 or of a movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

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

4. Notwithstanding the provisions of paragraph 2, the gains resulting from the alienation of shares in a company which is a resident of a Contracting State are taxable in that State.

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

Article 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State except in the following circumstances, when such income may also be taxed in the other Contracting State:

   (a) If he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or

   (b) If his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19, 20 and 21 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 Contracting State unless the employment is exercised in the other Contracting State. In this case, remuneration derived from such employment may be taxed in that other Contracting State if:

   (a) the recipient is present in the other State for a period or periods exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned; and,or

   (b) the remuneration is paid by, or on behalf of, an employer who is a resident of the other Contracting State, or

   (c) the remuneration is borne by a permanent establishment or a fixed base which the employer has in the other State.

2. Notwithstanding the provisions of this Article, the remuneration derived in respect of an employment exercised aboard a ship or aircraft operating in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16

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 of a company which is a resident of the other Contracting State, may be taxed in that other State.

Article 17

ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 14 and 15 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, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to remuneration derived from activities exercised in a Contracting State if the visit to that State is wholly or mainly financed by public funds of the other Contracting State, a political subdivision, a local authority or a statutory body thereof. In such a case, the remuneration is taxable only in the Contracting State in which the artiste or the sportsman is a resident.

Article 18

PENSIONS AND ANNUITIES

1. Subject to the provisions of paragraph 2 of Article 19, pension and other similar remuneration and annuities paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

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 19

GOVERNMENT SERVICE

1.

(a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority or a statutory body thereof to an individual in respect of services rendered to that State or political subdivision or local authority or statutory body thereof 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:

(i) is a national of that State, or

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

2.

(a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority or a statutory body thereof to any individual in respect of services rendered to that State or political subdivision or local authority or statutory body shall be taxable only in that State.

(b) However, such pension 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 15, 16 and 18 shall apply to salaries, wages and other similar remuneration or pensions in respect of services rendered in connection with any business carried on by a Contracting State or a political subdivision or a local authority or a statutory body thereof.

Article 20

STUDENTS AND TRAINEES

An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State and is temporarily present in the other State solely:

(a) as a student at a recognised university, college, school or other similar recognised educational institution in that other State;

(b) as a business or technical apprentice; or

(c) as a recipient of a grant, allowance or award for the primary purpose of study, research or training from the Government of either State or from a scientific, educational, religious or charitable organisation or under a technical assistance programme entered into by the Government of either State,

shall be exempt from tax in that other State on:

(i) all remittances from abroad for the purposes of his maintenance, education, study, research or training;

(ii) the amount of such grant, allowance or award; and

(iii) any remuneration not exceeding 5000 US dollars per annum in respect of services in that other State provided the services are performed in connection with his study, research or training or are necessary for the purposes of his maintenance.

Article 21

TEACHERS AND RESEARCHERS

An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State, and who, at the invitation of any public university, college, institution primarily for research purposes or other similar public institutions, visits that other State for a period not exceeding two years solely for the purpose of teaching or research or both at such public institution shall be exempt from tax in that other State on any remuneration for such teaching or research.

Article 22

OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement 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, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing articles of this Agreement and arising in the other Contracting State may also be taxed in that other State.

Article 23

METHODS FOR ELIMINATION OF DOUBLE TAXATION

1. Double taxation shall be eliminated as follows:

   (a) in the case of the Kingdom of Saudi Arabia:

   Where a resident of a the Kingdom of Saudi Arabia derives income which, in accordance with the provisions of this Agreement, may be taxed in Malaysia, the Kingdom of Saudi Arabia shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Malaysia. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from Malaysia.

   (b) in the case of Malaysia:

   Subject to the laws of Malaysia regarding the allowance as a credit against Malaysia tax of tax payable in any country other than Malaysia, the Saudi tax payable under the laws of the Kingdom of Saudi Arabia and in accordance with this Agreement by a resident of Malaysia shall be allowed as a credit against Malaysia tax payable in respect of income derived from the Kingdom of Saudi Arabia. Where such income is a dividend paid by a company which is a resident of the Kingdom of Saudi Arabia to a resident of Malaysia and which owns not less than 15 percent of the voting shares of the company paying the dividend, the credit shall also take into account Saudi tax payable by that company in respect of its income out of which the dividend is paid. The credit shall not, however, exceed that part of the Malaysian tax, as computed before the credit is given, which is appropriate to such income;

2. Where tax on income arising in either Contracting State is exempted or reduced under this Agreement or in accordance with the laws and regulations of either Contracting State for the promotion of economic development, such tax which has been exempted or reduced shall be deemed to have been paid for the purposes of this Article.

3. In the case of the Kingdom of Saudi Arabia, the methods for elimination of double taxation will not prejudice the provisions of the Zakat collection regime as regards Saudi nationals.

Article 24

MUTUAL AGREEMENT PROCEDURE

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

3. The competent authorities of both Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Agreement. They may also consult together for the elimination of double taxation in cases not provided for in this Agreement.

4. The competent authorities of the Contracting States may communicate with each other for the purposes of reaching an agreement in the preceding paragraphs.

Article 25

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by this Agreement insofar as the taxation thereunder is not contrary to this Agreement. The exchange of information is not restricted by Article 1. Any information received 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, or the determination of appeals in relation to, the taxes covered by this Agreement. 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.

2. In no case shall the provisions of paragraph 1 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.

Article 26

MEMBER 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 27

ENTRY INTO FORCE

1. Each of the Contracting States shall notify to the other, through the diplomatic channel, the completion of the procedures required by its law for the entry into force of this Agreement. This Agreement shall enter into force on the first day of the second month following the month in which the later of these notifications was received.

2. The provisions of this Agreement shall apply:

   (a) in the case of the Kingdom of Saudi Arabia:

      (i) with regard to taxes withheld at source, in respect of amounts paid or credited on or after the first day of January in the calendar year following the year in which this Agreement enters into force; and

      (ii) with regard to other taxes, in respect of taxable years beginning on or after the first day of January in the calendar year following the year in which this Agreement enters into force.

(b) in the case of Malaysia:

(i) in respect of taxes withheld at source, to income derived on or after the first day of January in the calendar year following the year in which this Agreement enters into force;

(ii) in respect of Malaysian tax, other than petroleum income tax, to tax chargeable for any year of assessment beginning on or after the first day of January in the calendar year following the year in which this Agreement enters into force; and

(iii) in respect of petroleum income tax, to taxes chargeable for any year of assessment beginning on or after the first day of January of the second calendar year following the year in which this Agreement enters into force;

Article 28

TERMINATION

1. This Agreement shall remain in force indefinitely, but either of the Contracting States may terminate this Agreement, through diplomatic channel, by giving to the other Contracting State written notice of termination not later than thirtieth day of June of any calendar year starting at least five years after the year in which this Agreement entered into force.

2. In such event this Agreement shall cease to apply:

(a) in the case of the Kingdom of Saudi Arabia:

(i) with regard to taxes withheld at source, in respect of amounts paid or credited after the end of the calendar year in which such notice is given; and

(ii) with regard to other taxes, in respect of taxable years beginning after the end of the calendar year in which such notice is given.

(b) in the case of Malaysia:

(i) in respect of taxes withheld at source, to income derived on or after the first day of January in the calendar year following the year in which the notice is given;

(ii) in respect of Malaysian tax, other than petroleum income tax, to tax chargeable for any year of assessment beginning on or after the first day of January in the calendar year following the year in which the notice is given; and

(iii) in respect of petroleum income tax, to taxes chargeable for any year of assessment beginning on or after the first day of January of the second calendar year following the year in which the notice is given;

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

DONE in duplicate at Putrajaya, this 31st day of January 2006, each in Arabic, Malay and English language, all texts being equally authentic. In case of any divergence in the interpretation and the application of this Agreement, the English text shall prevail.

For the Government of The Kingdom of Saudi Arabia	For the Government of Malaysia
IBRAHIM ABDULAZIZ AL-ASSAF	**TAN SRI NOR MD BIN YAKCOP**
MINISTER OF FINANCE	**SECOND MINISTER OF FINANCE**

PROTOCOL

At the moment of signing of the Agreement for the Avoidance of Double Taxation and the Prevention of Tax Evasion with respect to Taxes on Income, this day concluded between the Government of the Kingdom of Saudi Arabia and the Government of Malaysia, the undersigned have agreed that the following provisions shall form an integral part of the Agreement:

1. It is understood that the term "place of effective management" under this Agreement means the place where a company is actually managed and controlled or the place where the decision-making at the highest level on the important policies essential for the management of a company takes place.

2. The provisions of this Agreement do not have any effect on the provisions of the Agreement between the Government of Malaysia and the Government of Saudi Arabia for Reciprocal Exemption With Respect To Taxes on Income of Air Transport Enterprises of The Two Countries signed at Riyadh on 18th day of July 1993 [hereinafter referred to as "the Air Transport Agreement"]. In the event of any inconsistency between any provision of the Air Transport Agreement and any provision of this Agreement, the provision of the Air Transport Agreement shall prevail.

3. **With reference to Article 4:**

The term "resident" includes a legal person organized under the laws of a Contracting State and that is generally exempt from tax in that State and is established and maintained in that State either -

(i) exclusively for a religious, charitable, educational, scientific, or other similar purpose; or

(ii) to provide pensions or other similar benefits to employees pursuant to plan.

4. **With reference to Article 5:**

An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on at the end of a trade exhibition or conference in the other Contracting State sale of goods or merchandise it displayed at that trade exhibition or conference.

5. **With reference to Article 7:**

(i) The business profits derived by an enterprise of a Contracting State from the exportation of merchandise to the other Contracting State shall not be taxed in that other Contracting State. However in the case of the Kingdom of Saudi Arabia where export contracts include other activities carried on in the Kingdom of Saudi Arabia, income derived from such activities shall be taxed in the Kingdom of Saudi Arabia.

(ii) The term "business profits" includes, but is not limited to income derived from manufacturing, mercantile, banking, insurance and from the operation of inland transportation. However income derived from the performance of personal services by an individual either as an employee or in an independent capacity will be dealt with in Articles 14 and 15 respectively.

(iii) In the case of the Kingdom of Saudi Arabia, nothing in this Article shall affect the operation of any law of the Kingdom of Saudi Arabia relating to tax imposed on income from insurance with non-residents provided that if the relevant law in force in the Kingdom of Saudi Arabia at the date of signature of this Agreement is varied (otherwise than in minor respects so as not to affect its general character) the Contracting States shall consult with each other with a view to agreeing to any amendment of this paragraph as may be appropriate.

(iv) If the information available to the competent authority is inadequate to determine the profits to be attributed to the permanent establishment of an enterprise, nothing in this Article shall affect the application of any law of that State relating to the determination

of the tax liability of a person by the exercise of a discretion or the making of an estimate by the competent authority, provided that the law shall be applied, so far as the information available to the competent authority permits, in accordance with the principles of this Article.

IN WITNESS whereof the undersigned, duly authorized thereto, have signed this Protocol.

DONE in duplicate at Putrajaya, this 31st day of January 2006, each in Arabic, Malay, and English language, all texts being equally authentic. In case of any divergence in the interpretation and the application of this Protocol, the English text shall prevail.

For the Government of The Kingdom of Saudi Arabia	For the Government of Malaysia
IBRAHIM ABDULAZIZ AL-ASSAF	**TAN SRI NOR MD BIN YAKCOP**
MINISTER OF FINANCE	**SECOND MINISTER OF FINANCE**