

Part III

Administrative, Procedural, and Miscellaneous

Rev. Proc. 2014-47

Application Procedures and Overview of Requirements for Withholding Foreign Partnership or Withholding Foreign Trust Status Under Chapters 3 and 4; Final Withholding Foreign Partnership Agreement; Final Withholding Foreign Trust Agreement

SECTION 1. PURPOSE AND SCOPE

.01 Purpose. This revenue procedure provides guidance for entering into a withholding foreign partnership agreement (WP agreement) and a withholding foreign trust agreement (WT agreement) with the Internal Revenue Service (IRS) under §§1.1441-5(c)(2)(ii) and (e)(5)(v)¹.

Section 2 of this revenue procedure provides background on the withholding and reporting requirements of chapters 3 and 4 of the Internal Revenue Code (“Code”) and highlights changes to the existing WP agreement and WT agreement published in Revenue Procedure 2003-64, 2003-2 C.B. 306 (as amended by Revenue Procedure 2004-21, 2004-1 C.B. 702, and Revenue Procedure 2005-77, 2005-2 C.B. 1176). Section 3 of this revenue procedure provides the application procedures for becoming a withholding foreign partnership (WP) or withholding foreign trust (WT) and for renewing a WP agreement or WT agreement. Section 4 of this revenue procedure provides the revised WP agreement and section 5 of this revenue procedure

¹ Unless otherwise provided, all citations in this revenue procedure and the WP agreement and WT agreement are to the Internal Revenue Code of 1986 and to the Income Tax Regulations thereunder.

provides the revised WT agreement. The objective of the WP agreement and WT agreement is to allow a foreign partnership or foreign trust to become a WP or WT and to assume the withholding and reporting obligations under chapters 3 and 4 of the Code for payments of U.S. source income (such as interest, dividends, and royalties) made to its partners, beneficiaries, or owners, and in some cases, persons holding interests in the WP or WT through one or more foreign intermediaries or flow-through entities.

.02 Entities Eligible to Execute a WP or WT Agreement. The WP agreement and WT agreement may be entered into by a foreign partnership and a foreign trust described in §§1.1441-5(c)(2)(ii) and (e)(5)(v). With respect to an FFI, the WP agreement and WT agreement may only be entered into by an FFI that agrees to satisfy the requirements and obligations of (1) a participating FFI (including a reporting Model 2 FFI), (2) a registered deemed-compliant FFI (including a reporting Model 1 FFI and a nonreporting Model 2 FFI treated as registered deemed-compliant), or (3) a registered deemed-compliant Model 1 IGA FFI (as defined in section 2 of the WP agreement or WT agreement). See §§1.1471-1(b)(91) and (111). An FFI that is a certified deemed-compliant FFI (including a nonreporting IGA FFI (as defined in 1.1471-1(b)(83)) may enter into a WP agreement or WT agreement if the FFI meets and agrees to assume the obligations of, and to be treated as, a participating FFI (including a reporting Model 2 FFI), a registered deemed-compliant FFI (including a reporting Model 1 FFI or a nonreporting Model 2 FFI treated as registered deemed-compliant), or a registered deemed-compliant Model 1 IGA FFI. An NFFE or an FFI that is a retirement fund (as defined in section 2 of the WP agreement or WT agreement) may also apply to enter into a WP agreement or WT agreement.

A partnership or trust that is a territory financial institution (territory FI) (as defined in §1.1471-1(b)(130)) or a nonparticipating FFI (as defined in §1.1471-1(b)(82)) may not enter into a WP

agreement or WT agreement.

.03 Effective Date. The WP agreement and WT agreement provided in sections 4 and 5 of this revenue procedure, respectively, apply to WP agreements and WT agreements with effective dates on or after June 30, 2014.

(A) Renewal of a WP agreement or WT agreement. A WP or WT that applies to renew its WP or WT status on the IRS FATCA registration website and that is approved by the IRS on or before August 31, 2014, will have a WP agreement or WT agreement with an effective date of June 30, 2014. A WP or WT that applies to renew its WP or WT status on the FATCA registration website and is approved by the IRS after August 31, 2014, will have a WP agreement or WT agreement with an effective date of the date the renewal is approved. For this purpose, the date the renewal is approved is the later of the date the WP or WT is issued a GIIN or the WP or WT submits a request for renewal. If WP is a retirement fund or an NFFE that is not a sponsoring entity (as defined in §1.1471-1(b)(124)), it cannot renew its WP agreement on the FATCA registration website but must renew its WP agreement by submitting a request for renewal as described in section 3.02 of this revenue procedure and it does not need to obtain a GIIN. A WP or WT that is a retirement fund or an NFFE that is not a sponsoring entity and that applies to renew its WP agreement or WT agreement and that is approved by the IRS on or before August 31, 2014, will have a WP agreement or WT agreement with an effective date of June 30, 2014. A WP or WT that is a retirement fund or an NFFE that is not a sponsoring entity and that applies to renew its WP agreement or WT agreement after August 31, 2014 and that is approved by the IRS, will have a WP agreement or WT agreement with an effective date of the date of renewal as provided in the IRS' approval notice.

(B) New WP agreement or WT agreement

(1) Calendar Year 2014. An entity (other than a retirement fund or an NFFE that is not a sponsoring entity) that applies for WP or WT status before August 31, 2014 and is approved will have a WP agreement or WT agreement with an effective date of June 30, 2014, provided that it obtains a GIIN, if it has not already done so, within 90 days of such approval. An entity (other than a retirement fund or an NFFE that is not a sponsoring entity) that applies after August 31, 2014 will have a WP agreement or WT agreement with an effective date of the date it is issued a WP-EIN or WT-EIN, if its application is approved and provided that it obtains a GIIN, if it has not already done so, within 90 days of such approval. A new WP or WT applicant that is a retirement fund or an NFFE that is not a sponsoring entity will have a WP agreement or WT agreement with an effective date of the date it is issued a WP-EIN or WT-EIN, if its application is approved. See section 1.04 of this revenue procedure providing that a new WP or WT may act as a withholding foreign partnership or withholding foreign trust beginning January 1, 2014, if it complies with certain requirements.

(2) Calendar Years after 2014. For calendar years after 2014, applications for WP or WT status received on or before March 31 of the calendar year, if approved, will be effective January 1 of that calendar year. Applications for WP or WT status received on or after April 1, if approved, will be effective January 1 of the following calendar year and the entity must be in compliance with the WP Agreement beginning January 1.

.04 Special Procedure for New WPs and WTs for Calendar Year 2014. Except as otherwise provided in this section 1.04, an entity that has submitted an application to enter into a WP agreement or WT agreement and that is approved by the IRS during the calendar year, may act as a WP or WT in accordance with the revised WP agreement or WT agreement for the entire calendar year. For calendar year 2014, an entity that applies for WP or WT status may act in accordance with Revenue Procedure 2003-64 (as amended) for amounts subject to chapter 3 withholding (as defined in section 2.04 of the WP agreement or WT agreement) received before

June 30, 2014, as if the WP agreement or WT agreement of such WP or WT were effective on January 1, 2014 and expired on June 30, 2014. For amounts subject to chapter 3 withholding and withholdable payments received between June 30, 2014, and September 1, 2014, such entity may apply the principles described in section 1.05 of this revenue procedure. For the period beginning on September 1, 2014, through the term of the approved revised WP or WT agreement, the entity must comply with the revised WP agreement or WT agreement provided that the agreement has not been terminated.

.05 Special Procedures for Payments Received Prior to September 1, 2014. An entity that receives a withholdable payment or an amount subject to chapter 3 withholding prior to September 1, 2014, may represent itself to its withholding agent as a WP or WT, provided that the entity complies with the WP agreement or WT agreement in effect prior to June 30, 2014, and, in the case of an existing WP or WT, submits a request for renewal of its WP agreement or WT agreement (revised as provided in this revenue procedure) on or before August 31, 2014. However, because the revised WP agreement and WT agreement require a WP or WT to assume primary chapter 4 withholding responsibilities with respect to its partners, beneficiaries and owners (as applicable) under sections 1471 and 1472 in addition to its existing withholding requirements under the WP agreement and WT agreement, a WP or WT that makes a distribution for which withholding is required under chapter 4 beginning July 1, 2014, with respect to a partner, beneficiary or owner and does not withhold under chapter 4 to the extent required under the revised WP agreement or WT agreement must apply the procedures referenced in §1.1474-2(b) to satisfy any underwithholding.

.06 Effect on Other Documents. Revenue Procedure 2003-64, 2003-2 C.B. 306, Revenue Procedure 2004-21, 2004-1 C.B. 702, and Revenue Procedure 2005-77, 2005-2 C.B. 1176, are superseded with respect to the requirements of a WP or WT that apply on or after June 30,

2014. A WP agreement or WT agreement (which includes any riders to such agreement) in effect before June 30, 2014 expires on June 30, 2014. A WP or WT that had previously obtained a rider to its WP agreement or WT agreement and seeks to renew such rider (or request another rider to the WP or WT agreement) must apply directly to the IRS by submitting a request at the address provided in section 3.01 of this revenue procedure.

SECTION 2. BACKGROUND

.01 Withholding and Reporting under Chapter 4 of the Code. Section 1471(a) requires a withholding agent to deduct and withhold a tax equal to 30 percent on any withholdable payment made to an FFI, unless the FFI agrees to and complies with the terms of an FFI agreement (published in Revenue Procedure 2014-38, 2014-29 I.R.B.132 (as updated or superseded by any subsequent revenue procedure) to satisfy the obligations specified in section 1471(b) (a participating FFI), is deemed to meet these requirements under section 1471(b) (a deemed-compliant FFI), or is treated as an exempt beneficial owner under §1.1471-6. Section 1472(a) requires a withholding agent to deduct and withhold a tax equal to 30 percent on any withholdable payment made to an NFFE unless such entity provides a certification that it does not have any substantial U.S. owners, provides information regarding its substantial U.S. owners, or an exception to these requirements otherwise applies.

A participating FFI (including a reporting Model 2 FFI) or registered deemed-compliant FFI (other than a reporting Model 1 FFI or registered deemed-compliant Model 1 IGA FFI) will satisfy its requirement to withhold under sections 1471(a) and 1472(a) with respect to account holders of the FFI that are entities by withholding on withholdable payments made to nonparticipating FFIs and recalcitrant account holders under the FFI agreement, §1.1471-5(f), or an applicable Model 2 IGA. See the FFI agreement, §1.1471-5(f), and the applicable Model 2

IGA for the withholding requirements that apply to withholdable payments made to account holders of the FFI that are individuals treated as recalcitrant account holders. A reporting Model 1 FFI or a registered deemed-compliant Model 1 IGA FFI will satisfy its requirement to withhold under section 1471(a) with respect to its account holders by withholding on withholdable payments made to nonparticipating FFIs to the extent required under the applicable Model 1 IGA. A withholding agent (including a participating FFI or registered deemed-compliant FFI) that is required to withhold on a withholdable payment must report the payment on Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding.

A participating FFI (including a reporting Model 2 FFI) and certain registered deemed-compliant FFIs must, for a transitional period, report certain information about accounts it maintains that are held by nonparticipating FFIs. A withholding agent (including an FFI with respect to payments made to an NFFE that were not already reported with respect to a U.S. account (as defined in §1.1471-1(b)(134)) or U.S. reportable account (as defined under the applicable Model 1 or Model 2 IGA)) is also required to report withholdable payments made to an NFFE (other than an excepted NFFE) with substantial U.S. owners on Form 8966, FATCA Report, even though no withholding is required. See §§1.1472-1(b)(iii) and 1.1474-1(d) and (i).

.02 Withholding and Reporting under Chapter 3 of the Code. Under sections 1441 and 1442, a withholding agent is required to deduct and withhold a tax equal to 30 percent on any payment of U.S. source fixed or determinable annual or periodical (FDAP) income that is an amount subject to withholding (as defined in §1.1441-2(a)) made to a foreign person. A lower rate of withholding may apply under the Code (e.g., section 1443), the regulations, or an income tax treaty. Generally, a withholding agent must also report the payments on Forms 1042-S, regardless of whether withholding is required. See §1.1461-1(c).

.03 Coordination of Withholding and Reporting Requirements under Chapters 3 and 4 of the Code. With respect to a payment that is subject to withholding under chapter 4, a withholding agent may credit any tax withheld under chapter 4 against its liability for any tax due with respect to the payment under chapter 3. A withholding agent may use a single Form 1042-S to report information required under both chapters 3 and 4 with respect to a withholdable payment of U.S. source FDAP income subject to withholding under chapter 4 and for which a credit against the beneficial owner's chapter 3 liability, if any, may be claimed. Thus, a withholding agent that reports on Form 1042-S a withholdable payment that has been withheld upon under chapter 4 may provide certain information about the beneficial owner of the payment for purposes of chapter 3 on the same Form 1042-S. With respect to a withholdable payment of U.S. source FDAP income that is not subject to withholding under chapter 4 and that is an amount subject to withholding (or reporting) under chapter 3, a withholding agent is also required to report the applicable chapter 4 exemption code in addition to the other information required to be reported on Form 1042-S.

.04 Reporting Regarding Certain U.S. Persons by Foreign Partnerships and Foreign Trusts. If a foreign partnership has U.S. partners, the foreign partnership is generally required to file Form 1065 with a Schedule K-1 to report each U.S. partner. See §1.6031(a)-1. If a foreign trust is a grantor trust with U.S. owners, the foreign trust is required to file Form 3520-A, Annual Information Return of a Foreign Trust with a U.S. Owner, and to provide statements to a U.S. owner, as well as each U.S. beneficiary who is not an owner and receives a distribution. See section 6048(b).

A participating FFI (including a reporting Model 2 FFI), a registered deemed-compliant FFI (including a reporting Model 1 FFI and a nonreporting Model 2 FFI treated as registered deemed-compliant), or a registered deemed-compliant Model 1 IGA FFI must also report certain

account information regarding each of its U.S. accounts (or U.S. reportable accounts) that it maintains to the extent required under the FFI agreement, §1.1471-5(f), Model 1 IGA, or Model 2 IGA, as applicable to the FFI's chapter 4 status. A participating FFI (including a reporting Model 2 FFI) or a registered deemed-compliant FFI (other than a reporting Model 1 FFI) must also report certain information about accounts that it maintains that are held by recalcitrant account holders (or non-consenting U.S. accounts).

.05 Changes to WP Agreement and WT Agreement. Revenue Procedure 2003-64, 2003-2 C.B. 306, set forth the existing WP and WT agreements. This revenue procedure revises and updates the WP and WT agreements to coordinate with the withholding and reporting requirements of chapter 4, and based on the IRS' experience in dealing with these entities since the WP and WT agreements were first published in 2003. Highlights of the significant changes to the revised WP and WT agreements published in this revenue procedure are as follows.

(A) Coordination of Chapter 4. Consistent with the provisions under §1.1441-5(c)(2)(ii), the revised WP agreement and WT agreement require a WP or WT that is an FFI to obtain chapter 4 status as a participating FFI (including a reporting Model 2 FFI), a registered deemed-compliant FFI (including a reporting Model 1 FFI and a nonreporting Model 2 FFI treated as registered deemed-compliant), or a registered deemed-compliant Model 1 IGA FFI. An FFI that has entered into a WP agreement or WT agreement remains subject to the FATCA requirements applicable to its chapter 4 status for all of its partners, beneficiaries, or owners that are account holders for chapter 4 purposes (see §1.1471-5(a)(3) for the definition of account holder) irrespective of whether the FFI is acting as a WP or WT with respect to such partner, beneficiary, or owner. When an FFI chooses to act as a WP or WT with respect to a partner, beneficiary, or owner that is an account holder of the WP or WT for chapter 4 purposes, the FFI must comply with the FATCA obligations applicable to its chapter 4 status, except when

such obligations have been explicitly modified in the WP agreement or WT agreement (for example, the timing for when a WP or WT is required to withhold on a withholdable payment). The WP agreement and WT agreement also provides when the WP or WT is permitted to coordinate its FATCA requirements with the WP or WT's requirements under the WP agreement or WT agreement. For example, a WP or WT (regardless of whether it is an FFI or NFFE) must also assume section 1472 reporting obligations with respect to withholdable payments made to its partners, beneficiaries, or owners for which it acts as a WP or WT.

The existing WP agreement and WT agreement require WPs and WTs to assume withholding responsibilities under chapter 3 with respect to their direct partners, beneficiaries, or owners. To coordinate with chapter 4, the revised WP agreement and WT agreement require a WP and a WT to assume chapter 4 withholding responsibilities (in addition to their chapter 3 withholding responsibilities) with respect to their direct partners, beneficiaries, and owners. A WP or WT that withholds an amount under chapter 4 pursuant to its FATCA requirements may credit any tax withheld under chapter 4 against its liability for any tax due with respect to payments under chapter 3 consistent with the coordination rule provided in §1.1441-3(a)(2). Additionally, because a WP or WT will be required to assume primary withholding responsibility for chapter 4 purposes, the revised WP agreement and WT agreement expand the scope of payments for which an entity can act as a WP or WT to reportable amounts (as defined in section 2 of the WP or WT agreement, which includes withholdable payments). Thus, a WP or WT need not provide its withholding agent with a nonqualified intermediary withholding certificate and withholding statement for reportable amounts not subject to chapter 3 withholding that are allocable to partners, beneficiaries, or owners that are U.S. non-exempt recipients. A WP or WT will be required to report partners, beneficiaries, or owners that are U.S. non-exempt recipients on Form 8966, Schedule K-1, or Form 3520-A to the extent required under its FATCA requirements or the WP agreement or WT agreement.

(B) Documentation Requirements. The existing WP agreement and WT agreement require a WP or WT to document its partners, beneficiaries or owners solely with Forms W-8 and W-9 and do not permit reliance on the presumption rules of chapters 3 or 61. The revised WP agreement and WT agreement also prohibit reliance on the presumption rules with respect to a WP or WT's direct partners, beneficiaries, or owners and retain an automatic termination provision for a WP or WT's failure to obtain documentation for a direct partner, beneficiary, or owner. The revised WP agreement and WT agreement provide for the use of documentary evidence, in lieu of a Forms W-8 or Form W-9, for direct partners, beneficiaries, or owners that is obtained by a WP or WT that is an FFI and that is subject to the "know-your-customer" practices and procedures of a jurisdiction that the IRS has approved. A list of jurisdictions for which the IRS has received know-your-customer information and for which the know-your-customer rules are acceptable is available at: <http://www.irs.gov/Businesses/International-Businesses/List-of-Approved-KYC-Rules>. The rules permitting the use of documentary evidence do not apply to an NFFE acting as a WP or WT, which is required to obtain Forms W-8 and W-9 to document the chapter 3 status and, when required, the chapter 4 status of its partners, beneficiaries, or owners.

Previously, the WP agreement and WT agreement could be modified by rider to allow a WP or WT to reduce the rate of withholding under chapter 3 based on a beneficial owner's claim of treaty benefits without regard to the requirement that a Form W-8BEN include the direct partner, beneficiary, or owner's U.S. taxpayer identification number (TIN) as long as the WP or WT obtained a valid Form W-8BEN from a direct partner, beneficiary, or owner on which a claim of treaty benefits was made, including the appropriate limitation on benefits and section 894 certifications, if applicable. The revised WP agreement and WT agreement incorporate this allowance, eliminating the need for a rider for this purpose.

(C) Agency Option, Joint Account Option, and Indirect Partners. The existing WP agreement and WT agreement do not allow a WP or WT to act as a WP or WT for its indirect partners, beneficiaries, or owners, except in two specific situations describe section 9 of the WP agreement or WT agreement (agency and joint account arrangements), both of which require a written agreement between the WP or WT and another foreign partnership or foreign trust. In both situations, a WP or WT must make a pooled reporting election under section 6 of the existing WP agreement or WT agreement with respect to the direct partners, beneficiaries, or owners of the other foreign partnership or foreign trust. The WP agreement and WT agreement retain the joint account and agency options, as revised in section 9 of the WP agreement or WT agreement, to provide that a partnership or trust to which a WP or WT may apply the joint account or agency option must maintain a permissible chapter 4 status. The WP agreement and WT agreement also retain the allowance for the WP or WT to pool report in chapter 3 reporting pools with respect to the direct partners, beneficiaries, or owners of such partnership or trust. For the period beginning on the effective date of the WP agreement or WT agreement, and ending December 31, 2014, the revised WP agreement and WT agreement provide that a WP or WT that has entered into an agreement with a partnership or trust to apply the joint account or agency option may continue to act consistent with such agreement provided that the agreement meets the requirements of section 10 of Revenue Procedure 2003-64 (as amended). A partnership or trust to which the joint account or agency option applies may treat an obligation (which includes an account) held by an entity that it opens, executes, or issues on or after July 1, 2014, and before January 1, 2015, as a preexisting obligation for purposes of sections 1471 and 1472 as provided in Notice 2014-33, 2014-21 I.R.B. 1033, so that the WP or WT will not generally be required to withhold under chapter 4 during this transitional period.

Notwithstanding the restriction described above, the existing WP agreement and WT agreement were modified by rider in certain cases to permit a WP or WT to act as such for its indirect partners, beneficiaries, or owners, but the rider required specific payee reporting by the WP or WT with respect to these partners, beneficiaries, or owners. The WP agreement and WT agreement are revised to provide that a WP or WT may act as a WP or WT with respect to direct and indirect partners, beneficiaries, or owners of a direct partner that is a passthrough partner (as defined in section 2 of the WP or WT agreement), provided that such partner, beneficiary, or owner is not a U.S. non-exempt recipient (unless such U.S. non-exempt recipient is included in the passthrough partner's chapter 4 withholding rate pool of U.S. payees or recalcitrant account holders) in which case the WP or WT may also assume the withholding and Form 1042-S reporting requirements for these indirect partners. The WP or WT must report on a specific recipient basis with respect to indirect partners, beneficiaries, or owners for which it acts as a WP or WT (except to the extent the WP or WT is permitted to pool report for chapter 4 purposes or as otherwise permitted in section 9 of the WP or WT agreement).

(D) Compliance Procedures. The existing WP agreement and WT agreement require periodic audits by an external auditor in certain circumstances, including when a WP or WT made a pooled reporting election. The revised WP agreement and WT agreement replace the external audit requirement with an internal compliance program. As part of the internal compliance program, a WP or WT is required to designate a responsible officer who will oversee the program and who will make a periodic certification described in section 8.03 of the WP agreement or WT agreement and provide certain factual information regarding the results of the WP or WT's internal compliance review. The factual information requested will vary depending on the reportable amounts received by the WP or WT and whether the WP or WT makes a pooled reporting election. A periodic certification will be required once every three calendar years that the agreement is in effect (including extensions to the WP agreement or WT

agreement). Although the WP or WT will be required to arrange for the performance of a periodic review of its compliance with the WP agreement or WT agreement during the certification period, the revised agreements provide more flexibility than the existing agreements both with respect to the auditors who are eligible to perform the review and the content of the periodic review report. Further, the periodic review report is not required to be filed with the IRS absent a specific request for the report. The change to an internal compliance program corresponds to similar changes made to the qualified intermediary (QI) agreement and applies without regard to whether the WP or WT makes the pooled reporting election for chapter 3 purposes.

(E) Modified Form 1065 Filing Requirement. Under the existing WP agreement, unless modified by a rider, a WP is required to file Form 1065 and Schedules K-1 in accordance with the requirements of §1.6031(a)-1 and the instructions to the form. Section 1.6031(a)-1(b)(3) provides that if a foreign partnership has U.S. source income but does not have income that is effectively connected with the conduct of a trade or business within the United States, does not have any direct or indirect U.S. partners, and meets certain other conditions, such foreign partnership is not required to file a partnership return. Section 1.6031(a)-1(b)(3) also provides that if similar conditions to those described above are met but the foreign partnership has direct or indirect U.S. partners, such foreign partnership need only file Schedules K-1 for its U.S. partners (or foreign passthrough partners through which U.S. persons hold an interest in the foreign partnership). However, the modified filing requirements provided in §1.6031(a)-1(b)(3) expressly exclude WPs. In certain circumstances, the WP agreement, by rider, permitted a WP to apply the modified filing obligations under §1.6031(a)-1(b)(3). The revised WP agreement, incorporates the modified filing obligations under §1.6031(a)-1(b)(3) with certain revisions to permit a WP that meets the conditions specified in section 6.03(B) of the WP agreement, including that the WP would not otherwise be required to report a specifically allocated item to

any partner on Schedule K-1, to either not file a partnership return or not file Schedules K-1 for certain foreign partners dependent on whether the WP has any direct or indirect U.S. partners.

SECTION 3. APPLICATION PROCEDURES FOR WP OR WT AGREEMENTS

.01 Prospective WP or WT. An entity seeking to enter into a WP agreement or WT agreement must submit an application to become a WP or WT. The application must establish, to the satisfaction of the IRS, that the applicant has adequate resources and has established appropriate practices and procedures to comply with the terms of the WP agreement or WT agreement. An application must include the information required by Form 14345, Qualified Intermediary Application, a completed Form SS-4 (Application for Employer Identification Number), and any additional information and documentation requested by the IRS. An entity must apply for WP or WT status by submitting Form 14345, Qualified Intermediary Application, to:

Internal Revenue Service
Foreign Payments Program
290 Broadway, 12th Floor
New York, New York 10007-1867
Attention: QI/WP/WT Applications

Once the WP or WT application is approved, the IRS will send an approval notice to the address of the applicant provided on Form 14345. The approval notice will include a WP-EIN or WT-EIN assigned to the entity for fulfilling the requirements of a WP or WT under chapters 3 and 4, including making tax deposits and filing Forms 1042, 1042-S, and 8966. The approval notice will also instruct a WP or WT that is an FFI (other than a retirement fund) that, if it has not already done so, the WP or WT, within 90 days of the effective date of its agreement, must register with the IRS through the FATCA registration website available at www.irs.gov/FATCA to obtain a chapter 4 status as a participating FFI, registered deemed-compliant FFI, or registered

deemed-compliant Model 1 IGA FFI. A WP or WT that is an FFI (other than a retirement fund) or an NFFE that is a sponsoring entity, must, within 90 days of the effective date of its WP agreement or WT agreement, register its status as a WP or WT on the FATCA registration website by providing the information requested for renewal of WP or WT status. Upon completion of the registration process, a WP or WT described in the preceding sentence will be issued a GIIN (which is separate from its WP-EIN or WT-EIN) to be used to identify its chapter 4 status to withholding agents and to tax administrators, if applicable, and for FATCA reporting to the extent required under its FATCA requirements.

For future years, the IRS intends to update the online FATCA registration website to allow a prospective WP or WT to submit a WP or WT application electronically and in such manner as the IRS may prescribe in future guidance or other instructions. Until this update to the FATCA registration website occurs, a prospective WP or WT must submit a paper Form 14345 to the IRS at the address identified above.

The IRS will not enter into a WP agreement or WT agreement with an FFI that provides for the use of documentary evidence obtained under a jurisdiction's know-your-customer rules if it has not approved that jurisdiction's "know-your-customer" practices and procedures for opening accounts. A list of jurisdictions with know-your-customer rules that the IRS has approved is available at: <http://www.irs.gov/Businesses/International-Businesses/List-of-Approved-KYC-Rules>. To request IRS approval of a jurisdiction's know-your-customer rules, contact the KYC coordinator in the Foreign Intermediaries Program at the address provided above.

.02 Existing WP or WT. A WP or WT that has executed a WP agreement or WT agreement and seeks to renew its WP agreement or WT agreement and intends to register (or has registered) as a participating FFI, registered deemed-compliant FFI, or sponsoring entity must do so by submitting a registration form through the FATCA registration website available at www.irs.gov/FATCA and including the information requested for renewal of its WP or WT status. A WP or WT should ensure that it has provided to the IRS all of the information that is required to complete its FATCA registration and renew its WP agreement or WT agreement. Upon completion of the registration process and approval by the IRS, a WP or WT will be issued a GIIN to be used to identify its chapter 4 status to withholding agents and to tax administrators, if applicable, for FATCA reporting. A WP or WT will retain its previously issued WP-EIN or WT-EIN for fulfilling the requirements of a WP or WT under chapters 3 and 4, including making tax deposits and filing Forms 1042, 1042-S and 8966.

An existing WP or WT that is a retirement fund or an NFFE that is not a sponsoring entity must renew its WP or WT agreement by submitting a request for renewal to the Foreign Intermediaries Program at the address provided in section 3.01 of this revenue procedure.

.03 Requesting Modifications. The IRS will consider modifications by rider to the WP or WT agreement only if the WP or WT's unique facts and circumstances necessitate a modification. The WP or WT request for modification of the WP agreement or WT agreement must include: (1) a detailed description of the partnership or trust's unique facts and circumstances, (2) suggested modifications to the agreement, and (3) an analysis of the feasibility of any such suggested modifications. Such request must be submitted to the IRS at the address listed in section 3.01 of the revenue procedure. In its sole discretion, the IRS may agree, or refuse, to modify the WP or WT agreement.

SECTION 4. Withholding Foreign Partnership Agreement

Section 1. PURPOSE AND SCOPE

Section 2. DEFINITIONS

Section 3. WITHHOLDING RESPONSIBILITY

Section 4. DOCUMENTATION REQUIREMENTS

Section 5. WITHHOLDING FOREIGN PARTNERSHIP WITHHOLDING CERTIFICATE

Section 6. TAX RETURN AND INFORMATION REPORTING OBLIGATIONS

Section 7. ADJUSTMENTS FOR OVER- AND UNDERWITHHOLDING; REFUNDS

Section 8. COMPLIANCE PROCEDURES

Section 9. CERTAIN PARTNERSHIPS AND TRUSTS AND INDIRECT PARTNERS

Section 10. EXPIRATION, TERMINATION AND DEFAULT

Section 11. MISCELLANEOUS PROVISIONS

Section 12. EFFECTIVE DATE

The text of the WP agreement is set forth below. The IRS will no longer provide signed copies of the WP agreement. A reporting Model 2 FFI should interpret this Agreement by substituting the term “reporting Model 2 FFI” for “participating FFI” throughout this Agreement, except in cases where this Agreement explicitly refers to a reporting Model 2 FFI. A reporting Model 1 FFI and a nonreporting Model 2 FFI treated as a registered deemed-compliant FFI should apply this Agreement by substituting the term “reporting Model 1 FFI” or “nonreporting Model 2 FFI,” as applicable, for “registered deemed-compliant FFI” throughout this Agreement, except in cases where this Agreement explicitly refers to a reporting Model 1 FFI or nonreporting Model 2 FFI treated as a registered deemed-compliant FFI.

WHEREAS, WP has submitted an application in accordance with this revenue procedure to be a withholding foreign partnership for purposes of §1.1441-5(c)(2);

WHEREAS, WP and the IRS desire to enter into an agreement to establish WP's rights and obligations regarding documentation, withholding, information reporting, tax return filing, deposits, and refund procedures under sections 1441, 1442, 1443, 1461, 1471, 1472, 1474, 6031, 6302, 6402, and 6414 with respect to certain types of payments;

WHEREAS, WP represents that there are no legal restrictions that prohibit it from complying with the requirements of this Agreement;

WHEREAS, if WP is a foreign financial institution (other than a retirement fund), WP represents that it has agreed to comply with the requirements of the FFI agreement, in the case of a participating FFI; §1.1471-5(f)(1) or the applicable Model 2 IGA, in the case of a registered deemed-compliant FFI (other than a reporting Model 1 FFI); or an applicable IGA, in the case of a reporting Model 1 FFI or a registered deemed-compliant Model 1 IGA FFI (as defined in section 2.17(C) of this Agreement) beginning on the effective date of this Agreement;

NOW, THEREFORE, in consideration of the following terms, representations, and conditions, the parties agree as follows:

Section 1. PURPOSE AND SCOPE

Sec. 1.01. General Obligations. When the IRS enters into a WP agreement with a foreign person, that foreign person becomes a WP. Except as otherwise provided in this Agreement, WP's obligations with respect to income distributed to, or included in the distributive shares of, its partners are governed by the Internal Revenue Code and the regulations thereunder. WP must act in its capacity as a withholding foreign partnership pursuant to this Agreement for reportable amounts that are distributed to, or included in the distributive share of, WP's direct partners. WP may also act as a withholding foreign partnership for reportable amounts that are distributed to, or included in the distributive share of, a partner, beneficiary, or owner of a passthrough partner (i.e., an indirect partner of WP) if such indirect partner is not a U.S. non-exempt recipient. Notwithstanding the preceding sentence, a WP may act as a withholding foreign partnership for an indirect partner that is a U.S. non-exempt recipient if such partner is included in the passthrough partner's chapter 4 withholding rate pool (as defined in section 2.14 of this Agreement) of U.S. payees or recalcitrant account holders provided on the FFI withholding statement (as defined in section 2.25 of the WP Agreement) of the passthrough partner.

WP is not required to act as a withholding foreign partnership for payments that it distributes to, or includes in the distributive share, of a passthrough partner or indirect partner. With respect to an indirect partner for which WP does not (or cannot) act as a withholding foreign partnership, WP must, as part of its WP agreement, comply with the requirements of a withholding agent, as applicable to a nonwithholding foreign partnership under chapters 3 and 4. WP (regardless of whether it is an FFI or NFFE) must also, pursuant to this Agreement, assume primary reporting responsibility for purposes of section 1472 for certain partners.

If WP is an FFI, the requirements WP has agreed to as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI apply in addition to the requirements under this Agreement except to the extent specifically modified by this Agreement. This Agreement references WP's FATCA requirements when necessary to facilitate coordination with a WP's obligations under this Agreement with respect to its partners. A participating FFI's obligations are provided in the FFI agreement, a registered deemed-compliant FFI's (other than a reporting Model 1 FFI's) obligations are provided in §1.1471-5(f)(1) or the applicable IGA, and the obligations of a reporting Model 1 FFI or a registered deemed-compliant Model 1 IGA FFI are provided in the applicable IGA.

If WP is an NFFE, WP must comply with the requirements of a withholding agent under sections 1471 and 1472 which are provided in this Agreement. If a WP acts as a sponsoring entity on behalf on a sponsored FFI or sponsored direct reporting NFFE, it must comply with the due diligence, withholding, reporting, and compliance requirements of a sponsoring entity in addition to its requirements under the WP Agreement.

Sec. 1.02. Parties to the Agreement. This Agreement applies to WP and the IRS.

Section 2. DEFINITIONS

For purposes of this Agreement, the terms listed below are defined as follows:

Sec. 2.01. Account. “Account” has the meaning given to that term in §1.1471-1(b)(1) with respect to WP’s FATCA requirements.

Sec. 2.02. Account Holder. “Account Holder” has the meaning given to that term in §1.1471-1(b)(2) with respect to WP’s FATCA requirements with respect to an account that it maintains within the meaning of §1.1471-5(b)(5).

Sec. 2.03. Agreement. "Agreement" means this Agreement between WP and the IRS, all appendices and attachments to this Agreement, if applicable, and WP’s application to become a withholding foreign partnership. All appendices and attachments to this Agreement and WP’s application are incorporated into this Agreement by reference. Attachments to this Agreement include the know-your-customer (KYC) rules and the IRS approved KYC list (described in section 2.40 of this Agreement) to the extent WP is permitted to use (and uses) documentary evidence to document one or more direct partners under section 4.01(B) of this Agreement.

Sec. 2.04. Amount Subject to Chapter 3 Withholding. An "amount subject to chapter 3 withholding" is an amount described in §1.1441-2(a), regardless of whether such amount is withheld upon. An amount subject to chapter 3 withholding shall not include interest paid as part of the purchase price of an obligation sold between interest payment dates or original issue discount paid as part of the purchase price of an obligation sold in a transaction other than the redemption of such obligation, unless the sale is part of a plan the principal purpose of which is to avoid tax and WP has actual knowledge or reason to know of such plan.

Sec. 2.05. Amount Subject to Chapter 4 Withholding. An “amount subject to chapter 4 withholding” is an amount that is a withholdable payment (as defined in section 2.76 of this Agreement) for which withholding is required under chapter 4 or an amount for which withholding was otherwise applied under chapter 4.

Sec. 2.06. Assumption of Primary Withholding Responsibility. A WP assumes primary chapters 3 and 4 withholding responsibility with respect to amounts subject to chapter 3 or 4 withholding under the terms of the WP agreement. Generally, WP’s assumption of primary chapters 3 and 4 withholding responsibility relieves the person who makes a payment to WP from the responsibility to withhold. See sections 3.03 and 3.04 of this Agreement for when WP is required to withhold under this Agreement.

Sec. 2.07. Beneficial Owner. A “beneficial owner” has the meaning given to that term in §1.1441-1(c)(6).

Sec. 2.08. Chapter 3. Any reference to "chapter 3 of the Code" or “chapter 3” means sections 1441, 1442, 1443, 1461, 1463, and 1464.

Sec. 2.09. Chapter 3 Reporting Pool. A chapter 3 reporting pool means a reporting pool described in section 6.02(D) of this Agreement.

Sec. 2.10. Chapter 3 Status. The term “chapter 3 status” refers to the attributes of a payee (and a partner of WP for purposes of this Agreement) relevant for determining the rate of withholding with respect to a payment made to the payee for purposes of chapter 3.

Sec. 2.11. Chapter 4. Any reference to “chapter 4 of the Code” or “chapter 4” means sections 1471, 1472, 1473, and 1474.

Sec. 2.12. Chapter 4 Reporting Pool. A chapter 4 reporting pool means a reporting pool described in section 6.02(C) of this Agreement.

Sec. 2.13. Chapter 4 Status. “Chapter 4 status” means the status of a person as a U.S. person, specified U.S. person, an individual that is a foreign person, a participating FFI, a deemed-

compliant FFI, a restricted distributor, an exempt beneficial owner, a nonparticipating FFI, a territory financial institution, an excepted NFFE, or a passive NFFE.

Sec. 2.14. Chapter 4 Withholding Rate Pool. A “chapter 4 withholding rate pool” means a pool of payees that are nonparticipating FFIs provided on a chapter 4 withholding statement (as described in §1.1471-3(c)(3)(iii)(B)(3)) to which a withholdable payment is allocated. The term chapter 4 withholding rate pool also means a pool of payees provided on an FFI withholding statement (as described in §1.1471-3(c)(3)(iii)(B)(2)) to which a withholdable payment is allocated to --

(A) A pool of payees consisting of each class of recalcitrant account holders described in §1.1471-4(d)(6) (or with respect to an FFI that is a QI, a single pool of recalcitrant account holders that is not subdivided into classes of recalcitrant account holders described in §1.1471-4(d)(6)), including a separate pool of account holders to which the escrow procedures for dormant accounts apply; or

(B) A pool of payees that are U.S. persons as described in §1.1471-3(c)(3)(iii)(B)(2).

Sec. 2.15. Deemed-Compliant FFI. “Deemed-compliant FFI” means a certified deemed-compliant FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI that is treated, pursuant to section 1471(b)(2) and §1.1471-5(f), as meeting the requirements of section 1471(b).

(A) *Certified Deemed-Compliant FFI.* “Certified deemed-compliant FFI” means an FFI described in §1.1471-5(f)(2), and includes a nonreporting Model 1 FFI, a nonreporting Model 2 FFI that is treated as a certified deemed-compliant FFI, and a registered deemed-compliant Model 1 IGA FFI (as defined in section 2.15(C) of this Agreement).

(B) *Registered Deemed-Compliant FFI.* “Registered deemed-compliant FFI” means an FFI described in §1.1471-5(f)(1) and includes a reporting Model 1 FFI and a nonreporting Model 2 FFI that is treated as registered deemed-compliant. For purposes of this Agreement, a reference to a registered deemed-compliant FFI that is providing a chapter 4 withholding rate pool of U.S. payees includes a registered deemed-compliant Model 1 IGA FFI (as defined in section 2.15(C) of this Agreement).

(C) *Registered Deemed-Compliant Model 1 IGA FFI.* “Registered deemed-compliant Model 1 IGA FFI” means an FFI treated as a deemed-compliant FFI under an applicable Model 1 IGA that is subject to similar due diligence and reporting requirements with respect to U.S. accounts as those applicable to a registered deemed-compliant FFI under §1.1471-5(f)(1), including the requirement to register with the IRS.

Sec. 2.16. Direct Partner. A “direct partner” means a partner that is not an indirect partner (as defined in section 2.38 of this Agreement).

Sec. 2.17. Documentary Evidence. “Documentary evidence” means any documentation obtained under the appropriate know-your-customer rules (as defined in section 2.40 of this Agreement and described in the Attachments to this Agreement), or any documentary evidence described in §1.1441-6 sufficient to establish entitlement to a reduced rate of withholding under an income tax treaty. Documentary evidence does not include a Form W-8 or Form W-9 (or an acceptable substitute Form W-8 or Form W-9).

Sec. 2.18. Documentation. “Documentation” means any valid Form W-8, Form W-9 (or acceptable substitute Form W-8 or Form W-9), or documentary evidence, as defined in section 2.17 of this Agreement, including all statements or other information required to be associated with the form or documentary evidence.

Sec. 2.19. Excepted NFFE. “Excepted NFFE” means a person described in §1.1471-1(b)(41).

Sec. 2.20. Exempt Beneficial Owner. “Exempt beneficial owner” means a person described in §1.1471-1(b)(42) and includes any person that is treated as an exempt beneficial owner under an applicable Model 1 IGA or Model 2 IGA.

Sec. 2.21. Exempt Recipient. An “exempt recipient” means a person described in §1.6049-4(c)(1)(ii) (for interest, dividends, and royalties), a person described in §1.6045-2(b)(2)(i) (for broker proceeds), and a person described in §1.6041-3(q) (for rents, amounts paid on notional principal contracts, and other fixed or determinable income). Exempt recipients are not exempt from chapter 3 or 4 withholding.

Sec. 2.22. FATCA Requirements as a Participating FFI, Registered Deemed-Compliant FFI, or Registered Deemed-Compliant Model 1 IGA FFI. “FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI” means:

(A) For a participating FFI, the requirements set forth in the FFI agreement;

(B) For a registered deemed-compliant FFI (other than a reporting Model 1 FFI), the requirements under §1.1471-5(f)(1) or the applicable Model 2 IGA; or

(C) For a reporting Model 1 FFI and a registered deemed-compliant Model 1 IGA FFI, the requirements under foreign domestic law to implement the applicable Model 1 IGA.

Sec. 2.23. Financial Institution (FI). “Financial institution” or “FI” means an entity described in §1.1471-5(d) and includes a financial institution as defined under an applicable Model 1 IGA or Model 2 IGA.

Sec. 2.24. FFI Agreement. “FFI agreement” means an agreement of a participating FFI described in §1.1471-4(a) and published in Revenue Procedure 2014-38, 2014-29 I.R.B.132 (as updated or superseded by any subsequent revenue procedure).

Sec. 2.25. FFI Withholding Statement. An “FFI withholding statement” means a withholding statement provided by an FFI that meets the requirements of §1.1471-3(c)(3)(iii)(B)(1) and (2).

Sec. 2.26. Flow-Through Entity. A flow-through entity is a foreign partnership described in §301.7701-2 or 3 (other than a withholding foreign partnership), a foreign trust that is described in section 651(a) (other than a withholding foreign trust), or a foreign trust if all or a portion of such trust is treated as owned by the grantor or other person under sections 671 through 679. With respect to an item of U.S. source FDAP income for which a treaty benefit is claimed, an entity is also a flow-through entity to the extent it is treated as fiscally transparent under section 894 and the regulations thereunder.

Sec. 2.27. Foreign Financial Institution (FFI). “Foreign financial institution” or “FFI” means a foreign entity (as defined in §1.1473-1(e)) that is a financial institution.

Sec. 2.28. Foreign TIN. A “foreign TIN” is a taxpayer identification number issued by a foreign person’s country of residence.

Sec. 2.29. Foreign Person. A “foreign person” is any person that is not a “United States person” and includes a “nonresident alien individual,” a “foreign corporation,” a “foreign partnership,” a “foreign trust,” and a “foreign estate,” as those terms are defined in section 7701 of the Code. For purposes of chapters 3 and 4, the term foreign person also means, with respect to a payment by a withholding agent (including a withholding foreign partnership), a foreign branch (including a foreign disregarded entity) of a U.S. person that provides a valid Form W-8IMY on which it represents that it is a qualified intermediary.

Sec. 2.30. Form W-8. “Form W-8” means IRS Form W-8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding (Individuals); IRS Form W-8BEN-E,

Certificate of Status of Beneficial Owner for United States Tax Withholding and Reporting (Entities), IRS Form W-8ECI, Certificate of Foreign Person's Claim That Income is Effectively Connected With the Conduct of a Trade or Business in the United States; IRS Form W-8EXP, Certificate of Foreign Government or Other Foreign Organization for United States Tax Withholding and Reporting; and IRS Form W-8IMY, Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding and Reporting, as appropriate. It also includes any acceptable substitute form as described under §§1.1441-1(e)(4)(vi) and 1.1471-3(c)(6)(v).

Sec. 2.31. Form W-9. "Form W-9" means IRS Form W-9, Request for Taxpayer Identification Number and Certification, or any acceptable substitute as described under §31.3406(h)-3(c).

Sec. 2.32. Form 1042. "Form 1042" means IRS Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons.

Sec. 2.33. Form 1042-S. "Form 1042-S" means IRS Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding.

Sec. 2.34. Form 1065. "Form 1065" means IRS Form 1065, U.S. Return of Partnership Income, including Schedules K-1 associated with that form.

Sec. 2.35. Form 1099. "Form 1099" means IRS Form 1099-B, Proceeds From Broker and Barter Exchange Transactions; IRS Form 1099-DIV, Dividends and Distributions; IRS Form 1099-INT, Interest Income; IRS Form 1099-MISC, Miscellaneous Income; IRS Form 1099-OID, Original Issue Discount; and any other form in the IRS Form 1099 series appropriate to the type of payment required to be reported.

Sec. 2.36. Form 8966. "Form 8966" means IRS Form 8966, FATCA Report.

Sec. 2.37. Global Intermediary Identification Number (GIIN). "Global intermediary identification number" or "GIIN" means the identification number that is assigned to a participating FFI, registered deemed-compliant FFI, direct reporting NFFE, or sponsoring entity. The term also includes the identification number assigned to a reporting Model 1 FFI or registered deemed-compliant Model 1 IGA FFI that is a WP for the purpose of identifying itself to withholding agents.

Sec. 2.38. Indirect Partner. An "indirect partner" is a person that owns a partnership interest in WP through one or more passthrough partners (as defined below in section 2.51 of this Agreement). For example, a person that holds an account with a foreign intermediary or an interest in a flow-through entity which intermediary or flow-through entity, in turn, is a direct partner of WP is an indirect partner. A person is an indirect partner of WP even if there are multiple tiers of intermediaries or flow-through entities between the person and WP.

Sec. 2.39. Intermediary. An "intermediary" means a person that, for that payment, acts as a custodian, broker, nominee, or otherwise as an agent for another person, regardless of whether such other person is the beneficial owner of the amount paid, a flow-through entity, or another intermediary.

Sec. 2.40. Know-Your-Customer Rules. The phrase "know-your-customer rules" refers to the applicable laws, regulations, rules, and administrative practices and procedures (identified in the attachment to this Agreement) governing the requirements of certain WPs that are FFIs to obtain documentation confirming the identity of WP's direct partners. A list of jurisdictions for which the IRS has received know-your-customer information and for which the know-your-customer rules and specified documentation are acceptable (IRS approved KYC list) is available at: <http://www.irs.gov/Businesses/International-Businesses/List-of-Approved-KYC-Rules>.

Sec. 2.41. Marketable Securities. For purposes of this Agreement, the term “marketable securities” means those securities described in §1.1441-6 for which a U.S. TIN or foreign TIN is not required to be provided by the beneficial owner to obtain treaty benefits.

Sec. 2.42. Non-Consenting U.S. Account. For purposes of a reporting Model 2 FFI, “non-consenting U.S. account” has the meaning that such term has under the applicable Model 2 IGA.

Sec. 2.43. Non-Exempt Recipient. A “non-exempt recipient” means a person that is not an exempt recipient under the definition in section 2.21 of this Agreement.

Sec. 2.44. Non-Financial Foreign Entity (NFFE). A “non-financial foreign entity” or “NFFE” means a foreign entity that is not a financial institution (including an entity that is incorporated or organized under the laws of any U.S. territory and that is not a financial institution). The term also means a foreign entity treated as an NFFE pursuant to a Model 1 IGA or Model 2 IGA.

Sec. 2.45. Nonparticipating FFI. A “nonparticipating FFI” means an FFI other than a participating FFI, a deemed-compliant FFI, or an exempt beneficial owner.

Sec. 2.46. Nonwithholding Foreign Partnership (NWP). A “nonwithholding foreign partnership” means a foreign partnership other than a withholding foreign partnership as defined in §1.1441-5(c)(2).

Sec. 2.47. Nonwithholding Foreign Trust (NWT). A “nonwithholding foreign trust” means a foreign trust (as defined in section 7701(a)(31)(B)) that is a foreign simple trust or a foreign grantor trust and that is not a withholding foreign trust (as defined in section 2.80 of this Agreement).

Sec. 2.48. Overwithholding. The term “overwithholding” means any amount actually withheld (determined before application of the adjustment procedures described in section 7.01 of this Agreement) from an item of income or other payment that is in excess of the amount required to be withheld under chapter 4 with respect to such item of income or other payment, if applicable, and, in the case of an amount subject to chapter 3 withholding, the actual tax liability of the beneficial owner of the income or payment to which the withheld amount is attributable, regardless of whether such overwithholding was in error or appeared correct at the time it occurred. For purposes of section 3406, the term “overwithholding” means the excess of the amount actually withheld under section 3406 over the amount required to be withheld.

Sec. 2.49. Participating FFI. A “participating FFI” means an FFI that has agreed to comply with the requirements of an FFI agreement, including an FFI described in a Model 2 IGA that has agreed to comply with the requirements of an FFI agreement (reporting Model 2 FFI). The term also includes a qualified intermediary branch of a U.S. financial institution, unless such branch is a reporting Model 1 FFI.

Sec. 2.50. Partnership and Partner. The terms “partnership” and “partner” are defined in section 7701(a)(2) of the Code and the regulations thereunder. For purposes of chapter 4, “partner” means an account holder as defined in section 2.02 of this Agreement with respect to a WP that is an FFI.

Sec. 2.51. Passthrough Partner. A “passthrough partner” is a direct or indirect partner of WP that is a foreign intermediary or foreign flow-through entity. As provided in section 2.26 of this Agreement, a withholding foreign partnership or withholding foreign trust is not a flow-through entity and thus is not a passthrough partner.

Sec. 2.52. Payee. For purposes of chapter 3, a “payee” is defined in §1.1441-1(c)(12) and for purposes of chapter 4, a payee means a person described in §1.1471-3(a).

Sec. 2.53. Payment. A "payment" means an amount considered made to a person if that person realizes income whether or not such income results from an actual transfer of cash or other property. See §1.1441-2(e). For example, a payment includes crediting an amount to an account.

Sec. 2.54. Payor. A "payor" is defined in §31.3406(a)-2 and §1.6049-4(a)(2) and generally means any person required to make an information return under chapter 61.

Sec. 2.55. Permanent Residence Address. A "permanent residence address" means an address described in §1.1441-1(c)(38).

Sec. 2.56. Pooled Reporting (PR) Election. A "pooled reporting election" or "PR election" is an election to pool report chapter 3 reporting pools on Form 1042-S for chapter 3 purposes as described in section 6.02(D) of this Agreement.

Sec. 2.57. Qualified Intermediary. A "qualified intermediary" is a person, described in §1.1441-1(e)(5)(ii), that enters into an agreement with the IRS to be treated as a qualified intermediary and acts in its capacity as a qualified intermediary. See Rev. Proc. 2014-39, 2014-29 I.R.B. 151 (as updated or superseded by any subsequent revenue procedure), for the QI Agreement.

Sec. 2.58. Recalcitrant Account Holder. A "recalcitrant account holder" means a person described in §1.1471-5(g).

Sec. 2.59. Reduced Rate of Withholding. A "reduced rate of withholding" means a rate of withholding under chapter 3 that is less than 30 percent, either as a result of a reduction in withholding under the Code or as a result of a reduction in withholding under an income tax treaty.

Sec. 2.60. Reportable Amount. A "reportable amount" means U.S. source FDAP income that is an amount subject to chapter 3 withholding (as defined in section 2.04 of this Agreement), U.S. source deposit interest (as defined in section 871(i)(2)(A)), and U.S. source interest or original issue discount paid on the redemption of short-term obligations (as defined in section 871(g)(1)(B)(i)). The term does not include payments on deposits with banks and other financial institutions that remain on deposit for two weeks or less. It also does not include amounts of original issue discount arising from a sale and repurchase transaction completed within a period of two weeks or less, or amounts described in §1.6049-5(b)(7), (10), or (11) (relating to certain foreign targeted registered obligations and certain obligations issued in bearer form).

Sec. 2.61. Reporting Model 1 FFI. A "reporting Model 1 FFI" means an FFI with respect to which a foreign government or agency thereof agrees to obtain and exchange information pursuant to a Model 1 IGA, other than an FFI that is treated as a nonreporting Model 1 FFI (including a registered deemed-compliant Model 1 IGA FFI) or nonparticipating FFI under an applicable Model 1 IGA.

Sec. 2.62. Reporting Pool. A reporting pool is defined in section 6.02(A) of this Agreement.

Sec. 2.63. Responsible Officer. A "responsible officer" of a WP means a partner of WP or an officer or agent of the general partner or tax matters partner of WP with sufficient authority to fulfill the duties of a responsible officer as described in section 8 of this Agreement, including the requirements to periodically certify and to respond to requests by the IRS for additional information to review WP's compliance with this Agreement.

Sec. 2.64. Retirement Fund. A "retirement fund" means a retirement fund or other fund that is an exempt beneficial owner described in §1.1471-6(f) or a similar fund that qualifies as an exempt beneficial owner under an applicable Model 1 IGA or Model 2 IGA.

Sec. 2.65. Schedule K-1. "Schedule K-1" or "K-1" is a schedule associated with Form 1065 that shows each partner's separate share of partnership's income, credits, deductions, etc.

Sec. 2.66. Sponsored Direct Reporting NFFE. The term "sponsored direct reporting NFFE" has the meaning set forth in §1.1472-1(c)(5).

Sec. 2.67. Sponsored FFI. The term "sponsored FFI" means any entity described in §1.1471-5(f)(1)(i)(F) (sponsored investment entities and sponsored controlled foreign corporations) or §1.1471-5(f)(2)(iii) (sponsored, closely held investment vehicles).

Sec. 2.68. Sponsoring Entity. "Sponsoring entity" means (i) an entity that registers with the IRS and agrees to perform the due diligence, withholding, and reporting obligations of one or more sponsored FFIs pursuant to §1.1471-5(f)(1)(i)(F) or (f)(2)(iii); or (ii) an entity that registers with the IRS and agrees to perform the due diligence and reporting obligations of one or more direct reporting NFFEs pursuant to §1.1472-1(c)(5).

Sec. 2.69. Underwithholding. "Underwithholding" means the excess of the amount required to be withheld under chapter 3 or 4 over the amount actually withheld.

Sec. 2.70. Undocumented Partner. An "undocumented partner" is a partner for whom WP does not have valid documentation.

Sec. 2.71. U.S. Account. A "U.S. account" is any financial account maintained by a participating FFI or registered deemed-compliant FFI that is held by one or more specified U.S. persons or U.S. owned foreign entities that such FFI reports or elects to report under the FFI agreement or § 1.1471-5(f), as applicable. A U.S. account includes, in the case of a reporting Model 1 FFI or registered deemed-compliant Model 1 IGA FFI, a U.S. reportable account as defined in section 2.73 of this Agreement.

Sec. 2.72. U.S. Person. A "United States person" (or "U.S. person") is a person described in section 7701(a)(30), the U.S. government (including an agency or instrumentality thereof), a State of the United States (including an agency or instrumentality thereof), or the District of Columbia (including an agency or instrumentality thereof). For chapter 4 purposes, the term "U.S. person" or "United States person" also means a foreign insurance company that has made an election under section 953(d), provided that either the foreign insurance company is not a specified insurance company (as described in §1.1471-5(e)(1)(iv)) and is not licensed to do business in any State, or the foreign insurance company is a specified insurance company and is licensed to do business in any State.

Sec. 2.73. U.S. Reportable Account. A "U.S. reportable account" means a financial account maintained by a reporting Model 1 FFI or registered deemed-compliant Model 1 IGA FFI that such FFI reports or elects to report under the applicable domestic law for compliance with and implementation of FATCA.

Sec. 2.74. U.S. Source FDAP. "U.S. source FDAP" means amounts from sources within the United States that constitute fixed or determinable annual or periodical income, as defined in §1.1441-2(b)(1).

Sec. 2.75. U.S. TIN. A "U.S. TIN" means a U.S. taxpayer identification number assigned under section 6109.

Sec. 2.76. Withholdable Payment. A "withholdable payment" means an amount described in §1.1473-1(a).

Sec. 2.77. Withholding Agent. A "withholding agent" has the same meaning as set forth in §1.1441-7(a) for purposes of chapter 3 and as set forth in §1.1473-1(d) for purposes of chapter 4 and includes a payor (as defined in section 2.54 of this Agreement). As used in this

Agreement, the term generally refers to the person making a payment to a withholding foreign partnership.

Sec. 2.78. Withholding Foreign Partnership (WP). A "withholding foreign partnership" or "WP" means a partnership, described in §1.1441-5(c)(2), that has entered into a withholding agreement with the IRS to be treated as a withholding foreign partnership.

Sec. 2.79. Withholding Foreign Partnership EIN (WP-EIN). A "withholding foreign partnership EIN" or "WP-EIN" means the employer identification number assigned by the IRS to a withholding foreign partnership. WP's WP-EIN is only to be used when WP is acting as a withholding foreign partnership. For example, WP must give a withholding agent its non-WP EIN, if any, rather than its WP-EIN, if it is not acting as a withholding foreign partnership (i.e., nonwithholding foreign partnership) and a taxpayer identification number is required.

Sec. 2.80. Withholding Foreign Trust (WT). A "withholding foreign trust" or "WT" means a trust, described in §1.1441-5(e)(5)(v), that has entered into a withholding agreement with the IRS to be treated as a withholding foreign trust.

Sec. 2.81. Other Terms. Any term not defined in this section has the same meaning that it has under the Code, including the income tax regulations under the Code, any applicable income tax treaty, or any applicable Model 1 IGA or Model 2 IGA with respect to WP's FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI.

Section 3. WITHHOLDING RESPONSIBILITY

Sec. 3.01. Chapters 3 and 4 Withholding--In General.

(A) Chapter 4 Withholding.

WP (unless WP is a retirement fund) is a withholding agent for purposes of chapter 4 and is subject to the withholding and reporting provisions applicable to withholding agents under sections 1471 and 1472 with respect to its partners. WP is required to withhold 30 percent of any withholdable payment made after June 30, 2014, that is distributed to, or included in the distributive share of, a partner that is an FFI unless WP can reliably associate the payment (or portion of the payment) with documentation upon which it is permitted to rely to treat the payment as exempt from withholding under §1.1471-2(a)(4), or the payment is made under a grandfathered obligation described in §1.1471-2(b). See §1.1473-1(a) for the definition of a withholdable payment and the applicable exceptions to this definition. WP is also required to withhold 30 percent of any withholdable payment made after June 30, 2014, that is distributed to, or included in the distributive share of, a partner that is an NFFE unless WP can reliably associate the payment (or portion of the payment) with a certification described in §1.1472-1(b)(1)(ii), or an exception to withholding under §1.1472-1 applies.

If WP is a retirement fund, WP is not required to withhold under section 1471 or 1472. If WP is a participating FFI or registered deemed-compliant FFI (other than a reporting Model 1 FFI), WP will satisfy its requirement to withhold under sections 1471(a) and 1472(a) with respect to direct partners that are entities by withholding on withholdable payments made to nonparticipating FFIs and recalcitrant account holders to the extent required under its FATCA requirements as a participating FFI or registered deemed-compliant FFI. See the FFI agreement, §1.1471-5(f), or the applicable Model 2 IGA for the withholding requirements that apply to withholdable payments made to direct partners that are individuals and are treated as recalcitrant account holders. If WP is a reporting Model 1 FFI or a registered deemed-compliant Model 1 IGA FFI, WP will satisfy its requirement to withhold under section 1471(a) with respect to direct partners by withholding on withholdable payments made to nonparticipating FFIs to the extent required

under its FATCA requirements as a registered deemed-compliant FFI or registered deemed-compliant Model 1 IGA FFI. WP must withhold at the time and in the manner described in sections 3.02 through 3.04 of this Agreement which modifies other provisions describing the time and manner in which WP would otherwise be required to withhold for chapter 4 purposes.

(B) Chapter 3 Withholding.

WP is a withholding agent for purposes of chapter 3 and is subject to the withholding and reporting provisions applicable to withholding agents under chapter 3. WP must withhold 30 percent of any payment of an amount subject to chapter 3 withholding that is distributed to, or included in the distributive share of, a partner that is a foreign person unless WP can reliably associate the payment with documentation upon which it can rely to treat the payment as made to a payee that is a U.S. person or as made to a beneficial owner that is a foreign person entitled to a reduced rate of withholding. See section 4 of this Agreement regarding documentation requirements applicable to WP for determining whether chapter 3 withholding applies.

With respect to an amount subject to chapter 4 withholding that is also an amount subject to chapter 3 withholding, WP may credit any tax withheld under chapter 4 against its liability for any tax due under chapter 3 with respect to the payment so that no additional withholding is required on the payment for purposes of chapter 3. Nothing in chapter 4 or the regulations thereunder (including the FFI agreement) or any applicable IGA relieves WP of its requirements to withhold on an amount subject to chapter 3 withholding to the extent required under sections 3.02 through 3.04 of this Agreement or modifies the documentation upon which WP may rely under section 4 of this Agreement for determining whether withholding under chapter 3 applies.

Sec. 3.02. Primary Chapters 3 and 4 Withholding Responsibility. WP must assume primary chapters 3 and 4 withholding responsibility for all withholdable payments and amounts subject to chapter 3 withholding that are distributed to, or included in the distributive share of, any direct partner and any indirect partner for which it acts as a WP to the extent permissible under section 9 of this Agreement. If WP acts as a nonwithholding foreign partnership (NWP) with respect to an indirect partner, it cannot assume primary chapters 3 and 4 withholding responsibility for payments made to that indirect partner. WP is not required to withhold on amounts it pays to a qualified intermediary that assumes primary withholding responsibility with respect to the payment, or to a withholding foreign trust, or another withholding foreign partnership.

If WP is a participating FFI or a registered deemed-compliant FFI, it may not elect with respect to its direct partners to satisfy its obligation to withhold under chapter 4 (or the FFI agreement) on a withholdable payment made to a recalcitrant account holder that is a U.S. non-exempt recipient by backup withholding under section 3406 as provided in §1.1471-4(b)(3)(iii) and section 4 of the FFI agreement.

See section 6 of this Agreement regarding WP's responsibility to report amounts subject to withholding on Form 1042-S.

Sec. 3.03. Timing of Withholding. WP must withhold on the date it makes a distribution to a foreign partner that includes a withholdable payment or an amount subject to chapter 3 withholding as determined under section 3.04 of this Agreement. To the extent a partner's distributive share of income subject to withholding has not actually been distributed to the partner, WP must withhold on the partner's distributive share on the earlier of the date that the statement required under section 6031(b) (i.e., Schedule K-1) is mailed or otherwise provided to the partner or the due date for furnishing the statement (whether or not WP is required to prepare and furnish the statement).

Sec. 3.04. Withholding on Distributions. WP may determine the amount of withholding on a distribution based on a reasonable estimate of the partner's distributive share of income subject to withholding for the year. WP must correct the estimated withholding to reflect the partner's actual distributive share on the earlier of the date that the statement required under section 6031(b) (i.e., Schedule K-1) is mailed or otherwise provided to the partner or the due date for furnishing the statement (whether or not WP is required to prepare and furnish the statement). If that date is after the due date for filing WP's Forms 1042 and 1042-S (including extensions) for the calendar year, WP may withhold and report any adjustments required by correcting the information in the following calendar year.

Sec. 3.05. Deposit Requirements. WP must deposit amounts withheld under chapters 3 and 4 at the time and in the manner provided under section 6302 (see §1.6302-2(a) or §31.6302-1(h)).

Section 4. DOCUMENTATION REQUIREMENTS

Sec. 4.01. Documentation Requirements.

(A) Coordination of Documentation Requirements with Chapter 4. If WP is an FFI (other than a retirement fund), WP is required to perform the due diligence procedures under its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI for each direct partner to determine if the partner is a holder of a U.S. account (or U.S. reportable account), and each direct partner that is a nonparticipating FFI and, if applicable, that is a recalcitrant account holder (or non-consenting U.S. account). See, however, the automatic termination provision of section 10.03(A) of this Agreement if WP is not in possession of valid documentation for any direct partner at any time that withholding or reporting is required. If WP is an NFFE, WP is required to determine the chapter 4 status of each partner to determine if reporting or withholding applies under section 1471 or 1472 on withholdable payments distributed to, or included in the distributive share of, the partner under the requirements of §1.1471-3(d). See, Notice 2014-33, 2014-21 I.R.B. 1033, which modifies the time in which WP is required to implement the applicable due diligence procedures with respect to an obligation held by an entity that is opened, issued, or executed on or after July 1, 2014, and before January 1, 2015.

If WP has determined that withholding is not required under chapter 4, WP must obtain, unless already collected, documentation that meets the requirements of this section 4 to determine whether withholding applies under chapter 3. See also WP's FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI for when WP will have reason to know that a claim of chapter 4 status is unreliable or incorrect and for WP's requirements following a change in circumstances. If WP is an NFFE, see §1.1471-3(e)(4) for when WP will have reason to know that an entity's claim of chapter 4 status is unreliable or incorrect and §1.1471-3(c)(6)(ii)(E) for WP's requirements following a change in circumstances.

(B) General Documentation Requirements. Except as otherwise provided in this section 4, WP must obtain a Form W-8 or Form W-9 from every direct partner that receives a distribution or distributive share of a reportable amount. Notwithstanding the previous sentence, if WP is an FFI and is subject to the know-your-customer rules for documenting its partners (or subset of partners), WP may obtain documentary evidence as set forth in the Attachment (or the documentation described in section 4.03(A)(3) of this Agreement) for the applicable jurisdiction from its direct partners rather than a Form W-8 or Form W-9. If WP is an FFI obtaining documentary evidence, WP must also adhere to the know-your-customer rules that apply to WP with respect to the direct partner from whom the documentary evidence is obtained.

WP must review and maintain documentation in accordance with this section 4 and, in the case of documentary evidence obtained from direct partners, in accordance with the know-your-customer rules set forth in the Attachments to this Agreement. See sections 2.03 and 2.40 of this Agreement. WP must make documentation (together with any associated withholding statements and other documents or information) available upon request for inspection by WP's external auditor, if the performance of external audit procedures is requested by the IRS as described in section 8.07(D) of this Agreement. WP represents that none of the laws to which it is subject prohibits disclosure of the identity of any partner or corresponding partner information to WP's external auditor, if required under section 8.07(D) of this Agreement.

Sec. 4.02. Documentation for Foreign Partners. WP may treat a partner as a foreign beneficial owner of an amount if the partner provides a valid Form W-8 (other than Form W-8IMY), or valid documentary evidence, to the extent permitted under section 4.01(B) of this Agreement, that supports the partner's status as a foreign person. WP may treat a partner that has provided documentation as entitled to a reduced rate of withholding under chapter 3 if all the requirements for a reduced rate are met and the documentation provided by the partner supports entitlement to a reduced rate of withholding. Sections 4.03 through 4.06 of this Agreement describe the specific documentation requirements necessary for obtaining a reduced rate of withholding in certain circumstances.

Sec. 4.03. Treaty Claims. WP may not reduce the rate of withholding under chapter 3 based on a partner's claim of treaty benefits unless WP has determined that no chapter 4 withholding is required and it obtains from the partner the documentation required by section 4.03(A) of this Agreement. In addition, WP agrees to establish procedures to inform partners of the terms of the limitation on benefits provisions of a treaty (if applicable, and regardless of whether those provisions are contained in a separate article entitled Limitation on Benefits) under which the partner is claiming benefits.

(A) *Treaty Documentation.* The documentation required by this section 4.03(A) is as follows:

(1) A Form W-8BEN or Form W-8BEN-E on which a claim of treaty benefits is made, including the appropriate limitation on benefits and section 894 certifications, if applicable, and a U.S. TIN or foreign TIN. A U.S. TIN or foreign TIN shall not be required, however, if the partner is a direct partner. If WP is acting as a withholding foreign partnership for an indirect partner, the indirect partner is required to have either a U.S. TIN or a foreign TIN in order to claim treaty benefits unless it is claiming treaty benefits on income from marketable securities as described in §1.1441-6(c);

(2) Documentary evidence, as permitted under section 4.01(B) of this Agreement, that has been obtained pursuant to the know-your-customer rules that apply to the direct partner, and the direct partner has made the treaty statement required by section 4.03(B) of this Agreement, if applicable; or

(3) The type of documentary evidence, as permitted under section 4.01(B) of this Agreement, required under §1.1441-6 to establish entitlement to a reduced rate of withholding under a treaty and the direct partner has made the treaty statement required by section 4.03(B) of this Agreement, if applicable.

(B) *Treaty Statement.* The treaty statement required by this section 4.03(B) is as follows: [Name of Direct Partner] meets all provisions of the treaty that are necessary to claim a reduced rate of withholding, including any applicable limitation on benefits provisions, and derives the income within the meaning of section 894, and the regulations thereunder, as the beneficial owner.

WP is required to obtain the treaty statement described in this section 4.03(B) from a partner that is an entity. WP shall not be required to obtain a treaty statement described in this section

4.03(B) from an individual who is a resident of an applicable treaty country or from the government, or its political subdivisions, of a treaty country.

Sec. 4.04. Documentation for International Organizations. WP may not treat a partner as an international organization entitled to an exemption from withholding under section 892 unless WP has determined that no chapter 4 withholding is required and it obtains a Form W-8EXP (or documentary evidence as permitted under section 4.01(B) of this Agreement) from the international organization. The name provided on the documentation must be the name of an entity designated as an international organization by executive order pursuant to 22 United States Code 288 through 288(f). If an international organization is not claiming benefits under section 892 but under another Code exception, the provisions of section 4.02 of this Agreement apply rather than the provisions of this section 4.04.

Sec. 4.05. Documentation for Foreign Governments and Foreign Central Banks of Issue.

(A) Documentation for a Foreign Government or Foreign Central Bank of Issue Claiming an Exemption from Withholding Under Section 892 or Section 895. WP may not treat a partner as a foreign government or foreign central bank of issue exempt from withholding under section 892 or 895 unless WP has determined that no chapter 4 withholding is required and--

(1) WP receives from the partner a Form W-8EXP (or documentary evidence as permitted under section 4.01(B) of this Agreement) establishing that the partner is a foreign government or foreign central bank of issue;

(2) The income distributed to, or included in the distributive share of, the partner is the type of income that qualifies for an exemption from withholding under section 892 or 895; and

(3) WP does not know, or have reason to know, that the partner is a controlled commercial entity as described in section 892, that the income owned by the foreign government or foreign central bank of issue is being received from a controlled commercial entity, or that the income is from the disposition of an interest in a controlled commercial entity.

(B) Treaty Exemption. WP may not treat a partner as a foreign government or foreign central bank of issue entitled to a reduced rate of withholding under an income tax treaty for purposes of chapter 3 unless WP has determined that no chapter 4 withholding is required and it has valid documentation that is sufficient to obtain a reduced rate of withholding under a treaty, as described in section 4.03 of this Agreement.

(C) Other Code Exception. If a foreign government or foreign central bank of issue is not claiming benefits under section 892 or a reduced rate under an income tax treaty but under another Code exception (e.g., the portfolio interest exception under section 871(h) or 881(c)), the provisions of section 4.02 of this Agreement apply rather than the provisions of this section 4.05.

Sec. 4.06. Documentation for Foreign Tax-Exempt Organizations. To the extent that WP determines that an amount distributed to, or included in the distributive share of, a partner is not subject to withholding under chapter 4, WP may not treat the partner as a foreign tax-exempt organization and reduce the rate of withholding or exempt the partner from withholding for purposes of chapter 3 unless WP satisfies the requirements provided in section 4.06(A), (B), or (C) of this Agreement.

(A) Reduced Rate of Withholding Under Section 501. WP may not treat a partner as a foreign organization described under section 501(c), and therefore exempt from withholding under

chapter 3 (or, if the partner is a foreign private foundation, subject to withholding at a 4-percent rate under section 1443(b)) unless WP obtains a valid Form W-8EXP with Part IV of the form completed.

(B) *Treaty Exemption.* WP may not treat a partner as a foreign organization that is tax-exempt on an item of income pursuant to a treaty unless WP obtains valid documentation as described under section 4.03 of this Agreement that is sufficient for obtaining a reduced rate of withholding under the treaty and the documentation establishes that the partner is an organization exempt from tax under the treaty on that item of income.

(C) *Other Exceptions.* If a tax-exempt entity is not claiming a reduced rate of withholding because it is a foreign organization described under section 501(c) or under a treaty article that applies to exempt certain foreign organizations from tax, but is claiming a reduced rate of withholding under another Code or treaty exception, the provisions of section 4.02 or 4.03 of this Agreement (as applicable) shall apply rather than the provisions of this section 4.06.

Sec. 4.07. Documentation from Passthrough Partners. Except as otherwise provided in section 9 of this Agreement, WP shall not act as a withholding foreign partnership with respect to an amount distributed to, or included in the distributive share of, a passthrough partner. WP must forward the passthrough partner's documentation (and associated withholding statement and documentation of indirect partners) to the withholding agent from whom WP receives a reportable amount.

Sec. 4.08. Documentation for U.S. Exempt Recipients. WP shall not treat a partner as a U.S. exempt recipient unless WP obtains from the partner—

(A) A valid Form W-9 on which the partner includes an exempt payee code to certify that the partner is a U.S. exempt recipient;

(B) Documentary evidence, as permitted under section 4.01(B) of this Agreement, that is sufficient to establish that the partner is a U.S. exempt recipient; or

(C) Documentary evidence, as permitted under section 4.01(B) of this Agreement, that is sufficient to establish the partner's status as a U.S. person and WP can treat the partner as an exempt recipient under the rules of §1.6045-2(b)(2)(i) or §1.6049-4(c)(1)(ii), as appropriate, without obtaining documentation.

Sec. 4.09. Documentation for U.S. Non-Exempt Recipients. WP shall not treat a partner as a U.S. non-exempt recipient unless WP obtains a valid Form W-9 from the partner.

Sec. 4.10. Documentation Validity.

(A) *In General.* WP may not rely on documentation if WP has actual knowledge or reason to know that documentation provided by a partner is unreliable or incorrect, including when there is a change in circumstances with respect to the information or statements contained in the documentation or in WP's files pertaining to the obligation (account information) that affects the reliability of the partner's claim. See §1.1441-1(e)(4)(ii)(D) for the definition of change in circumstances. Once WP knows, or has reason to know, that documentation provided by a partner is unreliable or incorrect, it can no longer reliably associate a payment with valid documentation unless it obtains additional documentation to establish the partner's chapter 3 status. If WP can no longer reliably associate a payment with valid documentation, it must obtain new documentation prior to the time withholding is required under section 3 of this Agreement.

(B) *General Rules.*

(i) WP shall not rely on a Form W-9 if it is not permitted to do so under the rules of §31.3406(h)-3(e) or if it has been informed by the IRS or another withholding agent that the form is unreliable or incorrect and shall not rely on a Form W-8 if it is not permitted to do so under section 4.10 of this Agreement.

(ii) WP shall not treat documentary evidence provided by a partner as valid if the documentary evidence does not reasonably establish the identity of the person presenting the documentary evidence. For example, documentary evidence is not valid if it is provided in person by a partner that is a natural person and the photograph on the documentary evidence, if any, does not match the appearance of the person presenting the document.

(iii) WP may not rely on documentation to reduce the withholding rate that would otherwise apply if—

(a) The partner's documentation is incomplete or contains information that is inconsistent with the partner's claim,

(b) WP has other information in the account information that is inconsistent with the partner's claim, or

(c) The documentation lacks the information necessary to establish entitlement to a reduced rate of withholding.

For example, if a direct partner that is an entity provides documentation to claim treaty benefits and the documentation establishes the direct partner's status as a foreign person and a resident of a treaty country but fails to provide the treaty statement in section 4.03(B) of this Agreement, the documentation does not establish the direct partner's entitlement to a reduced rate of withholding.

Sec. 4.11. Documentation Validity Period.

(A) *Documentation Other Than a Form W-9.* WP, as permitted under section 4.01(B) of this Agreement, may rely on valid documentary evidence obtained from direct partners in accordance with applicable know-your-customer rules as long as the documentary evidence remains valid under those rules or until WP knows, or has reason to know, that the information contained in the documentary evidence is unreliable or incorrect. WP may rely on the representations described in section 4.03 of this Agreement obtained in connection with such documentation for the same period of time as the documentation. For establishing a partner's chapter 3 status (as defined in §1.1441-1(c)(45)) or foreign status for chapter 61 purposes, WP may rely on a valid Form W-8 until its validity expires under §1.1441-1(e)(4)(ii) and may rely on documentary evidence (other than documentary evidence obtained pursuant to applicable know-your-customer rules) until its validity expires under §1.6049-5(c).

(B) *Form W-9.* WP may rely on a Form W-9 unless one of the conditions of §31.3406(h)-3(e)(2)(i) through (v) apply or if it has been informed by the IRS or another withholding agent that the form is unreliable or incorrect.

Sec. 4.12. Maintenance and Retention of Documentation.

(A) *Maintaining Documentation.* WP shall maintain documentation by retaining the original documentation, a certified copy, a photocopy, a scanned copy, a microfiche, or other means that allow reproduction (provided that WP has recorded receipt of the documentation and is able to produce a hard copy). If WP is not required to retain copies of documentary evidence under its know-your-customer rules, WP may instead retain a notation of the type of documentation reviewed, the date the documentation was reviewed, the document's identification number, if any (e.g., a passport number), and whether such documentation contained any U.S. indicia. For obligations held by a direct partner opened prior to January 1, 2001, if WP was not required

under its know-your-customer rules to maintain originals or copies of documentation, WP may nevertheless rely on the information if it has complied such information with all other aspects of its know-your-customer rules regarding establishment of a partner's identity, it has a record that the documentation required under the know-your-customer rules was actually examined by an employee of WP or partner of WP in accordance with the know-your-customer rules, and it has no information in its possession that would require WP to treat the documentation as invalid under the rules of section 4.10(B) of this Agreement.

(B) *Retention Period.* WP shall retain a partner's documentation obtained under this section 4 for as long as the document is relevant for the determination of WP's tax liability or reporting responsibilities under chapters 3, 4, and 61, and 3406.

Section 5. WITHHOLDING FOREIGN PARTNERSHIP WITHHOLDING CERTIFICATE

Sec. 5.01. WP Withholding Certificate. WP agrees to furnish a withholding foreign partnership withholding certificate to each withholding agent from which it receives a reportable amount as a withholding foreign partnership. The withholding foreign partnership withholding certificate is a Form W-8IMY (or acceptable substitute form) that certifies that WP is acting as a withholding foreign partnership, contains WP's WP-EIN, and provides all other information and certifications required by the form, including its WP-EIN. If WP is receiving a reportable amount that is a withholdable payment, the withholding certificate must also contain WP's chapter 4 status to the extent required, provide its GIIN (if applicable), and provide the other information and certifications required on the form. If WP is an FFI, WP must provide a GIIN on its withholding foreign partnership withholding certificate irrespective of the time the FFI is permitted under its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI to obtain a GIIN. WP is not required to disclose, as part of that Form W-8IMY or its withholding statement, any information regarding the identity of its direct partners and those indirect partners for which it acts as a withholding foreign partnership to the extent permitted under section 9 of this Agreement.

If WP does not act as a withholding foreign partnership for an indirect partner, WP is required to furnish a nonwithholding foreign partnership certificate to its withholding agent. See §1.1441-5(c)(3) for the requirements of a nonwithholding foreign partnership withholding certificate, the withholding statement associated with the withholding certificate, and the other documentation or other information for each passthrough partner and its direct and indirect partners.

Sec. 5.02. Withholding Statement. When WP is acting as a withholding foreign partnership, WP must assume primary chapters 3 and 4 withholding responsibility as required by section 3.02 of this Agreement for reportable amounts that are distributed to, or included in the distributive shares of, its direct partners and any indirect partners for which it is acting as a withholding foreign partnership. Accordingly, WP is not required to provide a withholding statement in such circumstances. See section 9 of this Agreement providing that WP may not act as a withholding foreign partnership for certain indirect partners that are U.S. non-exempt recipients.

Section 6. TAX RETURN AND INFORMATION REPORTING OBLIGATIONS

Sec. 6.01. Form 1042 Filing Requirement.

(A) *In General.* WP shall file a return on Form 1042, whether or not WP withheld any amounts under chapter 3 or 4 of the Code, on or before March 15 of the year following any calendar year in which WP acts as a withholding foreign partnership. In addition to the information required on Form 1042 and its accompanying instructions, WP shall attach a statement setting forth the amounts of any overwithholding or underwithholding adjustments made under sections 7.01 and

7.03 of this Agreement, and an explanation of the circumstances that resulted in the over- or underwithholding. If WP is requesting a collective refund or credit, WP shall attach the statements required by section 7.02 of this Agreement and shall comply with the procedures specified in section 7.02 of this Agreement.

(B) *Extensions for Filing Returns.* WP may request an extension of the time for filing Form 1042, or any of the information required to be attached to the form, by submitting Form 7004, Application for Automatic Extension of Time to File Certain Business Income, Tax, Information, and Other Returns, on or before the due date of the return.

Sec. 6.02. Form 1042-S Reporting.

(A) *In General.* WP must file Form 1042-S for each partner for whom it acts as a withholding foreign partnership and for whom WP distributes, or in whose distributive share is included, a reportable amount unless WP is permitted under sections 6.02(C) and (D) of this Agreement to report in pools (reporting pools). With respect to its direct partners, WP must file Forms 1042-S in the manner required by the regulations under chapters 3 and 4 for amounts distributed to, or included in the distributive share of, its partners (or in the case of a participating FFI, pursuant to its FATCA requirements as a participating FFI) and the instructions to the form, including any requirement to file the forms magnetically or electronically. Any Form 1042-S required to be filed by this section 6 shall be filed on or before March 15 following the calendar year in which withholding, if any, was required under section 3.02 of this Agreement. WP may request an extension of time to file Forms 1042-S by submitting Form 8809, Application for Extension of Time to File Information Returns, (or other superseding form) by the due date of Forms 1042-S in the manner required by Form 8809.

(B) *Recipient Specific Reporting.* WP is required to file a separate Form 1042-S for amounts distributed to, or included in the distributive share of, each separate partner as described in this section 6.02(B). WP must file separate Forms 1042-S by income code, chapter 3 or 4 exemption code, recipient code, chapter 4 withholding rate pool (if applicable), and withholding rate.

(1) Unless WP has made the pooled reporting election pursuant to section 6.02(D) of this Agreement, WP must file a separate Form 1042-S for each direct partner (other than a passthrough partner) to whom WP distributes, or whose distributive share includes, an amount subject to chapter 3 withholding that is either not a withholdable payment or is a withholdable payment for which no chapter 4 withholding is required.

(2) WP must file a separate Form 1042-S for each partner that is a qualified intermediary, a withholding foreign partnership, or a withholding foreign trust to whom WP distributes, or whose distributive share includes, an amount subject to withholding under chapters 3 or 4, regardless of whether such partner is a direct or indirect partner of WP.

(3) WP must file a separate Form 1042-S for each passthrough partner that is a nonqualified intermediary or flow-through entity that is a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI and to whom WP distributes, or whose distributive share includes, an amount subject to chapter 4 withholding allocable to such FFI's chapter 4 withholding rate pools of recalcitrant account holders, nonparticipating FFIs, and reportable amounts allocable to U.S. payees, if applicable, regardless of whether such FFI is a direct or indirect partner of WP when WP applies section 9.03 of this Agreement.

(4) WP must file a separate Form 1042-S for each passthrough partner that is a nonqualified intermediary or flow-through entity that is not described in section 6.02(B)(3) of this Agreement

(other than a nonparticipating FFI), and to whom WP distributes, or whose distributive share includes, an amount subject to chapter 4 withholding allocable to such passthrough partner's chapter 4 withholding rate pool of payees that are nonparticipating FFIs, regardless of whether such passthrough partner is a direct or indirect partner of WP when WP applies section 9.03 of this Agreement.

(5) WP must file a separate Form 1042-S for each partner of WP that is a partnership or trust to which WP applies the agency option under section 9.02 of this Agreement and to whom WP distributes, or whose distributive share includes, an amount subject to chapter 4 withholding that is allocable to the partnership or trust's chapter 4 withholding rate pool of payees that are nonparticipating FFIs or to whom WP distributes, or whose distributive share includes, an amount subject to chapter 3 withholding that is either not a withholdable payment or is a withholdable payment for which no chapter 4 withholding is required and that is allocable to such partnership's or trust's chapter 3 withholding rate pools.

(6) WP must file a separate Form 1042-S for each partner of WP that is a partnership or trust to which WP applies the joint account option under section 9.02 of this Agreement and to whom WP distributes, or whose distributive share includes, an amount subject to chapter 3 withholding that is allocable to such partnership or trust's chapter 3 withholding rate pool.

(7) WP must file a separate Form 1042-S for each foreign account holder (or interest holder) of a passthrough partner that is a nonparticipating FFI that receives a payment on behalf of an exempt beneficial owner (regardless of whether the passthrough partner is a direct or indirect partner of WP) to the extent WP can reliably associate such amounts with valid documentation from such passthrough partner as to the portion of the payment allocable to one or more exempt beneficial owners. In addition, WP must file separate Forms 1042-S in the same manner for each foreign account holder (or interest holder) of a passthrough partner that is described in the preceding sentence and that is a direct or indirect partner, beneficiary, or owner of a partnership or trust to which WP applies the agency option.

(8) WP must file a separate Form 1042-S for each foreign account holder (or interest holder) of a nonqualified intermediary or flow-through entity to whom WP distributes, or whose distributive share includes, an amount subject to chapter 3 withholding that is either not a withholdable payment or is a withholdable payment for which no chapter 4 withholding is required to the extent WP can reliably associate such amounts with valid documentation from an account holder (or interest holder) that is not itself a nonqualified intermediary or flow-through entity when WP applies section 9.03 of this Agreement. In addition, WP must file a separate Form 1042-S in the same manner for each foreign account holder (or interest holder) of a nonqualified intermediary or flow-through entity (to which WP does not apply the agency option) that is described in the preceding sentence and that is a direct or indirect account holder (or interest holder) of a partnership or trust to which WP applies the agency option.

(9) If WP is an NFFE, WP must file a separate Form 1042-S for each direct partner that establishes its status as a passive NFFE but fails to provide the information regarding its owners as required under §1.1471-3(d)(12)(iii).

(C) Chapter 4 Reporting Pools.

If WP is an FFI, WP shall report on Form 1042-S amounts subject to chapter 4 withholding that it distributes to, or includes in the distributive share of, its direct partners consistent with its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI. A separate Form 1042-S shall be filed for each type of chapter 4 reporting pool. A chapter 4 reporting pool is a payment of a single type of income (e.g., interest, dividends), determined in accordance with the categories of income reported on

Form 1042-S, that is allocable to a chapter 4 withholding rate pool consisting of payees that are nonparticipating FFIs, recalcitrant account holders, or U.S. payees (if applicable). WP must report recalcitrant account holders in pools based upon their particular class described in §1.1471-4(d)(6), with a separate Form 1042-S issued for each such pool.

If WP is a participating FFI or registered deemed-compliant FFI (including for this purpose a reporting Model 1 IGA FFI), WP may report in a chapter 4 withholding rate pool of U.S. payees reportable amounts that are distributed to, or included in the distributive share of, a direct partner that is a U.S. person, provided that WP reports such partner as a U.S. account (or U.S. reportable account) under its applicable FATCA requirements as a participating FFI, registered deemed-compliant FFI, reporting Model 1 FFI, or registered deemed-compliant Model 1 IGA FFI. WP shall include in its U.S. payee pool reportable amounts that are distributed to, or included in the distributive share of, a direct partner that is a U.S. person when WP either reports such partner as a U.S. account (or U.S. reportable account) pursuant to its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI; or reports such partner as a recalcitrant account holder (or non-consenting U.S. account) provided that WP is not required to withhold on such partner pursuant to its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI. See, however, the automatic termination provision of section 10.03(A) of this Agreement if WP is not in possession of valid documentation for any direct partner at any time that withholding or reporting is required.

If WP is an NFFE, WP shall report amounts subject to chapter 4 withholding by reporting pools on a Form 1042-S if those amounts are distributed to, or included in the distributive share of, direct partners of WP that are nonparticipating FFIs in a chapter 4 reporting pool of nonparticipating FFIs.

(D) Chapter 3 Reporting Pools.

WP may elect to perform pool reporting (PR election) for an amount subject to chapter 3 withholding that either is not a withholdable payment or is a withholdable payment for which no chapter 4 withholding is required and that WP distributes to, or includes in the distributive share of, a foreign direct partner (other than a passthrough partner, withholding foreign partnership, or withholding foreign trust). A separate Form 1042-S shall be filed for each chapter 3 reporting pool. A chapter 3 reporting pool is a payment of a single type of income that falls within a particular withholding rate, chapter 3 exemption code and, if the payment is a withholdable payment, a chapter 4 exemption code as determined on Form 1042-S and its accompanying instructions. WP may use a single chapter 3 pool reporting code (e.g., WP- withholding rate pool- general) for all reporting pools except for amounts paid to foreign tax-exempt recipients, for which a separate chapter 3 pool reporting code (e.g., WP- withholding rate pool- exempt organization) must be used. For this purpose, a foreign tax-exempt recipient includes any organization that is not subject to chapter 3 withholding and is not liable to tax in its jurisdiction of residence because it is a charitable organization, a pension fund, or a foreign government.

If WP has made the PR election pursuant to this section 6.02(D), WP is not required to file Forms 1042-S for amounts distributed to, or included in the distributive share of, each separate direct partner for whom such reporting would otherwise be required. Instead, WP shall file a separate Form 1042-S for each reporting pool. Once made, the PR election is effective for the entire term of this Agreement beginning on the effective date of the Agreement and ending on the date of its expiration or termination under section 10 of the Agreement. WP must make a new election for each renewal term of this Agreement. If WP makes the PR election, WP cannot revoke it prior to the end of the term for which WP has made the PR election unless WP obtains consent from the IRS to revoke such election. WP may request IRS consent by contacting the

IRS at the address specified in section 11.06 of this Agreement. If WP did not make the PR election at the time this Agreement was executed, then WP may make a PR election only by contacting the IRS at the address specified in section 11.06 of this Agreement.

Sec. 6.03. Form 1065 Filing Requirement.

(A) *General Rule.* If WP is required to file Form 1065 and Schedules K-1 under §1.6031(a)-1, then WP shall file Form 1065 and Schedules K-1 in accordance with the regulations and the instructions for the form as modified by section 6.03(B) of this Agreement.

(B) *Modified Filing Obligations.* If WP has U.S. source income, WP may avail itself of the modified obligations described in section 6.03(B)(1) or (2) of this Agreement, if, in addition to satisfying the requirements of section 6.03(B)(1) or (2) of this Agreement, none of this income is attributable to a permanent establishment inside the United States, none of this income is effectively connected with a trade or business within the United States, and WP would not otherwise be required to report to any partner a specially allocated item on Schedule K-1.

(1) WP is not required to file a Form 1065 provided that WP has no direct or indirect partners that are U.S. persons at any time during WP's taxable year.

(2) WP is required to file a Form 1065, but is not required to file Schedules K-1 for any partners other than its direct U.S. partners and its passthrough partners (whether U.S. or foreign) through which indirect U.S. partners hold an interest in WP. Schedules K-1 that are not excepted from the filing requirement under this section 6.03(B)(2) must contain the same information required of a domestic partnership under §1.6031(a)-1(a).

Sec. 6.04. Retention of Returns. WP shall retain Forms 1042 and 1065 for the period of the applicable statute of limitations on assessments and collection under the Code.

Sec. 6.05. FATCA U.S. Account Reporting.

(A) *WP that is an FFI.* If WP is an FFI, WP is required to report each U.S. account (or, in the case of an FFI that is a reporting Model 1 FFI or registered deemed-compliant Model 1 IGA FFI, each U.S. reportable account) that it maintains consistent with its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI. See WP's requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI to report each account that is a U.S. account (or U.S. reportable account) that it maintains. If WP is a participating FFI or registered deemed-compliant FFI (other than a reporting Model 1 FFI or registered deemed-compliant Model 1 IGA FFI), WP must report its U.S. accounts on Form 8966, FATCA Report, in the time and manner specified under its FATCA requirements as a participating FFI or registered deemed-compliant FFI except to the extent WP is reporting under §1.1471-4(d)(5) on Form 1099 with respect to its U.S. accounts. If WP is a reporting Model 1 FFI or registered deemed-compliant Model 1 IGA FFI, WP must report each U.S. reportable account on Form 8966 as required under the applicable Model 1 IGA.

(B) *WP that is an NFFE.* If WP is an NFFE, WP shall file Forms 8966 to report withholdable payments distributed to, or included in the distributive share of, any partner that is an NFFE (other than an excepted NFFE) with one or more substantial U.S. owners if the NFFE is the beneficial owner of the withholdable payment received by WP. See §1.1471-1(b)(8) for the definition of beneficial owner. WP must report on Form 8966 in accordance with the form and its accompanying instructions.

The Form 8966 must include the name of the NFFE that is owned by a substantial U.S. owner; the name, address, and U.S. TIN of each substantial U.S. owner; the total of all withholdable payments distributed to, or included in the distributive share of, the NFFE during the calendar year; and any other information as required by the form and its accompanying instructions.

(C) Form 8966 Reporting for Payees that are NFFEs. WP shall file Form 8966 to report withholdable payments that WP distributes to, or includes in the distributive share of, a passthrough partner that provides information regarding an account holder (or interest holder that is an NFFE (other than an excepted NFFE) with one or more substantial U.S. owners (or one or more controlling persons that is a specified U.S. person under an applicable IGA) and that is the beneficial owner of the withholdable payment received by WP. WP must report on Form 8966 in the time and manner provided in §1.1474-1(i)(2). Such report must include the name of the NFFE that is owned by a substantial U.S. owner (or controlling person that is a specified U.S. person); the name, address, and U.S. TIN of each substantial U.S. owner (or controlling person that is a specified U.S. person); the total of all withholdable payments made to the NFFE during the calendar year (or reportable period under the applicable IGA); and any other information as required by the form and its accompanying instructions. WP is only required to report as described in this section 6.05(C) if WP acts as a withholding foreign partnership with respect to such indirect partner as described in section 9.03 of this Agreement and the passthrough partner does not certify on its withholding statement that it is reporting the account holder (or interest holder) as a U.S. account pursuant to its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI.

Section 7. ADJUSTMENTS FOR OVER- AND UNDERWITHOLDING; REFUNDS

Sec. 7.01. Adjustments for Chapter 3 or 4 Overwithholding by WP. WP may make an adjustment for amounts paid to its partners when WP has overwithheld under chapter 3 or 4 by applying either the reimbursement procedure described in section 7.01(A) of this Agreement or the set-off procedure described in section 7.01(B) of this Agreement within the time period prescribed for those procedures.

(A) Reimbursement Procedure. WP may repay its partners for an amount overwithheld under chapter 3 or 4 and reimburse itself by reducing, by the amount of tax actually repaid to the partners, the amount of any subsequent deposit of tax required to be made by WP under section 3.05 of this Agreement. For purposes of this section 7.01(A), an amount that is overwithheld shall be applied in order of time (i.e., sequentially) to each of WP's subsequent deposit periods in the same calendar year to the extent that the withholding taxes required to be deposited for a subsequent deposit period exceed the amount actually deposited. An amount overwithheld in a calendar year may be applied to deposit periods in the calendar year following the calendar year of overwithholding only if--

(1) The repayment occurs before the earlier of the due date (without regard to extensions) for filing Form 1042-S for the calendar year of overwithholding or the date that the Form 1042-S is actually filed by WP with the IRS;

(2) WP states on a Form 1042-S (issued, if applicable, to the partner or otherwise to a chapter 3 or 4 reporting pool) filed by March 15 of the calendar year following the calendar year of overwithholding, the amount of tax withheld and the amount of any actual repayments; and

(3) WP states on a Form 1042, filed by March 15 of the calendar year following the calendar year of overwithholding, that the filing of the Form 1042 constitutes a claim for credit in accordance with §1.6414-1.

(B) Set-Off Procedure. WP may repay its partners by applying the amount overwithheld against any amount which otherwise would be required under chapter 3 or 4 to be withheld from a payment made by WP before the earlier of March 15 of the calendar year following the calendar year of overwithholding or the date that the Form 1042-S is actually filed with the IRS. For purposes of making a return on Form 1042 or Form 1042-S for the calendar year of overwithholding, and for purposes of making a deposit of the amount withheld, the reduced amount shall be considered the amount required to be withheld from such income under chapter 3 or 4.

Sec. 7.02. Collective Credit or Refund Procedures for Chapter 3 or 4 Overwithholding. If WP has made a PR election and there has been overwithholding (as defined in section 2.51 of this Agreement) on amounts paid to WP's direct partners during a calendar year and the amount of overwithholding has not been recovered under the reimbursement or set-off procedures as described in section 7.01 of this Agreement, WP may request a credit or refund of the total amount overwithheld by following the procedures of this section 7.02. WP shall follow the procedures set forth under sections 6402 and 6414, and the regulations thereunder, to claim the credit or refund. No credit or refund will be allowed after the expiration of the statutory period of limitation for refunds under section 6511.

(A) Payments for which a Collective Refund is Permitted. Except as otherwise provided in this section 7.02, WP may use the collective refund procedure of this section 7.02 with respect to all amounts subject to chapter 3 or 4 withholding that WP has withheld under this Agreement. With respect to amounts withheld under chapter 3 or 4, WP shall not include in its collective refund claim any amounts withheld on payments made to an indirect partner or a direct account holder of WP that is a passthrough partner. Further, with respect to amounts withheld under chapter 4, if WP is a participating FFI or registered deemed-compliant FFI, WP shall not include in its collective refund claim any amounts withheld on payments made to any partner that is an account holder described in the FFI agreement or in §1.1471-4(h)(2).

(B) Requirements for a Collective Refund.

(1) WP may use the collective refund procedures under this section 7.02 only if WP has not issued Forms 1042-S to the partners that were subject to overwithholding and for which a collective refund claim is being made.

(2) WP must submit together with its amended Form 1042 on which it provides a reconciliation of amounts withheld and a claim for credit or refund, a statement that includes the following information and representations—

(i) The reason(s) for the overwithholding;

(ii) WP deposited the tax for which a refund is being sought under section 6302 and WP has not applied the reimbursement or set-off procedures of §§ 1.1461-2 and 1.1474-2 to adjust the tax withheld to which the claim relates;

(iii) WP has repaid or will repay the amount for which a refund is sought to the appropriate partners;

(iv) WP retains a record showing the total amount of tax withheld, adjustments for underwithholding, and reimbursements for overwithholding as it relates to each partner and also

showing the repayment (if applicable) to such partners for the amount of tax for which a refund is being sought;

(v) WP retains valid documentation that meets the requirements of chapter 3 or 4 (as applicable) to substantiate the amount of overwithholding with respect to each partner for which a refund is being sought; and

(vi) WP has not (and will not) issue a Form 1042-S (or such other form as the IRS may prescribe) to any partner with respect to the payments for which a refund is being sought.

Sec. 7.03. Adjustments for Chapter 3 or 4 Underwithholding. If WP knows that an amount should have been withheld under chapter 3 or 4 from a previous payment made to a partner and the amount was not withheld, WP may either withhold from future payments made pursuant to chapter 3 or chapter 4 to the same partner or satisfy the tax from the partner's proportionate share of assets over which WP has control. The additional withholding or satisfaction of the tax owed described in the previous sentence must be made before the due date of the Form 1042 (not including extensions) for the calendar year in which the underwithholding occurred.

Sec. 7.04. Chapter 3 or 4 Underwithholding after Form 1042 Filed. If, after a Form 1042 has been filed for a calendar year, WP, WP's auditor, or the IRS determines that WP has underwithheld tax under chapter 3 or 4 for such year, WP shall file an amended Form 1042 to report and pay the underwithheld tax. WP shall pay the underwithheld tax, the interest due on the underwithheld tax, and any applicable penalties, at the time of filing the amended Form 1042. If WP fails to file an amended return, the IRS shall make such return under section 6020 and assess such tax under the procedures set forth in the Code.

Section 8. COMPLIANCE PROCEDURES

Sec. 8.01.

(A) In General. WP must adopt a compliance program under the authority of a responsible officer. WP's compliance program must include policies, procedures, and processes sufficient for WP to satisfy the documentation, reporting, and withholding requirements of this Agreement and sufficient for the responsible officer of WP to make the certifications required under section 8.03 of this Agreement. See section 2.63 of this Agreement for the definition of responsible officer. WP must also perform or arrange for the performance of the periodic review described in section 8.04 of this Agreement. As part of the responsible officer's certification, WP must provide to the IRS the factual information described in section 8.03(C) of this Agreement. WP must also satisfy the requirements of section 8.06 of this Agreement with respect to the report of the periodic review and must comply with the IRS review referenced in section 8.07 of this Agreement.

(B) Coordination with FATCA Requirements as a Participating FFI, Registered Deemed-Compliant FFI, or Registered Deemed-Compliant Model 1 IGA FFI. As a condition for maintaining this Agreement, WP must comply with the FATCA requirements applicable to its chapter 4 status (including any applicable compliance procedures). Therefore, WP must, as part of the compliance procedures described in this section 8 (including the periodic review described in section 8.04 of this Agreement and in making the periodic certification described in section 8.03 of this Agreement) determine whether it is compliant with its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI when it acts as a withholding foreign partnership. See the compliance procedures, if any, required under WP's FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI when WP acts as a nonwithholding foreign partnership. If WP is a participating FFI, WP will be able to make the

certification described in section 8.03 of this Agreement, and the certification described in the FFI agreement, to the extent provided in future published guidance or other instructions.

Sec. 8.02. Compliance Program.

(A) Responsible Officer. WP must appoint an individual as the responsible officer (as defined in section 2.63 of this Agreement). The responsible officer must be identified on the IRS FATCA registration website as the WP's responsible party and as the responsible officer for purposes of compliance with its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI. The responsible officer (or the responsible officer's designee) must establish a compliance program that meets the requirements of this section 8.02 and must make the periodic certifications to the IRS described in section 8.03 of this Agreement. The responsible officer of WP must be a partner of WP or an officer or agent of the general partner or tax matters partner (as defined in section 6231(a)(7)) of WP with sufficient authority to fulfill the duties of a responsible officer described in this section 8.02. The responsible officer (or a delegate appointed by the responsible officer) must also serve as the point of contact for the IRS for all issues related to this Agreement and for complying with IRS requests for information or additional audit procedures under section 8.07 of this Agreement.

(B) Compliance Program. The responsible officer (or the responsible officer's designee) must establish a program for WP to comply with the requirements of this Agreement that includes the following:

(1) Written Policies and Procedures. The responsible officer (or the responsible officer's designee) must ensure the drafting and updating, as necessary, of written policies and procedures sufficient for WP to satisfy the documentation, withholding, reporting, and other obligations of this Agreement with its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI. Such written policies and procedures must include a process for an employee or partner of WP to raise issues to the responsible officer (or the responsible officer's designee) that concern WP's compliance with this Agreement.

(2) Training. The responsible officer (or the responsible officer's designee) must communicate such policies and procedures to persons responsible for obtaining, reviewing, and retaining a record of documentation under the requirements of section 4 of this Agreement, making distributions and allocations to partners on behalf of WP that are subject to withholding under section 3 of this Agreement, or reporting distributions or allocations to partners under section 6 of this Agreement. This includes any person that is responsible for the performance of WP's due diligence procedures under its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI.

(3) Systems. The responsible officer (or the responsible officer's designee) must ensure that systems and processes are in place that will allow WP to fulfill its obligations under this Agreement and its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI. For example, in order to fulfill WP's obligations to report on Forms 1042-S, Schedules K-1, and 8966 under section 6 of this Agreement, WP must establish systems for documenting partners and for recording the information with respect to each such partner that WP is required to report under that section.

(4) Monitoring of Business Changes. The responsible officer (or the responsible officer's designee) must monitor business practices and arrangements that affect WP's compliance with this Agreement, including, for example, changes in WP's partners that give rise to documentation, withholding, or reporting obligations under this Agreement, and its FATCA

requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI.

(5) *Periodic Review.* The responsible officer (or the responsible officer's designee) must designate an auditor that meets the qualifications described in section 8.04(A) of this Agreement to perform the periodic review described in section 8.05 of this Agreement.

(6) *Periodic Certification.* The responsible officer (or the responsible officer's designee) must make the periodic certification as described in section 8.03 of this Agreement, including ensuring that corrective actions are taken in response to any material failures (as defined in section 8.03(D) of this Agreement) of WP's compliance with this Agreement (as defined in section 8.03(D) of this Agreement) and its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI.

Sec. 8.03. Periodic Certification by Responsible Officer. In accordance with the compliance period described in section 8.03(E) of this Agreement, the responsible officer of WP must make the applicable certification of compliance described in section 8.03(A) or (B) of this Agreement. The responsible officer of WP must make the certifications of compliance in such manner as the IRS may prescribe in future guidance or other instructions. The responsible officer must consider the results of WP's periodic review described in section 8.05 of this Agreement in making the periodic certification.

(A) *Certification of Effective Internal Controls.* The responsible officer must certify to the following and disclose any material failures that occurred during the certification period or during any prior period if the material failure was not disclosed as part of a prior certification or written disclosure made by WP to the IRS—

(1) WP has established a compliance program that meets the requirements described in section 8.02(B) of the WP Agreement that is in effect as of the date of the certification and during the certification period;

(2) A periodic review was conducted for the certification period in accordance with sections 8.04 through 8.06 of the WP Agreement, and based on the review and other steps taken by WP, WP maintains effective internal controls over its documentation, withholding, and reporting obligations under the WP Agreement and under its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI;

(3) Based on the periodic review and other information known to the responsible officer, there are no material failures as defined in section 8.03(D) of the WP Agreement or, if there are any material failures, such failures are identified as part of this certification as well as the actions taken to remediate such failures and to prevent their reoccurrence by the date of this certification;

(4) With respect to any failure to withhold, deposit, or report to the extent required under the WP Agreement, WP has corrected such failure by paying any taxes due (including interest and penalties) and filing the appropriate return (or amended return); and

(5) All partnerships and trusts to which WP applies the agency option either have provided documentation or other information to WP to include in WP's periodic review, or have provided the responsible officer of WP with a certification of effective controls meeting the requirements of section 8.03(A) of the WP Agreement and have represented to WP that there are no material failures as defined in section 8.03(D) of the WP Agreement, or have disclosed any such failures to WP and the actions taken by the partnership or trust to remediate such failures.

(B) Qualified Certification. If the responsible officer has identified an event of default or a material failure that WP has not corrected as of the date of the certification, the responsible officer must certify to the following statements—

(1) The responsible officer (or the responsible officer's designee) has identified an event of default as defined in section 8.05 of the WP Agreement or has determined that as of the date of the certification, there are one or more material failures as defined in section 8.03(D) of this Agreement with respect to WP's compliance, or the compliance of a partnership or trust to which WP applies the agency option, and that appropriate actions will be taken to prevent such failures from recurring;

(2) With respect to any failure to withhold, deposit, or report to the extent required under the WP Agreement, WP will correct such failure by paying any taxes due (including interest and penalties) and filing the appropriate return (or amended return); and

(3) The responsible officer (or an officer of the partnership or trust to which WP applies the agency option) will respond to any notice of default (if applicable) or will provide to the IRS, to the extent requested, a description of each material failure and a written plan to correct each such failure.

(C) Factual Information. At the same time WP provides the periodic certification, WP shall also report certain factual information regarding its partners, withholdable payments, and amounts subject to chapter 3 withholding and must certify to the accuracy of the information. The information requested will be limited to certain information reviewed as part of WP's periodic review procedure described in section 8.05 of this Agreement. The IRS will consider reportable amounts received by WP, the number of WP's partners, and whether WP was required to file Schedules K-1 for its U.S. partners and Forms 8966 with respect to its partners that hold U.S. accounts (or U.S. reportable accounts) during the certification period to determine the extent of the factual information to request. The IRS will prescribe in future published guidance or other instructions the factual information that the WP is required to report with the periodic certification and the manner in which such information must be reported.

(D) Material Failures.

(1) Material Failures Defined. A material failure is generally a failure of WP to fulfill the requirements of this Agreement or its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI. For purposes of the certifications described in sections 8.03(A) and (B) of this Agreement, a material failure is limited to the following:

(i) WP's establishing of, for financial statement purposes, a tax reserve or provision for a potential future tax liability related to WP's failure to comply with this Agreement or the FFI agreement or its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI;

(ii) WP's failure to establish written policies, procedures, or systems sufficient for the relevant personnel of WP to take actions consistent with WP's obligations under this Agreement or its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI;

(iii) A criminal or civil penalty or sanction imposed on WP by a regulator or other governmental authority or agency with oversight over WP's compliance with the AML/KYC procedures, if

applicable, to which WP is subject and that is imposed due to WP's failure to properly identify partners under the requirements of those procedures; or

(iv) A finding (including a finding noted in the auditor's periodic review report described in section 8.06 of this Agreement) that, for one or more years covered by this Agreement, WP failed to --

(a) Withhold an amount that WP was required to withhold under chapter 3 or 4 as required under section 3 of this Agreement;

(b) Make deposits in the time and manner required by section 3 of this Agreement or make adequate deposits to satisfy its withholding obligations, taking into account the procedures under section 7 of this Agreement;

(c) Report or report accurately on Forms 1042, 1042-S, 8966, 1065 and Schedules K-1 as required under section 6 of this Agreement; or

(d) Report or report accurately its U.S. accounts (or U.S. reportable accounts) under its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI.

(2) *Limitations on Material Failures.* A failure described in section 8.03(D)(1)(iv) of this Agreement is a material failure only if the failure was the result of a deliberate action on the part of one or more employees or partners of WP to avoid the requirements of this Agreement or WP's FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI with respect to one or more partners of WP or was an error attributable to a failure of WP to establish or implement internal controls sufficient for WP to meet the requirements of this Agreement. Regardless of these limitations for the certifications described in sections 8.03(A) and (B) of this Agreement, WP is required to correct a failure to withhold or deposit tax under section 3 of this Agreement or to report under section 6 of this Agreement by depositing the amount of tax required to have been withheld and by filing the appropriate return (or amended return).

(E) *Certification Period.*

(1) If WP is an FFI that is a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI, WP must make the certification described in section 8.03(A) or (B) on or before July 1 of the calendar year following the certification period. The initial certification period is the period ending on the third full calendar year that this Agreement is in effect (including renewals of this Agreement). Subsequent certification periods will be every three calendar years following the initial certification period (including renewals of this Agreement).

(2) If WP is an NFFE or a retirement fund that makes a PR election pursuant to section 6.02(D) of this Agreement, WP must make the certification described in section 8.03(A) or (B) on or before July 1 of the calendar year following the certification period. The initial certification period is the period ending on the third full calendar year that this Agreement is in effect (including renewals of this Agreement). Subsequent certification periods occur every three calendar years following the initial certification period (including renewals of this Agreement).

(3) If WP is an NFFE or a retirement fund that does not make a PR election pursuant to section 6.02(D) of this Agreement, WP must make the certification described in section 8.03(A) or (B) following the certification period. The initial certification period is the period ending on the third full calendar year that this Agreement is in effect (including renewals of this Agreement). Subsequent certification periods occur every six calendar years following the initial certification period (including renewals of this Agreement).

Sec. 8.04. Requirements for Periodic Review.

(A) *Independent Auditor.* The periodic review may be performed by an internal auditor that is an employee of WP or the general partner or tax matters partner of WP (internal auditor) or a certified public accountant, attorney, or third-party consultant (external auditor), or any combination thereof.

(1) *Internal Auditor.* WP may designate an internal auditor to perform the periodic review (or a portion of the periodic review) only when the internal auditor is competent with respect to the requirements of this Agreement and WP's FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI. The internal auditor must also be able to report findings that reflect the independent judgment of the auditor. The internal auditor must not report directly to the responsible officer or any other employee of WP, or officer, agent, or employee of the general partner or tax matters partner of WP with direct authority over the persons performing functions in connection with WP's obligations under this Agreement and WP's FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI. The IRS has the right to request the performance of the periodic review by an external auditor if the IRS, in its sole discretion, reasonably believes that the auditor selected by WP was not independent or did not perform an effective periodic review under this Agreement.

(2) *External Auditor.* WP may engage an external auditor that is a certified public accountant, attorney, or third-party consultant that is regularly engaged in the practice of performing reviews of clients' policies, procedures, and processes for complying with accounting, tax, or regulatory requirements (including for assisting clients in determining such compliance). The external auditor must be independent of WP under the standards applicable to a certified public accountant with respect to the engagement or, in the case of an auditor other than a certified public accountant, any standard of independence otherwise applicable to the auditor for such an engagement. The external auditor is not required to make an attestation or render an opinion regarding WP's compliance with this Agreement or WP's compliance with its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI, but the auditor must be able to perform the periodic review as specified in section 8.05 of this Agreement and provide the report described in section 8.06 of this Agreement. WP must permit the external auditor access to all relevant records of WP for purposes of performing the audit, including information regarding specific partners. Additionally, the engagement between the external auditor and WP must impose no restrictions on WP's ability to provide the report described in section 8.06 of this Agreement to the IRS. However, the external auditor is not required to divulge the identity of WP's foreign partners to the IRS. WP must permit the IRS to communicate directly with the external auditor and any legal prohibitions that prevent the IRS from communicating directly with the auditor must be waived.

Sec. 8.05. Scope and Timing of Review. The responsible officer of WP must require the auditor to perform a review of WP's internal controls, test a sample of distributions and allocations related to WP's documentation, withholding, reporting, and other obligations under

this Agreement and its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI and identify deficiencies in meeting these obligations. To the extent WP applies the joint account option with respect to another partnership or trust as described in section 9.01 of this Agreement or acts as a withholding foreign partnership for any indirect partners as described in section 9.03 of this Agreement, the review must include such indirect partners, beneficiaries, or owners in addition to WP's direct partners. In addition, if WP applies the agency option to a partnership or trust as described in section 9.02 of this agreement, the review must include the partners, beneficiaries or owners of such partnership or trust unless the partnership or trust conducts its own review in accordance with this section 8 of this Agreement and provides the required certification to the responsible officer of WP. Unless otherwise approved by the IRS, the review must include the steps described in sections 8.05(A) through (E) of this Agreement. The review may include recommendations for either corrective actions or enhancements to WP's compliance program. WP is required to arrange for the performance of one review for the certification period to evaluate WP's documentation, withholding, and reporting practices for the most recent calendar year. The review is not required to include statistical sampling procedures for testing transactions, but must require that the auditor document its methodology for sampling determinations.

(A) Documentation. The auditor must--

(1) Verify that WP has training materials, manuals, and directives that instruct the appropriate persons how to request, collect, review, and maintain documentation in accordance with this Agreement, including procedures for identifying and communicating changes in circumstances;

(2) Review WP's procedures and interview the appropriate persons to determine if appropriate documentation is requested from partners, and, if obtained, that it is reviewed and maintained in accordance with this Agreement;

(3) Verify that WP follows procedures designed to inform partners that claim a reduced rate of withholding under an income tax treaty about any applicable limitation on benefits provisions;

(4) Review WP's documentation obtained for WP's partners to ensure that WP obtained the treaty statements required by section 4.03(B) of this Agreement;

(5) Review information contained in documentation obtained for WP's partners or memoranda and any correspondence associated with the partners (the partners' files) to ensure that WP obtained documentation that meets the general requirements described in section 4 of this Agreement;

(6) Review information contained in the partners' files to determine if the documentation validity standards of section 4.10 of this Agreement have been met. For example, the auditor must verify that WP is withholding at the correct rate after any change in circumstances (e.g., a change of address to a U.S. address or change of account holder status from foreign to U.S.);

(7) Review WP's partners' files to ensure that WP is obtaining, reviewing, and maintaining documentation in accordance with its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI; and

(8) Review WP's agreements with partnerships or trusts described in section 9 of this Agreement to ensure that the obligations imposed meet the requirements provided in section 9 of this Agreement, including, for example, the receipt of allocation information.

(B) *Withholding Responsibilities.* The auditor must--

(1) Perform test checks, using a valid sample of WP's direct partners that are recalcitrant account holders (if applicable) and nonparticipating FFIs, to verify that WP is withholding as required under chapter 4;

(2) Perform test checks, using a valid sample of foreign partners for which no withholding is required under chapter 4 based on the partner's chapter 4 status, to verify that WP withheld the proper amounts; and

(3) Verify that amounts withheld by WP were timely deposited in accordance with section 3.05 of this Agreement.

(C) *Return Filing and Information Reporting.* The auditor must--

(1) Obtain copies of original and amended Forms 1042, and any schedules, statements, or attachments required to be filed with those forms, and verify that the forms have been filed and determine whether the amounts of income, taxes, and other information reported on those forms are accurate by--

(i) Reviewing work papers used to prepare these forms;

(ii) Interviewing personnel responsible for preparing these forms;

(iii) Reviewing copies of Forms 1042-S received from withholding agents for reconciling amounts received by WP with the amounts distributed to, or included in the distributive share of, WP's partners;

(iv) Reviewing account statements and correspondence from withholding agents;

(v) Determining that adjustments to the amount of tax shown on Form 1042 (and any claim by WP for refund or credit) properly reflect the adjustments to withholding made by WP using the reimbursement or set-off procedures under section 7 of this Agreement and that the adjustments are supported by sufficient documentation;

(vi) Reconciling amounts shown on Forms 1042 with amounts shown on Form 1042-S (including the amount of taxes reported as withheld); and

(vii) In the case of collective credits or refunds, reviewing the statements attached to the amended Forms 1042 filed to claim a collective credit or refund, ascertaining their accuracy, and—

(a) Determining the causes of any overwithholding reported and ensure WP did not issue Forms 1042-S to partners that were included as part of its collective credit or refund claim;

(b) Determining that WP repaid the appropriate partners and that the amount of the claim is accurate and supported by adequate documentation for reducing the rate of withholding; and

(c) Determining that WP did not include payments made to a partner described in section 7.02 of this Agreement or a partnership or trust described in section 9.01 of this Agreement.

(2) Obtain copies of original and amended Forms 1042-S, 1065, and Schedules K-1 filed by WP together with the work papers used to prepare those forms and determine whether the amounts reported on those forms are accurate by--

(i) Reviewing the Forms 1042-S received from withholding agents;

(ii) Reviewing the Form 1065, if required, and if no Form 1065 was required to be filed, determining whether the exemption from filing was properly applied;

(iii) Reviewing a valid sample of Schedules K-1 or income statements issued by WP to partners, if any;

(iv) Reconciling any payments and tax reported on Forms 1042-S received from withholding agents with amounts (including characterization of income) and taxes reported by WP as withheld on Forms 1042-S and determining the reason(s) for any variance;

(v) Interviewing personnel responsible for preparing the Forms 1042-S, Schedules K-1, and income statements issued to partners and the work papers used to prepare those forms; and

(vi) Determining, in any case in which WP utilized the reimbursement or set-off procedure, that WP satisfied the requirements of section 7 of this Agreement and that the adjusted amounts of tax withheld are properly reflected on Forms 1042-S.

(3) Obtain copies of original and amended Forms 8966, and determine whether the amounts of income and other information reported on Forms 8966 are accurate by—

(i) Reviewing a sample of U.S. accounts (or U.S. reportable accounts), accounts held by nonparticipating FFIs, and recalcitrant account holders to determine that such accounts were reported in accordance with WP's FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI;

(ii) If WP is an NFFE, confirming that any direct partners that are passive NFFEs with one or more substantial U.S. owners were reported in accordance with §1.1472-1(c)(3);

(iii) Confirming with respect to any passthrough partner that provides information regarding an account holder (or interest holder) that is an NFFE (other than an excepted NFFE) with one or more substantial U.S. owners (or controlling persons that are specified U.S. persons under an applicable Model 1 or Model 2 IGA) that such substantial U.S. owners (or controlling persons that are specified U.S. persons) were reported to the extent required under section 6.05(C) of this Agreement;

(iv) Reviewing a sample of the documentation provided by a partnership or trust to which WP applied the agency option, confirming that WP reported on Form 8966 to the extent required under section 9 of this Agreement;

(v) Reviewing work papers used to prepare these forms; and

(vi) Interviewing personnel responsible for preparing these forms.

(D) *Significant Change in Circumstances.* The auditor must verify that in the course of the audit it has not discovered any significant change in circumstances, as described in section 10.05(A), (D), or (E) of this Agreement.

Sec. 8.06. Periodic Review Report.

(A) *In General.* The performance of the periodic review must be documented in a written report addressed to the responsible officer of WP and must be available to the IRS upon request (with a certified translation into English if the report is not in English). The report must describe the scope of the review, the steps performed to evaluate internal controls, and the test transactions, including the methodology for sampling determinations. The report must identify any deficiencies noted by the auditor, especially those deficiencies that the auditor concludes are material failures and may include explanatory footnotes to clarify the results of the report. Recommendations may be included but are not required to be provided in the report.

(B) *Partnership or Trust to which WP Applies the Agency Option.* Any partnership or trust to which WP applies the agency option and that does not provide documentation and information to WP for WP's periodic review, must provide a written certification to WP as described in section 8.03 of this Agreement regarding its compliance with the requirements of its agreement with WP. Such certification must be available to the IRS upon a request made as part of the review described in section 8.07 of this Agreement (with a certified translation into English if the certification is not in English).

(C) *Retention of Report.* The report and certifications described in this section 8.06 must be retained by WP for as long as this Agreement is in effect (including renewals of this Agreement).

Sec. 8.07. Compliance Review.

(A) *In General.* Based upon the certifications made by the responsible officer and disclosure of material failures, the information reported on Forms 1042, 1042-S, 1065, and 8966 and Schedules K-1 filed with the IRS during the certification period, or otherwise at the IRS's discretion for compliance purposes, the IRS may initiate requests of WP under this section 8.07.

(B) *Periodic Review Report.* The IRS may request through written correspondence to the responsible officer of WP a copy of WP's periodic review report that was issued for any prior certification period or the periodic review report of any partnership or trust to which WP applied the agency option that WP has an agency agreement during the current certification period (with a certified translation into English if the report is not in English). WP is required to provide the report within 30 calendar days of such request.

(C) *Correspondence Review.* The IRS may, in its discretion, conduct additional fact finding through a correspondence review. In such a review, the IRS will contact the responsible officer of WP in writing and request information about WP's compliance with this Agreement or the compliance of a partnership or trust to which WP applied the agency option, including, for example, information about documentation, withholding, or reporting processes, its periodic review, and information about any material failures that were disclosed to the IRS (including remediation plans). The IRS may request phone or video interviews with relevant personnel or a partnership or trust to which WP applied the agency option as part of such review. WP is required to respond within a reasonable period of time to any such requests.

(D) Additional Review Procedures. In limited circumstances, the IRS may direct WP or any partnership or trust described in sections 9.01 and 9.02 of this Agreement with which WP has an agreement to perform additional, specified review procedures. The IRS reserves the right to require WP or a partnership or trust to which WP applied the agency option to engage an external auditor to perform the additional review procedures regardless of whether such auditor performed the periodic review. The IRS will provide the responsible officer of WP with a written plan describing the additional review procedures and will provide a period of not more than 120 days within which the WP must provide to the IRS a report covering the review's findings.

Section 9. CERTAIN PARTNERSHIPS AND TRUSTS

Sec. 9.01. Joint Account Treatment for Certain Partnerships and Trusts.

(A) In General. WP may enter an agreement with a nonwithholding foreign partnership or nonwithholding foreign trust that is either a simple or grantor trust described in this section 9.01(A) to apply the simplified joint account documentation, reporting, and withholding procedures provided in section 9.01(B) of this Agreement. WP and the partnership or trust that apply this section 9.01 to any calendar year must apply these rules to the calendar year in its entirety. WP and the partnership or trust may not apply this section 9.01 to any calendar year in which the partnership or trust has failed to make available to WP or WP's auditor the records described in this section 9.01(A)(5) within 90 days after these records are requested and the partnership or trust must waive any legal prohibitions against providing such records to WP. If the partnership or trust has failed to make these records available within the 90-day period, or if WP and the partnership or trust fail to comply with any other requirements of this section 9.01, WP must apply the provisions of §§1.1441-1 and 1.1441-5 to the partnership or trust as a nonwithholding foreign partnership or nonwithholding foreign trust, must correct its withholding for the period during which the failure occurred in accordance with section 7.03 of this Agreement, and cannot apply this section 9.01 to subsequent calendar years. WP and the partnership or trust that apply this section 9.01 to any calendar year are not required to apply this section 9.01 to subsequent calendar years.

WP may not apply the rules of section 9.01(B) unless it has made a PR election under section 6.02(D) of this Agreement.

A partnership or trust is described in this section 9.01(A) of this Agreement if the following conditions are met.

- (1) The partnership or trust is a certified deemed-compliant FFI (other than a registered deemed-compliant Model 1 IGA FFI), an owner-documented FFI, an exempt beneficial owner, or an NFFE (other than a WP or WT);
- (2) The partnership or trust is a direct partner of WP;
- (3) None of the partnership's or trust's partners, beneficiaries, or owners is a flow-through entity or intermediary;
- (4) None of the partnership's or trust's partners, beneficiaries, or owners is a U.S. person and none of its foreign partners, beneficiaries, or owners is subject to withholding or reporting under chapter 4 (which would include a nonparticipating FFI or certain passive NFFEs); and
- (5) The partnership or trust agrees to make available upon request to WP and WP's auditor for purposes of WP's compliance review under section 8 of this Agreement (including to respond to IRS inquiries regarding its compliance review) records that establish that the partnership or trust

has provided WP with documentation for purposes of chapters 3 and 4 for all of its partners, beneficiaries, or owners.

(B) Modification of Obligations for WP.

(1) WP may rely on a valid Form W-8IMY provided by the partnership or trust and may rely on a withholding statement that meets the requirements of §§1.1441-5(c)(3)(iv) or (e)(5)(iv), and §1.1471-3(c)(3)(iii)(B), if the payment is a withholdable payment, and that provides information for all partners, beneficiaries, or owners together with valid Forms W-8 and, for a withholdable payment made to a partner, beneficiary, or owner that is an entity, documentation required under §1.1471-3(d) to establish such partner's, beneficiary's, or owner's chapter 4 status. The withholding statement, however, need not provide any allocation information.

(2) WP must treat amounts distributed to, or included in the distributive share of, the partnership or trust as allocated solely to a partner, beneficiary or owner that is subject to the highest rate of withholding under chapter 3 and must withhold at that rate.

(3) WP may pool report amounts distributed to, or included in the distributive share of, the partnership's or trust's direct partners, owners, or beneficiaries in chapter 3 reporting pools on Form 1042-S as described in section 6.02 of this Agreement.

(4) After WP has withheld in accordance with section 9.01(B)(2) of this Agreement, it may file a separate Form 1042-S for any partner, beneficiary or owner who requests that it do so. If WP issues a separate Form 1042-S for any partner, beneficiary, or owner, it cannot include such partner, beneficiary, or owner in WP's chapter 3 reporting pool. If WP has already filed a Form 1042-S and included the partner, beneficiary, or owner in a chapter 3 reporting pool, it must file an amended return to reduce the amount of the payment reported to reflect the amount allocated to the recipient on the recipient's specific Form 1042-S. WP may file a separate Form 1042-S for a partner, beneficiary, or owner only if the partnership or trust provides a withholding statement that includes allocation information for the requesting partner, beneficiary, or owner and only if the partnership or trust has agreed in writing under section 9.01(A)(5) of this Agreement to make available to WP or WP's auditor the records that substantiate the allocation information included in its withholding statement.

(5) WP may not include any amounts distributed to, or included in the distributive share of, a partnership or trust to which WP is applying the rules of this section 9.01 in any collective refund claim made under section 7.02 of this Agreement.

(C) Transitional Rule through December 31, 2014. For the period beginning on the effective date of this Agreement and ending December 31, 2014, a WP that had previously entered into an agreement with a partnership or trust to apply the provisions described in this section 9.01 ("the joint account option") may continue to act consistent with such agreement provided that the agreement meets the requirements of section 10 of Revenue Procedure 2003-64 (as amended). However, WP is required to withhold with respect to such partnership or trust under chapter 4 to the extent required under this Agreement.

Sec. 9.02. Agency Option for Certain Partnerships and Trusts.

WP may enter an agreement with a nonwithholding foreign partnership or nonwithholding foreign trust that is either a simple or grantor trust described in section 9.02(A) of this Agreement under which the partnership or trust agrees to act as an agent of WP with respect to its partners, beneficiaries or owners, and, as WP's agent, to apply the provisions of the WP Agreement to the partners, beneficiaries, or owners. By entering into an agreement with a partnership or trust as described in this section 9.02, WP is not assigning its liability for the performance of any of its obligations under the WP Agreement. WP and the partnership or trust

to which WP applies the rules of this section 9.02 (agency option) are jointly and severally liable for any tax, penalties, and interest that may result from the failure of the partnership or trust to meet any of the obligations imposed by its agreement with WP. WP and the partnership or trust that apply the agency option to any calendar year must apply these rules to the calendar year in its entirety. Generally, WP and the partnership or trust that apply the agency option to any calendar year are not required to apply the agency option to subsequent calendar years. If, however, WP withholds and reports any adjustments required by corrected information in a subsequent calendar year under section 9.02(B)(2) of this Agreement, WP must apply the agency option to that calendar year in its entirety.

If the partnership or trust is included in WP's periodic review of compliance as described in section 9.02(A)(5) of this Agreement, WP and the partnership or trust may not apply the agency option to any calendar year in which the partnership or trust has failed to make available to WP or WP's auditor the records described in this section 9.02 within 90 days after these records are requested and the partnership or trust must waive any legal prohibitions against providing such records to the WP. If, for any calendar year, the partnership or trust has failed to make these records available within the 90-day period, or if WP and the partnership or trust fail to comply with any other requirement of this section 9.02, WP must apply §§1.1441-1 and 1.1441-5 to the partnership or trust as a nonwithholding foreign partnership or nonwithholding foreign trust, correct its withholding for the period in which the failure occurred in accordance with section 7.03 of this Agreement, and cannot apply this section 9.02 to subsequent calendar years.

WP may not apply the rules of this section 9.02 unless it has made a PR election under section 6.02(C) of this Agreement.

(A) Eligible partnership or trust. A partnership or trust is described in this section 9.02(A) of this Agreement if the following conditions are met:

(1) The partnership or trust is either a direct partner of WP or an indirect partner of WP that is a direct partner, beneficiary, or owner of a partnership or trust to which WP also applies this section 9.02.

(2) The partnership or trust is an FFI that is a certified deemed-compliant FFI (other than a registered deemed-compliant Model 1 IGA FFI), owner-documented FFI, an NFFE, or an exempt beneficial owner.

(3) None of the partnership's or trust's partners, beneficiaries, or owners is a withholding foreign trust, withholding foreign partnership, participating FFI, registered deemed-compliant FFI, registered deemed-compliant Model 1 IGA FFI, or qualified intermediary acting as an intermediary for a payment made by WP to the partnership or trust.

(4) WP may not act as a withholding foreign partnership with respect to any direct or indirect partner of the partnership or trust that is a U.S. non-exempt recipient, unless the U.S. non-exempt recipient is a partner of an owner-documented FFI or passive NFFE to which WP applies the agency option and is included in WP's U.S. payee pool (described in section 6.02(C) of this Agreement).

(5) The partnership or trust agrees to comply with the documentation requirements described in section 4 of this Agreement.

(6) The partnership or trust agrees to comply with the compliance procedures described in section 8.05 of this Agreement in order to allow the responsible officer of WP to make a certification to the IRS regarding the partnership's or trust's compliance with this section 9.02 by (i) providing WP with the certification required under section 8.03 of this Agreement for each certification period, or (ii) providing WP with documentation or other information for review. The

partnership or trust must also agree to respond (either directly or through WP) to IRS inquiries regarding its compliance review described in section 8.07 of this Agreement, including, if applicable, providing the WP and the IRS with the auditor's report described in section 8.06 of this Agreement.

(B) Modification of Obligations for WP.

(1) WP may rely on a valid Form W-8IMY provided by the partnership or trust, together with a withholding statement described in §§1.1441-5(c)(3)(iv) or (e)(5)(iv), and §1.1471-3(c)(3)(iii)(B) if the payment is a withholdable payment, that includes all information necessary for WP to fulfill its withholding, reporting, and filing obligations under this Agreement. For a withholdable payment, the withholding statement may include a chapter 4 withholding rate pool (as defined in §1.1471-1(b)(20)) of nonparticipating FFIs for payments of amounts subject to chapter 4 withholding. The withholding statement may also include chapter 3 withholding rate pools (as defined in §1.1441-1(c)(44) for partners, beneficiaries, or owners that are not intermediaries, flow-through entities (or persons holding interests in the partnership or trust through such entities), U.S. non-exempt recipients, or passive NFFEs with one or more substantial U.S. owners (or one or more controlling persons that is a specified U.S. person under an applicable Model 1 or Model 2 IGA), and the partnership or trust need not provide to WP documentation for these partners, beneficiaries or owners. The partnership or trust is required to disclose to WP any partner or interest holder that is a passive NFFE with substantial U.S. owners (or controlling persons that are specified U.S. persons under an applicable IGA) or that is a U.S. non-exempt recipient, as well as the account holders of any nonqualified intermediary or interest holders in a flow-through entity which has an interest in the partnership or trust, and provide all of the documentation and other information relating to those account holders and interest holders that is required for WP, or another withholding agent, to report the payments made to those account holders and interest holders to the extent required by section 6 of this Agreement.

(2) *Timing of Withholding.* WP must withhold on the date an amount is distributed to, or included in the distributive share of, the partnership or trust based on a withholding statement provided by the partnership or trust on which WP is permitted to rely. The amount allocated to each partner, beneficiary, or owner in the withholding statement may be based on a reasonable estimate of the partner, beneficiary, or owner's distributive share of income subject to withholding for the year. The partnership or trust must correct the estimated allocations to reflect the partner's, beneficiary's, or owner's actual distributive share and must provide this corrected information to WP, on the earlier of the date that the statement required under section 6031(b) (i.e., Schedule K-1) is mailed or otherwise provided to the partner or the due date for furnishing the statement (whether or not the partnership or trust is required to prepare and furnish the statement). If that date is after the due date for WP's Forms 1042 and 1042-S (without regard to extensions) for the calendar year, WP may withhold and report any adjustments required by the corrected information in the following calendar year.

(3) *Payments Reportable under Chapters 3 and 4.* WP shall report on Form 1042-S all amounts subject to chapters 3 and 4 withholding distributed to, or included in the distributive share of, the partnership or trust as follows:

(a) For a direct partner, beneficiary, or owner of the partnership or trust that is a nonparticipating FFI, WP shall report an amount subject to withholding using the chapter 4 reporting pool described in section 6.02(C) of this Agreement with the partnership or trust reported as the recipient.

(b) For a direct partner, beneficiary, or owner of the partnership or trust that is a foreign person for which no withholding is required under chapter 4 (other than an intermediary, agent, or flow-through entity described below), WP shall report an amount subject to chapter 3 withholding

using the chapter 3 reporting pools as described in section 6.02(D) of this Agreement with the partnership or trust reported as the recipient.

(c) For a direct or indirect partner, beneficiary, or owner of the partnership or trust that is a nonqualified intermediary or foreign flow-through entity, WP shall report payments of amounts subject to chapter 4 withholding included in a chapter 4 withholding rate pool of nonparticipating FFIs using the chapter 4 reporting pool for such partner, beneficiary, or owner with the nonqualified intermediary or foreign flow-through entity reported as the recipient, and WP shall report payments of amounts subject to chapter 3 withholding that are not withholdable payments or are withholdable payments for which no chapter 4 withholding is required by reporting the payments as made to specific recipients as described in 6.02(B) of this Agreement.

(4) Form 8966 Reporting Requirements. If WP is an FFI and if the partnership or trust is a U.S. account (or U.S. reportable account), WP is required to report the partnership or trust consistent with its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI. The agreement between WP and the partnership or trust must also provide that WP shall report withholdable payments that the partnership or trust distributes to, or includes in the distributive share of, a partner, beneficiary or owner that is an NFFE (other than an excepted NFFE) with one or more substantial U.S. owners (or one or more controlling persons that is a specified U.S. person under an applicable IGA) and is the beneficial owner of the withholdable payment received by the partnership or trust. WP must report on Form 8966 in the time and manner provided in §1.1474-1(i)(2). Such report must include the name of the NFFE that is owned by a substantial U.S. owner (or controlling person that is a specified U.S. person); the name, address, and U.S. TIN of each substantial U.S. owner (or controlling person that is a specified U.S. person); the total of all withholdable payments made to the NFFE during the calendar year (or reportable period under the applicable IGA); and any other information as required by the form and its accompanying instructions.

(C) Other Requirements of Agency Agreement. WP shall require the partnership or trust to which it applies the agency option described in this section 9.02 to provide WP with all the information necessary for WP to meet its obligations under this Agreement. No provisions shall be contained in the agreement between WP and the partnership or trust that preclude, and no provisions of this Agreement shall be construed to preclude, the partnership or trust's joint and several liability for tax, penalties, and interest under chapters 3 and 4 to the extent that underwithholding, penalties, and interest have not been collected from WP and the underwithholding or failure to report amounts correctly on Forms 1042, 1042-S or 8966, is due to the partnership or trust's failure to properly perform its obligations under its agreement with WP. Nothing in the agreement between WP and the partnership or trust shall be construed to limit the partnership or trust's requirements under chapter 4 as a certified deemed-compliant FFI, an NFFE, or an exempt beneficial owner. Further, nothing in the agreement between WP and the partnership or trust shall permit the partnership or trust to assume primary chapters 3 and 4 withholding responsibility.

(D) Transitional Rule through December 31, 2014. For the period beginning on the effective date of this Agreement and ending December 31, 2014, a WP that entered into an agreement with a partnership or trust to apply the provisions described in this section 9.02 ("the agency option") may continue to act consistent with such agreement provided that the agreement meets the requirements of section 10 of Revenue Procedure 2003-64 (as amended). However, WP is required to withhold with respect to such partnership or trust under chapter 4 to the extent required under this Agreement.

Sec. 9.03. Indirect Partners of WP.

(A) *General Requirements.* WP may act as a withholding foreign partnership for reportable amounts distributed to, or included in the distributive share of, passthrough partners and indirect partners if such indirect partner is not a U.S. non-exempt recipient. Notwithstanding the preceding sentence, WP may act as a withholding foreign partnership with respect to an indirect partner that is a U.S. non-exempt recipient if the indirect partner is included in a passthrough partner's chapter 4 withholding rate pool of recalcitrant account holders or U.S. payees. WP does not need to use the agency option described in section 9.02 of this Agreement or make the pooled reporting election described in section 6.02(D) of this Agreement to apply the procedures described in this section 9.03.

(B) *Modification of Obligations for WP.*

(1) Except to the extent described in this section 9.03(B), WP need not forward the documentation and the withholding statement of the passthrough partner and indirect partner to WP's withholding agent;

(2) WP must provide its withholding agent with documentation and other information from any passthrough partner whose direct or indirect partner is a U.S. non-exempt recipient (unless such U.S. non-exempt recipient is included in a chapter 4 withholding rate pool of recalcitrant account holders or U.S. payees);

(3) WP will assume primary chapters 3 and 4 withholding responsibility as described in section 3 of this Agreement and must report on its indirect partners on a specific payee basis on Form 1042-S (except to the extent such indirect partners are included in a passthrough partner's chapter 4 withholding rate pool) as described in section 6.02(B) of this Agreement, regardless of whether WP made a PR election for its direct partners under section 6.02(D) of this Agreement; and

(4) WP must include any passthrough partner and indirect partner for which it acts as a withholding foreign partnership in its periodic review as described in section 8.05 of this Agreement.

(C) *Documentation from Passthrough Partner.* WP agrees to use its best efforts to obtain from a passthrough partner the documentation of an indirect partner for which WP acts as a withholding foreign partnership. Unless WP can reliably associate an amount distributed to, or included in the distributive share of, any passthrough partner with valid documentation from such partner within the meaning of §1.1441-1(b)(2)(vii) and, for a withholdable payment, §1.1471-3(c), WP shall apply the presumption rules described in §§1.1441-1(b)(3), 1.1441-4(a), 1.1441-5(d) and (e)(6), 1.1441-9(b)(3), and 1.6049-5(d) and for a withholdable payment made to an entity, §1.1471-3(f) or, if WP is an FFI, its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI. Generally, WP can reliably associate an amount with documentation provided by a passthrough partner if WP obtains--

(1) A valid Form W-8IMY provided by the passthrough partner that, if the payment is a withholdable payment, establishes the chapter 4 status of the passthrough partner; and

(2) If the payment is a withholdable payment, a withholding statement that meets the requirements of §1.1471-3(c)(3)(iii)(B) that includes the account holders or interest holders of the passthrough partner in chapter 4 withholding rate pools to the extent permitted, and, for an amount subject to chapter 3 withholding that is not a withholdable payment or is a withholdable payment for which chapter 4 withholding is not required, valid documentation described in section 4 of this Agreement provided by account holders or interest holders of the passthrough partner that are not themselves qualified intermediaries or flow-through entities.

WP may not reduce the rate of withholding with respect to an indirect partner for which it acts as a withholding foreign partnership unless WP can reliably associate the payment with valid documentation that establishes the indirect partner's entitlement to a reduced rate of withholding under chapter 3 and, in the case of a withholdable payment, establishes that chapter 4 withholding does not apply.

(D) *Timing of Withholding.* WP must withhold on the date an amount is distributed to, or included in the distributive share of, the passthrough partner based on a withholding statement provided by the passthrough partner on which WP is permitted to rely. The amount allocated to each indirect partner in the withholding statement may be based on a reasonable estimate of the indirect partner's distributive share of income subject to withholding for the year. The passthrough partner must agree to correct the estimated allocations to reflect the indirect partner's actual distributive share and must provide this corrected information to WP, on the earlier of the date that the statement required under section 6031(b) of the Code (Schedule K-1) is mailed or otherwise provided to the indirect partner or the due date for furnishing the statement (whether or not the passthrough partner is required to prepare and furnish the statement). If that date is after the due date for WP's Forms 1042 and 1042-S (without regard to extensions) for the calendar year, WP may withhold and report any adjustments required by the corrected information in the following calendar year.

(E) *Form 8966 Reporting Requirements.* If WP is an FFI and if the passthrough partner is a U.S. account (or U.S. reportable account), WP is required to report the partnership or trust consistent with its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI. WP shall also report withholdable payments that WP distributes to, or includes in the distributive share of, a passthrough partner if an account holder or interest holder of such passthrough partner is an NFFE (other than an excepted NFFE) with one or more substantial U.S. owners (or one or more controlling persons that is a specified U.S. person under an applicable IGA) and if the NFFE is the beneficial owner of the withholdable payment received by the passthrough partner. WP must report on Form 8966 in the time and manner provided in §1.1474-1(i)(2). Such report must include the name of the NFFE that is owned by a substantial U.S. owner (or controlling person that is a specified U.S. person); the name, address, and U.S. TIN of each substantial U.S. owner (or controlling person that is a specified U.S. person); the total of all withholdable payments made to the NFFE during the calendar year (or reportable period under the applicable IGA); and any other information as required by the form and its accompanying instructions. WP is not required to report as described in this section 9.03(D) if the passthrough partner certifies on its withholding statement that it is reporting the account holder (or interest holder) as a U.S. account pursuant to its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI.

Section 10. EXPIRATION, TERMINATION AND DEFAULT

Sec. 10.01. Term of Agreement. This Agreement begins on the effective date of the WP Agreement and expires upon the earlier of the date WP terminates under its partnership agreement or December 31, 2016. This Agreement may be renewed for additional terms as provided in section 10.07 of this Agreement.

Sec. 10.02. Termination of Agreement. Except as otherwise provided in section 10.03 of this Agreement, this Agreement may be terminated by either the IRS or WP prior to the end of its term by delivery of a notice, in accordance with section 11.06 of this Agreement, of termination to the other party. The IRS, however, shall not terminate this Agreement unless there has been a significant change in circumstances, as defined in section 10.04 of this Agreement, or an event of default has occurred, as defined in section 10.05 of this Agreement, and the IRS

determines, in its sole discretion, that the significant change in circumstances or the event of default warrants termination of this Agreement. The IRS shall not terminate this Agreement if WP can establish to the satisfaction of the IRS that all events of default for which it has received notice have been cured within the time period agreed upon. The IRS shall notify WP, in accordance with section 10.06 of this Agreement, that an event of default has occurred and that the IRS intends to terminate the Agreement unless WP cures the default or establishes that no event of default has occurred. A notice of termination sent by either party shall take effect on the date specified in the notice, and WP is required to notify its withholding agent of the date its status as a WP was terminated.

Sec 10.03. Termination of Agreement.

(A) *Automatic Termination.* Notwithstanding section 10.02 of this Agreement, this Agreement will terminate automatically in the event that the auditor or the IRS (including during its compliance review described in section 8.07 of this Agreement) discovers that WP was not in possession of Forms W-8 or W-9, as applicable, or documentary evidence, as permitted under section 4.01(B), for any direct partner at any time that withholding or reporting was required under section 3.02 of this Agreement. The automatic termination will be effective as of December 31 of the year in which the auditor or the IRS makes that discovery.

(B) *Cure and Reinstatement after Automatic Termination.* This Agreement will be reinstated, effective the same date it automatically terminated under section 10.03(A) of this Agreement, if--

(1) WP obtains appropriate Forms W-8 or W-9 or documentary evidence, as permitted under section 4.01(B), (that relate to the time withholding or reporting was required) for each such undocumented partner before March 15 of the year following the year in which the Agreement automatically terminated, or

(2) All such undocumented partners have ceased to be partners in WP before March 15 of the year following the year in which the Agreement automatically terminated.

(C) *Payment of Underwithholding and Reporting upon Termination.* In the event of automatic termination of this Agreement under this section 10.03, WP must pay any underwithholding of tax, interest, and penalties that the IRS determines is attributable to each undocumented partner for the period during which the partner was undocumented based on the presumption rules, and, if WP has made a pooled reporting election for chapter 3 purposes, WP must file partner specific Forms 1042-S for amounts subject to chapter 3 withholding for which no chapter 4 withholding is required and Schedules K-1 reporting the names and addresses and other required information, as appropriate, for every undocumented partner from the earliest time the documentation was required for that undocumented partner through the date of termination. WP may, however, continue to report on a pooled basis for documented foreign direct partners through this period.

(D) *Reinstatement after Termination (other than Automatic Termination).* After the date of termination of this Agreement, WP may not act as a withholding foreign partnership, and must so notify any persons to which WP has furnished a withholding foreign partnership certificate. After the date of termination of this Agreement, the IRS may reinstate this Agreement (or the IRS may require WP to enter into a new withholding foreign partnership agreement) on such terms and conditions and with such modifications as the IRS may determine.

Sec. 10.04. Significant Change in Circumstances. For purposes of this Agreement, a significant change in circumstances includes, but is not limited to--

(A) Any change in circumstances that would result in a termination of WP under section 708;

(B) A change in U.S. federal law or policy, or applicable foreign law or policy, that affects the validity of any provision of this Agreement, materially affects the procedures contained in this Agreement, or affects WP's ability to perform its obligations under this Agreement;

(C) A ruling of any court that affects the validity of any material provision of this Agreement;

(D) A significant change in WP's business practices that affects WP's ability to meet its obligations under this Agreement;

(E) If applicable, a material change in the know-your-customer rules and procedures set forth in the Attachments to this Agreement when WP relied on documentary evidence as permitted in section 4.01(B) of this Agreement;

(F) If WP is an FFI (other than a retirement fund), termination of its status as a participating FFI, registered deemed-compliant FFI, or a registered deemed-compliant Model 1 IGA FFI; or

(G) If WP is acting as a sponsoring entity on behalf of a sponsored FFI or sponsored direct reporting NFFE, it fails to comply with the due diligence, withholding, reporting, and compliance requirements of a sponsoring entity.

Sec. 10.05. Events of Default. For purposes of this Agreement, an event of default occurs if WP fails to perform any material duty or obligation required under this Agreement and the responsible officer had actual knowledge of or should have known the facts relevant to the failure to perform any material duty. An event of default includes, but is not limited to, the occurrence of any of the following:

(A) WP fails to implement adequate procedures, accounting systems, and internal controls to ensure compliance with this Agreement;

(B) WP underwithholds an amount that WP is required to withhold under chapter 3 or 4 and fails to correct the underwithholding or to file an amended Form 1042 reporting, and paying, the appropriate tax;

(C) WP makes excessive refund claims;

(D) WP fails to file required Forms, 1042, 1042-S, 8966, 1065, or Schedules K-1 by the due date specified on such forms or files forms that are materially incorrect or fraudulent;

(E) If WP is an FFI, WP fails to materially comply with its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI;

(F) If WP is a sponsoring entity, WP fails to comply with the due diligence, withholding, reporting, and compliance requirements of a sponsoring entity;

(G) WP fails to perform a periodic review when required or to document the findings of such review in a written report;

(H) WP fails to inform the IRS within 90 days of any significant change in its business practices to the extent that change affects WP's obligations under this Agreement;

(I) WP fails to cure a material failure identified in the qualified certification described in section 8.03(B) of this Agreement or identified by the IRS;

(J) WP makes any fraudulent statement or a misrepresentation of a material fact with regard to this Agreement to the IRS, a withholding agent, or WP's auditor;

(K) The IRS determines that WP's auditor is not sufficiently independent to adequately perform its audit function and WP fails to arrange for a periodic review conducted by an auditor approved by the IRS;

(L) WP fails to make deposits in the time and manner required by section 3.04 of this Agreement or fails to make adequate deposits, taking into account the procedures of section 7.05 of this Agreement;

(M) If applicable, WP fails to inform the IRS of any change in the know-your-customer rules described in the Attachment to this Agreement within 90 days of the change becoming effective when WP relied on documentary evidence as permitted in section 4.01(B) of this Agreement;

(N) WP fails to cooperate with the IRS on its compliance review described in section 8.07 of this Agreement;

(O) A partnership or trust to which WP applies the agency option is in default with the agency agreement and WP fails to terminate that agreement within the time period specified in section 10.02 of this Agreement; or

(P) WP fails to materially comply with the requirements of a nonqualified foreign partnership under chapter 3 with respect to any partner for which it does not act as a withholding foreign partnership.

Sec. 10.06. Notice and Cure. Upon the occurrence of an event of default, the IRS will deliver to WP a notice of default specifying each event of default. WP must respond to the notice of default within 60 days (60-day response) from the date of the notice of default. The 60-day response shall contain an offer to cure the event of default and the time period in which to cure or shall state why WP believes that no event of default has occurred. If WP does not provide a 60-day response, the IRS will deliver a notice of termination as provided in section 10.02 of this Agreement. If WP provides a 60-day response, the IRS shall either accept or reject WP's statement that no default has occurred or WP's proposal to cure the event of default.

If the IRS rejects WP's statement that no default has occurred or rejects WP's proposal to cure the event of default, the IRS may offer a counter-proposal to cure the event of default with which WP will be required to comply within 30 days. If WP fails to provide a 30-day response, the IRS will send a notice of termination in accordance with section 10.02 of this Agreement, which WP may appeal within 30 days of the date of the notice by sending a written appeal to the address specified in section 11.06 of this Agreement. If WP appeals the notice of termination, this Agreement shall not terminate until the appeal has been decided. If an event of default is discovered in the course of an audit, WP may cure the default, without following the procedures of this section 10.06, if the external auditor's report describes the default and the actions that WP took to cure the default and the IRS determines that the cure procedures followed by WP were sufficient. If the IRS determines that WP's actions to cure the default were not sufficient, the IRS shall issue a notice of default and the procedures described in this section 10.06 shall be followed.

Sec. 10.07. Renewal. If WP is an FFI or an NFFE that is a sponsoring entity and intends to renew this Agreement for an additional term, it shall submit an application for renewal to the IRS on the IRS FATCA registration website, as provided in this revenue procedure, no earlier than one year prior to the expiration of this Agreement and no later than six months prior to the expiration of this Agreement, in accordance with the instructions to Form 8957, Foreign Account Tax Compliance Act (FATCA) Registration, or as otherwise provided in published guidance. Any such application for renewal must contain an update of the information provided by WP to the IRS in connection with the application to enter into this Agreement and any other information the IRS may request in connection with the renewal process. Either the IRS or WP may seek to negotiate a new withholding foreign partnership agreement rather than renew this Agreement.

A WP not described in the preceding paragraph must renew its WP agreement by submitting a request for renewal to the IRS at the address provided in section 11.06 of this Agreement.

Section 11. MISCELLANEOUS PROVISIONS

Sec. 11.01. WP's application to become a withholding foreign partnership, all Appendices and Attachments to this Agreement and, if WP is an FFI, its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI; or, if WP is a sponsoring entity, the due diligence, withholding, reporting, and compliance requirements of a sponsoring entity are hereby incorporated into and made an integral part of this Agreement. This Agreement, WP's application, and the Appendix to this Agreement constitute the complete agreement between the parties.

Sec. 11.02. This Agreement may be amended by the IRS if the IRS determines that such amendment is needed for the sound administration of the internal revenue laws or internal revenue regulations. This Agreement will only be modified through published guidance issued by the IRS and U.S. Treasury Department. Any such modification imposing additional requirements will in no event become effective until the later of 90 days after the IRS provides notice of such modification or the beginning of the next calendar year following the publication of such guidance.

Sec. 11.03. Any waiver of a provision of this Agreement by the IRS is a waiver solely of that provision. The waiver does not obligate the IRS to waive other provisions of this Agreement or the same provision at a later date.

Sec. 11.04. This Agreement shall be governed by the laws of the United States. Any legal action brought under this Agreement shall be brought only in a U.S. court with jurisdiction to hear and resolve matters under the internal revenue laws of the United States. For this purpose, WP agrees to submit to the jurisdiction of such U.S. court.

Sec. 11.05. WP's rights and responsibilities under this Agreement cannot be assigned to another person.

Sec. 11.06. Notices provided under this Agreement shall be mailed registered, first class airmail. Notice shall be directed as follows:

To the IRS:

Internal Revenue Service
Foreign Payments Practice
Foreign Intermediaries Team
290 Broadway, 12th Floor
New York, NY 10007-1867

All notices sent to the IRS must include the WP's name, WP-EIN, GIIN (if applicable), and the name of its responsible officer.

To WP:

The WP's responsible officer. Such notices shall be sent to the address indicated in the WP's registration or application (as may be amended).

Sec. 11.07. WP, acting in its capacity as a withholding foreign partnership or in any other capacity, does not act as an agent of the IRS, nor does it have the authority to hold itself out as an agent of the IRS.

Section 12. EFFECTIVE DATE OF AGREEMENT

Sec. 12.01. In General.

(A) Calendar Year 2014. If WP applies to renew its WP Agreement and the renewal is approved on or before August 31, 2014, this Agreement is effective on June 30, 2014. If WP is not a retirement fund or an NFFE that is not a sponsoring entity and applies to renew its WP Agreement on the IRS FATCA registration website after August 31, 2014 and the renewal is approved, this Agreement is effective on the date of approval. If WP is a retirement fund or an NFFE that is not a sponsoring entity and renews its WP Agreement after August 31, 2014, this Agreement is effective on the date of renewal as provided in an approval notice sent by the IRS. The renewal is approved on the later of the date WP is issued a GIIN or the date WP submits a request for renewal.

If WP is a new WP applicant (other than a retirement fund or an NFFE that is not a sponsoring entity) that applies to enter into a WP Agreement on or before August 31, 2014 and its application is approved, the effective date of this Agreement is June 30, 2014, provided that it obtains a GIIN, if it has not already done so, within 90 days of such approval. If WP is a new WP applicant (other than a retirement fund or an NFFE that is not a sponsoring entity) that applies to enter into a WP Agreement after August 31, 2014 and the application is approved, the effective date of this Agreement is the date it is issued a WP-EIN, provided that it obtains a GIIN, if it has not already done so, within 90 days of such approval. If WP is a new WP applicant that is a retirement fund or an NFFE that is not a sponsoring entity that applies to enter into a WP Agreement and its application is approved, the effective date of this Agreement is the date it is issued a WP-EIN.

(B) Calendar Years after 2014. For calendar years after 2014, the effective date of this Agreement is January 1 of the current calendar year if WP's application for WP status is submitted on or before March 31. If WP's application for WP status is submitted on or after April 1, the effective date of this Agreement is January 1 of the calendar year following the year in which the application was submitted. WP must be in compliance with this Agreement beginning January 1 of the calendar year in which this Agreement is effective.

Sec. 12.02. Transitional Rules.

(A) In General. If this Agreement is effective beginning in calendar year 2014, WP may act as a WP for the entire calendar year if WP acts in accordance with Revenue

Procedure 2003-64 (as amended) for amounts subject to chapter 3 withholding (as defined in section 2.04 of the WP agreement) received before June 30, 2014, as if WP's WP Agreement were effective on January 1, 2014 and expired on June 30, 2014 and for amounts subject to chapter 3 withholding and withholdable payments received between June 30, 2014, and September 1, 2014, WP applies the principles described in section 12.02(B) of this Agreement. For the period beginning on September 1, 2014 through the term of this Agreement, WP must comply with this Agreement provided that this Agreement has not been terminated.

(B) *Special Procedures for Payments Received Prior to September 1, 2014.* If WP receives a withholdable payment or an amount subject to chapter 3 withholding prior to September 1, 2014, WP may represent itself to its withholding agent as a withholding foreign partnership, provided that WP complies with its obligations under the WP agreement in effect prior to June 30, 2014, and, if WP is renewing this Agreement, it submits a request for renewal on or before August 31, 2014. However, because this Agreement requires WP to assume primary chapter 4 withholding responsibilities with respect to its partners under sections 1471 and 1472, if WP makes a distribution for which withholding is required under chapter 4 beginning July 1, 2014, with respect to a partner and does not withhold under chapter 4 to the extent required under the revised WP agreement, WP must apply the procedures referenced in §1.1474-2(b) to satisfy any underwithholding.

SECTION 5. WITHHOLDING FOREIGN TRUST AGREEMENT

Section 1. PURPOSE AND SCOPE

Section 2. DEFINITIONS

Section 3. WITHHOLDING RESPONSIBILITY

Section 4. DOCUMENTATION REQUIREMENTS

Section 5. WITHHOLDING FOREIGN TRUST WITHHOLDING CERTIFICATE

Section 6. TAX RETURN AND INFORMATION REPORTING OBLIGATIONS

Section 7. ADJUSTMENTS FOR OVER- AND UNDERWITHHOLDING; REFUNDS

Section 8. COMPLIANCE PROCEDURES

Section 9. CERTAIN PARTNERSHIPS AND TRUSTS AND INDIRECT BENEFICIARIES AND OWNERS

Section 10. EXPIRATION, TERMINATION AND DEFAULT

Section 11. MISCELLANEOUS PROVISIONS

Section 12. EFFECTIVE DATE OF AGREEMENT

The text of the WT agreement is set forth below. The IRS will no longer provide signed copies of the WT agreement. A reporting Model 2 FFI should interpret this Agreement by substituting the term "reporting Model 2 FFI" for "participating FFI" throughout this Agreement, except in cases where this Agreement explicitly refers to a reporting Model 2 FFI. A reporting Model 1 FFI and a nonreporting Model 2 FFI treated as a registered deemed-compliant FFI should apply this Agreement by substituting the term "reporting Model 1 FFI" or "nonreporting Model 2 FFI,"

as applicable, for “registered deemed-compliant FFI” throughout this Agreement, except in cases where this Agreement explicitly refers to a reporting Model 1 FFI or nonreporting Model 2 FFI treated as a registered deemed-compliant FFI.

WHEREAS, WT has submitted an application in accordance with this revenue procedure to be a withholding foreign trust for purposes of §1.1441-5(e)(5)(v);

WHEREAS, WT and the IRS desire to enter into an agreement to establish WT's rights and obligations regarding documentation, withholding, information reporting, tax return filing, deposits, and refund procedures under sections 1441, 1442, 1443, 1461, 1471, 1472, 1474, 6048, 6302, 6402, and 6414 with respect to certain types of payments;

WHEREAS, WT represents that there are no legal restrictions that prohibit it from complying with the requirements of this Agreement;

WHEREAS, if WT is a foreign financial institution (other than a retirement fund), WT represents that it has agreed to comply with the requirements of the FFI agreement, in the case of a participating FFI; §1.1471-5(f)(1) or the applicable Model 2 IGA, in the case of a registered deemed-compliant FFI (other than a reporting Model 1 FFI); or an applicable IGA, in the case of a reporting Model 1 FFI or a registered deemed-compliant Model 1 IGA FFI (as defined in section 2.15(C) of this Agreement) beginning on the effective date of this Agreement;

NOW, THEREFORE, in consideration of the following terms, representations, and conditions, the parties agree as follows:

Section 1. PURPOSE AND SCOPE

Sec. 1.01. General Obligations. When the IRS enters into a WT agreement with a foreign person, that foreign person becomes a WT. Except as otherwise provided in this Agreement, WT's obligations with respect to income distributed to, or included in the distributive shares of, its beneficiaries or owners are governed by the Internal Revenue Code and the regulations thereunder. WT must act in its capacity as a withholding foreign trust pursuant to this Agreement for reportable amounts that are distributed to, or included in the distributive share of, WT's direct beneficiaries or owners. WT may also act as a withholding foreign trust for reportable amounts that are distributed to, or included in the distributive share of, a partner, beneficiary, or owner of a passthrough beneficiary or owner (i.e., an indirect beneficiary or owner of WT) if such indirect beneficiary or owner is not a U.S. non-exempt recipient. Notwithstanding the preceding sentence, a WT may act as a withholding foreign trust for an indirect beneficiary or owner that is a U.S. non-exempt recipient if such beneficiary or owner is included in the passthrough beneficiary's or owner's chapter 4 withholding rate pool (as defined in section 2.14 of this Agreement) of U.S. payees or recalcitrant account holders provided on the FFI withholding statement (as defined in section 2.26 of this Agreement) of the passthrough beneficiary or owner.

WT is not required to act as a withholding foreign trust for payments that it distributes to, or includes in the distributive share, of a passthrough beneficiary or owner or indirect beneficiary or owner. With respect to an indirect beneficiary or owner for which WT does not (or cannot) act as a withholding foreign trust, WT must, as part of its WT agreement, comply with the requirements of a withholding agent, as applicable to a nonwithholding foreign trust under

chapters 3 and 4. WT (regardless of whether it is an FFI or NFFE) must also, pursuant to this Agreement, assume primary reporting responsibility for purposes of section 1472 for certain beneficiaries or owners.

If WT is an FFI, the requirements WT has agreed to as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI apply in addition to the requirements under this Agreement except to the extent specifically modified by this Agreement. This Agreement references WT's FATCA requirements when necessary to facilitate coordination with a WT's obligations under this Agreement with respect to its beneficiaries or owners. A participating FFI's obligations are provided in the FFI agreement, a registered deemed-compliant FFI's (other than a reporting Model 1 FFI's) obligations are provided in §1.1471-5(f)(1) or the applicable IGA, and the obligations of a reporting Model 1 FFI or a registered deemed-compliant Model 1 IGA FFI are provided in the applicable IGA.

If WT is an NFFE, WT must comply with the requirements of a withholding agent under sections 1471 and 1472 which are provided in this Agreement. If a WT acts as a sponsoring entity on behalf of a sponsored FFI or sponsored direct reporting NFFE, it must comply with the due diligence, withholding, reporting, and compliance requirements of a sponsoring entity in addition to its requirements under the WT agreement.

Sec. 1.02. Parties to the Agreement. This Agreement applies to WT and the IRS.

Section 2. DEFINITIONS

For purposes of this Agreement, the terms listed below are defined as follows:

Sec. 2.01. Account. "Account" has the meaning given to that term in §1.1471-1(b)(1) with respect to WT's FATCA requirements.

Sec. 2.02. Account Holder. "Account Holder" has the meaning given to that term in §1.1471-1(b)(2) with respect to WT's FATCA requirements with respect to an account that it maintains within the meaning of §1.1471-5(b)(5).

Sec. 2.03. Agreement. "Agreement" means this Agreement between WT and the IRS, all appendices and attachments to this Agreement, if applicable, and WT's application to become a withholding foreign trust. All appendices and attachments to this Agreement and WT's application are incorporated into this Agreement by reference. Attachments to this Agreement include the know-your-customer (KYC) rules and the IRS approved KYC list (described in section 2.41 of this Agreement) to the extent WT is permitted to use (and uses) documentary evidence to document one or more direct beneficiaries or owners under section 4.01(B) of this Agreement.

Sec. 2.04. Amount Subject to Chapter 3 Withholding. An "amount subject to chapter 3 withholding" is an amount described in §1.1441-2(a), regardless of whether such amount is withheld upon. An amount subject to chapter 3 withholding shall not include interest paid as part of the purchase price of an obligation sold between interest payment dates or original issue discount paid as part of the purchase price of an obligation sold in a transaction other than the redemption of such obligation, unless the sale is part of a plan the principal purpose of which is to avoid tax and WT has actual knowledge or reason to know of such plan.

Sec. 2.05. Amount Subject to Chapter 4 Withholding. An "amount subject to chapter 4 withholding" is an amount that is a withholdable payment (as defined in section 2.76 of this Agreement) for which withholding is required under chapter 4 or an amount for which withholding was otherwise applied under chapter 4.

Sec. 2.06. Assumption of Primary Withholding Responsibility. A WT assumes primary chapters 3 and 4 withholding responsibility with respect to amounts subject to chapter 3 or 4 withholding under the terms of the WT agreement. Generally, WT's assumption of primary chapters 3 and 4 withholding responsibility relieves the person who makes a payment to WT from the responsibility to withhold. See sections 3.03 and 3.04 of this Agreement for when WT is required to withhold under this Agreement.

Sec. 2.07. Beneficial Owner. A “beneficial owner” has the meaning given to that term in §1.1441-1(c)(6).

Sec. 2.08. Chapter 3. Any reference to “chapter 3 of the Code” or “chapter 3” means sections 1441, 1442, 1443, 1461, 1463, and 1464.

Sec. 2.09. Chapter 3 Reporting Pool. A chapter 3 reporting pool means a reporting pool described in section 6.02(D) of this Agreement.

Sec. 2.10. Chapter 3 Status. The term “chapter 3 status” refers to the attributes of a payee (and a beneficiary or owner of WT for purposes of this Agreement) relevant for determining the rate of withholding with respect to a payment made to the payee for purposes of chapter 3.

Sec. 2.11. Chapter 4. Any reference to “chapter 4 of the Code” or “chapter 4” means sections 1471, 1472, 1473, and 1474.

Sec. 2.12. Chapter 4 Reporting Pool. A chapter 4 reporting pool means a reporting pool described in section 6.02(C) of this Agreement.

Sec. 2.13. Chapter 4 Status. “Chapter 4 status” means the status of a person as a U.S. person, specified U.S. person, an individual that is a foreign person, a participating FFI, a deemed-compliant FFI, a restricted distributor, an exempt beneficial owner, a nonparticipating FFI, a territory financial institution, an excepted NFFE, or a passive NFFE.

Sec. 2.14. Chapter 4 Withholding Rate Pool. A “chapter 4 withholding rate pool” means a pool of payees that are nonparticipating FFIs provided on a chapter 4 withholding statement (as described in §1.1471-3(c)(3)(iii)(B)(3)) to which a withholdable payment is allocated. The term chapter 4 withholding rate pool also means a pool of payees provided on an FFI withholding statement (as described in §1.1471-3(c)(3)(iii)(B)(2)) to which a withholdable payment is allocated to --

(A) A pool of payees consisting of each class of recalcitrant account holders described in §1.1471-4(d)(6) (or with respect to an FFI that is a QI, a single pool of recalcitrant account holders that is not subdivided into classes of recalcitrant account holders described in §1.1471-4(d)(6)), including a separate pool of account holders to which the escrow procedures for dormant accounts apply; or

(B) A pool of payees that are U.S. persons as described in §1.1471-3(c)(3)(iii)(B)(2).

Sec. 2.15. Deemed-Compliant FFI. “Deemed-compliant FFI” means a certified deemed-compliant FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI that is treated, pursuant to section 1471(b)(2) and §1.1471-5(f), as meeting the requirements of section 1471(b).

(A) *Certified Deemed-Compliant FFI.* “Certified deemed-compliant FFI” means an FFI described in §1.1471-5(f)(2), and includes a nonreporting Model 1 FFI, a nonreporting Model 2 FFI that is treated as a certified deemed-compliant FFI, and a registered deemed-compliant Model 1 IGA FFI (as defined in section 2.15(C) of this Agreement).

(B) *Registered Deemed-Compliant FFI.* “Registered deemed-compliant FFI” means an FFI described in §1.1471-5(f)(1) and includes a reporting Model 1 FFI and a nonreporting Model 2

FFI that is treated as registered deemed-compliant. For purposes of this Agreement, a reference to a registered deemed-compliant FFI that is providing a chapter 4 withholding rate pool of U.S. payees includes a registered deemed-compliant Model 1 IGA FFI (as defined in section 2.15(C) of this Agreement).

(C) Registered Deemed-Compliant Model 1 IGA FFI. “Registered deemed-compliant Model 1 IGA FFI” means an FFI treated as a deemed-compliant FFI under an applicable Model 1 IGA that is subject to similar due diligence and reporting requirements with respect to U.S. accounts as those applicable to a registered deemed-compliant FFI under §1.1471-5(f)(1), including the requirement to register with the IRS.

Sec. 2.16. Direct Beneficiary or Owner. A “direct beneficiary or owner” means a beneficiary or owner that is not an indirect beneficiary or owner (as defined in section 2.39 of this Agreement).

Sec. 2.17. Distributive share. “Distributive share” means an amount subject to chapter 3 withholding or an amount of a withholdable payment that is required to be distributed to the beneficiaries of a simple trust and an amount subject to chapter 3 withholding or an amount that is a withholdable payment includible in the income of the owners of a grantor trust.

Sec. 2.18. Documentary Evidence. “Documentary evidence” means any documentation obtained under the appropriate know-your-customer rules (as defined in section 2.41 of this Agreement and described in the Attachments to this Agreement), or any documentary evidence described in §1.1441-6 sufficient to establish entitlement to a reduced rate of withholding under an income tax treaty. Documentary evidence does not include a Form W-8 or Form W-9 (or an acceptable substitute Form W-8 or Form W-9).

Sec. 2.19. Documentation. “Documentation” means any valid Form W-8, Form W-9 (or acceptable substitute Form W-8 or Form W-9), or documentary evidence, as defined in section 2.18 of this Agreement, including all statements or other information required to be associated with the form or documentary evidence.

Sec. 2.20. Excepted NFFE. “Excepted NFFE” means a person described in §1.1471-1(b)(41).

Sec. 2.21. Exempt Beneficial Owner. “Exempt beneficial owner” means a person described in §1.1471-1(b)(42) and includes any person that is treated as an exempt beneficial owner under an applicable Model 1 IGA or Model 2 IGA.

Sec. 2.22. Exempt Recipient. An “exempt recipient” means a person described in §1.6049-4(c)(1)(ii) (for interest, dividends, and royalties), a person described in §1.6045-2(b)(2)(i) (for broker proceeds), and a person described in §1.6041-3(q) (for rents, amounts paid on notional principal contracts, and other fixed or determinable income). Exempt recipients are not exempt from chapter 3 or 4 withholding.

Sec. 2.23. FATCA Requirements as a Participating FFI, Registered Deemed-Compliant FFI, or Registered Deemed-Compliant Model 1 IGA FFI. “FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI” means:

(A) For a participating FFI, the requirements set forth in the FFI agreement;

(B) For a registered deemed-compliant FFI (other than a reporting Model 1 FFI), the requirements under §1.1471-5(f)(1) or the applicable Model 2 IGA; or

(C) For a reporting Model 1 FFI and a registered deemed-compliant Model 1 IGA FFI, the requirements under foreign domestic law to implement the applicable Model 1 IGA.

Sec. 2.24. Financial Institution (FI). “Financial institution” or “FI” means an entity described in §1.1471-5(d) and includes a financial institution as defined under an applicable Model 1 IGA or Model 2 IGA.

Sec. 2.25. FFI Agreement. “FFI agreement” means an agreement of a participating FFI described in §1.1471-4(a) and published in Revenue Procedure 2014-38, 2014-29 I.R.B.132 (as updated or superseded by any subsequent revenue procedure).

Sec. 2.26. FFI Withholding Statement. An “FFI withholding statement” means a withholding statement provided by an FFI that meets the requirements of §1.1471-3(c)(3)(iii)(B)(1) and (2).

Sec. 2.27. Flow-Through Entity. A flow-through entity is a foreign partnership described in §301.7701-2 or 3 (other than a withholding foreign partnership), a foreign trust that is described in section 651(a) (other than a withholding foreign trust), or a foreign trust if all or a portion of such trust is treated as owned by the grantor or other person under sections 671 through 679. With respect to an item of U.S. source FDAP income for which a treaty benefit is claimed, an entity is also a flow-through entity to the extent it is treated as fiscally transparent under section 894 and the regulations thereunder.

Sec. 2.28. Foreign Financial Institution (FFI). “Foreign financial institution” or “FFI” means a foreign entity (as defined in §1.1473-1(e)) that is a financial institution.

Sec. 2.29. Foreign TIN. A “foreign TIN” is a taxpayer identification number issued by a foreign person’s country of residence.

Sec. 2.30. Foreign Person. A “foreign person” is any person that is not a “United States person” and includes a “nonresident alien individual,” a “foreign corporation,” a “foreign partnership,” a “foreign trust,” and a “foreign estate,” as those terms are defined in section 7701 of the Code. For purposes of chapters 3 and 4, the term foreign person also means, with respect to a payment by a withholding agent (including a withholding foreign trust), a foreign branch (including a foreign disregarded entity) of a U.S. person that provides a valid Form W-8IMY on which it represents that it is a qualified intermediary.

Sec. 2.31. Form W-8. “Form W-8” means IRS Form W-8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding (Individuals); IRS Form W-8BEN-E, Certificate of Status of Beneficial Owner for United States Tax Withholding and Reporting (Entities), IRS Form W-8ECI, Certificate of Foreign Person's Claim That Income is Effectively Connected With the Conduct of a Trade or Business in the United States; IRS Form W-8EXP, Certificate of Foreign Government or Other Foreign Organization for United States Tax Withholding and Reporting; and IRS Form W-8IMY, Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding and Reporting, as appropriate. It also includes any acceptable substitute form as described under §§1.1441-1(e)(4)(vi) and 1.1471-3(c)(6)(v).

Sec. 2.32. Form W-9. “Form W-9” means IRS Form W-9, Request for Taxpayer Identification Number and Certification, or any acceptable substitute as described under §31.3406(h)-3(c).

Sec. 2.33. Form 1042. “Form 1042” means IRS Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons.

Sec. 2.34. Form 1042-S. “Form 1042-S” means IRS Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding.

Sec. 2.35. Form 1099. “Form 1099” means IRS Form 1099-B, Proceeds From Broker and Barter Exchange Transactions; IRS Form 1099-DIV, Dividends and Distributions; IRS Form 1099-INT, Interest Income; IRS Form 1099-MISC, Miscellaneous Income; IRS Form 1099-OID,

Original Issue Discount; and any other form in the IRS Form 1099 series appropriate to the type of payment required to be reported.

Sec. 2.36. Form 3520-A, Owner Statement, Beneficiary Statement, and Statement Required Under Section 6048(b). “Form 3520-A” means IRS Form 3520-A, Annual Information Return of Foreign Trust with a U.S. Owner. “Owner Statement,” when referred to in connection with Form 3520-A, means a Foreign Grantor Trust Owner Statement. “Beneficiary Statement,” when referred to in connection with Form 3520-A, means a Foreign Grantor Trust Beneficiary Statement. The “statement required under section 6048(b)” means the Owner Statement and Beneficiary Statement.

Sec. 2.37. Form 8966. “Form 8966” means IRS Form 8966, FATCA Report.

Sec. 2.38. Global Intermediary Identification Number (GIIN). “Global intermediary identification number” or “GIIN” means the identification number that is assigned to a participating FFI, registered deemed-compliant FFI, direct reporting NFFE, or sponsoring entity. The term also includes the identification number assigned to a reporting Model 1 FFI or registered deemed-compliant Model 1 IGA FFI that is a WT for the purpose of identifying itself to withholding agents.

Sec. 2.39. Indirect Beneficiary or Owner. An “indirect beneficiary or owner” is a person that owns an interest in WT through one or more passthrough beneficiaries or owners (as defined below in section 2.51 of this Agreement). For example, a person that holds an account with a foreign intermediary or an interest in a flow-through entity which intermediary or flow-through entity, in turn, is a direct beneficiary or owner of WT is an indirect beneficiary or owner in WT. A person is an indirect beneficiary or owner of WT even if there are multiple tiers of intermediaries or flow-through entities between the person and WT.

Sec. 2.40. Intermediary. An “intermediary” means a person that, for that payment, acts as a custodian, broker, nominee, or otherwise as an agent for another person, regardless of whether such other person is the beneficial owner of the amount paid, a flow-through entity, or another intermediary.

Sec. 2.41. Know-Your-Customer Rules. The phrase “know-your-customer rules” refers to the applicable laws, regulations, rules, and administrative practices and procedures (identified in the attachment to this Agreement) governing the requirements of certain WTs that are FFIs to obtain documentation confirming the identity of WT’s direct beneficiaries or owners. A list of jurisdictions for which the IRS has received know-your-customer information and for which the know-your-customer rules and specified documentation are acceptable (IRS approved KYC list) is available at: <http://www.irs.gov/Businesses/International-Businesses/List-of-Approved-KYC-Rules>.

Sec. 2.42. Marketable Securities. For purposes of this Agreement, the term “marketable securities” means those securities described in §1.1441-6 for which a U.S. TIN or foreign TIN is not required to be provide by the beneficial owner to obtain treaty benefits.

Sec. 2.43. Non-Consenting U.S. Account. For purposes of a reporting Model 2 FFI, “non-consenting U.S. account” has the meaning that such term has under the applicable Model 2 IGA.

Sec. 2.44. Non-Exempt Recipient. A “non-exempt recipient” means a person that is not an exempt recipient under the definition in section 2.22 of this Agreement.

Sec. 2.45. Non-Financial Foreign Entity (NFFE). A “non-financial foreign entity” or “NFFE” means a foreign entity that is not a financial institution (including an entity that is incorporated or

organized under the laws of any U.S. territory and that is not a financial institution). The term also means a foreign entity treated as an NFFE pursuant to a Model 1 IGA or Model 2 IGA.

Sec. 2.46. Nonparticipating FFI. A “nonparticipating FFI” means an FFI other than a participating FFI, a deemed-compliant FFI, or an exempt beneficial owner.

Sec. 2.47. Nonwithholding Foreign Partnership (NWP). A “nonwithholding foreign partnership” means a foreign partnership other than a withholding foreign partnership as defined in §1.1441-5(c)(2).

Sec. 2.48. Nonwithholding Foreign Trust (NWT). A “nonwithholding foreign trust” means a foreign trust (as defined in section 7701(a)(31)(B)) that is a foreign simple trust or a foreign grantor trust and that is not a withholding foreign trust (as defined in section 2.79 of this Agreement).

Sec. 2.49. Overwithholding. The term "overwithholding" means any amount actually withheld (determined before application of the adjustment procedures described in section 7.01 of this Agreement) from an item of income or other payment that is in excess of the amount required to be withheld under chapter 4 with respect to such item of income or other payment, if applicable, and, in the case of an amount subject to chapter 3 withholding, the actual tax liability of the beneficial owner of the income or payment to which the withheld amount is attributable, regardless of whether such overwithholding was in error or appeared correct at the time it occurred. For purposes of section 3406, the term “overwithholding” means the excess of the amount actually withheld under section 3406 over the amount required to be withheld.

Sec. 2.50. Participating FFI. A “participating FFI” means an FFI that has agreed to comply with the requirements of an FFI agreement, including an FFI described in a Model 2 IGA that has agreed to comply with the requirements of an FFI agreement (reporting Model 2 FFI). The term also includes a qualified intermediary branch of a U.S. financial institution, unless such branch is a reporting Model 1 FFI.

Sec. 2.51. Passthrough Beneficiary or Owner. A “passthrough beneficiary or owner” is a direct or indirect beneficiary or owner of WT that is a foreign intermediary or foreign flow-through entity. As provided in section 2.27 of this Agreement, a withholding foreign partnership or withholding foreign trust is not a flow-through entity and thus is not a passthrough beneficiary or owner.

Sec. 2.52. Payee. For purposes of chapter 3, a “payee” is defined in §1.1441-1(c)(12) and for purposes of chapter 4, a payee means a person described in §1.1471-3(a).

Sec. 2.53. Payment. A "payment" means an amount considered made to a person if that person realizes income whether or not such income results from an actual transfer of cash or other property. See §1.1441-2(e). For example, a payment includes crediting an amount to an account.

Sec. 2.54. Payor. A “payor” is defined in §31.3406(a)-2 and §1.6049-4(a)(2) and generally means any person required to make an information return under chapter 61.

Sec. 2.55. Permanent Residence Address. A “permanent residence address” means an address described in §1.1441-1(c)(38).

Sec. 2.56. Pooled Reporting (PR) Election. A "pooled reporting election" or “PR election” is an election to pool report chapter 3 reporting pools on Form 1042-S for chapter 3 purposes as described in section 6.02(D) of this Agreement.

Sec. 2.57. Qualified Intermediary. A “qualified intermediary” is a person, described in §1.1441-1(e)(5)(ii), that enters into an agreement with the IRS to be treated as a qualified intermediary

and acts in its capacity as a qualified intermediary. See Rev. Proc. 2014-39, 2014-29 I.R.B. 151 (as updated or superseded by any subsequent revenue procedure), for the QI Agreement.

Sec. 2.58. Recalcitrant Account Holder. A “recalcitrant account holder” means a person described in §1.1471-5(g).

Sec. 2.59. Reduced Rate of Withholding. A “reduced rate of withholding” means a rate of withholding under chapter 3 that is less than 30 percent, either as a result of a reduction in withholding under the Code or as a result of a reduction in withholding under an income tax treaty.

Sec. 2.60. Reportable Amount. A “reportable amount” means U.S. source FDAP income that is an amount subject to chapter 3 withholding (as defined in section 2.04 of this Agreement), U.S. source deposit interest (as defined in section 871(i)(2)(A)), and U.S. source interest or original issue discount paid on the redemption of short-term obligations (as defined in section 871(g)(1)(B)(i)). The term does not include payments on deposits with banks and other financial institutions that remain on deposit for two weeks or less. It also does not include amounts of original issue discount arising from a sale and repurchase transaction completed within a period of two weeks or less, or amounts described in §1.6049-5(b)(7), (10), or (11) (relating to certain foreign targeted registered obligations and certain obligations issued in bearer form).

Sec. 2.61. Reporting Model 1 FFI. A “reporting Model 1 FFI” means an FFI with respect to which a foreign government or agency thereof agrees to obtain and exchange information pursuant to a Model 1 IGA, other than an FFI that is treated as a nonreporting Model 1 FFI (including a registered deemed-compliant Model 1 IGA FFI) or nonparticipating FFI under an applicable Model 1 IGA.

Sec. 2.62. Reporting Pool. A reporting pool is defined in section 6.02(A) of this Agreement.

Sec. 2.63. Responsible Officer. A “responsible officer” of a WT means the trustee of WT or an agent of the trustee of WT with sufficient authority to fulfill the duties of a responsible officer as described in section 8 of this Agreement, including the requirements to periodically certify and to respond to requests by the IRS for additional information to review WT’s compliance with this Agreement.

Sec. 2.64. Retirement Fund. A “retirement fund” means a retirement fund or other fund that is an exempt beneficial owner described in §1.1471-6(f) or a similar fund that qualifies as an exempt beneficial owner under an applicable Model 1 IGA or Model 2 IGA.

Sec. 2.65. Sponsored Direct Reporting NFFE. The term “sponsored direct reporting NFFE” has the meaning set forth in §1.1472-1(c)(5).

Sec. 2.66. Sponsored FFI. The term “sponsored FFI” means any entity described in §1.1471-5(f)(1)(i)(F) (sponsored investment entities and sponsored controlled foreign corporations) or §1.1471-5(f)(2)(iii) (sponsored, closely held investment vehicles).

Sec. 2.67. Sponsoring Entity. “Sponsoring entity” means (i) an entity that registers with the IRS and agrees to perform the due diligence, withholding, and reporting obligations of one or more sponsored FFIs pursuant to §1.1471-5(f)(1)(i)(F) or (f)(2)(iii); or (ii) an entity that registers with the IRS and agrees to perform the due diligence and reporting obligations of one or more direct reporting NFFEs pursuant to §1.1472-1(c)(5).

Sec. 2.68. Trust, Beneficiary, and Owner. The term “trust” is defined in §301.7701-4. The term “beneficiary” is defined in section 643(c) of the Code and the regulations thereunder. An “owner” is a grantor under §1.671-2(e) or a person treated as an owner under sections 671 to 679 and the regulations thereunder.

Sec. 2.69. Underwithholding. "Underwithholding" means the excess of the amount required to be withheld under chapter 3 or 4 over the amount actually withheld.

Sec. 2.70. Undocumented Beneficiary or Owner. An "undocumented beneficiary or owner" is a beneficiary or owner for whom WT does not have valid documentation.

Sec. 2.71. U.S. Account. A "U.S. account" is any financial account maintained by a participating FFI or registered deemed-compliant FFI that is held by one or more specified U.S. persons or U.S. owned foreign entities that such FFI reports or elects to report under the FFI agreement or § 1.1471-5(f), as applicable. A U.S. account includes, in the case of a reporting Model 1 FFI or registered deemed-compliant Model 1 IGA FFI, a U.S. reportable account as defined in section 2.73 of this Agreement.

Sec. 2.72. U.S. Person. A "United States person" (or "U.S. person") is a person described in section 7701(a)(30), the U.S. government (including an agency or instrumentality thereof), a State of the United States (including an agency or instrumentality thereof), or the District of Columbia (including an agency or instrumentality thereof). For chapter 4 purposes, the term "U.S. person" or "United States person" also means a foreign insurance company that has made an election under section 953(d), provided that either the foreign insurance company is not a specified insurance company (as described in §1.1471-5(e)(1)(iv)) and is not licensed to do business in any State, or the foreign insurance company is a specified insurance company and is licensed to do business in any State.

Sec. 2.73. U.S. Reportable Account. A "U.S. reportable account" means a financial account maintained by a reporting Model 1 FFI or registered deemed-compliant Model 1 IGA FFI that such FFI reports or elects to report under the applicable domestic law for compliance with and implementation of FATCA.

Sec. 2.74. U.S. Source FDAP. "U.S. source FDAP" means amounts from sources within the United States that constitute fixed or determinable annual or periodical income, as defined in §1.1441-2(b)(1).

Sec. 2.75. U.S. TIN. A "U.S. TIN" means a U.S. taxpayer identification number assigned under section 6109.

Sec. 2.76. Withholdable Payment. A "withholdable payment" means an amount described in §1.1473-1(a).

Sec. 2.77. Withholding Agent. A "withholding agent" has the same meaning as set forth in §1.1441-7(a) for purposes of chapter 3 and as set forth in §1.1473-1(d) for purposes of chapter 4 and includes a payor (as defined in section 2.54 of this Agreement). As used in this Agreement, the term generally refers to the person making a payment to a withholding foreign trust.

Sec. 2.78. Withholding Foreign Partnership (WP). A "withholding foreign partnership" or "WP" means a partnership, described in §1.1441-5(c)(2), that has entered into a withholding agreement with the IRS to be treated as a withholding foreign partnership.

Sec. 2.79. Withholding Foreign Trust (WT). A "withholding foreign trust" or "WT" means a trust, described in §1.1441-5(e)(5)(v), that has entered into a withholding agreement with the IRS to be treated as a withholding foreign trust.

Sec. 2.80. Withholding Foreign Trust EIN (WT-EIN). A "withholding foreign trust EIN" or "WT-EIN" means the employer identification number assigned by the IRS to a withholding foreign trust. WT's WT-EIN is only to be used when WT is acting as a withholding foreign trust. For example, WT must give a withholding agent its non-WT EIN, if any, rather than its WT-EIN, if it

is not acting as a withholding foreign trust (i.e., a nonwithholding foreign trust) and a taxpayer identification number is required.

Sec. 2.81. Other Terms. Any term not defined in this section has the same meaning that it has under the Code, including the income tax regulations under the Code, any applicable income tax treaty, or any applicable Model 1 IGA or Model 2 IGA with respect to WT's FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI.

Section 3. WITHHOLDING RESPONSIBILITY

Sec. 3.01. Chapters 3 and 4 Withholding--In General.

(A) Chapter 4 Withholding.

WT (unless WT is a retirement fund) is a withholding agent for purposes of chapter 4 and is subject to the withholding and reporting provisions applicable to withholding agents under sections 1471 and 1472 with respect to its beneficiaries or owners. WT is required to withhold 30 percent of any withholdable payment made after June 30, 2014, that is distributed to, or included in the distributive share of, a beneficiary or owner that is an FFI unless WT can reliably associate the payment (or portion of the payment) with documentation upon which it is permitted to rely to treat the payment as exempt from withholding under §1.1471-2(a)(4), or the payment is made under a grandfathered obligation described in §1.1471-2(b). See §1.1473-1(a) for the definition of a withholdable payment and the applicable exceptions to this definition. WT is also required to withhold 30 percent of any withholdable payment made after June 30, 2014, that is distributed to, or included in the distributive share of, a beneficiary or owner that is an NFFE unless WT can reliably associate the payment (or portion of the payment) with a certification described in §1.1472-1(b)(1)(ii), or an exception to withholding under §1.1472-1 applies.

If WT is a retirement fund, WT is not required to withhold under section 1471 or 1472. If WT is a participating FFI or registered deemed-compliant FFI (other than a reporting Model 1 FFI), WT will satisfy its requirement to withhold under sections 1471(a) and 1472(a) with respect to direct beneficiaries or owners that are entities by withholding on withholdable payments made to nonparticipating FFIs and recalcitrant account holders to the extent required under its FATCA requirements as a participating FFI or registered deemed-compliant FFI. See the FFI agreement, §1.1471-5(f), or the applicable Model 2 IGA for the withholding requirements that apply to withholdable payments made to direct beneficiaries or owners that are individuals and are treated as recalcitrant account holders. If WT is a reporting Model 1 FFI or a registered deemed-compliant Model 1 IGA FFI, WT will satisfy its requirement to withhold under section 1471(a) with respect to direct beneficiaries or owners by withholding on withholdable payments made to nonparticipating FFIs to the extent required under its FATCA requirements as a registered deemed-compliant FFI or registered deemed-compliant Model 1 IGA FFI. WT must withhold at the time and in the manner described in sections 3.02 through 3.04 of this Agreement which modifies other provisions describing the time and manner in which WT would otherwise be required to withhold for chapter 4 purposes.

(B) Chapter 3 Withholding.

WT is a withholding agent for purposes of chapter 3 and is subject to the withholding and reporting provisions applicable to withholding agents under chapter 3. WT must withhold 30 percent of any payment of an amount subject to chapter 3 withholding that is distributed to, or included in the distributive share of, a beneficiary or owner that is a foreign person unless WT can reliably associate the payment with documentation upon which it can rely to treat the payment as made to a payee that is a U.S. person or as made to a beneficial owner that is a

foreign person entitled to a reduced rate of withholding. See section 4 of this Agreement regarding documentation requirements applicable to WT for determining whether chapter 3 withholding applies.

With respect to an amount subject to chapter 4 withholding that is also an amount subject to chapter 3 withholding, WT may credit any tax withheld under chapter 4 against its liability for any tax due under chapter 3 with respect to the payment so that no additional withholding is required on the payment for purposes of chapter 3. Nothing in chapter 4 or the regulations thereunder (including the FFI agreement) or any applicable IGA relieves WT of its requirements to withhold on an amount subject to chapter 3 withholding to the extent required under sections 3.02 through 3.04 of this Agreement or modifies the documentation upon which WT may rely under section 4 of this Agreement for determining whether withholding under chapter 3 applies.

Sec. 3.02. Primary Chapters 3 and 4 Withholding Responsibility. WT must assume primary chapters 3 and 4 withholding responsibility for all withholdable payments and amounts subject to chapter 3 withholding that are distributed to, or included in the distributive share of, any direct beneficiary or owner and any indirect beneficiary or owner for which it acts as a WT to the extent permissible under section 9 of this Agreement. If WT acts as a nonwithholding foreign trust with respect to an indirect beneficiary or owner, it cannot assume primary chapters 3 and 4 withholding responsibility for payments made to that indirect beneficiary or owner. WT is not required to withhold on amounts it pays to a qualified intermediary that assumes primary withholding responsibility with respect to the payment, or to a withholding foreign partnership, or another withholding foreign trust.

If WT is a participating FFI or a registered deemed-compliant FFI, it may not elect with respect to its direct beneficiaries or owners to satisfy its obligation to withhold under chapter 4 (or the FFI agreement) on a withholdable payment made to a recalcitrant account holder that is a U.S. non-exempt recipient by backup withholding under section 3406 as provided in §1.1471-4(b)(3)(iii) and section 4 of the FFI agreement.

See section 6 of this Agreement regarding WT's responsibility to report amounts subject to withholding on Form 1042-S.

Sec. 3.03. Timing of Withholding. WT must withhold on the date it makes a distribution to a foreign beneficiary or owner that includes a withholdable payment or an amount subject to chapter 3 withholding as determined under section 3.04 of this Agreement. To the extent a beneficiary's or owner's distributive share of income subject to withholding has not actually been distributed to the beneficiary or owner, WT must withhold on the beneficiary's or owner's distributive share on the earlier of the date that the statement required under section 6048(b) is mailed or otherwise provided to the beneficiary or owner or the due date for furnishing the statement (whether or not WT is required to prepare and furnish the statement).

Sec. 3.04. Withholding on Distributions. WT may determine the amount of withholding on a distribution based on a reasonable estimate of the beneficiary's or owner's distributive share of income subject to withholding for the year. WT must correct the estimated withholding to reflect the beneficiary's or owner's actual distributive share on the earlier of the date that the statement required under section 6048(b) is mailed or otherwise provided to the beneficiary or owner or the due date for furnishing the statement (whether or not WT is required to prepare and furnish the statement). If that date is after the due date for filing WT's Forms 1042 and 1042-S (including extensions) for the calendar year, WT may withhold and report any adjustments required by correcting the information in the following calendar year.

Sec. 3.05. Deposit Requirements. WT must deposit amounts withheld under chapters 3 and 4 at the time and in the manner provided under section 6302 (see §1.6302-2(a) or §31.6302-1(h)).

Section 4. DOCUMENTATION REQUIREMENTS

Sec. 4.01. Documentation Requirements.

(A) Coordination of Documentation Requirements with Chapter 4. If WT is an FFI (other than a retirement fund), WT is required to perform the due diligence procedures under its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI for each direct beneficiary or owner to determine if the beneficiary or owner is a holder of a U.S. account (or U.S. reportable account), and each direct beneficiary or owner that is a nonparticipating FFI and, if applicable, that is a recalcitrant account holder (or non-consenting U.S. account). See, however, the automatic termination provision of section 10.03(A) of this Agreement if WT is not in possession of valid documentation for any direct beneficiary or owner at any time that withholding or reporting is required. If WT is an NFFE, WT is required to determine the chapter 4 status of each beneficiary or owner to determine if reporting or withholding applies under section 1471 or 1472 on withholdable payments distributed to, or included in the distributive share of, the beneficiary or owner under the requirements of §1.1471-3(d). See Notice 2014-33, 2014-21 I.R.B. 1033, which modifies the time in which WT is required to implement the applicable due diligence procedures with respect to an obligation held by an entity that is opened, issued, or executed on or after July 1, 2014, and before January 1, 2015.

If WT has determined that withholding is not required under chapter 4, WT must obtain, unless already collected, documentation that meets the requirements of this section 4 to determine whether withholding applies under chapter 3. See also WT's FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI for when WT will have reason to know that a claim of chapter 4 status is unreliable or incorrect and for WT's requirements following a change in circumstances. If WT is an NFFE, see §1.1471-3(e)(4) for when WT will have reason to know that an entity's claim of chapter 4 status is unreliable or incorrect and §1.1471-3(c)(6)(ii)(E) for WT's requirements following a change in circumstances.

(B) General Documentation Requirements. Except as otherwise provided in this section 4, WT must obtain a Form W-8 or Form W-9 from every direct beneficiary or owner that receives a distribution or distributive share of a reportable amount. Notwithstanding the previous sentence, if WT is an FFI and is subject to the know-your-customer rules for documenting its beneficiaries or owners (or subset of beneficiaries or owners), WT may obtain documentary evidence as set forth in the Attachment (or the documentation described in section 4.03(A)(3) of this Agreement) for the applicable jurisdiction from its direct beneficiaries or owners rather than a Form W-8 or Form W-9. If WT is an FFI obtaining documentary evidence, WT must also adhere to the know-your-customer rules that apply to WT with respect to the direct beneficiary or owner from whom the documentary evidence is obtained.

WT must review and maintain documentation in accordance with this section 4 and, in the case of documentary evidence obtained from direct beneficiaries or owners, in accordance with the know-your-customer rules set forth in the Attachments to this Agreement. See sections 2.03 and 2.41 of this Agreement. WT must make documentation (together with any associated withholding statements and other documents or information) available upon request for inspection by WT's external auditor, if the performance of external audit procedures is requested by the IRS as described in section 8.07(D) of this Agreement. WT represents that none of the laws to which it is subject prohibits disclosure of the identity of any beneficiary or owner or corresponding beneficiary or owner information to WT's external auditor, if required under section 8.07(D) of this Agreement.

Sec. 4.02. Documentation for Foreign Beneficiaries or Owners. WT may treat a beneficiary or owner as a foreign beneficial owner of an amount if the beneficiary or owner provides a valid Form W-8 (other than Form W-8IMY), or valid documentary evidence, to the extent permitted under section 4.01(B) of this Agreement, that supports the beneficiary's or owner's status as a foreign person. WT may treat a beneficiary or owner that has provided documentation as entitled to a reduced rate of withholding under chapter 3 if all the requirements for a reduced rate are met and the documentation provided by the beneficiary or owner supports entitlement to a reduced rate of withholding. Sections 4.03 through 4.06 of this Agreement describe the specific documentation requirements necessary for obtaining a reduced rate of withholding in certain circumstances.

Sec. 4.03. Treaty Claims. WT may not reduce the rate of withholding under chapter 3 based on a beneficiary's or owner's claim of treaty benefits unless WT has determined that no chapter 4 withholding is required and it obtains from the beneficiary or owner the documentation required by section 4.03(A) of this Agreement. In addition, WT agrees to establish procedures to inform beneficiaries or owners of the terms of the limitation on benefits provisions of a treaty (if applicable and regardless of whether those provisions are contained in a separate article entitled Limitation on Benefits) under which the beneficiary or owner is claiming benefits.

(A) *Treaty Documentation.* The documentation required by this section 4.03(A) is as follows:

(1) A Form W-8BEN or Form W-8BEN-E on which a claim of treaty benefits is made, including the appropriate limitation on benefits and section 894 certifications, if applicable, and a U.S. TIN or foreign TIN. A U.S. TIN or foreign TIN shall not be required, however, if the beneficiary or owner is a direct beneficiary or owner. If WT is acting as a withholding foreign trust for an indirect beneficiary or owner, the indirect beneficiary or owner is required to have either a U.S. TIN or a foreign TIN in order to claim treaty benefits unless it is claiming treaty benefits on income from marketable securities as described in §1.1441-6(c);

(2) Documentary evidence, as permitted under section 4.01(B) of this Agreement, that has been obtained pursuant to the know-your-customer rules that apply to the direct beneficiary or owner, and the direct beneficiary or owner has made the treaty statement required by section 4.03(B) of this Agreement, if applicable; or

(3) The type of documentary evidence, as permitted under section 4.01(B) of this Agreement, required under §1.1441-6 to establish entitlement to a reduced rate of withholding under a treaty and the direct beneficiary or owner has made the treaty statement required by section 4.03(B) of this Agreement, if applicable.

(B) *Treaty Statement.* The treaty statement required by this section 4.03(B) is as follows: [Name of Direct Beneficiary or Owner] meets all provisions of the treaty that are necessary to claim a reduced rate of withholding, including any applicable limitation on benefits provisions, and derives the income within the meaning of section 894, and the regulations thereunder, as the beneficial owner.

WT is required to obtain the treaty statement described in this section 4.03(B) from a beneficiary or owner that is an entity. WT shall not be required to obtain a treaty statement described in this section 4.03(B) from an individual who is a resident of an applicable treaty country or from the government, or its political subdivisions, of a treaty country.

Sec. 4.04. Documentation for International Organizations. WT may not treat a beneficiary or owner as an international organization entitled to an exemption from withholding under section 892 unless WT has determined that no chapter 4 withholding is required and it obtains a Form W-8EXP (or documentary evidence as permitted under section 4.01(B) of this Agreement) from the international organization. The name provided on the documentation must be the name of

an entity designated as an international organization by executive order pursuant to 22 United States Code 288 through 288(f). If an international organization is not claiming benefits under section 892 but under another Code exception, the provisions of section 4.02 of this Agreement apply rather than the provisions of this section 4.04.

Sec. 4.05. Documentation for Foreign Governments and Foreign Central Banks of Issue.

(A) Documentation for a Foreign Government or Foreign Central Bank of Issue Claiming an Exemption from Withholding Under Section 892 or Section 895. WT may not treat a beneficiary or owner as a foreign government or foreign central bank of issue exempt from withholding under section 892 or 895 unless WT has determined that no chapter 4 withholding is required and--

(1) WT receives from the beneficiary or owner a Form W-8EXP (or documentary evidence as permitted under section 4.01(B) of this Agreement) establishing that the beneficiary or owner is a foreign government or foreign central bank of issue;

(2) The income distributed to, or included in the distributive share of, the beneficiary or owner is the type of income that qualifies for an exemption from withholding under section 892 or 895; and

(3) WT does not know, or have reason to know, that the beneficiary or owner is a controlled commercial entity as described in section 892, that the income owned by the foreign government or foreign central bank of issue is being received from a controlled commercial entity, or that the income is from the disposition of an interest in a controlled commercial entity.

(B) Treaty Exemption. WT may not treat a beneficiary or owner as a foreign government or foreign central bank of issue entitled to a reduced rate of withholding under an income tax treaty for purposes of chapter 3 unless WT has determined that no chapter 4 withholding is required and it has valid documentation that is sufficient to obtain a reduced rate of withholding under a treaty, as described in section 4.03 of this Agreement.

(C) Other Code Exception. If a foreign government or foreign central bank of issue is not claiming benefits under section 892 or a reduced rate under an income tax treaty but under another Code exception (e.g., the portfolio interest exception under section 871(h) or 881(c)), the provisions of section 4.02 of this Agreement apply rather than the provisions of this section 4.05.

Sec. 4.06. Documentation for Foreign Tax-Exempt Organizations. To the extent that WT determines that an amount distributed to, or included in the distributive share of, a beneficiary or owner is not subject to withholding under chapter 4, WT may not treat the beneficiary or owner as a foreign tax-exempt organization and reduce the rate of withholding or exempt the beneficiary or owner from withholding for purposes of chapter 3 unless WT satisfies the requirements provided in section 4.06(A), (B), or (C) of this Agreement.

(A) Reduced Rate of Withholding Under Section 501. WT may not treat a beneficiary or owner as a foreign organization described under section 501(c), and therefore exempt from withholding under chapter 3 (or, if the beneficiary or owner is a foreign private foundation, subject to withholding at a 4-percent rate under section 1443(b)) unless WT obtains a valid Form W-8EXP with Part IV of the form completed.

(B) Treaty Exemption. WT may not treat a beneficiary or owner as a foreign organization that is tax-exempt on an item of income pursuant to a treaty unless WT obtains valid documentation as

described under section 4.03 of this Agreement that is sufficient for obtaining a reduced rate of withholding under the treaty and the documentation establishes that the beneficiary or owner is an organization exempt from tax under the treaty on that item of income.

(C) *Other Exceptions.* If a tax-exempt entity is not claiming a reduced rate of withholding because it is a foreign organization described under section 501(c) or under a treaty article that applies to exempt certain foreign organizations from tax, but is claiming a reduced rate of withholding under another Code or treaty exception, the provisions of section 4.02 or 4.03 of this Agreement (as applicable) shall apply rather than the provisions of this section 4.06.

Sec. 4.07. Documentation from Passthrough Beneficiaries or Owners. Except as otherwise provided in section 9 of this Agreement, WT shall not act as a withholding foreign trust with respect to an amount distributed to, or included in the distributive share of, a passthrough beneficiary or owner. WT must forward the passthrough beneficiary's or owner's documentation (and associated withholding statement and documentation of indirect beneficiaries or owners) to the withholding agent from whom WT receives a reportable amount.

Sec. 4.08. Documentation for U.S. Exempt Recipients. WT shall not treat a beneficiary or owner as a U.S. exempt recipient unless WT obtains from the beneficiary or owner—

(A) A valid Form W-9 on which the beneficiary or owner includes an exempt payee code to certify that the beneficiary or owner is a U.S. exempt recipient;

(B) Documentary evidence, as permitted under section 4.01(B) of this Agreement, that is sufficient to establish that the beneficiary or owner is a U.S. exempt recipient; or

(C) Documentary evidence, as permitted under section 4.01(B) of this Agreement, that is sufficient to establish the beneficiary's or owner's status as a U.S. person and WT can treat the beneficiary or owner as an exempt recipient under the rules of §1.6045-2(b)(2)(i) or §1.6049-4(c)(1)(ii), as appropriate, without obtaining documentation.

Sec. 4.09. Documentation for U.S. Non-Exempt Recipients. WT shall not treat a beneficiary or owner as a U.S. non-exempt recipient unless WT obtains a valid Form W-9 from the beneficiary or owner.

Sec. 4.10. Documentation Validity.

(A) *In General.* WT may not rely on documentation if WT has actual knowledge or reason to know that documentation provided by a beneficiary or owner is unreliable or incorrect, including when there is a change in circumstances with respect to the information or statements contained in the documentation or in WT's files pertaining to the obligation (account information) that affects the reliability of the beneficiary or owner's claim. See §1.1441-1(e)(4)(ii)(D) for the definition of change in circumstances. Once WT knows, or has reason to know, that documentation provided by a beneficiary or owner is unreliable or incorrect, it can no longer reliably associate a payment with valid documentation unless it obtains additional documentation to establish the beneficiary's or owner's chapter 3 status. If WT can no longer reliably associate a payment with valid documentation, it must obtain new documentation prior to the time withholding is required under section 3 of this Agreement.

(B) *General Rules.*

(i) WT shall not rely on a Form W-9 if it is not permitted to do so under the rules of §31.3406(h)-3(e) or if it has been informed by the IRS or another withholding agent that the form is unreliable or incorrect and shall not rely on a Form W-8 if it is not permitted to do so under section 4.10 of this Agreement.

(ii) WT shall not treat documentary evidence provided by a beneficiary or owner as valid if the documentary evidence does not reasonably establish the identity of the person presenting the documentary evidence. For example, documentary evidence is not valid if it is provided in person by a beneficiary or owner that is a natural person and the photograph on the documentary evidence, if any, does not match the appearance of the person presenting the document.

(iii) WT may not rely on documentation to reduce the withholding rate that would otherwise apply if—

(a) The beneficiary's or owner's documentation is incomplete or contains information that is inconsistent with the beneficiary's or owner's claim,

(b) WT has other information in the account information that is inconsistent with the beneficiary's or owner's claim, or

(c) The documentation lacks the information necessary to establish entitlement to a reduced rate of withholding.

For example, if a direct beneficiary or owner that is an entity provides documentation to claim treaty benefits and the documentation establishes the direct beneficiary's or owner's status as a foreign person and a resident of a treaty country but fails to provide the treaty statement in section 4.03(B) of this Agreement, the documentation does not establish the direct beneficiary's or owner's entitlement to a reduced rate of withholding.

Sec. 4.11. Documentation Validity Period.

(A) *Documentation Other Than a Form W-9.* WT, as permitted under section 4.01(B) of this Agreement, may rely on valid documentary evidence obtained from direct beneficiaries or owners in accordance with applicable know-your-customer rules as long as the documentary evidence remains valid under those rules or until WT knows, or has reason to know, that the information contained in the documentary evidence is unreliable or incorrect. WT may rely on the representations described in section 4.03 of this Agreement obtained in connection with such documentation for the same period of time as the documentation. For establishing a beneficiary's or owner's chapter 3 status (as defined in §1.1441-1(c)(45)) or foreign status for chapter 61 purposes, WT may rely on a valid Form W-8 until its validity expires under §1.1441-1(e)(4)(ii) and may rely on documentary evidence (other than documentary evidence obtained pursuant to applicable know-your-customer rules) until its validity expires under §1.6049-5(c).

(B) *Form W-9.* WT may rely on a Form W-9 unless one of the conditions of §31.3406(h)-3(e)(2)(i) through (v) apply or if it has been informed by the IRS or another withholding agent that the form is unreliable or incorrect.

Sec. 4.12. Maintenance and Retention of Documentation.

(A) *Maintaining Documentation.* WT shall maintain documentation by retaining the original documentation, a certified copy, a photocopy, a scanned copy, a microfiche, or other means that allow reproduction (provided that WT has recorded receipt of the documentation and is able to produce a hard copy). If WT is not required to retain copies of documentary evidence under its know-your-customer rules, WT may instead retain a notation of the type of documentation reviewed, the date the documentation was reviewed, the document's identification number, if any (e.g., a passport number), and whether such documentation contained any U.S. indicia. For obligations held by a direct beneficiary or owner opened prior to January 1, 2001, if WT was not required under its know-your-customer rules to maintain originals or copies of documentation, WT may nevertheless rely on the information if it has complied such information with all other aspects of its know-your-customer rules regarding establishment of a beneficiary's or owner's

identity, it has a record that the documentation required under the know-your-customer rules was actually examined by an employee of WT or employees of the trustee of WT in accordance with the know-your-customer rules, and it has no information in its possession that would require WT to treat the documentation as invalid under the rules of section 4.10(B) of this Agreement.

(B) *Retention Period.* WT shall retain a beneficiary's or owner's documentation obtained under this section 4 for as long as the document is relevant for the determination of WT's tax liability or reporting responsibilities under chapters 3, 4, and 61, and sections 3406 and 6048.

Section 5. WITHHOLDING FOREIGN TRUST WITHHOLDING CERTIFICATE

Sec. 5.01. WT Withholding Certificate.

WT agrees to furnish a withholding foreign trust withholding certificate to each withholding agent from which it receives a reportable amount as a withholding foreign trust. The withholding foreign trust withholding certificate is a Form W-8IMY (or acceptable substitute form) that certifies that WT is acting as a withholding foreign trust, contains WT's WT-EIN, and provides all other information and certifications required by the form, including its WT-EIN. If WT is receiving a reportable amount that is a withholdable payment, the withholding certificate must also contain WT's chapter 4 status to the extent required, provide its GIIN (if applicable), and provide the other information and certifications required on the form. If WT is an FFI, WT must provide a GIIN on its withholding foreign trust withholding certificate irrespective of the time the FFI is permitted under its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI to obtain a GIIN. WT is not required to disclose, as part of that Form W-8IMY or its withholding statement, any information regarding the identity of its direct beneficiaries or owners and those indirect beneficiaries or owners for which it acts as a withholding foreign trust to the extent permitted under section 9 of this Agreement.

If WT does not act as a withholding foreign trust for an indirect beneficiary or owner, WT is required to furnish a nonwithholding foreign trust certificate to its withholding agent. See §1.1441-5(e)(5)(iii) for the requirements of a nonwithholding foreign trust withholding certificate, the withholding statement associated with the withholding certificate, and the other documentation or other information for each passthrough beneficiary or owner and its direct and indirect beneficiaries or owners.

Sec. 5.02. Withholding Statement. When WT is acting as a withholding foreign trust, WT must assume primary chapters 3 and 4 withholding responsibility as required by section 3.02 of this Agreement for reportable amounts that are distributed to, or included in the distributive shares of, its direct beneficiaries or owners and any indirect beneficiaries or owners for which it is acting as a withholding foreign trust. Accordingly, WT is not required to provide a withholding statement in such circumstances. See section 9 of this Agreement providing that WT may not act as a withholding foreign trust for certain indirect beneficiaries or owners that are U.S. non-exempt recipients.

Section 6. TAX RETURN AND INFORMATION REPORTING OBLIGATIONS

Sec. 6.01. Form 1042 Filing Requirement.

(A) *In General.* WT shall file a return on Form 1042, whether or not WT withheld any amounts under chapter 3 or 4 of the Code, on or before March 15 of the year following any calendar year in which WT acts as a withholding foreign trust. In addition to the information required on Form 1042 and its accompanying instructions, WT shall attach a statement setting forth the amounts

of any overwithholding or underwithholding adjustments made under sections 7.01 and 7.03 of this Agreement, and an explanation of the circumstances that resulted in the over- or underwithholding. If WT is requesting a collective refund or credit, WT shall attach the statements required by section 7.02 of this Agreement and shall comply with the procedures specified in section 7.02 of this Agreement.

(B) *Extensions for Filing Returns.* WT may request an extension of the time for filing Form 1042, or any of the information required to be attached to the form, by submitting Form 7004, Application for Automatic Extension of Time to File Certain Business Income, Tax, Information, and Other Returns, on or before the due date of the return.

Sec. 6.02. Form 1042-S Reporting.

(A) *In General.* WT must file Form 1042-S for each beneficiary or owner for whom it acts as a withholding foreign trust and for whom WT distributes, or in whose distributive share is included, a reportable amount unless WT is permitted under sections 6.02(C) and (D) of this Agreement to report in pools (reporting pools). With respect to its direct beneficiaries or owners, WT must file Forms 1042-S in the manner required by the regulations under chapters 3 and 4 for amounts distributed to, or included in the distributive share of, its beneficiaries or owners (or in the case of a participating FFI, pursuant to its FATCA requirements as a participating FFI) and the instructions to the form, including any requirement to file the forms magnetically or electronically. Any Form 1042-S required to be filed by this section 6 shall be filed on or before March 15 following the calendar year in which withholding, if any, was required under section 3.02 of this Agreement. WT may request an extension of time to file Forms 1042-S by submitting Form 8809, Application for Extension of Time to File Information Returns (or other superseding form) by the due date of Forms 1042-S in the manner required by Form 8809.

(B) *Recipient Specific Reporting.* WT is required to file a separate Form 1042-S for amounts distributed to, or included in the distributive share of, each separate beneficiary or owner as described in this section 6.02(B). WT must file separate Forms 1042-S by income code, chapter 3 or 4 exemption code, recipient code, chapter 4 withholding rate pool (if applicable), and withholding rate.

(1) Unless WT has made the pooled reporting election pursuant to section 6.02(D) of this Agreement, WT must file a separate Form 1042-S for each direct beneficiary or owner (other than a passthrough beneficiary or owner) to whom WT distributes, or whose distributive share includes, an amount subject to chapter 3 withholding that is either not a withholdable payment or is a withholdable payment for which no chapter 4 withholding is required.

(2) WT must file a separate Form 1042-S for each beneficiary or owner that is a qualified intermediary, a withholding foreign partnership, or a withholding foreign trust to whom WT distributes, or whose distributive share includes, an amount subject to withholding under chapters 3 or 4, regardless of whether such beneficiary or owner is a direct or indirect beneficiary or owner of WT.

(3) WT must file a separate Form 1042-S for each passthrough beneficiary or owner that is a nonqualified intermediary or flow-through entity that is a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI and to whom WT distributes, or whose distributive share includes, an amount subject to chapter 4 withholding allocable to such FFI's chapter 4 withholding rate pools of recalcitrant account holders, nonparticipating FFIs, and reportable amounts allocable to U.S. payees, if applicable, regardless of whether such FFI is a direct or indirect beneficiary or owner of WT when WT applies section 9.03 of this Agreement.

(4) WT must file a separate Form 1042-S for each passthrough beneficiary or owner that is a nonqualified intermediary or flow-through entity that is not described in section 6.02(B)(3) of this Agreement (other than a nonparticipating FFI), and to whom WT distributes, or whose distributive share includes, an amount subject to chapter 4 withholding allocable to such passthrough beneficiary's or owner's chapter 4 withholding rate pool of payees that are nonparticipating FFIs, regardless of whether such passthrough beneficiary or owner is a direct or indirect beneficiary or owner of WT when WT applies section 9.03 of this Agreement.

(5) WT must file a separate Form 1042-S for each beneficiary or owner of WT that is a partnership or trust to which WT applies the agency option under section 9.02 of this Agreement and to whom WT distributes, or whose distributive share includes, an amount subject to chapter 4 withholding that is allocable to the partnership or trust's chapter 4 withholding rate pool of payees that are nonparticipating FFIs or to whom WT distributes, or whose distributive share includes, an amount subject to chapter 3 withholding that is either not a withholdable payment or is a withholdable payment for which no chapter 4 withholding is required and that is allocable to such partnership's or trust's chapter 3 withholding rate pools.

(6) WT must file a separate Form 1042-S for each beneficiary or owner of WT that is a partnership or trust to which WT applies the joint account option under section 9.02 of this Agreement and to whom WT distributes, or whose distributive share includes, an amount subject to chapter 3 withholding that is allocable to such partnership or trust's chapter 3 withholding rate pool.

(7) WT must file a separate Form 1042-S for each foreign account holder (or interest holder) of a passthrough beneficiary or owner that is a nonparticipating FFI that receives a payment on behalf of an exempt beneficial owner (regardless of whether the passthrough beneficiary or owner is a direct or indirect beneficiary or owner of WT) to the extent WT can reliably associate such amounts with valid documentation from such passthrough beneficiary or owner as to the portion of the payment allocable to one or more exempt beneficial owners. In addition, WT must file separate Forms 1042-S in the same manner for each foreign account holder (or interest holder) of a passthrough beneficiary or owner that is described in the preceding sentence and that is a direct or indirect partner, beneficiary, or owner of a partnership or trust to which WT applies the agency option.

(8) WT must file a separate Form 1042-S for each foreign account holder (or interest holder) of a nonqualified intermediary or flow-through entity to whom WT distributes, or whose distributive share includes, an amount subject to chapter 3 withholding that is either not a withholdable payment or is a withholdable payment for which no chapter 4 withholding is required to the extent WT can reliably associate such amounts with valid documentation from an account holder (or interest holder) that is not itself a nonqualified intermediary or flow-through entity when WT applies section 9.03 of this Agreement. In addition, WT must file a separate Form 1042-S in the same manner for each foreign account holder (or interest holder) of a nonqualified intermediary or flow-through entity (to which WP does not apply the agency option) that is described in the preceding sentence and that is a direct or indirect account holder (or interest holder) of a partnership or trust to which WT applies the agency option.

(9) If WT is an NFFE, WT must file a separate Form 1042-S for each direct beneficiary or owner that establishes its status as a passive NFFE but fails to provide the information regarding its owners as required under §1.1471-3(d)(12)(iii).

(C) Chapter 4 Reporting Pools of WT.

If WT is an FFI, WT shall report on Form 1042-S amounts subject to chapter 4 withholding that it distributes to, or includes in the distributive share of, its direct beneficiaries or owners consistent

with its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI. A separate Form 1042-S shall be filed for each type of chapter 4 reporting pool. A chapter 4 reporting pool is a payment of a single type of income (e.g., interest, dividends), determined in accordance with the categories of income reported on Form 1042-S that is allocable to a chapter 4 withholding rate pool consisting of payees that are nonparticipating FFIs, recalcitrant account holders, or U.S. payees (if applicable). WT must report recalcitrant account holders in pools based upon their particular class described in §1.1471-4(d)(6), with a separate Form 1042-S issued for each such pool.

If WT is a participating FFI or registered deemed-compliant FFI (including for this purpose a reporting Model 1 IGA FFI), WT may report in a chapter 4 withholding rate pool of U.S. payees reportable amounts that are distributed to, or included in the distributive share of, a direct beneficiary or owner that is a U.S. person, provided that WT reports such beneficiary or owner as a U.S. account (or U.S. reportable account) under its applicable FATCA requirements as a participating FFI, registered deemed-compliant FFI, reporting Model 1 FFI, or registered deemed-compliant Model 1 IGA FFI. WT shall include in its U.S. payee pool reportable amounts that are distributed to, or included in the distributive share of, a direct beneficiary or owner that is a U.S. person when WT either reports such beneficiary or owner as a U.S. account (or U.S. reportable account) pursuant to its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI; or reports such beneficiary or owner as a recalcitrant account holder (or non-consenting U.S. account) provided that WT is not required to withhold on such beneficiary or owner pursuant to its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI. See, however, the automatic termination provision of section 10.03(A) of this Agreement if WT is not in possession of valid documentation for any direct beneficiary or owner at any time that withholding or reporting is required.

If WT is an NFFE, WT shall report amounts subject to chapter 4 withholding by reporting pools on a Form 1042-S if those amounts are distributed to, or included in the distributive share of, direct beneficiaries or owners of WT that are nonparticipating FFIs in a chapter 4 reporting pool of nonparticipating FFIs.

(D) Chapter 3 Reporting Pools of WT.

WT may elect to perform pool reporting (PR election) for an amount subject to chapter 3 withholding that either is not a withholdable payment or is a withholdable payment for which no chapter 4 withholding is required and that WT distributes to, or includes in the distributive share of, a foreign direct beneficiary or owner (other than a passthrough beneficiary or owner, withholding foreign partnership, or withholding foreign trust). A separate Form 1042-S shall be filed for each chapter 3 reporting pool. A chapter 3 reporting pool is a payment of a single type of income that falls within a particular withholding rate, chapter 3 exemption code and, if the payment is a withholdable payment, a chapter 4 exemption code as determined on Form 1042-S and its accompanying instructions. WT may use a single chapter 3 pool reporting code (e.g., WT- withholding rate pool- general) for all reporting pools except for amounts paid to foreign tax-exempt recipients, for which a separate chapter 3 pool reporting code (e.g., WT- withholding rate pool- exempt organization) must be used. For this purpose, a foreign tax-exempt recipient includes any organization that is not subject to chapter 3 withholding and is not liable to tax in its jurisdiction of residence because it is a charitable organization, a pension fund, or a foreign government.

If WT has made the PR election pursuant to this section 6.02(D), WT is not required to file Forms 1042-S for amounts distributed to, or included in the distributive share of, each separate direct beneficiary or owner for whom such reporting would otherwise be required. Instead, WT

shall file a separate Form 1042-S for each reporting pool. Once made, the PR election is effective for the entire term of this Agreement beginning on the effective date of the Agreement and ending on the date of its expiration or termination under section 10 of the Agreement. WT must make a new election for each renewal term of this Agreement. If WT makes the PR election, WT cannot revoke it prior to the end of the term for which WT has made the PR election unless WT obtains consent from the IRS to revoke such election. WT may request IRS consent by contacting the IRS at the address specified in section 11.06 of this Agreement. If WT did not make the PR election at the time this Agreement was executed, then WT may make a PR election only by contacting the IRS at the address specified in section 11.06 of this Agreement.

Sec. 6.03. Form 3520-A Filing Requirement.

If WT is required to file Form 3520-A and an Owner Statement or Beneficiary Statement under section 6048 of the Code, then WT shall file Form 3520-A and file and furnish any required Owner Statements or Beneficiary Statements to U.S. beneficiaries or owners in accordance with the instructions for the form. See section 6.05(D) for a special reporting obligation of WT with respect to beneficiaries not required to be reported by WT on Form 3520-A.

Sec. 6.04. Retention of Returns. WT shall retain Forms 1042 for the period of the applicable statute of limitations on assessments and collection under the Code.

Sec. 6.05. FATCA U.S. Account Reporting.

(A) *WT that is an FFI.* If WT is an FFI, WT is required to report each U.S. account (or, in the case of an FFI that is a reporting Model 1 FFI or registered deemed-compliant Model 1 IGA FFI, each U.S. reportable account) that it maintains consistent with its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI. See WT's requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI to report each account that is a U.S. account (or U.S. reportable account) that it maintains. If WT is a participating FFI or registered deemed-compliant FFI (other than a reporting Model 1 FFI or registered deemed-compliant Model 1 IGA FFI), WT must report its U.S. accounts on Form 8966, FATCA Report, in the time and manner specified under its FATCA requirements as a participating FFI or registered deemed-compliant FFI except to the extent WT is reporting under §1.1471-4(d)(5) on Form 1099 with respect to its U.S. accounts. If WT is a reporting Model 1 FFI or registered deemed-compliant Model 1 IGA FFI, WT must report each U.S. reportable account on Form 8966 as required under the applicable Model 1 IGA.

(B) *WT that is an NFFE.* If WT is an NFFE, WT shall file Forms 8966 to report withholdable payments distributed to, or included in the distributive share of, any beneficiary or owner that is an NFFE (other than an excepted NFFE) with one or more substantial U.S. owners if the NFFE is the beneficial owner of the withholdable payment received by WT. See §1.1471-1(b)(8) for the definition of beneficial owner. WT must report on Form 8966 in accordance with the form and its accompanying instructions.

The Form 8966 must include the name of the NFFE that is owned by a substantial U.S. owner; the name, address, and U.S. TIN of each substantial U.S. owner; the total of all withholdable payments distributed to, or included in the distributive share of, the NFFE during the calendar year; and any other information as required by the form and its accompanying instructions.

(C) *Form 8966 Reporting for Payees that are NFFEs.* WT shall file Form 8966 to report withholdable payments that WT distributes to, or includes in the distributive share of, a

passthrough beneficiary or owner that provides information regarding an account holder (or interest holder that is an NFFE (other than an excepted NFFE) with one or more substantial U.S. owners (or one or more controlling persons that is a specified U.S. person under an applicable IGA) and that is the beneficial owner of the withholdable payment received by WT. WT must report on Form 8966 in the time and manner provided in §1.1474-1(i)(2). Such report must include the name of the NFFE that is owned by a substantial U.S. owner (or controlling person that is a specified U.S. person); the name, address, and U.S. TIN of each substantial U.S. owner (or controlling person that is a specified U.S. person); the total of all withholdable payments made to the NFFE during the calendar year (or reportable period under the applicable IGA); and any other information as required by the form and its accompanying instructions. WT is only required to report as described in this section 6.05(C) if WT acts as a withholding foreign trust with respect to such indirect beneficiary or owner as described in section 9.03 of this Agreement and the passthrough beneficiary or owner does not certify on its withholding statement that it is reporting the account holder (or interest holder) as a U.S. account pursuant to its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI.

(D) Special Reporting Obligation. If WT is not a participating FFI or a registered deemed-compliant FFI or a registered deemed-compliant Model 1 IGA FFI and is not required to report with respect to a U.S. beneficiary of WT on Form 3520-A, then WT must report with respect to such beneficiary on Form 8966 as required under this section 6.05(D). A beneficiary for this purpose means a beneficiary that receives a distribution from WT during the year or that is required to include an amount in gross income under sections 652(a) or 662(a) with respect to WT.

Section 7. ADJUSTMENTS FOR OVER- AND UNDERWITHHOLDING; REFUNDS

Sec. 7.01. Adjustments for Chapter 3 or 4 Overwithholding by WT. WT may make an adjustment for amounts paid to its beneficiaries or owners when WT has overwithheld under chapter 3 or 4 by applying either the reimbursement procedure described in section 7.01(A) of this Agreement or the set-off procedure described in section 7.01(B) of this Agreement within the time period prescribed for those procedures.

(A) Reimbursement Procedure. WT may repay its beneficiaries or owners for an amount overwithheld under chapter 3 or 4 and reimburse itself by reducing, by the amount of tax actually repaid to the beneficiaries or owners, the amount of any subsequent deposit of tax required to be made by WT under section 3.05 of this Agreement. For purposes of this section 7.01(A), an amount that is overwithheld shall be applied in order of time (i.e., sequentially) to each of WT's subsequent deposit periods in the same calendar year to the extent that the withholding taxes required to be deposited for a subsequent deposit period exceed the amount actually deposited. An amount overwithheld in a calendar year may be applied to deposit periods in the calendar year following the calendar year of overwithholding only if--

(1) The repayment occurs before the earlier of the due date (without regard to extensions) for filing Form 1042-S for the calendar year of overwithholding or the date that the Form 1042-S is actually filed by WT with the IRS;

(2) WT states on a Form 1042-S (issued, if applicable, to the beneficiary or owner or otherwise to a chapter 3 or 4 reporting pool) filed by March 15 of the calendar year following the calendar year of overwithholding, the amount of tax withheld and the amount of any actual repayments; and

(3) WT states on a Form 1042, filed by March 15 of the calendar year following the calendar year of overwithholding, that the filing of the Form 1042 constitutes a claim for credit in accordance with §1.6414-1.

(B) Set-Off Procedure. WT may repay its beneficiaries or owners by applying the amount overwithheld against any amount which otherwise would be required under chapter 3 or 4 to be withheld from a payment made by WT before the earlier of March 15 of the calendar year following the calendar year of overwithholding or the date that the Form 1042-S is actually filed with the IRS. For purposes of making a return on Form 1042 or Form 1042-S for the calendar year of overwithholding, and for purposes of making a deposit of the amount withheld, the reduced amount shall be considered the amount required to be withheld from such income under chapter 3 or 4.

Sec. 7.02. Collective Credit or Refund Procedures for Chapter 3 or 4 Overwithholding. If WT has made a PR election and there has been overwithholding (as defined in section 2.49 of this Agreement) on amounts paid to WT's direct beneficiaries or owners during a calendar year and the amount of overwithholding has not been recovered under the reimbursement or set-off procedures as described in section 7.01 of this Agreement, WT may request a credit or refund of the total amount overwithheld by following the procedures of this section 7.02. WT shall follow the procedures set forth under sections 6402 and 6414, and the regulations thereunder, to claim the credit or refund. No credit or refund will be allowed after the expiration of the statutory period of limitation for refunds under section 6511.

(A) Payments for which a Collective Refund is Permitted. Except as otherwise provided in this section 7.02, WT may use the collective refund procedure of this section 7.02 with respect to all amounts subject to chapter 3 or 4 withholding that WT has withheld under this Agreement. With respect to amounts withheld under chapter 3 or 4, WT shall not include in its collective refund claim any amounts withheld on payments made to an indirect beneficiary or owner or a direct account holder of WT that is a passthrough beneficiary or owner. Further, with respect to amounts withheld under chapter 4, if WT is a participating FFI or registered deemed-compliant FFI, WT shall not include in its collective refund claim any amounts withheld on payments made to any beneficiary or owner that is an account holder described in the FFI agreement or in §1.1471-4(h)(2).

(B) Requirements for a Collective Refund.

(1) WT may use the collective refund procedures under this section 7.02 only if WT has not issued Forms 1042-S to the beneficiaries or owners that were subject to overwithholding and for which a collective refund claim is being made.

(2) WT must submit together with its amended Form 1042 on which it provides a reconciliation of amounts withheld and a claim for credit or refund, a statement that includes the following information and representations—

(i) The reason(s) for the overwithholding;

(ii) WT deposited the tax for which a refund is being sought under section 6302 and WT has not applied the reimbursement or set-off procedures of §§1.1461-2 and 1.1474-2 to adjust the tax withheld to which the claim relates;

(iii) WT has repaid or will repay the amount for which a refund is sought to the appropriate beneficiaries or owners;

(iv) WT retains a record showing the total amount of tax withheld, adjustments for underwithholding, and reimbursements for overwithholding as it relates to each beneficiary or owner and also showing the repayment (if applicable) to such beneficiaries or owners for the amount of tax for which a refund is being sought;

(v) WT retains valid documentation that meets the requirements of chapter 3 or 4 (as applicable) to substantiate the amount of overwithholding with respect to each beneficiary or owner for which a refund is being sought; and

(vi) WT has not (and will not) issue a Form 1042-S (or such other form as the IRS may prescribe) to any beneficiary or owner with respect to the payments for which a refund is being sought.

Sec. 7.03. Adjustments for Chapter 3 or 4 Underwithholding. If WT knows that an amount should have been withheld under chapter 3 or 4 from a previous payment made to a beneficiary or owner and the amount was not withheld, WT may either withhold from future payments made pursuant to chapter 3 or chapter 4 to the same beneficiary or owner or satisfy the tax from the beneficiary's or owner's proportionate share of assets over which WT has control. The additional withholding or satisfaction of the tax owed described in the previous sentence must be made before the due date of the Form 1042 (not including extensions) for the calendar year in which the underwithholding occurred.

Sec. 7.04. Chapter 3 or 4 Underwithholding after Form 1042 Filed. If, after a Form 1042 has been filed for a calendar year, WT, WT's auditor, or the IRS determines that WT has underwithheld tax under chapter 3 or 4 for such year, WT shall file an amended Form 1042 to report and pay the underwithheld tax. WT shall pay the underwithheld tax, the interest due on the underwithheld tax, and any applicable penalties, at the time of filing the amended Form 1042. If WT fails to file an amended return, the IRS shall make such return under section 6020 and assess such tax under the procedures set forth in the Code.

Section 8. COMPLIANCE PROCEDURES

Sec. 8.01.

(A) *In General.* WT must adopt a compliance program under the authority of a responsible officer. WT's compliance program must include policies, procedures, and processes sufficient for WT to satisfy the documentation, reporting, and withholding requirements of this Agreement and sufficient for the responsible officer of WT to make the certifications required under section 8.03 of this Agreement. See section 2.63 of this Agreement for the definition of responsible officer. WT must also perform or arrange for the performance of the periodic review described in section 8.04 of this Agreement. As part of the responsible officer's certification, WT must provide to the IRS the factual information described in section 8.03(C) of this Agreement. WT must also satisfy the requirements of section 8.06 of this Agreement with respect to the report of the periodic review and must comply with the IRS review referenced in section 8.07 of this Agreement.

(B) *Coordination with FATCA Requirements as a Participating FFI, Registered Deemed-Compliant FFI, or Registered Deemed-Compliant Model 1 IGA FFI.* As a condition for maintaining this Agreement, WT must comply with the FATCA requirements applicable to its chapter 4 status (including any applicable compliance procedures). Therefore, WT must, as part of the compliance procedures described in this section 8 (including the periodic review described in section 8.04 of this Agreement and in making the periodic certification described in section 8.03 of this Agreement) determine whether it is compliant with its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model

1 IGA FFI when it acts as a withholding foreign trust. See the compliance procedures, if any, required under WT's FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI when WT acts as a nonwithholding foreign trust. If WT is a participating FFI, WT will be able to make the certification described in section 8.03 of this Agreement, and the certification described in the FFI agreement, to the extent provided in future published guidance or other instructions.

Sec. 8.02. Compliance Program.

(A) Responsible Officer. WT must appoint an individual as the responsible officer (as defined in section 2.63 of this Agreement). The responsible officer must be identified on the IRS FATCA registration website as the WT's responsible party and as the responsible officer for purposes of compliance with its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI. The responsible officer (or the responsible officer's designee) must establish a compliance program that meets the requirements of this section 8.02 and must make the periodic certifications to the IRS described in section 8.03 of this Agreement. The responsible officer of WT must be the trustee of WT or an agent of the trustee of WT with sufficient authority to fulfill the duties of a responsible officer described in this section 8.02. The responsible officer (or a delegate appointed by the responsible officer) must also serve as the point of contact for the IRS for all issues related to this Agreement and for complying with IRS requests for information or additional audit procedures under section 8.07 of this Agreement.

(B) Compliance Program. The responsible officer (or the responsible officer's designee) must establish a program for WT to comply with the requirements of this Agreement that includes the following:

(1) Written Policies and Procedures. The responsible officer (or the responsible officer's designee) must ensure the drafting and updating, as necessary, of written policies and procedures sufficient for WT to satisfy the documentation, withholding, reporting, and other obligations of this Agreement with its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI. Such written policies and procedures must include a process for an employee of the trustee or an agent of the trustee of WT to raise issues to the responsible officer (or the responsible officer's designee) that concern WT's compliance with this Agreement.

(2) Training. The responsible officer (or the responsible officer's designee) must communicate such policies and procedures to persons responsible for obtaining, reviewing, and retaining a record of documentation under the requirements of section 4 of this Agreement, making distributions and allocations to beneficiaries or owners on behalf of WT that are subject to withholding under section 3 of this Agreement, or reporting distributions or allocations to beneficiaries or owners under section 6 of this Agreement. This includes any person that is responsible for the performance of WT's due diligence procedures under its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI.

(3) Systems. The responsible officer (or the responsible officer's designee) must ensure that systems and processes are in place that will allow WT to fulfill its obligations under this Agreement and its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI. For example, in order to fulfill WT's obligations to report on Forms 1042-S, 3520-A and 8966 under section 6 of this Agreement, WT must establish systems for documenting beneficiaries or owners and for recording the information with respect to each such beneficiary or owner that WT is required to report under that section.

(4) *Monitoring of Business Changes.* The responsible officer (or the responsible officer's designee) must monitor business practices and arrangements that affect WT's compliance with this Agreement, including, for example, changes in WT's beneficiaries or owners that give rise to documentation, withholding, or reporting obligations under this Agreement, and its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI.

(5) *Periodic Review.* The responsible officer (or the responsible officer's designee) must designate an auditor that meets the qualifications described in section 8.04(A) of this Agreement to perform the periodic review described in section 8.05 of this Agreement.

(6) *Periodic Certification.* The responsible officer (or the responsible officer's designee) must make the periodic certification as described in section 8.03 of this Agreement, including ensuring that corrective actions are taken in response to any material failures (as defined in section 8.03(D) of this Agreement) of WT's compliance with this Agreement (as defined in section 8.03(D) of this Agreement) and its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI.

Sec. 8.03. Periodic Certification by Responsible Officer. In accordance with the compliance period described in section 8.03(E) of this Agreement, the responsible officer of WT must make the applicable certification of compliance described in section 8.03(A) or (B) of this Agreement. The responsible officer of WT must make the certifications of compliance in such manner as the IRS may prescribe in future guidance or other instructions. The responsible officer must consider the results of WT's periodic review described in section 8.05 of this Agreement in making the periodic certification.

(A) *Certification of Effective Internal Controls.* The responsible officer must certify to the following and disclose any material failures that occurred during the certification period or during any prior period if the material failure was not disclosed as part of a prior certification or written disclosure made by WT to the IRS—

(1) WT has established a compliance program that meets the requirements described in section 8.02(B) of the WT agreement that is in effect as of the date of the certification and during the certification period;

(2) A periodic review was conducted for the certification period in accordance with sections 8.04 through 8.06 of the WT agreement, and based on the review and other steps taken by WT, WT maintains effective internal controls over its documentation, withholding, and reporting obligations under the WT agreement and under its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI;

(3) Based on the periodic review and other information known to the responsible officer, there are no material failures as defined in section 8.03(D) of the WT agreement or, if there are any material failures, such failures are identified as part of this certification as well as the actions taken to remediate such failures and to prevent their reoccurrence by the date of this certification;

(4) With respect to any failure to withhold, deposit, or report to the extent required under the WT agreement, WT has corrected such failure by paying any taxes due (including interest and penalties) and filing the appropriate return (or amended return); and

(5) All partnerships and trusts to which WT applies the agency option either have provided documentation or other information to WT to include in WT's periodic review, or have provided the responsible officer of WT with a certification of effective controls meeting the requirements of section 8.03(A) of the WT agreement and have represented to WT that there are no material

failures as defined in section 8.03(D) of the WT agreement, or have disclosed any such failures to WT and the actions taken by the partnership or trust to remediate such failures.

(B) Qualified Certification. If the responsible officer has identified an event of default or a material failure that WT has not corrected as of the date of the certification, the responsible officer must certify to the following statements—

(1) The responsible officer (or the responsible officer's designee) has identified an event of default as defined in section 8.05 of the WT agreement or has determined that as of the date of the certification, there are one or more material failures as defined in section 8.03(D) of this Agreement with respect to WT's compliance, or the compliance of a partnership or trust to which WT applies the agency option, and that appropriate actions will be taken to prevent such failures from recurring;

(2) With respect to any failure to withhold, deposit, or report to the extent required under the WT agreement, WT will correct such failure by paying any taxes due (including interest and penalties) and filing the appropriate return (or amended return); and

(3) The responsible officer (or an officer of the partnership or trust to which WT applies the agency option) will respond to any notice of default (if applicable) or will provide to the IRS, to the extent requested, a description of each material failure and a written plan to correct each such failure.

(C) Factual Information. At the same time WT provides the periodic certification, WT shall also report certain factual information regarding its beneficiaries or owners, withholdable payments, and amounts subject to chapter 3 withholding and must certify to the accuracy of the information. The information requested will be limited to certain information reviewed as part of WT's periodic review procedure described in section 8.05 of this Agreement. The IRS will consider reportable amounts received by WT, the number of WT's beneficiaries or owners, and whether WT was required to file Forms 3520-A with respect to its beneficiaries and owners that are U.S. owners and Forms 8966 with respect to its beneficiaries and owners that hold U.S. accounts (or U.S. reportable accounts) during the certification period to determine the extent of the factual information to request. The IRS will prescribe in future published guidance or other instructions the factual information that the WT is required to report with the periodic certification and the manner in which such information must be reported.

(D) Material Failures.

(1) Material Failures Defined. A material failure is generally a failure of WT to fulfill the requirements of this Agreement or its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI. For purposes of the certifications described in sections 8.03(A) and (B) of this Agreement, a material failure is limited to the following:

(i) WT's establishing of, for financial statement purposes, a tax reserve or provision for a potential future tax liability related to WT's failure to comply with this Agreement or the FFI agreement or its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI;

(ii) WT's failure to establish written policies, procedures, or systems sufficient for the relevant personnel of WT to take actions consistent with WT's obligations under this Agreement or its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI;

(iii) A criminal or civil penalty or sanction imposed on WT by a regulator or other governmental authority or agency with oversight over WT's compliance with the AML/KYC procedures, if applicable, to which WT is subject and that is imposed due to WT's failure to properly identify beneficiaries or owners under the requirements of those procedures; or

(iv) A finding (including a finding noted in the auditor's periodic review report described in section 8.06 of this Agreement) that, for one or more years covered by this Agreement, WT failed to --

(a) Withhold an amount that WT was required to withhold under chapter 3 or 4 as required under section 3 of this Agreement;

(b) Make deposits in the time and manner required by section 3 of this Agreement or make adequate deposits to satisfy its withholding obligations, taking into account the procedures under section 7 of this Agreement;

(c) Report or report accurately on Forms 1042, 1042-S, 8966, 3520-A and the Owner Statements and Beneficiary Statements that are part of Form 3520-A as required under section 6 of this Agreement; or

(d) Report or report accurately its U.S. accounts (or U.S. reportable accounts) under its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI.

(2) *Limitations on Material Failures.* A failure described in section 8.03(D)(1)(iv) of this Agreement is a material failure only if the failure was the result of a deliberate action on the part of WT's trustee or one or more employees or agents of WT's trustee to avoid the requirements of this Agreement or WT's FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI with respect to one or more beneficiaries or owners of WT or was an error attributable to a failure of WT to establish or implement internal controls sufficient for WT to meet the requirements of this Agreement. Regardless of these limitations for the certifications described in sections 8.03(A) and (B) of this Agreement, WT is required to correct a failure to withhold or deposit tax under section 3 of this Agreement or to report under section 6 of this Agreement by depositing the amount of tax required to have been withheld and by filing the appropriate return (or amended return).

(E) *Certification Period.*

(1) If WT is an FFI that is a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI, WT must make the certification described in section 8.03(A) or (B) on or before July 1 of the calendar year following the certification period. The initial certification period is the period ending on the third full calendar year that this Agreement is in effect (including renewals of this Agreement). Subsequent certification periods will be every three calendar years following the initial certification period (including renewals of this Agreement).

(2) If WT is an NFFE or a retirement fund that makes a PR election pursuant to section 6.02(D) of this Agreement, WT must make the certification described in section 8.03(A) or (B) on or before July 1 of the calendar year following the certification period. The initial certification period is the period ending on the third full calendar year that this Agreement is in effect (including

renewals of this Agreement). Subsequent certification periods occur every three calendar years following the initial certification period (including renewals of this Agreement).

(3) If WT is an NFFE or a retirement fund that does not make a PR election pursuant to section 6.02(D) of this Agreement, WT must make the certification described in section 8.03(A) or (B) following the certification period. The initial certification period is the period ending on the third full calendar year that this Agreement is in effect (including renewals of this Agreement). Subsequent certification periods occur every six calendar years following the initial certification period (including renewals of this Agreement).

Sec. 8.04. Requirements for Periodic Review.

(A) *Independent Auditor.* The periodic review may be performed by an internal auditor that is an employee or agent of the trustee of WT (internal auditor) or a certified public accountant, attorney, or third-party consultant (external auditor), or any combination thereof.

(1) *Internal Auditor.* WT may designate an internal auditor to perform the periodic review (or a portion of the periodic review) only when the internal auditor is competent with respect to the requirements of this Agreement and WT's FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI. The internal auditor must also be able to report findings that reflect the independent judgment of the auditor. The internal auditor must not report directly to the responsible officer or any other employee or agent of WT's trustee with direct authority over the persons performing functions in connection with WT's obligations under this Agreement and WT's FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI. The IRS has the right to request the performance of the periodic review by an external auditor if the IRS, in its sole discretion, reasonably believes that the auditor selected by WT was not independent or did not perform an effective periodic review under this Agreement.

(2) *External Auditor.* WT may engage an external auditor that is a certified public accountant, attorney, or third-party consultant that is regularly engaged in the practice of performing reviews of clients' policies, procedures, and processes for complying with accounting, tax, or regulatory requirements (including for assisting clients in determining such compliance). The external auditor must be independent of WT under the standards applicable to a certified public accountant with respect to the engagement or, in the case of an auditor other than a certified public accountant, any standard of independence otherwise applicable to the auditor for such an engagement. The external auditor is not required to make an attestation or render an opinion regarding WT's compliance with this Agreement or WT's compliance with its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI, but the auditor must be able to perform the periodic review as specified in section 8.05 of this Agreement and provide the report described in section 8.06 of this Agreement. WT must permit the external auditor access to all relevant records of WT for purposes of performing the audit, including information regarding specific beneficiaries or owners. Additionally, the engagement between the external auditor and WT must impose no restrictions on WT's ability to provide the report described in section 8.06 of this Agreement to the IRS. However, the external auditor is not required to divulge the identity of WT's foreign beneficiaries or owners to the IRS. WT must permit the IRS to communicate directly with the external auditor and any legal prohibitions that prevent the IRS from communicating directly with the auditor must be waived.

Sec. 8.05. Scope and Timing of Review. The responsible officer of WT must require the auditor to perform a review of WT's internal controls, test a sample of distributions and allocations related to WT's documentation, withholding, reporting, and other obligations under this Agreement and its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI and identify deficiencies in meeting these obligations. To the extent WT applies the joint account option with respect to another partnership or trust as described in section 9.01 of this Agreement or acts as a withholding foreign trust for any indirect beneficiaries or owners as described in section 9.03 of this Agreement, the review must include such indirect partners, beneficiaries or owners in addition to WT's direct beneficiaries or owners. In addition, if WT applies the agency option to a partnership or trust as described in section 9.02 of this agreement, the review must include the partners, beneficiaries or owners of such partnership or trust unless the partnership or trust conducts its own review in accordance with this section 8 of this Agreement and provides the required certification to the responsible officer of WT. Unless otherwise approved by the IRS, the review must include the steps described in sections 8.05(A) through (E) of this Agreement. The review may include recommendations for either corrective actions or enhancements to WT's compliance program. WT is required to arrange for the performance of one review for the certification period to evaluate WT's documentation, withholding, and reporting practices for the most recent calendar year. The review is not required to include statistical sampling procedures for testing transactions, but must require that the auditor document its methodology for sampling determinations.

(A) Documentation. The auditor must--

(1) Verify that WT has training materials, manuals, and directives that instruct the appropriate persons how to request, collect, review, and maintain documentation in accordance with this Agreement, including procedures for identifying and communicating changes in circumstances;

(2) Review WT's procedures and interview the appropriate persons to determine if appropriate documentation is requested from beneficiaries or owners, and, if obtained, that it is reviewed and maintained in accordance with this Agreement;

(3) Verify that WT follows procedures designed to inform beneficiaries or owners that claim a reduced rate of withholding under an income tax treaty about any applicable limitation on benefits provisions;

(4) Review WT's documentation obtained for WT's beneficiaries or owners to ensure that WT obtained the treaty statements required by section 4.03(B) of this Agreement;

(5) Review information contained in documentation obtained for WT's beneficiaries or owners or memoranda and any correspondence associated with the beneficiaries or owners (the beneficiaries' or owners' files) to ensure that WT obtained documentation that meets the general requirements described in section 4 of this Agreement;

(6) Review information contained in the beneficiaries' or owners' files to determine if the documentation validity standards of section 4.10 of this Agreement have been met. For example, the auditor must verify that WT is withholding at the correct rate after any change in circumstances (e.g., a change of address to a U.S. address or change of account holder status from foreign to U.S.);

(7) Review WT's beneficiaries' or owners' files to ensure that WT is obtaining, reviewing, and maintaining documentation in accordance with its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI; and

(8) Review WT's agreements with partnerships or trusts described in section 9 of this Agreement to ensure that the obligations imposed meet the requirements provided in section 9 of this Agreement, including, for example, the receipt of allocation information.

(B) *Withholding Responsibilities.* The auditor must--

(1) Perform test checks, using a valid sample of WT's direct beneficiaries or owners that are recalcitrant account holders (if applicable) and nonparticipating FFIs, to verify that WT is withholding as required under chapter 4;

(2) Perform test checks, using a valid sample of foreign beneficiaries or owners for which no withholding is required under chapter 4 based on the beneficiary's or owner's chapter 4 status, to verify that WT withheld the proper amounts; and

(3) Verify that amounts withheld by WT were timely deposited in accordance with section 3.05 of this Agreement.

(C) *Return Filing and Information Reporting.* The auditor must--

(1) Obtain copies of original and amended Forms 1042, and any schedules, statements, or attachments required to be filed with those forms, and verify that the forms have been filed and determine whether the amounts of income, taxes, and other information reported on those forms are accurate by--

(i) Reviewing work papers used to prepare these forms;

(ii) Interviewing personnel responsible for preparing these forms;

(iii) Reviewing copies of Forms 1042-S received from withholding agents for reconciling amounts received by WT with the amounts distributed to, or included in the distributive share of, WT's beneficiaries or owners;

(iv) Reviewing account statements and correspondence from withholding agents;

(v) Determining that adjustments to the amount of tax shown on Form 1042 (and any claim by WT for refund or credit) properly reflect the adjustments to withholding made by WT using the reimbursement or set-off procedures under section 7 of this Agreement and that the adjustments are supported by sufficient documentation;

(vi) Reconciling amounts shown on Forms 1042 with amounts shown on Form 1042-S (including the amount of taxes reported as withheld); and

(vii) In the case of collective credits or refunds, reviewing the statements attached to the amended Forms 1042 filed to claim a collective credit or refund, ascertaining their accuracy, and—

(a) Determining the causes of any overwithholding reported and ensure WT did not issue Forms 1042-S to beneficiaries or owners that were included as part of its collective credit or refund claim;

(b) Determining that WT repaid the appropriate beneficiaries or owners and that the amount of the claim is accurate and supported by adequate documentation for reducing the rate of withholding; and

(c) Determining that WT did not include payments made to a beneficiary or owner described in section 7.02 of this Agreement or a partnership or trust described in section 9.01 of this Agreement.

(2) Obtain copies of original and amended Forms 1042-S, 3520-A, and the Owner Statements and Beneficiary Statements filed by WT together with the work papers used to prepare those forms and determine whether the amounts reported on those forms are accurate by--

(i) Reviewing the Forms 1042-S received from withholding agents;

(ii) Reviewing the Form 3520-A, if required, and if no Form 3520-A was required to be filed, determining whether the exemption from filing was properly applied;

(iii) Reviewing a valid sample of Owner Statements and Beneficiary Statements issued by WT to beneficiaries or owners, if any;

(iv) Reconciling any payments and tax reported on Forms 1042-S received from withholding agents with amounts (including characterization of income) and taxes reported by WT as withheld on Forms 1042-S and determining the reason(s) for any variance;

(v) Interviewing personnel responsible for preparing the Forms 1042-S, Owner Statements and Beneficiary Statements issued to beneficiaries or owners and the work papers used to prepare those forms; and

(vi) Determining, in any case in which WT utilized the reimbursement or set-off procedure, that WT satisfied the requirements of section 7 of this Agreement and that the adjusted amounts of tax withheld are properly reflected on Forms 1042-S.

(3) Obtain copies of original and amended Forms 3520-A and 8966, and determine whether the amounts of income and other information reported on Forms 3520-A and 8966 are accurate by—

(i) Reviewing the U.S. beneficiaries and owners of WT (or a valid sample of such) (including beneficiaries holding U.S. accounts (or U.S. reportable accounts)) to determine: (1) that such accounts were reported on Form 3520-A in accordance with WT's obligations under section 6048; (2) that such accounts were reported on Form 8966 in accordance with WT's FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI; and (3) that U.S. beneficiaries otherwise required to be reported on Form 8966 under section 6.05(D) of this Agreement are so reported;

(ii) If WT is an NFFE, confirming that any direct beneficiaries or owners that are passive NFFEs with one or more substantial U.S. owners were reported in accordance with §1.1472-1(c)(3);

(iii) Confirming with respect to any passthrough beneficiary or owner that provides information regarding an account holder (or interest holder) that is an NFFE (other than an excepted NFFE) with one or more substantial U.S. owners (or controlling persons that are specified U.S. persons under an applicable Model 1 or Model 2 IGA) that such substantial U.S. owners (or controlling persons that are specified U.S. persons) were reported to the extent required under section 6.05(C) of this Agreement;

(iv) Reviewing a sample of the documentation provided by a partnership or trust to which WT applied the agency option, confirming that WT reported on Form 8966 to the extent required under section 9 of this Agreement;

(v) Reviewing work papers used to prepare these forms; and

(vi) Interviewing personnel responsible for preparing these forms.

(D) *Significant Change in Circumstances.* The auditor must verify that in the course of the audit it has not discovered any significant change in circumstances, as described in section 10.05(A), (D), or (E) of this Agreement.

Sec. 8.06. Periodic Review Report.

(A) *In General.* The performance of the periodic review must be documented in a written report addressed to the responsible officer of WT and must be available to the IRS upon request (with a certified translation into English if the report is not in English). The report must describe the scope of the review, the steps performed to evaluate internal controls, and the test transactions, including the methodology for sampling determinations. The report must identify any deficiencies noted by the auditor, especially those deficiencies that the auditor concludes are material failures and may include explanatory footnotes to clarify the results of the report. Recommendations may be included but are not required to be provided in the report.

(B) *Partnership or Trust to which WT Applies the Agency Option.* Any partnership or trust to which WT applies the agency option and that does not provide documentation and information to WT for WT's periodic review, must provide a written certification to WT as described in section 8.03 of this Agreement regarding its compliance with the requirements of its agreement with WT. Such certification must be available to the IRS upon a request made as part of the review described in section 8.07 of this Agreement (with a certified translation into English if the certification is not in English).

(C) *Retention of Report.* The report and certifications described in this section 8.06 must be retained by WT for as long as this Agreement is in effect (including renewals of this Agreement).

Sec. 8.07. Compliance Review.

(A) *In General.* Based upon the certifications made by the responsible officer and disclosure of material failures, the information reported on Forms 1042, 1042-S, 8966, 3520-A and the Owner Statements and Beneficiary Statements filed with the IRS during the certification period, or otherwise at the IRS's discretion for compliance purposes, the IRS may initiate requests of WT under this section 8.07.

(B) *Periodic Review Report.* The IRS may request through written correspondence to the responsible officer of WT a copy of WT's periodic review report that was issued for any prior

certification period or the periodic review report of any partnership or trust to which WT applied the agency option during the current certification period (with a certified translation into English if the report is not in English). WT is required to provide the report within 30 calendar days of such request.

(C) Correspondence Review. The IRS may, in its discretion, conduct additional fact finding through a correspondence review. In such a review, the IRS will contact the responsible officer of WT in writing and request information about WT's compliance with this Agreement or the compliance of a partnership or trust to which WT applied the agency option, including, for example, information about documentation, withholding, or reporting processes, its periodic review, and information about any material failures that were disclosed to the IRS (including remediation plans). The IRS may request phone or video interviews with relevant personnel or a partnership or trust to which WT applied the agency option as part of such review. WT is required to respond within a reasonable period of time to any such requests.

(D) Additional Review Procedures. In limited circumstances, the IRS may direct WT or any partnership or trust described in sections 9.01 and 9.02 of this Agreement with which WT has an agreement to perform additional, specified review procedures. The IRS reserves the right to require WT or a partnership or trust to which WT applied the agency option to engage an external auditor to perform the additional review procedures regardless of whether such auditor performed the periodic review. The IRS will provide the responsible officer of WT with a written plan describing the additional review procedures and will provide a period of not more than 120 days within which the WT must provide to the IRS a report covering the review's findings.

Section 9. CERTAIN PARTNERSHIPS AND TRUSTS

Sec. 9.01. Joint Account Treatment for Certain Partnerships and Trusts.

(A) In General. WT may enter an agreement with a nonwithholding foreign partnership or nonwithholding foreign trust that is either a simple or grantor trust described in this section 9.01(A) to apply the simplified joint account documentation, reporting, and withholding procedures provided in section 9.01(B) of this Agreement. WT and the partnership or trust that apply this section 9.01 to any calendar year must apply these rules to the calendar year in its entirety. WT and the partnership or trust may not apply this section 9.01 to any calendar year in which the partnership or trust has failed to make available to WT or WT's auditor the records described in this section 9.01(A)(5) within 90 days after these records are requested and the partnership or trust must waive any legal prohibitions against providing such records to WT. If the partnership or trust has failed to make these records available within the 90-day period, or if WT and the partnership or trust fail to comply with any other requirements of this section 9.01, WT must apply the provisions of §§1.1441-1 and 1.1441-5 to the partnership or trust as a nonwithholding foreign partnership or nonwithholding foreign trust, must correct its withholding for the period during which the failure occurred in accordance with section 7.03 of this Agreement, and cannot apply this section 9.01 to subsequent calendar years. WT and the partnership or trust that apply this section 9.01 to any calendar year are not required to apply this section 9.01 to subsequent calendar years.

WT may not apply the rules of section 9.01(B) unless it has made a PR election under section 6.02(D) of this Agreement.

A partnership or trust is described in this section 9.01(A) of this Agreement if the following conditions are met.

- (1) The partnership or trust is a certified deemed-compliant FFI (other than a registered deemed-compliant Model 1 IGA FFI), an owner-documented FFI, an exempt beneficial owner, or an NFFE (other than a WP or WT);
- (2) The partnership or trust is a direct beneficiary or owner of WT;
- (3) None of the partnership's or trust's partners, beneficiaries, or owners is a flow-through entity or intermediary;
- (4) None of the partnership's or trust's partners, beneficiaries, or owners is a U.S. person and none of its foreign partners, beneficiaries, or owners is subject to withholding or reporting under chapter 4 (which would include a nonparticipating FFI or certain passive NFFEs); and
- (5) The partnership or trust agrees to make available upon request to WT and WT's auditor for purposes of WT's compliance review under section 8 of this Agreement (including to respond to IRS inquiries regarding its compliance review) records that establish that the partnership or trust has provided WT with documentation for purposes of chapters 3 and 4 for all of its partners, beneficiaries, or owners.

(B) Modification of Obligations for WT.

- (1) WT may rely on a valid Form W-8IMY provided by the partnership or trust and may rely on a withholding statement that meets the requirements of §§1.1441-5(c)(3)(iv) or (e)(5)(iv), and §1.1471-3(c)(3)(iii)(B), if the payment is a withholdable payment, and that provides information for all partners, beneficiaries, or owners together with valid Forms W-8 and, for a withholdable payment made to a partner, beneficiary, or owner that is an entity, documentation required under §1.1471-3(d) to establish such partner's, beneficiary's, or owner's chapter 4 status. The withholding statement, however, need not provide any allocation information.
- (2) WT must treat amounts distributed to, or included in the distributive share of, the partnership or trust as allocated solely to a partner, beneficiary or owner that is subject to the highest rate of withholding under chapter 3 and must withhold at that rate.
- (3) WT may pool report amounts distributed to, or included in the distributive share of, the partnership's or trust's direct partners, owners, or beneficiaries in chapter 3 reporting pools on Form 1042-S as described in section 6.02 of this Agreement.
- (4) After WT has withheld in accordance with section 9.01(B)(2) of this Agreement, it may file a separate Form 1042-S for any partner, beneficiary or owner who requests that it do so. If WT issues a separate Form 1042-S for any partner, beneficiary, or owner, it cannot include such partner, beneficiary, or owner in WT's chapter 3 reporting pool. If WT has already filed a Form 1042-S and included the partner, beneficiary, or owner in a chapter 3 reporting pool, it must file an amended return to reduce the amount of the payment reported to reflect the amount allocated to the recipient on the recipient's specific Form 1042-S. WT may file a separate Form 1042-S for a partner, beneficiary, or owner only if the partnership or trust provides a withholding statement that includes allocation information for the requesting partner, beneficiary, or owner and only if the partnership or trust has agreed in writing under section 9.01(A)(5) of this Agreement to make available to WT or WT's auditor the records that substantiate the allocation information included in its withholding statement.
- (5) WT may not include any amounts distributed to, or included in the distributive share of, a partnership or trust to which WT is applying the rules of this section 9.01 in any collective refund claim made under section 7.02 of this Agreement.

(C) Transitional Rule through December 31, 2014. For the period beginning on the effective date of this Agreement and ending December 31, 2014, a WT that had previously entered into an agreement with a partnership or trust to apply the provisions described in this section 9.01

(“the joint account option”) may continue to act consistent with such agreement provided that the agreement meets the requirements of section 10 of Revenue Procedure 2003-64 (as amended). However, WT is required to withhold with respect to such partnership or trust under chapter 4 to the extent required under this Agreement.

Sec. 9.02. Agency Option for Certain Partnerships and Trusts.

WT may enter an agreement with a nonwithholding foreign partnership or nonwithholding foreign trust that is either a simple or grantor trust described in section 9.02(A) of this Agreement under which the partnership or trust agrees to act as an agent of WT with respect to its partners, beneficiaries or owners, and, as WT’s agent, to apply the provisions of the WT agreement to the partners, beneficiaries, or owners. By entering into an agreement with a partnership or trust as described in this section 9.02, WT is not assigning its liability for the performance of any of its obligations under the WT agreement. WT and the partnership or trust to which WT applies the rules of this section 9.02 (agency option) are jointly and severally liable for any tax, penalties, and interest that may result from the failure of the partnership or trust to meet any of the obligations imposed by its agreement with WT. WT and the partnership or trust that apply the agency option to any calendar year must apply these rules to the calendar year in its entirety. Generally, WT and the partnership or trust that apply the agency option to any calendar year are not required to apply the agency option to subsequent calendar years. If, however, WT withholds and reports any adjustments required by corrected information in a subsequent calendar year under section 9.02(B)(2) of this Agreement, WT must apply the agency option to that calendar year in its entirety.

If the partnership or trust is included in WT’s periodic review of compliance as described in section 9.02(A)(5) of this Agreement, WT and the partnership or trust may not apply the agency option to any calendar year in which the partnership or trust has failed to make available to WT or WT’s auditor the records described in this section 9.02 within 90 days after these records are requested and the partnership or trust must waive any legal prohibitions against providing such records to the WT. If, for any calendar year, the partnership or trust has failed to make these records available within the 90-day period, or if WT and the partnership or trust fail to comply with any other requirement of this section 9.02, WT must apply §§1.1441-1 and 1.1441-5 to the partnership or trust as a nonwithholding foreign partnership or nonwithholding foreign trust, correct its withholding for the period in which the failure occurred in accordance with section 7.03 of this Agreement, and cannot apply this section 9.02 to subsequent calendar years.

WT may not apply the rules of this section 9.02 unless it has made a PR election under section 6.02(C) of this Agreement.

(A) Eligible Partnership or Trust.

A partnership or trust is described in this section 9.02(A) of this Agreement if the following conditions are met:

- (1) The partnership or trust is either a direct beneficiary or owner of WT or an indirect beneficiary or owner of WT that is a direct partner, beneficiary, or owner of a partnership or trust to which WT also applies this section 9.02.
- (2) The partnership or trust is an FFI that is a certified deemed-compliant FFI (other than a registered deemed-compliant Model 1 IGA FFI), owner-documented FFI, an NFFE, or an exempt beneficial owner.
- (3) None of the partnership’s or trust’s partners, beneficiaries, or owners is a withholding foreign trust, withholding foreign partnership, participating FFI, registered deemed-compliant FFI,

registered deemed-compliant Model 1 IGA FFI, or qualified intermediary acting as an intermediary for a payment made by WT to the partnership or trust.

(4) WT may not act as a withholding foreign trust with respect to any direct or indirect beneficiary or owner of the partnership or trust that is a U.S. non-exempt recipient, unless the U.S. non-exempt recipient is a beneficiary or owner of an owner-documented FFI or passive NFFE to which WT applies the agency option and is included in WT's U.S. payee pool (described in section 6.02(C) of this Agreement).

(5) The partnership or trust agrees to comply with the documentation requirements described in section 4 of this Agreement.

(6) The partnership or trust agrees to comply with the compliance procedures described in section 8.05 of this Agreement in order to allow the responsible officer of WT to make a certification to the IRS regarding the partnership's or trust's compliance with this section 9.02 by (i) providing WT with the certification required under section 8.03 of this Agreement for each certification period, or (ii) providing WT with documentation or other information for review. The partnership or trust must also agree to respond (either directly or through WT) to IRS inquiries regarding its compliance review described in section 8.07 of this Agreement, including, if applicable, providing the WT and the IRS with the auditor's report described in section 8.06 of this Agreement.

(B) Modification of Obligations for WT.

(1) WT may rely on a valid Form W-8IMY provided by the partnership or trust, together with a withholding statement described in §§1.1441-5(c)(3)(iv) or (e)(5)(iv), and §1.1471-3(c)(3)(iii)(B) if the payment is a withholdable payment, that includes all information necessary for WT to fulfill its withholding, reporting, and filing obligations under this Agreement. For a withholdable payment, the withholding statement may include a chapter 4 withholding rate pool (as defined in §1.1471-1(b)(20)) of nonparticipating FFIs for payments of amounts subject to chapter 4 withholding. The withholding statement may also include chapter 3 withholding rate pools (as defined in §1.1441-1(c)(44) for partners, beneficiaries, or owners that are not intermediaries, flow-through entities (or persons holding interests in the partnership or trust through such entities), U.S. non-exempt recipients, or passive NFFEs with one or more substantial U.S. owners (or one or more controlling persons that is a specified U.S. person under an applicable Model 1 or Model 2 IGA), and the partnership or trust need not provide to WT documentation for these partners, beneficiaries or owners. The partnership or trust is required to disclose to WT any partner or interest holder that is a passive NFFE with substantial U.S. owners (or controlling persons that are specified U.S. persons under an applicable IGA) or that is a U.S. non-exempt recipient as well as the account holders of any nonqualified intermediary or interest holders in a flow-through entity which has an interest in the partnership or trust, and provide all of the documentation and other information relating to those account holders and interest holders that is required for WT, or another withholding agent, to report the payments made to those account holders and interest holders to the extent required by section 6 of this Agreement.

(2) *Timing of Withholding.* WT must withhold on the date an amount is distributed to, or included in the distributive share of, the partnership or trust based on a withholding statement provided by the partnership or trust on which WT is permitted to rely. The amount allocated to each partner, beneficiary, or owner in the withholding statement may be based on a reasonable estimate of the partner, beneficiary, or owner's distributive share of income subject to withholding for the year. The partnership or trust must correct the estimated allocations to reflect the partner's, beneficiary's, or owner's actual distributive share and must provide this corrected information to WT, on the earlier of the date that the Owner Statement or Beneficiary Statement is mailed or otherwise provided to the beneficiary or owner or the due date for furnishing the

statement (whether or not the partnership or trust is required to prepare and furnish the statement). If that date is after the due date for WT's Forms 1042 and 1042-S (without regard to extensions) for the calendar year, WT may withhold and report any adjustments required by the corrected information in the following calendar year.

(3) Payments Reportable under Chapters 3 and 4. WT shall report on Form 1042-S all amounts subject to chapters 3 and 4 withholding distributed to, or included in the distributive share of, the partnership or trust as follows:

(a) For a direct partner, beneficiary, or owner of the partnership or trust that is a nonparticipating FFI, WT shall report an amount subject to withholding using the chapter 4 reporting pool described in section 6.02(C) of this Agreement with the partnership or trust reported as the recipient.

(b) For a direct partner, beneficiary, or owner of the partnership or trust that is a foreign person for which no withholding is required under chapter 4 (other than an intermediary, agent, or flow-through entity described below), WT shall report an amount subject to chapter 3 withholding using the chapter 3 reporting pools as described in section 6.02(D) of this Agreement with the partnership or trust reported as the recipient.

(c) For a direct or indirect partner, beneficiary, or owner of the partnership or trust that is a nonqualified intermediary or foreign flow-through entity, WT shall report payments of amounts subject to chapter 4 withholding included in a chapter 4 withholding rate pool of nonparticipating FFIs using the chapter 4 reporting pool for such partner, beneficiary, or owner with the nonqualified intermediary or foreign flow-through entity reported as the recipient, and WT shall report payments of amounts subject to chapter 3 withholding that are not withholdable payments or are withholdable payments for which no chapter 4 withholding is required by reporting the payments as made to specific recipients as described in 6.02(B) of this Agreement.

(4) Form 8966 Reporting Requirements. If WT is an FFI and if the partnership or trust is a U.S. account (or U.S. reportable account), WT is required to report the partnership or trust consistent with its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI. The agreement between WT and the partnership or trust must also provide that WT shall report withholdable payments that the partnership or trust distributes to, or includes in the distributive share of, a partner, beneficiary, or owner that is an NFFE (other than an excepted NFFE) with one or more substantial U.S. owners (or one or more controlling persons that is a specified U.S. person under an applicable IGA) and is the beneficial owner of the withholdable payment received by the partnership or trust. WT must report on Form 8966 in the time and manner provided in §1.1474-1(i)(2). Such report must include the name of the NFFE that is owned by a substantial U.S. owner (or controlling person that is a specified U.S. person); the name, address, and U.S. TIN of each substantial U.S. owner (or controlling person that is a specified U.S. person); the total of all withholdable payments made to the NFFE during the calendar year (or reportable period under the applicable IGA); and any other information as required by the form and its accompanying instructions.

(C) Other Requirements of Agency Agreement. WT shall require the partnership or trust to which it applies the agency option described in this section 9.02 to provide WT with all the information necessary for WT to meet its obligations under this Agreement. No provisions shall be contained in the agreement between WT and the partnership or trust that preclude, and no provisions of this Agreement shall be construed to preclude, the partnership or trust's joint and several liability for tax, penalties, and interest under chapters 3 and 4 to the extent that underwithholding, penalties, and interest have not been collected from WT and the underwithholding or failure to report amounts correctly on Forms 1042, 1042-S or 8966, is due

to the partnership or trust's failure to properly perform its obligations under its agreement with WT. Nothing in the agreement between WT and the partnership or trust shall be construed to limit the partnership or trust's requirements under chapter 4 as a certified deemed-compliant FFI, an NFFE, or an exempt beneficial owner. Further, nothing in the agreement between WT and the partnership or trust shall permit the partnership or trust to assume primary chapters 3 and 4 withholding responsibility.

(D) Transitional Rule through December 31, 2014. For the period beginning on the effective date of this Agreement and ending December 31, 2014, a WT that entered into an agreement with a partnership or trust to apply the provisions described in this section 9.02 ("the agency option") may continue to act consistent with such agreement provided that the agreement meets the requirements of section 10 of Revenue Procedure 2003-64 (as amended). However, WT is required to withhold with respect to such partnership or trust under chapter 4 to the extent required under this Agreement.

Sec. 9.03. Indirect Beneficiaries or Owners of WT.

(A) General Requirements. WT may act as a withholding foreign trust for reportable amounts distributed to, or included in the distributive share of, passthrough beneficiaries or owners and indirect beneficiaries or owners if such indirect beneficiary or owner is not a U.S. non-exempt recipient. Notwithstanding the preceding sentence, WT may act as a withholding foreign trust with respect to an indirect beneficiary or owner that is a U.S. non-exempt recipient if the indirect beneficiary or owner is included in a passthrough beneficiary's or owner's chapter 4 withholding rate pool of recalcitrant account holders or U.S. payees. WT does not need to use the agency option described in section 9.02 of this Agreement or make the pooled reporting election described in section 6.02(D) of this Agreement to apply the procedures described in this section 9.03.

(B) Modification of Obligations for WT.

(1) Except to the extent described in this section 9.03(B), WT need not forward the documentation and the withholding statement of the passthrough beneficiary or owner and indirect beneficiary or owner to WT's withholding agent;

(2) WT must provide its withholding agent with documentation and other information from any passthrough beneficiary or owner whose direct or indirect beneficiary or owner is a U.S. non-exempt recipient (unless such U.S. non-exempt recipient is included in a chapter 4 withholding rate pool of recalcitrant account holders or U.S. payees);

(3) WT will assume primary chapters 3 and 4 withholding responsibility as described in section 3 of this Agreement and must report on its indirect beneficiaries or owners on a specific payee basis on Form 1042-S (except to the extent such indirect beneficiaries or owners are included in a passthrough beneficiary's or owner's chapter 4 withholding rate pool) as described in section 6.02(B) of this Agreement, regardless of whether WT made a PR election for its direct beneficiaries or owners under section 6.02(D) of this Agreement; and

(4) WT must include any passthrough beneficiary or owner and indirect beneficiary or owner for which it acts as a withholding foreign trust in its periodic review as described in section 8.05 of this Agreement.

(C) Documentation from Passthrough Beneficiary or Owner. WT agrees to use its best efforts to obtain from a passthrough beneficiary or owner the documentation of an indirect beneficiary or owner for which WT acts as a withholding foreign trust. Unless WT can reliably associate an amount distributed to, or included in the distributive share of, any passthrough beneficiary or owner with valid documentation from such beneficiary or owner within the meaning of §1.1441-

1(b)(2)(vii) and, for a withholdable payment, §1.1471-3(c), WT shall apply the presumption rules described in §§1.1441-1(b)(3), 1.1441-4(a), 1.1441-5(d) and (e)(6), 1.1441-9(b)(3), and 1.6049-5(d) and for a withholdable payment made to an entity, §1.1471-3(f) or, if WT is an FFI, its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI. Generally, WT can reliably associate an amount with documentation provided by a passthrough beneficiary or owner if WT obtains--

(1) A valid Form W-8IMY provided by the passthrough beneficiary or owner that, if the payment is a withholdable payment, establishes the chapter 4 status of the passthrough beneficiary or owner; and

(2) If the payment is a withholdable payment, a withholding statement that meets the requirements of §1.1471-3(c)(3)(iii)(B) that includes the account holders or interest holders of the passthrough beneficiary or owner in chapter 4 withholding rate pools to the extent permitted, and, for an amount subject to chapter 3 withholding that is not a withholdable payment or is a withholdable payment for which chapter 4 withholding is not required, valid documentation described in section 4 of this Agreement provided by account holders or interest holders of the passthrough beneficiary or owner that are not themselves qualified intermediaries or flow-through entities.

WT may not reduce the rate of withholding with respect to an indirect beneficiary or owner for which it acts as a withholding foreign trust unless WT can reliably associate the payment with valid documentation that establishes the indirect beneficiary's or owner's entitlement to a reduced rate of withholding under chapter 3 and, in the case of a withholdable payment, establishes that chapter 4 withholding does not apply.

(D) *Timing of Withholding.* WT must withhold on the date an amount is distributed to, or included in the distributive share of, the passthrough beneficiary or owner based on a withholding statement provided by the passthrough beneficiary or owner on which WT is permitted to rely. The amount allocated to each indirect beneficiary or owner in the withholding statement may be based on a reasonable estimate of the indirect beneficiary's or owner's distributive share of income subject to withholding for the year. The passthrough beneficiary or owner must agree to correct the estimated allocations to reflect the indirect beneficiary's or owner's actual distributive share and must provide this corrected information to WT, on the earlier of the date that the statement required under section 6048(b) of the Code is mailed or otherwise provided to the indirect beneficiary or owner or the due date for furnishing the statement (whether or not the passthrough beneficiary or owner is required to prepare and furnish the statement). If that date is after the due date for WT's Forms 1042 and 1042-S (without regard to extensions) for the calendar year, WT may withhold and report any adjustments required by the corrected information in the following calendar year.

(E) *Form 8966 Reporting Requirements.* If WT is an FFI and if the passthrough beneficiary or owner is a U.S. account (or U.S. reportable account), WT is required to report the partnership or trust consistent with its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI. WT shall also report withholdable payments that WT distributes to, or includes in the distributive share of, a passthrough beneficiary or owner if an account holder or interest holder of such passthrough beneficiary or owner is an NFFE (other than an excepted NFFE) with one or more substantial U.S. owners (or one or more controlling persons that is a specified U.S. person under an applicable IGA) and if the NFFE is the beneficial owner of the withholdable payment received by the passthrough beneficiary or owner. WT must report on Form 8966 in the time and manner provided in §1.1474-1(i)(2). Such report must include the name of the NFFE that is owned by a substantial U.S. owner (or controlling person that is a specified U.S. person); the name,

address, and U.S. TIN of each substantial U.S. owner (or controlling person that is a specified U.S. person); the total of all withholdable payments made to the NFFE during the calendar year (or reportable period under the applicable IGA); and any other information as required by the form and its accompanying instructions. WT is not required to report as described in this section 9.03(D) if the passthrough beneficiary or owner certifies on its withholding statement that it is reporting the account holder (or interest holder) as a U.S. account pursuant to its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI.

Section 10. EXPIRATION, TERMINATION AND DEFAULT

Sec. 10.01. Term of Agreement. This Agreement begins on the effective date of the WT agreement and expires upon the earlier of the date WT terminates under the trust instrument or December 31, 2016. This Agreement may be renewed for additional terms as provided in section 10.07 of this Agreement.

Sec. 10.02. Termination of Agreement. Except as otherwise provided in section 10.03 of this Agreement, this Agreement may be terminated by either the IRS or WT prior to the end of its term by delivery of a notice, in accordance with section 11.06 of this Agreement, of termination to the other party. The IRS, however, shall not terminate this Agreement unless there has been a significant change in circumstances, as defined in section 10.04 of this Agreement, or an event of default has occurred, as defined in section 10.05 of this Agreement, and the IRS determines, in its sole discretion, that the significant change in circumstances or the event of default warrants termination of this Agreement. The IRS shall not terminate this Agreement if WT can establish to the satisfaction of the IRS that all events of default for which it has received notice have been cured within the time period agreed upon. The IRS shall notify WT, in accordance with section 10.06 of this Agreement, that an event of default has occurred and that the IRS intends to terminate the Agreement unless WT cures the default or establishes that no event of default has occurred. A notice of termination sent by either party shall take effect on the date specified in the notice, and WT is required to notify its withholding agent of the date its status as a WT was terminated.

Sec 10.03. Termination of Agreement.

(A) *Automatic Termination.* Notwithstanding section 10.02 of this Agreement, this Agreement will terminate automatically in the event that the auditor or the IRS (including during its compliance review described in section 8.07 of this Agreement) discovers that WT was not in possession of Forms W-8 or W-9, as applicable, or documentary evidence, as permitted under section 4.01(B), for any direct beneficiary or owner at any time that withholding or reporting was required under section 3.02 of this Agreement. The automatic termination will be effective as of December 31 of the year in which the auditor or the IRS makes that discovery.

(B) *Cure and Reinstatement after Automatic Termination.* This Agreement will be reinstated, effective the same date it automatically terminated under section 10.03(A) of this Agreement, if--

(1) WT obtains appropriate Forms W-8 or W-9 or documentary evidence, as permitted under section 4.01(B), (that relate to the time withholding or reporting was required) for each such undocumented beneficiary or owner before March 15 of the year following the year in which the Agreement automatically terminated, or

(2) All such undocumented beneficiaries or owners have ceased to be beneficiaries or owners in WT before March 15 of the year following the year in which the Agreement automatically terminated.

(C) *Payment of Underwithholding and Reporting upon Termination.* In the event of automatic termination of this Agreement under this section 10.03, WT must pay any underwithholding of tax, interest, and penalties that the IRS determines is attributable to each undocumented beneficiary or owner for the period during which the beneficiary or owner was undocumented based on the presumption rules, and, if WT has made a pooled reporting election for chapter 3 purposes, WT must file beneficiary or owner specific Forms 1042-S for amounts subject to chapter 3 withholding for which no chapter 4 withholding is required and Owner Statements and Beneficiary Statements as part of Form 3520-A reporting the names and addresses and other required information, as appropriate, for every undocumented beneficiary or owner from the earliest time the documentation was required for that undocumented beneficiary or owner through the date of termination. WT may, however, continue to report on a pooled basis for documented foreign direct beneficiaries or owners through this period.

(D) *Reinstatement after Termination (other than Automatic Termination).* After the date of termination of this Agreement, WT may not act as a withholding foreign trust, and must so notify any persons to which WT has furnished a withholding foreign trust certificate. After the date of termination of this Agreement, the IRS may reinstate this Agreement (or the IRS may require WT to enter into a new withholding foreign trust agreement) on such terms and conditions and with such modifications as the IRS may determine.

Sec. 10.04. Significant Change in Circumstances. For purposes of this Agreement, a significant change in circumstances includes, but is not limited to--

(A) A change in U.S. federal law or policy, or applicable foreign law or policy, that affects the validity of any provision of this Agreement, materially affects the procedures contained in this Agreement, or affects WT's ability to perform its obligations under this Agreement;

(B) A ruling of any court that affects the validity of any material provision of this Agreement;

(C) A significant change in WT's business practices that affects WT's ability to meet its obligations under this Agreement;

(D) If applicable, a material change in the know-your-customer rules and procedures set forth in the Attachments to this Agreement when WT relied on documentary evidence as permitted in section 4.01(B) of this Agreement;

(E) If WT is an FFI (other than a retirement fund), termination of its status as a participating FFI, registered deemed-compliant FFI, or a registered deemed-compliant Model 1 IGA FFI; or

(F) If WT is acting as a sponsoring entity on behalf of a sponsored FFI or sponsored direct reporting NFFE, it fails to comply with the due diligence, withholding, reporting, and compliance requirements of a sponsoring entity.

Sec. 10.05. Events of Default. For purposes of this Agreement, an event of default occurs if WT fails to perform any material duty or obligation required under this Agreement and the responsible officer had actual knowledge of or should have known the facts relevant to the failure to perform any material duty. An event of default includes, but is not limited to, the occurrence of any of the following:

(A) WT fails to implement adequate procedures, accounting systems, and internal controls to ensure compliance with this Agreement;

(B) WT underwithholds an amount that WT is required to withhold under chapter 3 or 4 and fails to correct the underwithholding or to file an amended Form 1042 reporting, and paying, the appropriate tax;

(C) WT makes excessive refund claims;

(D) WT fails to file required Forms 1040NR (if required), 1042, 1042-S, 8966, 3520-A, or the Owner Statements or Beneficiary Statements required as part of such form by the due date specified on such forms or files forms that are materially incorrect or fraudulent;

(E) If WT is an FFI, WT fails to materially comply with its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI;

(F) If WT is a sponsoring entity, WT fails to comply with the due diligence, withholding, reporting, and compliance requirements of a sponsoring entity;

(G) WT fails to perform a periodic review when required or to document the findings of such review in a written report;

(H) WT fails to inform the IRS within 90 days of any significant change in its business practices to the extent that change affects WT's obligations under this Agreement;

(I) WT fails to cure a material failure identified in the qualified certification described in section 8.03(B) of this Agreement or identified by the IRS;

(J) WT makes any fraudulent statement or a misrepresentation of a material fact with regard to this Agreement to the IRS, a withholding agent, or WT's auditor;

(K) The IRS determines that WT's auditor is not sufficiently independent to adequately perform its audit function and WT fails to arrange for a periodic review conducted by an auditor approved by the IRS;

(L) WT fails to make deposits in the time and manner required by section 3.04 of this Agreement or fails to make adequate deposits, taking into account the procedures of section 7.05 of this Agreement;

(M) If applicable, WT fails to inform the IRS of any change in the know-your-customer rules described in the Attachment to this Agreement within 90 days of the change becoming effective when WT relied on documentary evidence as permitted in section 4.01(B) of this Agreement;

(N) WT fails to cooperate with the IRS on its compliance review described in section 8.07 of this Agreement;

(O) A partnership or trust to which WT applies the agency option is in default with the agency agreement and WT fails to terminate that agreement within the time period specified in section 10.02 of this Agreement; or

(P) WT fails to materially comply with the requirements of a nonqualified foreign partnership under chapter 3 with respect to any beneficiary or owner for which it does not act as a withholding foreign trust.

Sec. 10.06. Notice and Cure. Upon the occurrence of an event of default, the IRS will deliver to WT a notice of default specifying each event of default. WT must respond to the notice of default within 60 days (60-day response) from the date of the notice of default. The 60-day response shall contain an offer to cure the event of default and the time period in which to cure or shall state why WT believes that no event of default has occurred. If WT does not provide a 60-day response, the IRS will deliver a notice of termination as provided in section 10.02 of this Agreement. If WT provides a 60-day response, the IRS shall either accept or reject WT's statement that no default has occurred or WT's proposal to cure the event of default.

If the IRS rejects WT's statement that no default has occurred or rejects WT's proposal to cure the event of default, the IRS may offer a counter-proposal to cure the event of default with which WT will be required to comply within 30 days. If WT fails to provide a 30-day response, the IRS will send a notice of termination in accordance with section 10.02 of this Agreement, which WT may appeal within 30 days of the date of the notice by sending a written appeal to the address specified in section 11.06 of this Agreement. If WT appeals the notice of termination, this Agreement shall not terminate until the appeal has been decided. If an event of default is discovered in the course of an audit, WT may cure the default, without following the procedures of this section 10.06, if the external auditor's report describes the default and the actions that WT took to cure the default and the IRS determines that the cure procedures followed by WT were sufficient. If the IRS determines that WT's actions to cure the default were not sufficient, the IRS shall issue a notice of default and the procedures described in this section 10.06 shall be followed.

Sec. 10.07. Renewal. If WT is an FFI or an NFFE that is a sponsoring entity and intends to renew this Agreement for an additional term, it shall submit an application for renewal to the IRS on the IRS FATCA registration website, as provided in this revenue procedure, no earlier than one year prior to the expiration of this Agreement and no later than six months prior to the expiration of this Agreement, in accordance with the instructions to Form 8957, Foreign Account Tax Compliance Act (FATCA) Registration, or as otherwise provided in published guidance. Any such application for renewal must contain an update of the information provided by WT to the IRS in connection with the application to enter into this Agreement and any other information the IRS may request in connection with the renewal process. Either the IRS or WT may seek to negotiate a new withholding foreign trust agreement rather than renew this Agreement.

A WT not described in the preceding paragraph must renew its WT agreement by submitting a request for renewal to the IRS at the address provided in section 11.06 of this Agreement.

Section 11. MISCELLANEOUS PROVISIONS

Sec. 11.01. WT's application to become a withholding foreign trust, all Appendices and Attachments to this Agreement and, if WT is an FFI, its FATCA requirements as a participating FFI, registered deemed-compliant FFI, or registered deemed-compliant Model 1 IGA FFI; or, if WT is a sponsoring entity, the due diligence, withholding, reporting, and compliance requirements of a sponsoring entity are hereby incorporated into and made an integral part of this Agreement. This Agreement, WT's application, and the Appendix to this Agreement constitute the complete agreement between the parties.

Sec. 11.02. This Agreement may be amended by the IRS if the IRS determines that such amendment is needed for the sound administration of the internal revenue laws or internal revenue regulations. This Agreement will only be modified through published guidance issued by the IRS and U.S. Treasury Department. Any such modification imposing additional requirements will in no event become effective until the later of 90 days after the IRS provides

notice of such modification or the beginning of the next calendar year following the publication of such guidance.

Sec. 11.03. Any waiver of a provision of this Agreement by the IRS is a waiver solely of that provision. The waiver does not obligate the IRS to waive other provisions of this Agreement or the same provision at a later date.

Sec. 11.04. This Agreement shall be governed by the laws of the United States. Any legal action brought under this Agreement shall be brought only in a U.S. court with jurisdiction to hear and resolve matters under the internal revenue laws of the United States. For this purpose, WT agrees to submit to the jurisdiction of such U.S. court.

Sec. 11.05. WT's rights and responsibilities under this Agreement cannot be assigned to another person.

Sec. 11.06. Notices provided under this Agreement shall be mailed registered, first class airmail. Notice shall be directed as follows:

To the IRS:

Internal Revenue Service
Foreign Payments Practice
Foreign Intermediaries Team
290 Broadway, 12th Floor
New York, NY 10007-1867

All notices sent to the IRS must include the WT's name, WT-EIN, GIIN (if applicable), and the name of its responsible officer.

To WT:

The WT's responsible officer. Such notices shall be sent to the address indicated in the WT's registration or application (as may be amended).

Sec. 11.07. WT, acting in its capacity as a withholding foreign trust or in any other capacity, does not act as an agent of the IRS, nor does it have the authority to hold itself out as an agent of the IRS.

Section 12. EFFECTIVE DATE OF AGREEMENT

Sec. 12.01. In General.

(A) Calendar Year 2014. If WT applies to renew its WT agreement and the renewal is approved on or before August 31, 2014, this Agreement is effective on June 30, 2014. If WT is not a retirement fund or an NFFE that is not a sponsoring entity and applies to renew its WT agreement on the IRS FATCA registration website after August 31, 2014 and the renewal is approved, this Agreement is effective on the date of approval. If WT is a retirement fund or an NFFE that is not a sponsoring entity and renews its WT agreement after August 31, 2014, this Agreement is effective on the date of renewal as provided in an approval notice sent by the IRS. The renewal is approved on the later of the date WT is issued a GIIN or the date WT submits a request for renewal.

If WT is a new WT applicant (other than a retirement fund or an NFFE that is not a sponsoring entity) that applies to enter into a WT Agreement on or before August 31,

2014 and its application is approved, the effective date of this Agreement is June 30, 2014, provided that it obtains a GIIN, if it has not already done so, within 90 days of such approval. If WT is a new WT applicant (other than a retirement fund or an NFFE that is not a sponsoring entity) that applies to enter into a WT Agreement after August 31, 2014 and the application is approved, the effective date of this Agreement is the date it is issued a WT-EIN, provided that it obtains a GIIN, if it has not already done so, within 90 days of such approval. If WT is a new WT applicant that is a retirement fund or an NFFE that is not a sponsoring entity that applies to enter into a WT Agreement and its application is approved, the effective date of this Agreement is the date it is issued a WT-EIN.

(B) Calendar Years after 2014. For calendar years after 2014, the effective date of this Agreement is January 1 of the current calendar year if WT's application for WT status is submitted on or before March 31. If WT's application for WT status is submitted on or after April 1, the effective date of this Agreement is January 1 of the calendar year following the year in which the application was submitted. WT must be in compliance with this Agreement beginning January 1 of the calendar year in which this Agreement is effective.

Sec. 12.02. Transitional Rules.

(A) In General. If this Agreement is effective beginning in calendar year 2014, WT may act as a withholding foreign trust for the entire calendar year if WT acts in accordance with Revenue Procedure 2003-64 (as amended) for amounts subject to chapter 3 withholding (as defined in section 2.04 of the WT agreement) received before June 30, 2014, as if WT's WT agreement were effective on January 1, 2014 and expired on June 30, 2014 and for amounts subject to chapter 3 withholding and withholdable payments received between June 30, 2014, and September 1, 2014, WT applies the principles described in section 12.02(B) of this Agreement. For the period beginning on September 1, 2014 through the term of this Agreement, WT must comply with this Agreement provided that this Agreement has not been terminated.

(B) Special Procedures for Payments Received Prior to September 1, 2014. If WT receives a withholdable payment or an amount subject to chapter 3 withholding prior to September 1, 2014, WT may represent itself to its withholding agent as a withholding foreign trust, provided that WT complies with its obligations under the WT agreement in effect prior to June 30, 2014, and, if WT is renewing this Agreement, it submits a request for renewal on or before August 31, 2014. However, because this Agreement requires WT to assume primary chapter 4 withholding responsibilities with respect to its beneficiaries or owners under sections 1471 and 1472, if WT makes a distribution for which withholding is required under chapter 4 beginning July 1, 2014, with respect to a beneficiary or owner and does not withhold under chapter 4 to the extent required under the revised WT agreement, WT must apply the procedures referenced in §1.1474-2(b) to satisfy any underwithholding.

SECTION 6. EFFECTIVE DATE

The effective date of this revenue procedure is August 8, 2014.

SECTION 7. PAPERWORK REDUCTION ACT

This revenue procedure refers to a collection of information in the following sections of this revenue procedure: (1) section 3, regarding the application procedures for WP and WT status and withholding agreements; (2) section 4, regarding the WP agreement; and (3) section 5, regarding the WT agreement.

This revenue procedure refers to a collection of information in the following sections of the WP agreement (set forth in section 4 of this revenue procedure): section 3 regarding withholding requirements; section 4 regarding the due diligence requirements for partner identification and documentation; section 5 regarding the withholding foreign partnership withholding certificate; section 6 regarding tax return and information reporting obligations; section 7 regarding adjustments for overwithholding and underwithholding and refunds; section 8 regarding compliance procedures; and section 9 regarding simplified joint account and indirect partner documentation, withholding, and reporting procedures and the appointment of an agent to apply the WP agreement on WP's behalf.

This revenue procedure also refers to a collection of information in the following sections of the WT agreement (set forth in section 5 of this revenue procedure): section 3 regarding withholding requirements; section 4 regarding the due diligence requirements for beneficiary or owner identification and documentation; section 5 regarding the withholding foreign trust withholding certificate; section 6 regarding tax return and information reporting obligations; section 7 regarding adjustments for overwithholding and underwithholding and refunds; section 8 regarding compliance procedures; and section 9 regarding simplified joint account and indirect beneficiary or owner documentation, withholding, and reporting procedures and the appointment of an agent to apply the WT agreement on WT's behalf.

Responses to these collections of information will be used to enable the IRS to determine whether to enter into a withholding agreement with a WP or WT applicant, to renew an existing WP or WT agreement, and to verify a WP's or WT's compliance with its applicable

withholding agreement. The likely respondents are individuals, businesses, other for-profit institutions, and certain non-profit institutions.

The estimated information collection burden referred to in this revenue procedure will be reflected in various IRS forms including Forms 8957, W-8BEN, W-8BEN-E, W-8ECI, W-8EXP, W-8IMY, W-9, 1042, 1042-S, 1065, 1099, 3520-A, and 8966. The information collection burden relating to the section 8 compliance procedures for both the WP and WT agreements will be reflected in future IRS guidance.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by section 6103.

SECTION 8. DRAFTING INFORMATION

The principal authors of this revenue procedure are Tara N. Ferris, Kamela K. Nelan, and Leni C. Perkins of the Office of Associate Chief Counsel (International). For further information regarding this revenue procedure contact Ms. Ferris, Ms. Nelan, or Ms. Perkins at (202) 317-6942 (not a toll free call).