

AGREEMENT

BETWEEN

AUSTRALIA AND THE HASHEMITE KINGDOM OF JORDAN

ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

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The Government of Australia and the Government of Hashemite Kingdom of Jordan (“the Parties”)

DESIRING to extend to each other the widest measure of cooperation to combat crime;

HAVING DUE REGARD for human rights and the rule of law;

HAVE AGREED as follows:

ARTICLE 1

SCOPE OF APPLICATION

1. The Parties shall provide to each other assistance in investigations or court proceedings in respect of criminal matters, in accordance with this Agreement.
2. Criminal matters shall include, but not be limited to, matters connected with offences against taxation, customs duties, foreign exchange control and other revenue laws.
3. Assistance provided under this Agreement shall include:
 - (a) taking evidence and obtaining of statements of persons, including the execution of letters rogatory;
 - (b) providing documents and other records including telecommunications, travel movement, business records or any other documents or records;
 - (c) locating and identifying persons;
 - (d) executing requests for search and seizure;
 - (e) locating, identifying, restraining and confiscating the proceeds or instruments of crime;
 - (f) seeking the consent of persons to be available to give evidence or to assist in investigations in the Requesting Party, and where such persons are in custody arranging for their temporary transfer to that Party;
 - (g) service of documents;
 - (h) collection of forensic material samples; and
 - (i) other assistance consistent with the objects of this Agreement which is not inconsistent with the law of the Requested Party.

4. Assistance provided under this Agreement shall not include:
 - (a) the extradition of any person or the transfer of persons in custody to serve sentences; or
 - (b) the execution of criminal judgments of one Party by the other Party except to the extent permitted by the domestic law of the other Party and this Agreement.

ARTICLE 2

OTHER ASSISTANCE

This Agreement shall not affect the obligations between the Parties arising under other agreements or arrangements, or obligations on the Parties under multilateral conventions to which one or both are parties, or preclude the Parties from providing assistance to each other pursuant to other agreements or arrangements.

ARTICLE 3

CENTRAL AUTHORITY

1. Each Party shall appoint a Central Authority to make and receive requests for the purpose of this Agreement.
2. The Central Authority of Australia shall be the Attorney-General's Department, Canberra. The Central Authority of the Hashemite Kingdom of Jordan shall be the Ministry of Justice.
3. Either Party shall notify the other of any change to its appointed Central Authority.
4. The Central Authorities shall arrange for the prompt carrying out of requests made under this Agreement.

ARTICLE 4

REFUSAL OF ASSISTANCE

1. Assistance shall be refused if:
 - (a) the Requested Party considers that the request relates to the investigation, prosecution or punishment of a person for a political offence, or the confiscation or restraining of the proceeds or an instrument of such an offence; or
 - (b) the Requested Party considers that the request relates to the investigation, prosecution or punishment of a person for acts or omissions which, if they occurred within the jurisdiction of the Requested Party, would constitute an offence under the military law of the Requested Party but does not constitute an

- offence under the ordinary criminal law of the Requested Party, or the confiscation or restraining of the proceeds or an instrument of such an offence; or
- (c) the Requested Party considers that there are substantial grounds for believing that the request for assistance has been made for the purpose of investigating, prosecuting or punishing a person on account of that person's race, sex, religion, nationality or political opinions or that that person's position may be prejudiced for any of these reasons; or
 - (d) the Requested Party considers that there are substantial grounds for believing that, if the assistance was provided, the person would be in danger of being subjected to torture; or
 - (e) the Requested Party considers that the assistance, if provided, would prejudice its sovereignty, security, national interest or other essential interests.
2. Assistance may be refused if:
- (a) the request relates to the investigation, prosecution or punishment of a person for acts or omissions which, if had they taken place in the Requested Party, would not have constituted an offence at the time the request was received, or the confiscation or restraining of the proceeds or an instrument of such an offence; or
 - (b) the request relates to the investigation, prosecution or punishment of a person for an offence where the person has been acquitted, pardoned or punished under the law of either Party, or a third state, in respect of the acts or omissions constituting that offence, however described by the law; or
 - (c) it could prejudice an investigation or court proceeding in the Requested Party or the safety of any person, or could impose an excessive burden on the resources of the Requested Party; or
 - (d) the request relates to the investigation, prosecution or punishment of a person for an offence in respect of which the death penalty may be imposed or executed.
3. Before refusing to provide assistance, the Parties shall consult on whether the assistance could be provided subject to conditions. If the Requesting Party accepts the assistance subject to conditions, it shall comply with those conditions.

ARTICLE 5

CONTENTS OF REQUESTS

1. Requests for assistance shall include the following:
- (a) a description of the assistance sought and the purpose for which it is sought;
 - (b) name and contact details of the competent authority conducting the investigation or court proceeding to which the request relates;
 - (c) a description of the nature of the criminal matter including a statement of the relevant laws;
 - (d) a description of the acts or omissions alleged to constitute the offence;

- (e) in asset recovery matters—the order of the competent authority of the Requesting Party, if any, sought to be enforced and a statement to the effect that it is a final order;
 - (f) details of any requirements that the Requesting Party wishes to be followed, including, but not limited to, whether sworn or affirmed evidence or statements are required;
 - (g) any requirements for confidentiality; and
 - (h) any time limit within which compliance with the request is sought.
2. Requests for assistance, to the extent necessary and possible, shall also include the following:
- (a) the identity, nationality, date of birth and location of the person or persons who are the subject of the request, or who may have information relevant to the investigation or court proceeding to which the request relates;
 - (b) a description of the documents, records or articles of evidence to be provided as well as a description of the appropriate person to be asked to provide them; and
 - (c) information on the allowances and expenses to which a person appearing in the Requesting Party will be entitled.
3. Requests, supporting documents and other communications made pursuant to this Agreement shall be in the language of the Requesting Party and accompanied by a translation into the language of the Requested Party.
4. If the Requested Party considers that the information contained in the request is insufficient to enable the assistance to be provided, it may request additional information.

ARTICLE 6

EXECUTION OF REQUESTS

1. Requests for assistance shall be carried out in accordance with the laws of the Requested Party and this Agreement and, insofar as it is compatible with that law, in a manner requested by the Requesting Party.
2. The Requested Party may postpone the delivery of material requested if such material is required for proceedings in respect of criminal or civil matters in the jurisdiction of that Party.
3. The Requested Party shall promptly inform the Requesting Party of circumstances, when they become known to the Requested Party, which are likely to cause a significant delay in responding to the request.
4. The Requested Party shall promptly inform the Requesting Party if the Requested Party is unable to provide assistance in whole or in part.

ARTICLE 7

RETURN OF MATERIAL TO REQUESTED PARTY

Where required by the Requested Party, the Requesting Party shall return the material provided under this Agreement when it is no longer needed for the investigation or court proceeding to which the request relates.

ARTICLE 8

PROTECTING CONFIDENTIALITY AND RESTRICTING USE OF EVIDENCE AND INFORMATION

1. The Requested Party, if requested, shall keep the request for assistance, the contents of a request and its supporting documents, and the fact of providing such assistance, confidential.
2. If the request cannot be executed without breaching confidentiality, the Requested Party shall inform the Requesting Party, which shall then determine whether the request should be executed.
3. The Requesting Party, if requested, shall keep information and evidence provided by the Requested Party confidential, except to the extent that the evidence and information is needed for the investigation or court proceeding to which the request relates.
4. Unless the Requested Party consents, the Requesting Party shall not use or disclose information or evidence obtained under this Agreement, nor anything derived from either, for any purpose other than those related to the request.
5. Despite paragraph 4 of this Article, if there is an imminent risk of serious harm or death, or likely serious harm or death, to a person or persons, the Requesting Party may use the information or evidence provided under this Agreement to prevent that harm or death from occurring, while seeking consent from the Requested Party.

ARTICLE 9

SERVICE OF DOCUMENTS

1. The Requested Party shall effect service of documents which are transmitted to it for this purpose by the Requesting Party.
2. A request to effect service of a document requiring the appearance of a person shall be made to the Requested Party not less than 45 days before the date on which the appearance is required. In urgent cases, the Requested Party may waive this requirement.
3. The Requested Party may effect service of any document by any means accepted under the law of the Requested Party.

4. The Requested Party shall forward to the Requesting Party proof of service of the documents. If service cannot be effected, the Requesting Party shall be informed and advised of the reasons.

ARTICLE 10

TAKING OF EVIDENCE

1. Where a request is made for the purpose of a proceeding in relation to a criminal matter in the Requesting Party the Requested Party shall, upon request, take the evidence of witnesses for transmission to the Requesting Party.
2. For the purposes of this Agreement, the giving or taking of evidence shall include the production of documents, records or other material.
3. A request under this Article shall specify the subject matter about which evidence is to be taken, including a list of questions to persons from whom evidence is to be taken.
4. Upon the request of the Requesting Party, the parties to the proceedings, their legal representatives and representatives of the Requesting Party may, subject to the laws and procedures of the Requested Party, appear and question the person from whom evidence is to be taken.
5. Live video or audio links or other appropriate communication facilities may be used in accordance with the laws, procedures and technical capabilities of the Requested Party for the purpose of executing this Article.
6. A person who is required to give evidence in the Requested Party under this Article may decline to give evidence if the law of the Requested Party would permit that witness to decline to give evidence in similar circumstances in proceedings originating in the Requested Party, or the law of the Requesting Party would permit that witness to decline to give evidence in the proceedings in the Requesting Party.
7. If any person claims that there is a right to decline to give evidence under the law of the Requesting Party, the Central Authority of that Party shall, upon request, provide a certificate to the Central Authority of the Requested Party as to the existence of that right. In the absence of evidence to the contrary, the certificate is sufficient evidence as to the existence of that right.

ARTICLE 11

OBTAINING OF VOLUNTARY STATEMENTS OF PERSONS

1. The Requested Party shall, upon request and according to that Party's laws, endeavour to obtain voluntary statements of persons for the purpose of an investigation or court proceeding in relation to a criminal matter in the Requesting Party.

2. A request under this Article shall specify the subject matter about which statements are sought, including a list of questions to persons from whom statements are to be taken.

ARTICLE 12

APPEARANCE OF PERSONS IN CUSTODY TO GIVE EVIDENCE OR TO ASSIST IN INVESTIGATIONS

1. A person in custody in the Requested Party may, upon the request of the Requesting Party and in accordance with this Article, be temporarily transferred to the Requesting Party to assist investigations or to give evidence.
2. The Requested Party shall not transfer a person in custody to the Requesting Party unless the person consents to that transfer.
3. The person transferred shall be held in custody under the law of the Requested Party. The Requesting Party shall hold the person in custody and shall return that person in custody to the Requested Party at the conclusion of the matter in relation to which transfer was sought under paragraph 1 of this Article, or at such earlier time as the person's presence is no longer required.
4. Where the Requested Party informs the Requesting Party that the transferred person is no longer required to be held in custody, the person shall be set at liberty and be subject to the provisions of Article 13.
5. A person transferred in custody under this Article shall be deemed to be continuing to serve the sentence imposed under the law of the Requested Party.

ARTICLE 13

APPEARANCE OF OTHER PERSONS TO GIVE EVIDENCE OR ASSIST INVESTIGATIONS

If requested by the Requesting Party, and if satisfied that reasonable arrangements for a person's security will be made, the Requested Party shall seek to obtain the person's consent to give evidence in court proceedings or assist investigations in relation to a criminal matter in the Requesting Party.

ARTICLE 14

SAFE CONDUCT

1. Subject to paragraph 2 of this Article, where a person is in the Requesting Party pursuant to a request made under Articles 12 or 13:
 - (a) that person shall not be detained, prosecuted, punished or subjected to any other restriction of personal liberty in the Requesting Party, or subject to any proceedings

in the Requesting Party unless those proceedings could have taken place in that person's absence, in respect of any acts or omissions which preceded the person's departure from the Requested Party; and

- (b) that person shall not, without that person's consent, be required to give evidence in any proceeding or to assist any investigation other than the proceeding or investigation to which the request relates.

2. Paragraph 1 of this Article shall cease to apply if that person, being free to leave, has not left the Requesting Party within a period of 30 days after that person has been officially notified that the presence of that person is no longer required or, having left, has voluntarily returned.

3. A person shall not be subject to any penalty or mandatory restriction of personal liberty for declining to give evidence or to assist in investigations in accordance with Articles 12 or 13. However, a person appearing in the Requesting Party pursuant to a request made under Articles 12 or 13 shall be subject to the laws of the Requesting Party relating to contempt, perjury and the making of false declarations.

4. Evidence taken under Articles 12 or 13 shall not be admitted or otherwise used in any prosecution of the person for an offence against the law of the Requesting Party, except for the prosecution of the person for the offence of perjury in relation to the giving of that evidence.

ARTICLE 15

PROVISION OF PUBLICLY AVAILABLE AND OFFICIAL DOCUMENTS

1. The Requested Party shall provide copies of documents and records that are open to public access as part of a public register or otherwise, or that are available for purchase by the public.

2. The Requested Party may provide copies of any official document or record in the same manner and under the same conditions as such document or record may be provided to its own law enforcement and judicial authorities.

ARTICLE 16

CERTIFICATION AND AUTHENTICATION

1. A request for assistance under this Agreement, and any documents in support of such a request, shall not require certification or authentication.

2. Documents, records or objects transmitted pursuant to this Agreement shall not require any form of authentication, except as required by the Requesting Party.

3. To the extent that the laws of the Requested Party permit, documents, records or objects shall be provided in a form or accompanied by such certification as may be specified by the

Requesting Party in order to make them admissible according to the law of the Requesting Party.

ARTICLE 17

SEARCH AND SEIZURE

1. The Requested Party shall, according to its laws, carry out requests for search and seizure and delivery of material to the Requesting Party, provided that the information supplied is sufficient to justify such action under the laws of the Requested Party.
2. The Requested Party shall provide information as may be required by the Requesting Party concerning the result of any search, the place of seizure, the circumstances of seizure, and the subsequent custody of the material seized.
3. The Requesting Party shall observe any conditions required by the Requested Party in relation to any seized material which is delivered to the Requesting Party.

ARTICLE 18

PROCEEDS AND INSTRUMENTS OF CRIME

1. The Requested Party shall, upon request, endeavour to ascertain whether any proceeds of crime or instruments of crime are located within its jurisdiction and shall notify the Requesting Party of the results of its inquiries. In making the request, the Requesting Party shall notify the Requested Party of the basis of its belief that such proceeds or instruments may be located in its jurisdiction.
2. Where, pursuant to paragraph 1 of this Article, suspected proceeds or instruments of crime are found, the Requested Party shall upon request give effect to a restraining or freezing order made by a competent authority of the Requesting Party or take such measures as are permitted by its law to prevent any dealing in, transfer or disposal of those suspected proceeds or instruments of crime, pending a final determination in respect of those proceeds or instruments by a court of the Requesting Party or the Requested Party.
3. In pursuance of a request made under paragraph 1 of this Article, the Requested Party shall endeavour to trace assets, investigate financial dealings, and obtain other information or evidence that may help to secure the recovery of proceeds of crime.
4. The Requested Party shall, to the extent permitted by its law, give effect to a final order forfeiting or confiscating the proceeds or instruments of crime made by a court of the Requesting Party.
5. In the application of this Article, the rights of legitimate third parties shall be respected under the law of the Requested Party.
6. At the request of the Requesting Party, the Requested Party may, to the extent permitted by its laws and under any terms and conditions agreed to by the Parties, transfer all or part of

the instruments or proceeds of crime, or the proceeds from the sale of such assets to the Requesting Party.

7. “Proceeds of Crime” and “Instruments of Crime” shall be defined for each Party according to its domestic law.

ARTICLE 19

SUBSIDIARY ARRANGEMENTS

The Central Authority of each Party may enter into subsidiary arrangements consistent with the purposes of this Agreement and with the laws of both Parties.

ARTICLE 20

REPRESENTATION AND EXPENSES

1. Unless otherwise provided in this Agreement the Requested Party shall make all necessary arrangements for the representation of the Requesting Party in any proceedings arising out of a request for assistance.

2. The Requested Party shall meet the cost of fulfilling the request for assistance, except that the Requesting Party shall bear:

- (a) the expenses associated with conveying any person to or from the territory of the Requested Party, and any fees, allowances or expenses payable to that person whilst in the Requesting Party pursuant to a request under Articles 10, 12 or 13;
- (b) the expenses associated with conveying custodial or escorting officers; and
- (c) costs of a substantial or extraordinary nature as agreed pursuant to paragraph 3 of this Article.

3. If expenses of a substantial or extraordinary nature are or will be required to execute the request, the Parties shall consult to determine the terms and conditions under which the request shall be executed and the manner in which costs shall be allocated.

ARTICLE 21

CONSULTATION

The Parties shall consult promptly, at the request of either, concerning the interpretation, the application or the carrying out of this Agreement either generally or in relation to a particular case.

ARTICLE 22

ENTRY INTO FORCE AND TERMINATION

1. Each Party shall inform the other by diplomatic note when all necessary steps have been taken for entry into force of this Agreement. This Agreement shall enter into force 30 days from the date of receipt of the later diplomatic note.
2. This Agreement shall apply to requests presented after its entry into force even if the relevant acts or omissions occurred before entry into force of this Agreement.
3. Either Party may terminate this Agreement at any time by giving written notice to the other Party through diplomatic channels. Termination shall take effect after six months from the date of receipt of the notice. If this Agreement is terminated, it shall continue to apply to requests made pursuant to this Agreement prior to the termination taking effect.

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

DONE at [PLACE] on the [DAY] day of [MONTH] Two Thousand and [YEAR] in English and Arabic, both texts being equally authentic.

**For the Government of
Australia**

**For the Government of the
Hashemite Kingdom of Jordan**

.....

.....

[name and title]

[name and title]