Clear Fields

TD Waterhouse Canada Inc.
Qualified Intermediary Addendum to New Client Application Form

Limitation on Benefits Statement (Claim of Tax Treaty Benefits)

Date: ____

RE: Account Numbers: ______________________________

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Beneficial Owner (Print Entity Name)

1. I certify that (check all that apply):

a) ☐ The beneficial owner is a resident of ____ within the meaning of the income tax treaty between the United States and that country.

b) ☐ The beneficial owner derives the item (or items) of income for which the treaty benefits are claimed, and, if applicable, meets the requirements of the treaty provision dealing with limitation on benefits. The following are types of limitation on benefits provisions that may be included in an applicable tax treaty
(Check only one; - refer to page 3 for additional information):

- ☐ Government
- ☐ Company that meets the ownership and base erosion test
- ☐ Tax exempt pension trust or pension fund
- ☐ Company that meets the derivative benefits test
- ☐ Other tax exempt organization
- ☐ Company with an item of income that meets active trade or business test
- ☐ Publicly traded corporation
- ☐ Favorable discretionary determination by the U.S. competent authority received
- ☐ Subsidiary of a publicly traded corporation
- ☐ No LOB article in treaty
- ☐ Other - (specify Article and paragraph):_______________________________________

c) ☐ The beneficial owner is claiming treaty benefits for U.S. source dividends from a foreign corporation or interest from a U.S. trade or business of a foreign corporation and meets qualified resident status (Refer to page 4 for additional information)

2. Special rates and conditions (if applicable - refer to page 4 for additional information)

The beneficial owner is claiming the provisions of Article and paragraph ________________________ of the treaty identified on line 1a) above to claim a ________________% rate of withholding on (specify type of income): _____________________________

Explain the additional conditions in the Article the beneficial owner meets to be eligible for the rate of withholding:

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Please consult with your tax advisor for more information about the Article(s) and Paragraph(s) related to your claim.

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Beneficial Owner	______________________ Print Entity Name
Authorized Signatory	______________________ Signature
Authorized Signatory	______________________ Print Name
Authorized Signatory Relationship to Beneficial Owner	______________________

Additional Information

1b). If you are claiming a reduced rate of, or exemption from, withholding under an income tax treaty you must check the box to certify that you:

- Derive the item of income for which the treaty benefit is claimed, and
- Meet the limitation on benefits provision contained in the treaty, if any.

An item of income may be derived by either the entity receiving the item of income or by the interest holders in the entity or, in certain circumstances, both. An item of income paid to an entity is considered to be derived by the entity only if the entity is not fiscally transparent under the laws of the entity's jurisdiction with respect to the item of income. An item of income paid to an entity shall be considered to be derived by the interest holder in the entity only if:

- The interest holder is not fiscally transparent in its jurisdiction with respect to the item of income, and
- The entity is considered to be fiscally transparent under the laws of the interest holder's jurisdiction with respect to the item of income. An item of income paid directly to a type of entity specifically identified in a treaty as a resident of a treaty jurisdiction is treated as derived by a resident of that treaty jurisdiction.

Limitation on Benefits Treaty Provisions

If you are a resident of a foreign country that has entered into an income tax treaty with the United States that contains a limitation on benefits (LOB) article, you must complete one of the checkboxes on line 1b. You must also complete the applicable checkbox on line 1b if you are a resident of a foreign country that has entered into an income tax treaty with the United States that does not contain an LOB article. You may only check a box if the LOB article in that treaty includes a provision that corresponds to the checkbox on which you are relying to claim treaty benefits. A particular treaty might not include every type of test for which a checkbox is provided. For example, "Company that meets the derivative benefits test" is generally not available to a company resident in a treaty country that is not a member of the EU, EEA, or USMCA. In addition, each treaty LOB article that contains a specific test listed below may have particular requirements that must be met that differ from the requirements in another treaty with regard to the same test. Accordingly, you must check the relevant treaty LOB article for the particular requirements associated with each test. In general, only one LOB checkbox is required to claim a treaty exemption even if more than one checkbox would suffice to claim the benefits of the treaty for that item of income.

Each of the tests is summarized below for your general convenience but may not be relied upon for making a final determination that you meet an LOB test. Rather you must check the text of the LOB article itself to determine which tests are available under that treaty and the particular requirements of those tests. See Table 4, Limitation on Benefits, at https://www.irs.gov/individuals/international-taxpayers/tax-treaty-tables, for a summary of the major tests within the Limitation on Benefits article that are relevant for documenting any entity's claim for treaty benefits.

Definitions of Limitation on Benefits Test

Government - this test is met if the entity is the Contracting State, political subdivision, or local authority.

Tax-exempt pension trust or pension fund - this test generally requires that more than half the beneficiaries or participants in the trust or fund be residents of the country of residence of the trust or fund itself.

Other tax-exempt organization - this test generally requires that more than half the beneficiaries, members, or participants of religious, charitable, scientific, artistic, cultural, or educational organizations be residents of the country of residence of the organization.

Publicly-traded Corporation - this test generally requires the corporation's principal class of shares to be primarily and regularly traded on a recognized stock exchange in its country of residence, while other treaties may permit trading in either the U.S. or the treaty country, or in certain third countries if the primary place of management is the country of residence.

Subsidiary of publicly-traded corporation - this test generally requires that more than 50% of the vote and value of the company's shares be owned, directly or indirectly, by five or fewer companies that are publicly-traded corporations and that themselves meet the publicly-traded corporation test, as long as all companies in the chain of ownership are resident in either the U.S. or the same country of residence as the subsidiary.

Company that meets the ownership and base erosion test - this test generally requires that more than 50% of the vote and value of the company's shares be owned, directly or indirectly, by individuals, governments, tax-exempt entities, and publicly-traded corporations resident in the same country as the company, as long as all companies in the chain of ownership are resident in the same country of residence, and less than 50% of the company's gross income is accrued or paid, directly or indirectly, to persons who would not be good shareholders for purposes of the ownership test.

Company that meets the derivative benefits test - this test is generally limited to NAFTA, EU, and EEA country treaties, and may apply to all benefits or only to certain items of income (interest, dividends, and royalties). It generally requires that more than 95% of the aggregate vote and value of the company's shares be owned, directly or indirectly, by seven or fewer equivalent beneficiaries (ultimate owners who are resident in an EU, EEA, or NAFTA country and are entitled to identical benefits under their own treaty with the U.S. under one of the ownership tests included within the LOB article (other than the stock ownership and base erosion test)). In addition, this test requires that less than 50% of the company's gross income be paid or accrued, directly or indirectly, to persons who would not be equivalent beneficiaries.

Company with an item of income that meets the active trade or business test - this test generally requires that the company be engaged in an active trade or business in its country of residence, that its activities in that country be substantial in relation to its U.S. activities, if the payer is a related party, and the income be derived in connection to or incidental to that trade or business.

Favorable discretionary determination received - this test requires that the company obtain a favorable determination granting benefits from the U.S. competent authority that, despite the company's failure to meet a specific objective LOB test in the applicable treaty, it may nonetheless claim the requested benefits. Note: Unless a treaty or technical explanation specifically provides otherwise, you may not claim discretionary benefits while your claim for discretionary benefits is pending.

No LOB article in treaty - this generally requires that the entity is a resident in a foreign country that has entered into an income tax treaty with the United Stated that does not contain an LOB article.

Other - for other LOB tests that are not listed above (e.g., a headquarters test). Identify the other test relied upon, or enter N/A if the treaty has no LOB article. For example, if you meet the headquarters test under the U.S.-Netherlands income tax treaty, you should write "Headquarters test, Article 26(5)" in the space provided.

1c). Claiming treaty benefits for U.S. source dividends from a foreign corporation or interest from a U.S. trade or business of a foreign corporation and meets qualified resident status

If you are a foreign corporation claiming treaty benefits under an income tax treaty that entered into force before January 1, 1987 (and has not been renegotiated) on (1) U.S. source dividends paid to you by another foreign corporation or (2) U.S. source interest paid to you by a U.S. trade or business of another foreign corporation, you must generally be a "qualified resident" of a treaty country. See section 884 for the definition of interest paid by a U.S. trade or business of a foreign corporation ("branch interest") and other applicable rules.

In general, a foreign corporation is a qualified resident of a country if any of the following apply:

- It meets a 50% ownership and base erosion test.
- It is primarily and regularly traded on an established securities market in its country of residence or the United States.
- It carries on an active trade or business in its country of residence.
- It gets a ruling from the IRS that it is a qualified resident. See Regulations section 1.884-5 for the requirements that must be met to satisfy each of these tests.

2. Special rates and conditions

Line 2 must be used only if you are claiming treaty benefits that require that you meet conditions not covered by the representations you make on Line 1b). This line is generally not applicable to claiming treaty benefits under an interest or dividends (other than dividends subject to a preferential rate based on ownership) article of a treaty or other income article, unless such article requires additional representations. You should indicate the specific treaty article and paragraph or subparagraph, as applicable. You should also use this space to set out the requirements you meet under the identified treaty article.