

- (ii) the satisfaction of the agreement of the other party contained in Section 4(a)(i) or 4(a)(iii) of this Agreement and the accuracy and effectiveness of any document provided by the other party pursuant to Section 4(a)(i) or 4(a)(iii) of this Agreement, and
- (iii) the satisfaction of the agreement of the other party contained in Section 4(d) of this Agreement,

except that it will not be a breach of this representation where reliance is placed on clause (ii) and the other party does not deliver a form or document under Section 4(a)(iii) by reason of material prejudice to its legal or commercial position.

(b) *Payee Tax Representations.*

For purposes of Section 3(f) of this Agreement, Party A makes the following representations:

- (1) Each Transaction entered into by (i) Deutsche Bank AG, New York branch and (ii) Deutsche Bank AG, London branch acting through Deutsche Bank Securities Inc. or Deutsche Bank AG, New York branch, will be treated, solely for United States income tax purposes, as entered into by a United States corporation.
- (2) In respect of all Transactions (other than those described in (1) above), it is a “foreign person” within the meaning of the applicable U.S. Treasury Regulations concerning information reporting and backup withholding tax. No payment received or to be received by it in connection with this Agreement is attributable to a trade or business carried on by it through a permanent establishment in the United States.
- (3) (a) In respect of each Transaction it enters into through a branch office in the jurisdiction from which payment is made or which will be allocated to a trade or business in that jurisdiction for the purposes of its income tax, each payment received or to be received by it under such Transaction will be derived in carrying on business through a permanent establishment of itself in that jurisdiction;

(b) In respect of all Transactions other than those described in subsection (a) above, it is fully eligible for the benefits of the “Business Profits” or “Industrial and Commercial Profits” provision, as the case may be, the “Interest” provision, “Dividends” provision or the “Other Income” provision (if any) of the Specified Treaty with respect to any payment described in such provision and received or to be received by it in connection with this Agreement and no such payment is attributable to a trade or business carried on by it through a permanent establishment in the Specified Jurisdiction.

“*Specified Treaty*” means the income tax treaty, if any, between Germany and the jurisdiction from which Party B is making payment.

“*Specified Jurisdiction*” means the jurisdiction from which Party B is making payment.

- (4) In respect of all Transactions where payments made by Party B to Party A are subject to United States Dividend Equivalent Tax, other than payments made to Party A’s New York branch or payments made with respect to Transactions entered into by Party A’s London branch acting through Deutsche Bank Securities Inc. or Deutsche Bank AG, New York branch, it is fully eligible for the benefits of the “Business Profits” or “Industrial and Commercial Profits” provision, as the case may be, the “Interest” provision, “Dividends” provision or the “Other Income” provision of the Income Tax