4. Notwithstanding any provisions of the Agreement:

(a) in the case of Japan, the following income or gains arising in Japan may be taxed in Japan according to the laws of Japan:

(i) dividends paid by a company which is entitled to a deduction for dividends paid to its beneficiaries in computing its taxable income for Japanese tax;

(ii) interest that is determined by reference to receipts, sales, income, profits or other cash flow of the debtor or a related person, to any change in the value of any property of the debtor or a related person or to any dividend, partnership distribution or similar payment made by the debtor or a related person, or any other interest similar to such interest; or

(iii) income or gains derived by a silent partner in respect of a silent partnership (*Tokumei Kumiai*) contract or other similar contract, or

(b) in the case of the Federal Republic of Germany, any income arising in the Federal Republic of Germany may be taxed in the Federal Republic of Germany according to the laws of the Federal Republic of Germany, if it:

(i) is derived from rights or debt claims carrying a right to participate in profits, including income derived by a silent partner (*stiller Gesellschafter*) from his participation as such, or from a loan with an interest rate linked to borrower's profit (*partiarisches Darlehen*) or from profit sharing bonds (*Gewinnobligationen*) within the meaning of the tax law of the Federal Republic of Germany; and

(ii) is deductible in the determination of profits of the debtor of such income.

5. With reference to Article 10 of the Agreement:

(a) It is understood that distributions on certificates of a German investment fund are treated as dividends.

(b) Notwithstanding the provisions of that Article, subparagraph (a) of paragraph 2 and paragraph 3 of that Article shall not apply to dividends paid by a German real estate investment trust company with listed share capital (*Real Estate Investment Trust Aktiengesellschaft*) and by a German investment fund.

(c) For purposes of subparagraphs (a) and (b), the term "German investment fund" means a vehicle (not established as a partnership) within the meaning of the Investment Act of the Federal Republic of Germany (*Kapitalanlagegesetzbuch*) that is widely held and that holds a diversified portfolio of securities or invests directly or indirectly in real property for the main purpose of deriving rent.

6. With reference to paragraph 5 of Article 21 of the Agreement:

It is understood that subparagraph (c) of that paragraph applies only to persons who are residents of, and business conducted in, the same Contracting State.

7. With reference to paragraph 9 of Article 21 of the Agreement:

It is understood that the provisions of the law of a Contracting State which are designed to prevent the avoidance or evasion of taxes include:

(a) in the case of Japan, Section 4-2 of Chapter II and Sections 7-4 and 24 of Chapter III of the Law on Special Measures Concerning Taxation (Law No. 26 of 1957) of Japan;

(b) in the case of the Federal Republic of Germany, Parts 4, 5 and 7 of the German External Tax Relations Act (*Außensteuergesetz*), Section 42 of the German Fiscal Code (*Abgabenordnung*) and paragraph 3 of Section 50d of the German Income Tax Act (*Einkommensteuergesetz*).