Stand: 22. August 2013

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Agreement

between

the Federal Republic of Germany

and

…….. -

for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion
with respect to Taxes on Income and on Capital

The Federal Republic of Germany

and

……..–,

Desiring to further develop their economic relationship, to enhance their cooperation in tax matters and to ensure an effective and appropriate collection of tax,

Intending to allocate their respective taxation rights in a way that avoids both double taxation as well as non taxation, –

Have agreed as follows:

Article 1
Persons Covered

This Agreement shall apply to persons who are residents of one or both of the Contracting States**.**

Article 2
Taxes Covered

(1) This Agreement shall apply to taxes on income and on capital imposed on behalf of a Contracting State, one of its “Länder”, or one of their political subdivisions or local authorities, irrespective of the manner in which they are levied.

(2) There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on total amounts of wages or salaries, as well as taxes on capital appreciation.

(3) The existing taxes to which the Agreement shall apply are in particular:

1. in the Federal Republic of Germany:

   a) the income tax (Einkommensteuer);

   b) the corporate income tax (Körperschaftsteuer);

   c) the trade tax (Gewerbesteuer), and

   d) the capital tax (Vermögensteuer);

including the supplements levied thereon (hereinafter referred to as “German tax”);

2. in *[jurisdiction]*

(hereinafter referred to as “*[jurisdiction]* tax”).

(4) The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other, to the extent required for the application of the Agreement, of any significant changes that have been made in their taxation laws.

Article 3
General Definitions

(1) For the purposes of this Agreement, unless the context otherwise requires:

1. the terms “a Contracting State” and “the other Contracting State”, when used in a geographical sense, mean the Federal Republic of Germany or *[jurisdiction]*, as the context requires, and they include the territory of the Contracting State concerned, as well as the area of the sea-bed, its subsoil and the superjacent water column adjacent to the territorial sea, wherein the Contracting State concerned exercises sovereign rights and jurisdiction in conformity with international law and its national legislation for the purpose of exploring, exploiting, conserving and managing the living and non-living natural resources or for the production of energy from renewable sources;

2. the term “person” includes an individual, a company and any other body of persons;

3. the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;

4. the term “enterprise” applies to the carrying on of any business;

5. the term “business” includes the performance of professional services and of other activities of an independent character;

6. the terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

7. the term “international traffic” means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

8. the term “competent authority” means:

   a) in the Federal Republic of Germany, the Federal Ministry of Finance or the agency to which it has delegated its powers;

   b) in *[jurisdiction]*

9. the term “national” means:

   a) in relation to the Federal Republic of Germany, any German within the meaning of the Basic Law for the Federal Republic of Germany and any

legal person, partnership and association deriving its status as such from the laws in force in the Federal Republic of Germany;

b) in relation to *[jurisdiction]*, any individual possessing *[jurisdiction]* nationality or citizenship and any legal person, partnership and association deriving its status as such from the laws in force in *[jurisdiction]*.

(2) As regards the application of the Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4
Resident

(1) For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes that State, any of its "Länder" and any of their political subdivisions or local authorities. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

(2) Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

1. he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);

2. if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;

3. if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;

4. if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

(3) Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.

Article 5

Permanent Establishment

(1) For the purposes of this Agreement, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

(2) The term “permanent establishment” includes especially:

1. a place of management;

2. a branch;

3. an office;

4. a factory;

5. a workshop, and

6. a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

(3) A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.

(4) Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include:

1. the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

2. the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

3. the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

4. the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

5. the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

6. the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs 1) to 5), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

(5) Notwithstanding the provisions of paragraphs 1 and 2, where a person — other than an agent of an independent status to whom paragraph 6 applies — is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

(6) An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

(7) The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6

Income from Immovable Property

(1) Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

(2) The term “immovable property” shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in

agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

(3) The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

(4) The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.

Article 7
Business Profits

(1) Profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits that are attributable to the permanent establishment in accordance with the provisions of paragraph 2 may be taxed in that other State.

(2) For the purposes of this Article and Article 22, the profits that are attributable in each Contracting State to the permanent establishment referred to in paragraph 1 are the profits it might be expected to make, in particular in its dealings with other parts of the enterprise, if it were a separate and independent enterprise engaged in the same or similar activities under the same or similar conditions, taking into account the functions performed, assets used and risks assumed by the enterprise through the permanent establishment and through the other parts of the enterprise.

(3) Where, in accordance with paragraph 2, a Contracting State adjusts the profits that are attributable to a permanent establishment of an enterprise of one of the Contracting States and

taxes accordingly profits of the enterprise that have been charged to tax in the other State, the other Contracting State shall, to the extent necessary to eliminate double taxation, make an appropriate adjustment if it agrees with the adjustment made by the first-mentioned State; if the other Contracting State does not so agree, the Contracting States shall endeavour to eliminate any double taxation resulting therefrom by mutual agreement.

(4) Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

Shipping, Inland Waterways Transport and Air Transport

(1) Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(2) Profits from the operation of boats engaged in inland waterways transport shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(3) For the purposes of this Article, profits from the operation of ships, aircraft or boats shall include income from

1. the occasional rental of ships, aircraft or boats on a bare-boat basis, and

2. the use or rental of containers (including trailers and ancillary equipment used for transporting the containers),

if such income is attributable to the profits from the operation of ships, boats or aircraft.

(4) If the place of effective management of a shipping enterprise or of an inland waterways transport enterprise is aboard a ship or boat, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship or boat is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship or boat is a resident.

(5) The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9
Associated Enterprises

(1) Where

1. an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

2. the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

(2) Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to

tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10
Dividends

(1) Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

(2) However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:

1. [1]5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends;

2. 15 per cent of the gross amount of the dividends in all other cases.

In the case of dividends paid by a German Real Estate Aktiengesellschaft with listed share capital, a German Investment Fund, or a *[jurisdiction]*, only subparagraph 2) applies. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

[1] Depending upon the circumstances in the individual case, a zero rate may also be considered.

(3) The term “dividends” as used in this Article means income from shares, “jouissance” shares or “jouissance” rights, founders’ shares or other income which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident, as well as distributions on certificates of an investment fund.

(4) The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

(5) Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State, nor subject the company’s undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11
Interest

(1) Interest derived and beneficially owned by a resident of a Contracting State shall be taxable only in that State.

(2) The term “interest” as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and in particular, income from government securities

and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article. However, the term “interest” does not include income dealt with in Article 10.

(3) The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

(4) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 12
Royalties

(1) Royalties derived and beneficially owned by a resident of a Contracting State shall be taxable only in that State.

(2) The term “royalties” as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

(3) The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

(4) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 13
Capital Gains

(1) Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

(2) Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.

(3) Gains from the alienation of ships or aircraft operated in international traffic, boats engaged in inland waterways transport or movable property pertaining to the operation of

such ships, aircraft or boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(4) Gains derived by a resident of a Contracting State from the alienation of shares deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.

(5) Gains from the alienation of any property, other than that referred to in paragraphs 1, 2, 3 and 4 shall be taxable only in the Contracting State of which the alienator is a resident.

(6) Where an individual was a resident of a Contracting State for a period of at least 5 years and has become a resident of the other Contracting State, paragraph 5 shall not affect the right of the first-mentioned State to treat the individual as having alienated shares at the time of the change of residence. If the individual is so taxed in the first-mentioned State, the other State shall, in the event of an alienation of shares after the change of residence, calculate the capital gain on the basis of the value which the first-mentioned State applied at the time of the change of residence.

Article 14
Income from Employment

(1) Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

(2) Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

1. the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, and

2. the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and

3. the remuneration is not borne by a permanent establishment which the employer has in the other State.

(3) Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of effective management of the enterprise which operates the ship, aircraft or boat is situated.

(4) Contributions that are made on behalf of an individual who exercises an employment in one Contracting State, to a pension scheme established in and recognised for tax purposes in the other Contracting State shall, for the purposes of determining the individual's taxable income, be treated in the first-mentioned State in the same way and subject to the same conditions and limitations as contributions made to a pension scheme that is recognised for tax purposes in that State, provided that the individual was not a resident of the first-mentioned State immediately before taking up the employment, and contributions on behalf of the individual have already been made to the pension scheme.

(5) The term "pension scheme" means

1. in the Federal Republic of Germany schemes under section 1 of the German law on employment-related pensions (Betriebsrentengesetz);

2. in *[jurisdiction]*……..

(6) The following shall be deemed to be a tax benefit within the meaning of paragraph 4:

1. in the Federal Republic of Germany an exemption of contributions made pursuant to number 63 of section 3 of the Income Tax Act (Einkommensteuergesetz);

2. in *[jurisdiction]*……..

Article 15
Directors' Fees

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 16
Artistes and Sportsmen

(1) Notwithstanding the provisions of Articles 7 and 14, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

(2) Where income in respect of personal activities within the meaning of paragraph 1 exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

(3) Income derived by a person as a consideration for live broadcasting rights or any other exploitation of the activities of the entertainer or sportsman may be taxed in the State in which the activities of the entertainer or sportsman are exercised.

(4) Paragraphs 1 and 2 shall not apply to income accruing from the exercise of activities by artistes or sportsmen in a Contracting State where the visit to that State is financed entirely or mainly from public funds of the other Contracting State, one of its "Länder", or one of their political subdivisions or local authorities, or by an organisation which in that other State is recognised as a charitable organisation. In such a case the income may be taxed only in the Contracting State of which the individual is a resident.

Article 17
Pensions, Annuities and similar Payments

(1) Subject to paragraph 2 of Article 18, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment or annuities shall be taxable only in that State.

(2) Notwithstanding the provisions of paragraph 1, benefits paid under the social security legislation of a Contracting State may also be taxed in that State.

(3) Notwithstanding the provisions of paragraph 1, pensions, similar remuneration or annuities may also be taxed in the other State if they are attributable in whole or in part to contributions which, in that State and for more than 15 years in total,

1. did not form part of the taxable income, or

2. were tax-deductible, or

3. were afforded some other form of beneficial treatment by that State.

Sentence 1 shall not apply if the beneficial treatment under subparagraphs 1) through 3) was clawed back because the person ceased to be a resident of that State.

(4) Notwithstanding the provisions of paragraph 1, recurrent or non-recurrent payments made by one of the Contracting States, one of its “Länder”, or one of their political subdivisions or local authorities to a resident of the other Contracting State as compensation for political persecution (including restitution payments) or for injustice or damage sustained as a result of war or for damage as a result of military or civil alternative service or of a crime, a vaccination or for similar reasons shall be taxable only in the first-mentioned State.

(5) Maintenance payments, including those for children, made by a resident of a Contracting State to a resident of the other Contracting State shall be exempted from tax in that other Contracting State. However, to the extent that the maintenance payments are deductible in the first-mentioned State in calculating the taxable income of the payer, they shall be taxable only in the other Contracting State. Tax allowances in mitigation of social burdens are not deemed to be deductions for the purposes of this paragraph.

(6) The term “annuities” means certain amounts payable periodically at stated times, for life or for a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

Article 18
Government Service

(1)

1. Salaries, wages and other similar remuneration, paid by a Contracting State, one of its “Länder”, or one of their political subdivisions or local authorities to an

individual in respect of services rendered to that State, “Land” or political subdivision or local authority shall be taxable only in that State.

2. However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

a) is a national of that State; or

b) did not become a resident of that State solely for the purpose of rendering the services.

(2)

1. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds created by, a Contracting State, one of its “Länder”, or one of their political subdivisions or local authorities to an individual in respect of services rendered to that State, “Land” or political subdivision or local authority shall be taxable only in that State.

2. However, such pensions and other similar remuneration shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

(3) The provisions of paragraphs 1 and 2 shall likewise apply to salaries, wages, pensions and other similar remuneration paid by the following legal persons under public law to their employees:

1. in the case of the Federal Republic of Germany:

a) the Deutsche Bundesbank,

b) Association of Chambers of Industry and Commerce for the promotion of Foreign Economic Relations through the Network of Foreign Chambers of Commerce

2. in the case of *[jurisdiction]*

Sentence 1shall apply to salaries, wages, pensions and other similar remuneration paid by other legal entities under public law which carry out functions of a governmental nature if mutually agreed by the competent authorities.

(4) The provisions of Articles 14, 15, 16, and 17 shall apply to salaries, wages, pensions, and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State, one of its “Länder”, or one of their political subdivisions or local authorities or another legal person under the public law of that State.

(5) The provisions of paragraphs 1 and 2 shall apply to salaries, wages, pensions, and other similar remuneration paid to an individual in respect of services rendered to the Goethe Institute and the German Academic Exchange Service (“Deutscher Akademischer Austausch-dienst”), or to other comparable institutions if mutually agreed by the competent authorities. Where this remuneration is not taxed in the State of establishment of the institution, Article 14 shall apply.

Article 19
Visiting Professors, Teachers and Students

(1) An individual who, at the invitation of a Contracting State or of a university, college, school, museum or other cultural or educational institution of that Contracting State or under an official programme of cultural exchange, visits that Contracting State for a period not

exceeding two years for the purpose of teaching, lecturing or engaging in research at that institution and who is, or was immediately before that visit, a resident of the other Contracting State shall be exempt from tax in the first-mentioned State on his remuneration for such activity, provided that such remuneration is derived by him from outside that State.

(2) Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Article 20
Other Income

(1) Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that State.

(2) The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

Article 21
Capital

(1) Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.

(2) Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State may be taxed in that other State.

(3) Capital represented by ships and aircraft operated in international traffic and by boats engaged in inland waterways transport, and by movable property pertaining to the operation of such ships, aircraft and boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(4) All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 22

Elimination of Double Taxation in the State of Residence

(1) Where a resident of the Federal Republic of Germany derives income or owns capital which, in accordance with the provisions of this Agreement, may be taxed in *[jurisdiction]*[2], the following shall apply:

1. Except as provided in subparagraph 3), the income shall be exempted from the basis upon which German tax is imposed. In the case of dividends, this applies only to such dividends as are paid to a company (not including partnerships) resident in the Federal Republic of Germany by a company resident in *[jurisdiction]* at least 10 percent of the capital of which is owned directly by the

[2] The following language is to be added if paragraph 2 of Article 10 provides for a zero rate: „or is exempt from *[jurisdiction]* tax under paragraph 2 of Article 10"

company resident in the Federal Republic of Germany. The exemption from the basis provided by the first sentence of this subparagraph shall not apply to dividends paid by a tax exempt company or to dividends that the distributing company may deduct for *[jurisdiction]* tax purposes or for dividends that are attributed under the law of the Federal Republic of Germany to a person that is not a company resident in the Federal Republic of Germany. There shall be exempted from the assessment basis of the German taxes on capital such capital as is taxable in *[jurisdiction]* under paragraphs 1 and 2 of Article 21, as well as any shareholding the dividends of which, if paid, would be exempted from the tax base, according to the foregoing sentences.

2. The Federal Republic of Germany retains the right to take into account in the determination of its rate of tax the items of income and capital which under the provisions of this Agreement are exempted from German tax.

3. With respect to the following items of income, there shall be allowed as a credit against German tax on income, subject to the provisions of German tax law regarding credit for foreign tax, *[jurisdiction]* tax paid under the laws of *[jurisdiction]* and in accordance with the provisions of this Agreement on such items of income:

   a) dividends within the meaning of Article 10 to which subparagraph 1) does not apply;

   b) capital gains to which paragraph 4 of Article 13 applies;

   c) income to which Article 15 applies;

   d) income to which Article 16 applies;

   e) income to which paragraphs 2 and 3 of Article 17 apply.

For the purposes of application of this subparagraph 3), income or capital of a resident of the Federal Republic of Germany that, under this Agreement, may be taxed in *[jurisdiction]* shall be deemed to be income from sources within *[jurisdiction]* or capital situated in *[jurisdiction]*.

4. The provisions of subparagraph 1) are to be applied to items of income within the meaning of Article 7 and Article 10 and to profits from the alienation of property within the meaning of paragraph 2 of Article 13 only to the extent that the items of income or profits were derived from the production, processing, working or assembling of goods and merchandise, the exploration and extraction of natural resources, banking and insurance, trade or the rendering of services or if the items of income or profits are economically attributable to these activities. This applies only if a business undertaking that is adequately equipped for its business purpose exists. This applies accordingly to capital underlying the income within the meaning of Article 7 and Article 10. If subparagraph 1) is not to be applied, double taxation shall be eliminated by means of a tax credit as provided for in subparagraph 3).

5. Notwithstanding subparagraph 1), double taxation shall be eliminated by a tax credit as provided for in subparagraph 3), if

   a) in the Contracting States items of income or capital, or elements thereof, are placed under different provisions of this Agreement and if, as a consequence of this different placement, such income or capital would be subject to double taxation, non-taxation or lower taxation and in the case of double taxation this conflict cannot be resolved by a procedure pursuant to paragraphs 2 or 3 of Article 24;

   b) *[jurisdiction]* may, under the provisions of the Agreement, tax items of income or capital, or elements thereof, but does not actually do so;

c) after consultation, the Federal Republic of Germany notifies *[jurisdiction]* through diplomatic channels of items of income or capital, or elements thereof, to which it intends to apply the provisions on tax credit under sub-paragraph 3). Double taxation is then eliminated for the notified items of income or capital, or elements thereof, by allowing a tax credit from the first day of the calendar year following that in which the notification was made.

(2) Where a resident of *[jurisdiction]* derives income [or owns capital] which, in accordance with the provisions of this Agreement, may be taxed in the Federal Republic of Germany, the following shall apply:

Article 23

Non-discrimination

(1) Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

(2) Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of the State concerned in the same circumstances, in particular with respect to residence, are or may be subjected.

(3) The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the

taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

(4) Except where the provisions of paragraph 1 of Article 9, paragraph 4 of Article 11, or paragraph 4 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

(5) Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

(6) The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 24
Mutual Agreement Procedure

(1) Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his

case comes under paragraph 1 of Article 23, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

(2) The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

(3) The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

(4) The competent authorities of the Contracting States may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

(5) Where,

1. under paragraph 1, a person has presented a case to the competent authority of a Contracting State on the basis that the actions of one or both of the Contracting States have resulted for that person in taxation not in accordance with the provisions of this Agreement, and

2. the competent authorities are unable to reach an agreement to resolve that case pursuant to paragraph 2 within two years from the presentation of the case to the competent authority of the other Contracting State, and

3. it is not a particular case that the competent authorities agree, before the date on which arbitration proceedings would otherwise have begun, is not suitable for determination by arbitration, and

4. it is not a case to which Convention 90/436/EEC of 23 July 1990 on the elimination of double taxation in connection with the adjustment of profits of associated enterprises applies,

any unresolved issues arising from the case shall be submitted to arbitration if the person so requests. These unresolved issues shall not, however, be submitted to arbitration if a decision on these issues has already been rendered by a court or administrative tribunal of either State. Unless a person directly affected by the case does not accept the arbitration decision, that decision shall be binding on both Contracting States and shall be implemented notwithstanding any time limits in the domestic laws of these States. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this paragraph.

Article 25
Exchange of Information

(1) The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of a Contracting State, one of its “Länder”, or one of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

(2) Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies)

concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. For these purposes information may be disclosed in administrative or criminal investigations, in public court proceedings or in judicial decisions, if this is provided for in the respective laws of the Contracting States. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes, when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying Contracting State authorises such use. Use for other purposes without the prior approval of the supplying Contracting State is permissible only if it is needed in the individual case at hand to avert an imminent threat to a person of loss of life, bodily harm or loss of personal freedom, or to protect significant assets and there is danger inherent in any delay. In such a case the competent authority of the supplying Contracting State must be asked without delay for retroactive authorisation of the change in purpose. If authorisation is refused, the information may no longer be used for the other purpose and the receiving agency shall erase the data supplied without delay. Any damage which has been caused by use of the information for the other purpose must be compensated.

(3) In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

1. to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

2. to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

3. to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (*ordre public*).

(4) If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

(5) In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

Article 26

Assistance in the Collection of Taxes

(1) The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article.

(2) The term “revenue claim” as used in this Article means an amount owed in respect of taxes of every kind and description imposed on behalf of a Contracting State, one of its “Länder”, or one of their political subdivisions or local authorities, insofar as such taxation is not contrary to this Agreement or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount.

(3) When a revenue claim of a Contracting State is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of collection by the competent authority of the other Contracting State.

That revenue claim shall be collected by that other State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other State.

(4) When a revenue claim of a Contracting State is a claim in respect of which that State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other State even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned State or is owed by a person who has a right to prevent its collection.

(5) Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by a Contracting State for purposes of paragraph 3 or 4 shall not, in that State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that State by reason of its nature as such. In addition, a revenue claim accepted by a Contracting State for the purposes of paragraph 3 or 4 shall not, in that State, have any priority applicable to that revenue claim under the laws of the other Contracting State.

(6) Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall not be brought before the courts or administrative bodies of the other Contracting State.

(7) Where, at any time after a request has been made by a Contracting State under paragraph 3 or 4 and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned State, the relevant revenue claim ceases to be

1. in the case of a request under paragraph 3, a revenue claim of the first-mentioned State that is enforceable under the laws of that State and is owed by a person who,

at that time, cannot, under the laws of that State, prevent its collection, or

2. in the case of a request under paragraph 4, a revenue claim of the first-mentioned State in respect of which that State may, under its laws, take measures of conservancy with a view to ensure its collection

the competent authority of the first-mentioned State shall promptly notify the competent authority of the other State of that fact and, at the option of the other State, the first-mentioned State shall either suspend or withdraw its request.

(8) In no case shall the provisions of this Article be construed so as to impose on a Contracting State the obligation:

1. to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

2. to carry out measures which would be contrary to public policy (ordre public);

3. to provide assistance if the other Contracting State has not pursued all reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice;

4. to provide assistance in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the other Contracting State.

Article 27

Procedural Rules for Taxation at Source; Investment Funds

(1) If in one of the Contracting States the taxes on dividends, interest, royalties, or other items of income derived by a resident of the other Contracting State are levied by withholding at source, then the right to apply the withholding of tax at the rate provided for under the domestic law of that State is not affected by the provisions of this Agreement.

(2) The tax so withheld at source shall be refunded on the taxpayer's application to the extent that its levying is limited or eliminated by this Agreement. The period for application for a refund of the tax withheld is four years from the end of the calendar year in which the dividends, interest, royalties, or other items of income have been received.

(3) Notwithstanding paragraph 1, each Contracting State shall provide for procedures to the effect that dividends, interest, royalties or any other items of income which are subject under this Agreement to no tax or only to reduced tax in the State of source may be made without deduction of tax or with deduction of tax only at the rate provided in the relevant Article.

(4) The Contracting State in which the income arises may require the taxpayer to provide certification of his residence in the other Contracting State issued by the competent authority of that other State.

(5) A German investment fund or a *[jurisdiction]* investment fund shall be granted the benefits under this Agreement for items of income arising from the other Contracting State as follows:

1. to the extent the shares or other beneficial interests in the investment fund are owned by persons who are residents of that Contracting State or of any other State and who, had they derived the income directly, would be entitled to the same benefits under this Agreement or any Agreement that the Contracting State, from which the income arises, has concluded with the State of which the person is a resident; or

2. in full, if at least 90 percent of the shares or other beneficial interests in the investment fund are owned by persons who are residents of that Contracting State or of any other State and who, had they derived the income directly, would be entitled to the same benefits under this Agreement or any Agreement that the Contracting State, from which the income arises, has concluded with the State of which the person is a resident; or

3. in full, if at least 75 percent of the shares or other beneficial interests in the investment fund are owned by persons who are residents of that Contracting State and who, had they derived the income directly, would be entitled to the same benefits under this Agreement.

(6) The competent authorities of the Contracting States may determine the mode of implementation of this Article by mutual agreement.

Article 28

Application of the Agreement in Special Cases

(1) This Agreement shall not be interpreted as to prevent

1. a Contracting State from applying its domestic legal provisions on the prevention of tax evasion or tax avoidance;

2. the Federal Republic of Germany from imposing its taxes on amounts to be included in the income of a resident of the Federal Republic of Germany under parts 4, 5, and 7 of the German External Tax Relations Act (Außensteuergesetz).

(2) If the foregoing provisions result in double taxation, the competent authorities shall consult each other pursuant to paragraph 3 of Article 24 on how to avoid double taxation.

Article 29

Members of Diplomatic Missions and Consular Posts

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

Article 30

Protocol

The attached Protocol shall be an integral part of this Agreement.

Article 31

Entry into Force

(1) This Agreement shall be ratified and the instruments of ratification shall be exchanged as soon as possible.

(2) This Agreement shall enter into force on the day of the exchange of the instruments of ratification and shall have effect in both Contracting States:

1. in the case of taxes withheld at source, in respect of amounts paid on or after the first day of January in the calendar year next following the year in which this Agreement enters into force;

2. in the case of other taxes, in respect of taxes levied for periods beginning on or after the first day of January in the calendar year next following the year in which this Agreement enters into force.

[3. With the entry into force of this Agreement, the Agreement between the Federal Republic of Germany and *[jurisdiction]* on the Avoidance of Double Taxation with respect to Taxes on Income and Capital [adapt title as necessary] signed in [place] on [date] shall expire. Its provisions shall continue to be applicable until this Agreement shall become effective as provided for in paragraph 2 of this Article. The provisions of the [date] Agreement shall continue to apply to all tax cases having occurred prior to the date upon which this Agreement has entered into force.]

Article 32
Termination

(1) This Agreement shall remain in force until terminated by a Contracting State.

(2) Either Contracting State may terminate the Agreement, through diplomatic channels, by giving written notice of termination at least six months before the end of any calendar year beginning after the expiration of a period of five years from the date of entry into force of the Agreement. In such event, this Agreement shall cease to have effect in both Contracting States:

1. in the case of taxes withheld at source, in respect of amounts paid on or after the first day of January in the calendar year next following the year in which notice of termination is given;

2. in the case of other taxes, in respect of taxes levied for periods beginning on or after the first day of January in the calendar year next following the year in which notice of termination is given.

Done at [*place*] on [*date*], in duplicate, in the German, [*foreign language*] and [English] languages, each text being authentic. In case of divergent interpretations of the German and [*foreign language*] texts, the English text shall prevail.

For the
Federal Republic of Germany

For

Protocol

to the Agreement

between

the Federal Republic of Germany

and

……

for the Avoidance of Double Taxation and the Prevention of Tax Evasion with respect to Taxes on Income and Capital

The Federal Republic of Germany and *[jurisdiction]* (the "Contracting States") have in addition to the Agreement of [*date*] for the Avoidance of Double Taxation and the Prevention of Tax Evasion with respect to Taxes on Income and Capital agreed on the following provisions, which shall form an integral part of the Agreement:

1. With reference to Article 10 and 11

Notwithstanding the provisions of Article 10 and 11 of this Agreement, dividends and interest may be taxed in the Contracting State in which they arise, and according to the law of that State, if they

a) are 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 income from loans with an interest rate linked to the borrower's profit ("partiarische Darlehen") or profit sharing bonds ("Gewinnobligationen") within the meaning of the tax law of the Federal Republic of Germany, and

b) are deductible in the determination of profits of the debtor of such dividends or interest.

2. With reference to paragraph 2 of Article 10 and Article 27

The term "investment fund" means

a) with respect to the Federal Republic of Germany an "Investmentfonds" or a German "Investmentaktiengesellschaft" to which the provisions of the Investment Act ("Investmentgesetz") apply;

b) with respect to *[jurisdiction]*

[With reference to Article 13][3]

3. With reference to Article 20

Where the recipient and the payer of a dividend or of interest are both residents of the Federal Republic of Germany and the dividend or the interest is attributed to a permanent establishment that the recipient of the dividend or the interest has in *[jurisdiction]*, the Federal Republic of Germany may tax such dividend or interest at the rates provided for in paragraphs 2 and 3 of Article 10 or in paragraph 1 of this Protocol. The *[jurisdiction]* shall give a credit for such tax according to the provisions of subparagraph 3 of paragraph 1 of Article 22.

[With reference to paragraph 1 of Article 22[4]

[3] To the extent required: Rule regarding avoidance of certain consequences the introduction of the exemption method may trigger.

[4] May be required in the case of EU member states.

The exemption for dividends shall not cease to apply because the dividends are not taxed in [jurisdiction] on account of the Council Directive of 23 July 1990 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States (90/435/EWG) in the respective applicable version.]

4. With reference to letter b of subparagraph 5) of paragraph 1 of Article 22

It is understood that items of income or capital, or elements thereof, are taxed when they are included in the taxable base by reference to which the tax is computed. They are not actually taxed if they are either not taxable or exempt from tax.

5. With reference to paragraph 5 of Article 23

It is understood that paragraph 5 of Article 23 shall not be construed as obligating a Contracting State to permit cross-border consolidation of income or similar benefits between enterprises.

6. With reference to Article 25

a) The receiving agency may use data in compliance with paragraph 2 of Article 25 only for the purpose stated by the supplying agency and shall be subject to the conditions prescribed by the supplying agency and that conform with Article 25.

b) The supplying agency shall be obliged to exercise vigilance as to the accuracy of the data to be supplied and their foreseeable relevance within the meaning of paragraph 1 of Article 25 and the proportionality to the purpose for which they are supplied. Data are foreseeably relevant if in the concrete case at hand there is the serious possibility that the other Contracting State has a right to tax and there is

nothing to indicate that the data are already known to the competent authority of the other Contracting State or that the competent authority of the other Contracting State would learn of the taxable object without the information. If it emerges that inaccurate data or data which should not have been supplied have been supplied, the receiving agency shall be informed of this without delay. That agency shall be obliged to correct or erase such data without delay.

c) The receiving agency shall on request inform the supplying agency on a case-by-case basis about the use of the supplied data and the results achieved thereby.

d) The receiving agency shall inform the person concerned of the collecting of data at the supplying agency. The person concerned need not be informed if and as long as on balance it is considered that the public interest in not informing him outweighs his right to be informed.

e) Upon application the person concerned shall be informed of the supplied data relating to him and of the use to which such data are to be put. The second sentence of paragraph d) shall apply accordingly.

f) The receiving agency shall bear liability under its domestic laws in relation to any person suffering unlawful damage in connection with the supply of data under the exchange of data pursuant to this Agreement. In relation to the damaged person, the receiving agency may not plead to its discharge that the damage was caused by the supplying agency.

g) The supplying and the receiving agencies shall be obliged to keep official records of the supply and receipt of personal data.

h) Where the domestic law of the supplying agency contains special deadlines for the deletion of the personal data supplied, that agency shall inform the receiving

agency accordingly. In any case, supplied personal data shall be erased once they are no longer required for the purpose for which they were supplied.

i) The supplying and the receiving agencies shall be obliged to take effective measures to protect the personal data supplied against unauthorised access, unauthorised alteration and unauthorised disclosure.