

Execution Copy

JPY SUBORDINATED NOTE

**COMMERZBANK AKTIENGESELLSCHAFT,
ACTING THROUGH ITS NEW YORK BRANCH**

FIXED RATE SUBORDINATED NOTE

THIS SUBORDINATED NOTE IS REGISTERED IN THE NAME OF DRESDNER CAPITAL LLC IV (OR A SUCCESSOR OR NOMINEE) AND MAY NOT BE EXCHANGED IN WHOLE OR IN PART FOR A SUBORDINATED NOTE REGISTERED, AND NO TRANSFER OF THIS SUBORDINATED NOTE IN WHOLE OR IN PART MAY BE REGISTERED, IN THE NAME OF ANY PERSON OTHER THAN DRESDNER CAPITAL LLC IV (OR A SUCCESSOR OR NOMINEE).

THIS SUBORDINATED NOTE HAS NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND MAY NOT BE OFFERED, SOLD OR DELIVERED IN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, ANY U.S. PERSON UNLESS AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT IS AVAILABLE (TERMS THAT ARE USED ABOVE ARE USED AS DEFINED IN REGULATIONS UNDER THE SECURITIES ACT).

**COMMERZBANK AKTIENGESELLSCHAFT,
ACTING THROUGH ITS NEW YORK BRANCH**

FIXED RATE SUBORDINATED NOTE

No. 1

Principal Amount:
¥15,015,000,000

COMMERZBANK AKTIENGESELLSCHAFT, a stock corporation (*Aktiengesellschaft*) organized under the laws of the Federal Republic of Germany (the "Bank"), acting through its New York branch (the "Branch"), for value received, hereby promises to pay to Dresdner Capital LLC IV, a Delaware limited liability company (the "LLC"), or registered assigns, the principal amount (the "Principal Amount") set forth above of this Subordinated Note (this "Subordinated Note") on March 31, 2033 (as such date may be extended pursuant to Section 1 on the reverse hereof, the "Maturity Date") or on the date fixed for an early call pursuant to the terms hereof (the "Call Date") or on the date fixed for redemption pursuant to the terms hereof (the "Redemption Date"). In the event that the Maturity Date, the Call Date or the Redemption Date is not a Business Day, then payments due on such date will be made on the immediately preceding Business Day, provided that such payments shall be made without adjustment, reduced interest or payment reductions. As used herein, "Borrower" refers to the Bank, acting through the Branch, in its role as borrower under this Subordinated Note. Terms not defined herein shall have the respective meanings specified in the Amended and Restated Limited Liability Company Agreement of the LLC, dated as of March 29, 2001 (the "Charter"), as in effect on the date hereof.

The Borrower further promises to pay to the LLC, or registered assigns, interest on the outstanding Principal Amount of this Subordinated Note semi-annually in arrears on March 31 and September 30 of each year (each, an "Interest Payment Date") or, if such day is not a Business Day, on the immediately preceding Business Day, commencing September 30, 2001. Interest payable on each Interest Payment Date will be calculated as provided in the following paragraph and will accrue from and including the immediately preceding Interest Payment Date (or from and including March 29, 2001 with respect to the interest payable on September 30, 2001) to but excluding the relevant Interest Payment Date, the Call Date, the Redemption Date or the Maturity Date, as the case may be (each such period, an "Interest Period"). "Business Day" means any day that is both (i) a Target business day and (ii) a day other than Saturday, Sunday or a day on which banking institutions in the City of New York and Tokyo, or, as long as any Trust Certificates are listed on the Luxembourg Stock Exchange, banking institutions in Luxembourg are authorized or required by law or executive order to remain closed.

The amount of interest payable on this Subordinated Note for each Interest Period will be calculated at a fixed rate of 3.5% per annum, calculated on the basis of 360 days per year and 30 days per each month in such Interest Period. All percentages resulting from any calculation regarding interest payable on this Subordinated Note will be rounded to the nearest one hundred-thousandth of a percentage point, with five-one millionths of a percentage point rounded upwards (e.g., 9.876545% (or .09876545) would

be rounded to 9.87655% (or .0987655)), and all amounts used in or resulting from such calculation will be rounded to the nearest cent. In the event that an Interest Payment Date is not a Business Day so that any interest with respect to this Subordinated Note is therefore paid on the immediately preceding Business Day pursuant to the preceding paragraph, such payment shall be made without adjustment, reduced interest or payment reductions.

Any principal, interest or other amounts that have not been paid when due on this Subordinated Note shall also bear interest (to the extent that the payment of such interest shall be legally enforceable) at the rate per annum specified above, from the date such amount is due until it is paid or made available for payment, and such interest shall be payable on demand or, in the absence of demand, when payment of the overdue amount on which such interest has accrued is made or duly provided for.

The principal, interest and any other amounts payable on this Subordinated Note are subject to waiver and reinstatement under a Waiver and Improvement Agreement, dated as of March 29, 2001, between the Borrower and the LLC (the "Waiver and Improvement Agreement"), the operative provisions of which are repeated in sections 4 and 5 of the reverse hereof. Any principal, interest or other amounts that have been waived and not reinstated pursuant to the terms of the Waiver and Improvement Agreement shall not thereafter be payable.

The principal of and interest and any other amounts payable on this Subordinated Note shall be payable at such place and to such account as may be designated by the LLC or its registered assigns in any legal tender of the European Union that at the time of payment is legal tender for payment of public and private debts.

Reference is hereby made to the further provisions of this Subordinated Note set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.

IN WITNESS WHEREOF, DRESDNER BANK AKTIENGESELLSCHAFT,
acting through its New York branch, has caused this instrument to be duly executed on
the date set forth below.

Dated: February 25, 2010

COMMERZBANK AKTIENGESELLSCHAFT,
ACTING THROUGH ITS NEW YORK BRANCH

By: _____
Name:
(Authorized Signatory)

By: _____
Name:
(Authorized Signatory)

REVERSE OF SUBORDINATED NOTE

1. This Subordinated Note will mature on March 31, 2033 (the "Scheduled Maturity Date"); provided, that if such date occurs during a Shift Period (as defined herein), the Scheduled Maturity Date will be extended to the earlier of (i) the date liquidation proceedings are commenced in respect of the LLC in connection with the commencement of liquidation proceedings in respect of the Bank and (ii) the date immediately following the last day of such Shift Period (such earlier date, together with the Scheduled Maturity Date, the "Maturity Date").

2. All payments by the Borrower in respect of this Subordinated Note will be made without withholding or deduction for or on account of any present or future taxes, duties, assessments or other governmental charges of whatever nature, imposed or levied by or on behalf of the Federal Republic of Germany ("Germany"), the United States or the jurisdiction of residence of any obligor on this Subordinated Note, the Partnership Interests or any Eligible Intercompany Investments (each such jurisdiction, together with the United States and Germany, a "Relevant Jurisdiction") or any political subdivision or authority therein or thereof having power to tax (the taxes so imposed, each a "Relevant Tax"), unless the withholding or deduction of such Relevant Tax is required by law. In such event, or in the event that withholding is required with respect to distributions on the Partnership Interests or the Certificates, the Borrower will pay such additional amounts ("Additional Amounts") as may be necessary in order for every net payment of (x) the principal of and interest on this Subordinated Note, (y) distributions on the Partnership Interests and (z) distributions on the Trust Certificates, after withholding or deduction for or on account of any Relevant Tax in connection with the payment of such distributions, interest or principal, to equal the amount the holders thereof would have received in respect of this Subordinated Note, the Partnership Interests or the Trust Certificates, as the case may be, in the absence of such withholding or deduction; provided, however, the Borrower shall not be obligated to pay such Additional Amounts: (i) to the extent such Relevant Tax is imposed or levied by virtue of a holder of Partnership Interests (if not Dresdner Funding Trust IV (the "Trust")) or Trust Certificates (or the respective beneficial owner thereof), as the case may be, having some connection with the Relevant Jurisdiction, or any political subdivision or authority therein or thereof having power to tax, that is imposing such tax, other than being a holder (or beneficial owner) of such Partnership Interests or Trust Certificates; or (ii) to the extent that such Relevant Tax is imposed or levied by virtue of any such holder (or beneficial owner) not having made a declaration of non-residence in, or other lack of connection with, the Relevant Jurisdiction or any political subdivision or authority therein or thereof having power to tax, that is imposing such tax, provided that the Borrower or its agent has provided the holder (or beneficial owner) of such Partnership Interests or Trust Certificates, or their respective nominees, with at least 60 days prior written notice of an opportunity to make such a declaration or claim.

The Borrower shall also pay such additional amounts as may be necessary to pay any taxes that may be imposed on the Partnership Interests, the LLC, or the Trust by any

Relevant Jurisdiction, or any political subdivision or authority therein or thereof having power to tax that is imposing such tax.

Any reference in this Subordinated Note to any amount payable in respect of this Subordinated Note shall be deemed to include all Additional Amounts (if any) payable in respect of such referenced amount.

3. (a) In addition to redemptions made pursuant to Sections 3(b) and 3(c), this Subordinated Note may be redeemed at the option of the Borrower, in whole or in part, at any time prior to the Maturity Date, on not less than 30 nor more than 60 days' written notice (which notice shall include the principal amount to be redeemed) at a redemption price of 100% of the principal amount of this Subordinated Note to be redeemed, plus accrued and unpaid interest thereon, if any, to the Redemption Date; provided, that the LLC shall have previously or concurrently with the redemption of this Subordinated Note acquired or agreed to acquire Eligible Intercompany Investments.

"Eligible Intercompany Investments" are those instruments of the Bank itself, the Bank, acting through either the Branch or another branch of the Bank, or an affiliate of the Bank that is not a U.S. Person (as defined below) that satisfy each of the following conditions prior to their substitution for this Subordinated Note as assets of the LLC: (i) each Rating Agency then rating the Trust Certificates or the Partnership Interests then outstanding, if then rated, will have informed the Bank in writing that such substitution will not result in a downgrading of the rating then assigned by such Rating Agency to the Trust Certificates or the Partnership Interests; (ii) the Eligible Intercompany Investments will be scheduled to mature on the same date as this Subordinated Note, subject to extension on the same terms as this Subordinated Note if such maturity date occurs during a Shift Period; (iii) the Eligible Intercompany Investments will provide for periodic payments to the LLC in amounts sufficient to enable the LLC and the Trust to make Distributions in respect of the Partnership Interests and the Trust Certificates in the same circumstances and to the same extent as currently provided by the Partnership Interests and the Trust Certificates; (iv) there would be no adverse tax consequences to the Bank as a consequence of such substitution that would give rise to a Tax Event; (v) there would be no adverse withholding tax consequences to holders of Eligible Intercompany Investments, Partnership Interests, or Trust Certificates, including the imposition of more burdensome tax identification requirements with respect to residents; (vi) if, immediately prior to such substitution, the Partnership Interests qualify as consolidated lower tier two capital (subordinated liabilities in the meaning of Section 10(5a) of the German Banking Act (*längerfristige nachrangige Verbindlichkeiten*)) of the Bank together with its consolidated subsidiaries (the "Group") under current or future regulatory requirements (the "Lower Tier Two Capital"), then upon consultation with the Federal Financial Markets Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht – "BaFin"*), the Bank will have determined that the Partnership Interests would continue to qualify as Lower Tier Two Capital; (vii) neither the Trust nor the LLC would be required to register as an investment company under the Investment Company Act of 1940, as amended (the "1940 Act"); (viii) the LLC would continue to be treated as a partnership and the Trust would continue to be classified as a grantor trust, in each case for U.S. federal income tax purposes; (ix) the investment in the

Eligible Intercompany Investments will not cause a Tax Event based on either (A) the then applicable law or (B) any change or prospective change in applicable law to become effective at a later date and which change is known at the time of the investment in the Eligible Intercompany Investments; (x) the prior approval of the BaFin is obtained, if required; (xi) the new obligor will have irrevocably submitted to the jurisdiction of state and U.S. federal courts in the County of New York in the State of New York; (xii) either the new obligor will have also become a party to the Waiver and Improvement Agreement or an agreement with terms substantially similar to the Waiver and Improvement Agreement will have become applicable to the Eligible Intercompany Investments; and (xiii) the LLC will have delivered to the Independent Directors an officers' certificate and an opinion of counsel stating that such investment complies with the terms of the Charter and that all conditions precedent in the Charter to such substitution have been complied with.

For these purposes, a "U.S. Person" is (i) an individual citizen or resident of the U.S., (ii) a corporation or partnership organized in or under the laws of the U.S. or any state thereof or the District of Columbia, (iii) an estate the income of which is subject to U.S. federal income tax regardless of source or (iv) a trust over which a court within the U.S. is able to exercise primary supervision over its administration and one or more U.S. holders have the authority to control all substantial decisions of the trust.

(b) (i) Upon the occurrence of an LLC Early Redemption Event (as defined below), the Borrower shall have the right to redeem this Subordinated Note in whole (but not in part) with no less than 30 and no more than 60 days prior written notice. Upon such a redemption, the Redemption Price for this Subordinated Note will equal the greater of (a) 100% of the principal amount of this Subordinated Note plus accrued and unpaid interest to the date of redemption (the "Early Redemption Date") (and from and after such date on any overdue amount) and (b) the Make-Whole Amount for this Subordinated Note (as defined below).

(ii) For purposes of this Section 3(b):

the "Make-Whole Amount" with respect to this Subordinated Note shall be equal to the sum, as determined by the Calculation Agent, of (x) the present value of the principal amount of this Subordinated Note at the Early Redemption Date and (y) the aggregate present value of scheduled interest payments from the Early Redemption Date to March 31, 2031 (the "Remaining Life"), in each case discounted to the Early Redemption Date from March 31, 2031 on a semi-annual basis (calculated on the basis of 360 days per year and 30 days per each month at the Comparable Rate plus (A) in the event that the Early Redemption Date occurs on or prior to June 30, 2002, 125 basis points or (B) in the event that the Early Redemption Date occurs after June 30, 2002, 50 basis points.

"Calculation Agent" means the calculation agent in respect of this Subordinated Note, which shall at all times be the same entity that acts as either (i) Paying Agent pursuant to the Charter or (ii) Property Trustee

pursuant to the Amended and Restated Declaration of Trust of Dresdner Funding Trust IV, dated as of March 29, 2001 (the "Declaration").

"Comparable Rate" means, with respect to any Early Redemption Date, the rate per annum equal to the equivalent yield to maturity of the Comparable Issue, assuming a price for the Comparable Issue (expressed as a percentage of its principal amount) equal to the Comparable Price for such Early Redemption Date.

"Comparable Issue" means the Japanese Government Bond selected by an Independent Investment Banker as having a maturity comparable to the Remaining Life of this Subordinated Note to be redeemed that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of a comparable maturity to the remaining term of this Subordinated Note.

"Independent Investment Banker" means one of the Reference Dealers appointed by the Bank.

"Comparable Price" means, with respect to any redemption date, (A) the average of the Reference Dealer Quotations for such redemption date, after excluding the highest and lowest such Reference Dealer Quotations, or (B) if the Calculation Agent obtains fewer than four such Reference Dealer Quotations, the average of all such quotations.

"Reference Dealer Quotations" means, with respect to each Reference Dealer and any redemption date, the average, as determined by the Calculation Agent, of the bid and offered prices for the Comparable Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Calculation Agent by such Reference Dealer at 3:30 p.m., New York time, on the third business day preceding such redemption date.

"Reference Dealer" means any Japanese Government Bond dealer selected by the LLC in consultation with the Bank.

"LLC Early Redemption Event" means (i) a Capital Event, (ii) a Tax Event with respect to the LLC or (iii) an Investment Company Event with respect to the LLC.

"Capital Event" means the determination by the Bank that the Partnership Interests may not be included in the Lower Tier Two Capital for purposes of the capital requirements of the German Banking Act (*Kreditwesengesetz*) (the "KWG") or the rules of the Committee on Banking Supervision at the Bank for International Settlements, Basle, Switzerland.

"Tax Event" means the receipt by the Bank of an opinion of a nationally recognized law firm or other nationally recognized tax adviser in any

Relevant Jurisdiction, experienced in such matters, to the effect that, as a result of (i) any amendment to, or clarification of, or change (including any announced prospective change) in the laws or treaties (or any regulations promulgated thereunder) of the Relevant Jurisdiction or any political subdivision or authority therein or thereof having the power to tax, (ii) any judicial decision, official administrative pronouncement, published or private ruling, regulatory procedure, notice or announcement (including any notice or announcement of intent to adopt such procedures or regulations) (an "Administrative Action") or (iii) any amendment to, clarification of, or change in the official position or the interpretation of any Administrative Action or any interpretation or pronouncement that provides for a position with respect to any Administrative Action that differs from the theretofore generally accepted position, in each case, by any legislative body, court, governmental authority or regulatory body, irrespective of the manner in which such amendment, clarification or change is made known, which amendment, clarification, change or Administrative Action is effective, or which interpretation, pronouncement or decision is announced, on or after the date of the original execution of the Silent Partnership Agreement and the Trust Certificates, there is more than an insubstantial risk (i) with respect to the Trust or the LLC, that either the Trust or the LLC, as the case may be, is or will be subject to more than a de minimis amount of taxes, duties or other governmental charges or (ii) with respect to the LLC, that the Trust, the LLC, the Bank, acting through the Branch, or the issuer of any Eligible Intercompany Investments, as the case may be, would be required to pay any Additional Amounts pursuant to the Trust Certificates, the Partnership Interests or this Subordinated Note, respectively.

"Investment Company Event" means that the Bank shall have requested and received an opinion of a nationally recognized U.S. law firm, experienced in such matters, to the effect that there is more than an insubstantial risk that the Trust or the LLC is or will be considered an "investment company" required to be registered under the 1940 Act.

(c) Prior to the Maturity Date, the Borrower shall have the right to redeem this Subordinated Note in whole or in part on March 31, 2031 (the "First Call Date"), and thereafter on any Interest Payment Date (such date, together with the First Call Date, the "Call Date") with no less than 30 and no more than 60 days' prior written notice. Upon such a redemption, the Redemption Price for this Subordinated Note will equal 100% of the principal amount of this Subordinated Note, plus accrued and unpaid interest to the Call Date (and from and after such date on any overdue amount).

4. As provided in the Waiver and Improvement Agreement, subject to Section 5 of the Waiver and Improvement Agreement, upon receipt by the Borrower of notice of the occurrence of a Shift Event from the LLC, the LLC shall be deemed to have waived its right to (i) interest otherwise due and payable on each Interest Payment Date occurring during the Shift Period commenced thereby and (ii) principal and all other

payments under this Subordinated Note for the duration of such Shift Period and the Borrower shall not be obligated, whether upon the cessation of such Shift Period or otherwise, to make any payments in respect of any such interest, principal or other obligations under this Subordinated Note and the Borrower's obligations to pay interest and principal will be reinstated only to the extent set forth in the Waiver and Improvement Agreement.

As provided in the Waiver and Improvement Agreement, a "Shift Event" will be deemed to have occurred if (i) the Bank is declared insolvent or overindebted and insolvency proceedings are to be commenced; or (ii) the BaFin either (A) exercises its extraordinary supervisory powers pursuant to the provisions of Section 45 et seq. of the KWG or (B) announces its intention to take such measures.

As provided in the Waiver and Improvement Agreement, a "Shift Period" means any period commencing on the occurrence of any Shift Event and ending upon the date immediately preceding the first date upon which no Shift Event exists.

5. (a) As provided in the Waiver and Improvement Agreement, at all times during a Shift Period, if the Bank makes or declares dividends, other distributions or any other payments in respect of its Ordinary Securities or makes any other payments, or provides funds to a subsidiary, in respect of any Parity Securities, then interest payments in full must be paid on this Subordinated Note for the following periods (each, a "Corresponding Period"):

(y) the two consecutive Interest Payment Dates contemporaneous with or following the date on which the Bank redeems, repurchases or otherwise acquires or defeases or otherwise terminates its obligations in respect of any Ordinary Securities or any Parity Securities or provides funds to any subsidiary in respect of the redemption, repurchase or acquisition by such subsidiary of any Ordinary Securities or Parity Securities or the defeasance or other termination of the obligations of the issuer thereof in respect of any Ordinary Securities or Parity Securities other than:

(i) in connection with transactions effected by or for the account of customers of the Bank or its subsidiaries or in connection with the distribution, trading or market-making in respect of such securities based on an authorization by the Bank's shareholders referred to in Section 71 (1) No. 7 of the German Stock Corporation Act;

(ii) in connection with the satisfaction by the Bank or any of its subsidiaries of its obligations under any employee benefit plans or similar arrangements, with or for the benefit of any employees, officers, directors or consultants of the Bank or any of its subsidiaries;

(iii) as a result of a reclassification of the capital stock of the Bank or any of its subsidiaries or the exchange or conversion of one class or series of such capital stock for another class or series of such capital stock;

(iv) the purchase of fractional interests in shares of the capital stock of the Bank or any of its subsidiaries pursuant to the conversion or exchange provisions of such capital stock or the security being converted or exchanged;

(v) a repurchase pursuant to Section 71(1) No. 3 of the German Stock Corporation Act resulting from an obligation of the Bank to offer its shares to shareholders of a company that has entered into a domination or profit-and-loss-pooling agreement with, or has been integrated (*Eingliederung*) into, the Bank in exchange for the shares of that company, or in connection with an obligation of the Bank to purchase its shares from shareholders that have dissented to a split-up (*Aufspaltung*), spin-off (*Abspaltung*) or change of the legal form (*Umwandlung*) of the Bank;

(vi) as a result of a merger or other succession involving less than 1% of any class of Ordinary Securities or Parity Securities and that transaction is not entered into for the purpose of, directly or indirectly, acquiring any Ordinary Securities or Parity Securities; or

(vii) the satisfaction of an obligation on a regularly scheduled maturity date which is required by the terms of the applicable governing instrument; and

(z) the two consecutive Interest Payment Dates contemporaneous with or following the date on which the Bank or any subsidiary pays dividends or makes other distributions or payments on any Ordinary Securities or any Parity Securities.

As provided in the Waiver and Improvement Agreement, as used herein, "Ordinary Securities" means the Ordinary Shares and any other securities ranking junior to the Bank Parity Securities and "Parity Securities" means Bank Parity Securities and Subsidiary Parity Linked Securities. For purposes of the foregoing definitions, "Ordinary Shares" means the Bank's common shares and other voting and non-voting shares (*Stammaktien* and *Vorzugsaktien*); "Bank Parity Securities" means any silent partnership agreement or any other instrument of the Bank that has rights to payment that are expressly or legally subordinated to all creditors of the Bank (including holders of *Genußscheine*) but that are senior to the rights of the Ordinary Securities of the Bank and that would qualify as consolidated tier one capital of the Bank for purposes of the capital requirements of the KWG or the rules of the Committee on Banking Supervision at the Bank for International Settlements, Basle, Switzerland ("Tier One Capital") (or would have so qualified except for the provisions of German law relating to regulatory capital requirements, pursuant to which Tier One Capital treatment of such instrument is lost a period of time prior to maturity). "Subsidiary Parity Linked Securities" means any silent partnership agreement or any other instrument of any subsidiary of the Bank that has rights to payment that are (i) expressly or legally subordinated to all creditors of such subsidiary (including holders of *Genußscheine*) and (ii) linked to the Bank through any mechanism that expressly (through one or more agreements) makes such payments

subordinated to all creditors of the Bank (other than creditors subject to similar agreements) but senior to the Bank's Ordinary Securities at all times or under circumstances similar to a Shift Event or other failure to comply with regulatory capital requirements and that would qualify as Tier One Capital (or would have so qualified except for the provisions of German law relating to regulatory capital requirements, pursuant to which Tier One Capital treatment of such instrument is lost a period of time prior to maturity). "Junior Securities" means Parity Securities and Ordinary Securities.

(b) In the event during a Shift Period of any commencement of liquidation proceedings in respect of the LLC in connection with the commencement of liquidation proceedings in respect of the Bank, the waiver set forth above shall not apply to the payment of principal on this Subordinated Note and therefore, upon reinstatement of the maturity of the Subordinated Note pursuant to the terms hereof, the full aggregate principal amount of this Subordinated Note shall become due and payable.

(c) If a Shift Period has ceased to exist, pursuant to the Waiver and Improvement Agreement, the waiver thereunder shall terminate and all rights of the LLC and all obligations of the Bank, acting through the Branch, in respect of this Subordinated Note will be reinstated (i) in respect of interest payments, as of the first day following the last Interest Payment Date during such Shift Period and (ii) in respect of other obligations, from and after cessation of the Shift Period. Any interest not payable in respect of this Subordinated Note during the time a Shift Period was continuing is not cumulative and therefore shall not be paid following the end of the Shift Period.

(d) Notwithstanding any other provisions of this Subordinated Note, the waiver set forth above shall not in any event apply to any interest or other payments due on this Subordinated Note as to which the Borrower has defaulted before a Shift Event has commenced.

6. (a) This Subordinated Note shall constitute an unsecured obligation of the Borrower, and shall be subordinate and junior in right of payment to all Other Obligations. No payment of principal (including prepayments), or interest on this Subordinated Note may be made, unless otherwise determined by the Bank (provided that the Bank may not make such determination in the event of insolvency proceedings involving the assets of the Bank or of the liquidation of the Bank), at any time when (i) any Other Obligations are not paid when due, (ii) any applicable grace period with respect to such default has ended and such default has not been cured or waived or ceased to exist, (iii) the maturity of any Other Obligations has been accelerated because of a default, or (iv) the Superintendent of Banks of the State of New York (the "Superintendent") takes possession of the business and property of the Branch and any Other Obligations of the Bank acting through the Branch remain unsatisfied.

"Other Obligations" means all other unsubordinated liabilities of the Bank (including liabilities of the Bank acting through the Branch), but excluding any Junior Securities and any indebtedness that by its terms is subordinated to or ranks pari passu with this Subordinated Note (including the rights of holders of Genußscheine and the rights of the holders of instruments qualifying as Lower Tier Two Capital) and other instruments of

the Bank payments on which would, during a Shift Period, require the Bank, acting through the Branch, to make any payments in respect of this Subordinated Note. Each holder of this Subordinated Note, by its acceptance hereof, waives notice of the acceptance of such subordination provisions by the holders of such Other Obligations, whether now outstanding or hereafter incurred, and waives reliance by each holder of such Other Obligations upon such provisions.

(b) The right to set off claims for payment under this Subordinated Note against claims of the Bank shall be excluded. No contractual credit support or security is or will be provided for the obligations of the Bank under this Subordinated Note; any such contractual credit support or security that may have been provided in the past or will be provided in the future by the Bank or any third party shall not secure the claims under this Subordinated Note.

The subordination set forth in Section 6(c) cannot be restricted and, except as set forth in Section 3 and the two following sentences, the term of this Subordinated Note set forth in Section 1 and the terms of notice of redemption or repayment set forth in Section 3 cannot be shortened. Amounts received upon a repurchase of this Subordinated Note prior to the Maturity Date or upon any redemption or repayments pursuant to Sections 3(a) or 3(b) (to the extent a Tax Event has occurred which would require the Bank acting through the Branch to pay Additional Amounts pursuant to this Subordinated Note), must be, notwithstanding any agreements to the contrary, refunded to the Bank, unless the capital (*Kapital* in the meaning of Section 10 (5a) of the German Banking Act) created by this Subordinated Note has been replaced by other liable capital (*haftendes Eigenkapital*) of at least equal ranking under the German Banking Act or the BaFin has authorized the repurchase, redemption or repayment. Amounts recovered upon any redemption or repayment pursuant to Section 3(b) (to the extent not covered by the preceding sentence) or Section 3(c), must be, notwithstanding any agreement to the contrary, refunded to the Bank, unless the German Banking Supervisory Authority has authorized the redemption or repayment.

(c) Upon any distribution of assets to creditors upon any liquidation, dissolution, winding up, reorganization, assignment for the benefit of creditors, marshaling of assets or any bankruptcy, insolvency, debt restructuring or similar proceedings in connection with any insolvency or bankruptcy proceeding of the Bank, all Other Obligations must be paid in full before the holder of this Subordinated Note are entitled to receive or retain any payment in respect thereof; and upon any such dissolution or winding-up or liquidation or reorganization or assignment, any payment by the Bank, or distribution of assets of the Bank of any kind or character, whether in cash, property or securities, to which the holder of this Subordinated Note would be entitled to receive from the Bank, except for the provisions of this Section 6, shall be paid by the Bank or by any receiver, trustee in bankruptcy, liquidating trustee, agent or other person making such payment or distribution, or by the holder of this Subordinated Note if received by it, directly to the holders of Other Obligations of the Bank (pro rata to such holders on the basis of the respective amounts of Other Obligations held by such holders, as calculated by the Bank) or their representative or representatives, or to the trustee or trustees under any indenture pursuant to which any instruments evidencing such Other Obligations may

have been issued, as their respective interests may appear, to the extent necessary to pay all such Other Obligations in full, in money or money's worth, after giving effect to any concurrent payment or distribution to or for the holders of such Other Obligations, before any payment or distribution is made to the holder of this Subordinated Note.

For purposes of this Section 6, the words "cash, property or securities" shall not be deemed to include shares of stock of the Bank as reorganized or readjusted, or securities of the Bank or any other corporation provided for by a plan of reorganization or readjustment, the payment of which is subordinated at least to the extent provided in this Section with respect to this Subordinated Note to the payment of Other Obligations that may at the time be outstanding, provided that (i) such Other Obligations are assumed by the new corporation, if any, resulting from any such reorganization or readjustment, and (ii) the rights of the holders of such Other Obligations are not, without the consent of such holders, altered by such reorganization or readjustment. The consolidation of the Bank with, or the merger of the Bank into, another person or the liquidation or dissolution of the Bank following the sale, conveyance, transfer or lease of its property as an entirety, or substantially as an entirety, to another person shall not be deemed a dissolution, winding-up, liquidation or reorganization for the purposes of this Section if such other person shall, as a part of such consolidation, merger, sale, conveyance, transfer or lease, comply with the conditions stated in Section 8.

(d) In order to implement the subordination set forth in this Section 6, the holder of this Subordinated Note by its acceptance hereof will be deemed to have agreed that, should the Superintendent take possession or be in possession of the business and property of the Branch at a time of insolvency or liquidation with respect to the Bank, then the Superintendent will apply any amounts that would be due to such holder in the absence of the subordination provisions set forth above (1) first, to the payment in full of all Other Obligations of the Bank acting through the Branch and to the payment in full of any other claim accorded priority under any U.S. federal or New York state law which is then due and payable, the priorities to be ascribed among such claims to be determined in accordance with such laws, and (2) thereafter shall pay any amount remaining to any receiver, trustee in bankruptcy, liquidating trustee or agent appointed with respect to the Bank or its assets, or other persons making such payment or distribution for application in accordance with Section 6(c).

The holder of this Subordinated Note will also be deemed to have agreed by its acceptance hereof that, should the Superintendent take possession of the business and property of the Branch at any time when there is no insolvency or liquidation with respect to the Bank, the Superintendent shall be authorized to and shall apply the assets of the Branch (1) first, to payment in full of all deposit liabilities and other liabilities of the Branch (other than this Subordinated Note and other liabilities of the Branch which are subordinated within the meaning of Section 10 of the German Banking Act) and to the payment in full of any other claim accorded priority under any U.S. federal or New York state law which is then due and payable, the priorities to be ascribed among such claims to be determined in accordance with such laws, (2) second, to the payment, equally and ratably, of any amounts then due and owing under this Subordinated Note and all

obligations of the Branch ranking *pari passu* in right of payment with this Subordinated Note and (3) thereafter, to pay any amount remaining to the Bank.

If the Superintendent takes possession of the business and property of the Branch under the circumstances described in the preceding sentence prior to the Maturity Date, however, the holder of this Subordinated Note by its acceptance hereof will be deemed to have irrevocably waived any right to payment of any funds otherwise available for payment under and in accordance with the terms of this Subordinated Note until the Maturity Date. Moreover, if either insolvency or liquidation with respect to the Bank is commenced after the Superintendent takes possession of the business and property of the Branch and prior to the Maturity Date, then any funds available for payment of this Subordinated Note on the Maturity Date in accordance with the preceding sentence shall instead be paid to any receiver, trustee in bankruptcy, liquidating trustee or agent appointed with respect to the Bank or its assets, or other person making such payment or distribution with respect to the Bank or its assets for application as provided above. The holder of this Subordinated Note will also be deemed to have agreed by its acceptance hereof irrevocably to have waived its rights as an accepted claims creditor under Section 606.4 of the Banking Law of the State of New York, as amended, and to any preferences to which it may become entitled under Section 4(j) of the International Banking Act of 1978 and under any other similar law hereinafter enacted, to the extent necessary to effectuate such subordination.

(e) Subject to the payment in full of all Other Obligations, the rights of the holder of this Subordinated Note shall be subrogated to the rights of the holders of such Other Obligations to receive payments or distributions of cash, property or securities of the Bank, as the case may be, applicable to such Other Obligations until the principal of and interest and any other amounts payable on this Subordinated Note shall be paid in full; and, for the purposes of such subrogation, no payments or distributions to the holders of such Other Obligations of any cash, property or securities to which the holder of this Subordinated Note would be entitled except for the provisions of this Section 6, and no payment pursuant to the provisions of this Section 6 to or for the benefit of the holders of such Other Obligations by the holder of this Subordinated Note, shall, as between the Bank, its creditors other than holders of Other Obligations of the Bank, and the holder of this Subordinated Note, be deemed to be a payment by the Bank to or on account of such Other Obligations. It is understood that the provisions of this Section 6 are and are intended solely for the purposes of defining the relative rights of the holder of this Subordinated Note, on the one hand, and the holders of such Other Obligations on the other hand.

Nothing contained in this Section 6 or elsewhere in this Subordinated Note is intended to or shall impair, as between the Bank, its creditors other than the holders of Other Obligations, and the holder of this Subordinated Note, the obligation of the Bank, which is absolute and unconditional, to pay to the holder of this Subordinated Note the principal of and interest on this Subordinated Note as and when the same shall become due and payable in accordance with its terms, or is intended to or shall affect the relative rights of the holder of this Subordinated Note and creditors of the Bank, as the case may be, other than the holders of Other Obligations, as the case may be, nor shall anything

herein or therein prevent the holder of this Subordinated Note from exercising all remedies otherwise permitted by applicable law upon default under this Subordinated Note, subject to the rights, if any, under this Section 6 of the holders of such Other Obligations in respect of cash, property or securities of the Bank, as the case may be, received upon the exercise of any such remedy.

(f) The Bank shall give prompt written notice to the LLC of any fact known to the Bank that would prohibit the making of any payment of monies to or by the LLC pursuant to the provisions of this Section 6.

Upon any payment or distribution of assets of the Bank referred to in this Section 6, the holder of this Subordinated Note shall be entitled to rely upon any order or decree entered by any court of competent jurisdiction in which such insolvency, bankruptcy, receivership, liquidation, reorganization, dissolution, winding up or similar case or proceeding is pending, or a certificate of the trustee in bankruptcy, liquidating trustee, custodian, receiver, assignee for the benefit of creditors, agent or other person making such payment or distribution, delivered to the LLC, for the purpose of ascertaining the persons entitled to participate in such payment or distribution, the holders of Other Obligations and other indebtedness of the Bank, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Section 6.

(g) No right of any present or future holder of any Other Obligations to enforce subordination as herein provided shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of the Bank or by any act or failure to act, in good faith, by any such holder, or by any noncompliance by the Bank with the terms, provisions and covenants of this Subordinated Note, regardless of any knowledge thereof that any such holder may have or otherwise be charged with.

Without in any way limiting the generality of this Section 6(g), the holders of Other Obligations may, at any time and from time to time, without the consent of or notice to the LLC, without incurring responsibility to the LLC and without impairing or releasing the subordination provided in this Section 6 or the obligations hereunder of the LLC to the holders of Other Obligations, do any one or more of the following: (i) change the manner, place or terms of payment or extend the time of payment of, or renew or alter, such Other Obligations, or otherwise amend or supplement in any manner such Other Obligations or any instrument evidencing the same or any agreement under which such Other Obligations is outstanding; (ii) sell, exchange, release or otherwise deal with any property pledged, mortgaged or otherwise securing such Other Obligations; (iii) release any person liable in any manner for the collection of such Other Obligations; and (iv) exercise or refrain from exercising any rights against the LLC and any other person.

7. The Bank and the LLC acknowledge that the holders of Partnership Interests and the Trust Certificates are entitled, in the circumstances and subject to the limitations set forth in the Charter and the Declaration, to directly institute legal proceedings against the Borrower under this Subordinated Note.

8. So long as any amount under this Subordinated Note shall remain unpaid, the Bank shall not consolidate with, or merge into, any person or convey or transfer its properties and assets as an entirety to any person unless the successor entity shall expressly assume the obligations of the Borrower under this Subordinated Note if such assumption does not otherwise occur by operation of law.

9. Upon a liquidation of the Branch, the Bank, in accordance with German law, remains fully responsible for all obligations of the Borrower hereunder.

10. This Subordinated Note may be modified or amended only by the written agreement of the Borrower and the LLC; provided, however, that no such modification or amendment shall be effective for so long as any Partnership Interests are outstanding unless the holders of two-thirds of the Partnership Interests by Liquidation Preference voting as a class consent to the terms of such modification or amendment unless (i) the proposed modification or amendment would not materially and adversely affect any of the rights, preferences, powers or privileges of the LLC hereunder, (ii) the LLC has received a letter from each Rating Agency then rating the Partnership Interests or the Trust Certificates, as the case may be, to the effect that such modification or amendment will not result in a downgrading of its respective rating then assigned to the Partnership Interests or the Trust Certificates, as the case may be, and (iii) a majority of the Independent Directors have consented to such modification or amendment.

11. THIS SUBORDINATED NOTE SHALL BE GOVERNED BY AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

12. The Bank hereby submits to the non-exclusive jurisdiction of (a) any Federal District Court sitting in the County of New York, State of New York and (b) any state court sitting in the County of New York, State of New York, and the Bank hereby irrevocably agrees that, at such time, all claims in respect of such action or proceeding may be heard and determined in such Federal District Court sitting in the County of New York, State of New York or state court sitting in the County of New York, State of New York. The Bank hereby agrees to irrevocably waive, at such time, to the fullest extent it may effectively do so, the defense of inconvenient forum to the maintenance of such action or proceeding. The Bank and the LLC hereby acknowledge that, for purposes of this Subordinated Note, the Superintendent of Banks for the State of New York shall act as the agent of the Bank to receive on its behalf service of all process brought against the Bank with respect to any proceeding, any such service being hereby acknowledged by the Bank to be effective and binding service on it in every respect whether or not the Bank shall then be doing business in the State of New York. A copy of such process so served shall, if permitted by law, be sent by registered mail to the Bank and delivered to it at its address as provided to the LLC. If such agent shall cease to act as such, the Bank covenants that it shall appoint without delay another such agent satisfactory to the LLC. Nothing herein shall affect the right to serve process in any other manner permitted by any law or limit the right to institute proceedings against the Bank in the courts of any other jurisdiction or jurisdictions.