

FINANCIAL MARKETS LAW COMMITTEE

ISSUE 56 - EMERGENCY POWERS LEGISLATION

APPENDIX 4B

MATERIALS RELATING TO CONTRACTS

ISDA

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1992 ISDA MASTER AGREEMENT

Section 5. Events of Default and Termination Events.

- (b) (i) **Illegality.** Due to the adoption of, or any change in, any applicable law after the date on which a Transaction is entered into, or due to the promulgation of, or any change in, the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law after such date, it becomes unlawful (other than as a result of a breach by the party of Section 4(b)) for such party (which will be the Affected Party):—
- (A) to perform any absolute or contingent obligation to make a payment or delivery or to receive a payment or delivery in respect of such Transaction or to comply with any other material provision of this Agreement relating to such Transaction; or
- (B) to perform, or for any Credit Support Provider of such party to perform, any contingent or other obligation which the party (or such Credit Support Provider) has under any Credit Support Document relating to such Transaction;

Relevance: Relevant to the extent an emergency results in changes to laws or adoption of new laws.

Section 6. Early Termination.

- (b) **Right to Terminate Following Termination Event.**
- (ii) **Transfer to Avoid Termination Event.** If either an Illegality under Section 5(b)(i)(1) or a Tax Event occurs and there is only one Affected Party, or if a Tax Event Upon Merger occurs and the Burdened Party is the Affected Party, the Affected Party will, as a condition to its right to designate an Early Termination Date under Section 6(b)(iv), use all reasonable efforts (which will not require such party to incur a loss, excluding immaterial, incidental expenses) to transfer within 20 days after it gives notice under Section 6(b)(i) all its rights and obligations under this Agreement in respect of the Affected Transactions to another of its Offices or Affiliates so that such Termination Event ceases to exist.

If the Affected Party is not able to make such a transfer it will give notice to the other party to that effect within such 20 day period, whereupon the other party may effect such a transfer within 30 days after the notice is given under Section 6(b)(i).

Any such transfer by a party under this Section 6(b)(ii) will be subject to and conditional upon the prior written consent of the other party, which consent will not be withheld if such other party's policies in effect at such time would permit it to enter into transactions with the transferee on the terms proposed.

- (iii) **Two Affected Parties.** If an Illegality under Section 5(b)(i)(1) or a Tax Event occurs and there are two Affected Parties, each party will use all reasonable efforts to reach agreement within 30 days after notice thereof is given under Section 6(b)(i) on action to avoid that Termination Event.
- (iv) **Right to Terminate.** If:—

- (A) a transfer under Section 6(b)(ii) or an agreement under Section 6(b)(iii), as the case may be, has not been effected with respect to all Affected Transactions within 30 days after an Affected Party gives notice under Section 6(b)(i); or
- (B) an Illegality under Section 5(b)(i)(2), a Credit Event Upon Merger or an Additional Termination Event occurs, or a Tax Event Upon Merger occurs and the Burdened Party is not the Affected Party,

either party in the case of an Illegality, the Burdened Party in the case of a Tax Event Upon Merger, any Affected Party in the case of a Tax Event or an Additional Termination Event if there is more than one Affected Party, or the party which is not the Affected Party in the case of a Credit Event Upon Merger or an Additional Termination Event if there is only one Affected Party may, by not more than 20 days notice to the other party and provided that the relevant Termination Event is then continuing, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect of all Affected Transactions.

Relevance: With respect to (ii) and (iii), if an emergency results in changes to laws or adoption of new laws which cause the performance of a transaction to be illegal, the parties are required to try and avoid a termination event before they are permitted to designate an Early Termination Date. With respect to (iv), parties may not rely on an illegality which has ceased, or which began more than a prescribed period prior to the relevant notice, to designate an Early Termination Date and an illegality may only result in the termination of affected transactions.

(d) **Calculations.**

- (i) **Statement.** On or as soon as reasonably practicable following the occurrence of an Early Termination Date, each party will make the calculations on its part, if any, contemplated by Section 6(e) and will provide to the other party a statement (1) showing, in reasonable detail, such calculations (including all relevant quotations and specifying any amount payable under Section 6(e)) and (2) giving details of the relevant account to which any amount payable to it is to be paid. In the absence of written confirmation from the source of a quotation obtained in determining a Market Quotation, the records of the party obtaining such quotation will be conclusive evidence of the existence and accuracy of such quotation.

Relevance: Close-out amounts are only required to be calculated as soon as reasonably practicable after the occurrence of an Early Termination Date and therefore a disruption event should not prevent the performance of this provision.

Section 14. Definitions.

"Local Business Day" means, subject to the Schedule, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) (a) in relation to any obligation under Section 2(a)(i), in the place(s) specified in the relevant Confirmation or, if not so specified, as otherwise agreed by the parties in writing or determined pursuant to provisions contained, or incorporated by reference, in this Agreement, (b) in relation to any other payment, in the place where the relevant account is located and, if different, in the principal financial centre, if any, of the currency of such payment, (c) in relation to any notice or other communication, including notice contemplated under Section 5(a)(i), in the city specified in the address for notice provided by the recipient and, in the case of a notice contemplated by Section 2(b), in the place where the relevant new account is to be located and (d) in relation to Section 5(a)(v)(2), in the relevant locations for performance with respect to such Specified Transaction.

Relevance: A grace period of three Local Business Days is deemed to be included for the purposes of determining whether or not a Failure to Pay or Deliver or a Default under Specified Transaction has occurred under Section 5.

A grace period of two Local Business Days is given to parties required to pay termination amounts due to the occurrence of a Termination Event under Section 6(d)(ii). A notice (including a notice designating an Early Termination Date) is required to be delivered on a Local Business Day under Section 12.

2002 ISDA MASTER AGREEMENT

Section 5. Events of Default and Termination Events

- (b) (i) **Illegality.** After giving effect to any applicable provision, disruption fallback or remedy specified in, or pursuant to, the relevant Confirmation or elsewhere in this Agreement, due to an event or circumstance (other than any action taken by a party or, if applicable, any Credit Support Provider of such party) occurring after a Transaction is entered into, it becomes unlawful under any applicable law (including without limitation the laws of any country in which payment, delivery or compliance is required by either party or any Credit Support Provider, as the case may be), on any day, or it would be unlawful if the relevant payment, delivery or compliance were required on that day (in each case, other than as a result of a breach by the party of Section 4(b)):
- (1) for the Office through which such party (which will be the Affected Party) makes and receives payments or deliveries with respect to such Transaction to perform any absolute or contingent obligation to make a payment or delivery in respect of such Transaction, to receive a payment or delivery in respect of such Transaction or to comply with any other material provision of this Agreement relating to such Transaction; or
 - (2) for such party or any Credit Support Provider of such party (which will be the Affected Party) to perform any absolute or contingent obligation to make a payment or delivery which such party or Credit Support Provider has under any Credit Support Document relating to such Transaction, to receive a payment or delivery under such Credit Support Document or to comply with any other material provision of such Credit Support Document;

Relevance: Relevant to the extent an emergency results in changes to laws or adoption of new laws. An Illegality (and its consequential remedies) is only applicable if such Illegality continues in spite of any applicable disruption fallback or remedy. Therefore, parties could in respect of specific Transactions prescribe different fallback provisions to apply in respect of an Illegality.

- (ii) **Force Majeure Event.** After giving effect to any applicable provision, disruption fallback or remedy specified in, or pursuant to, the relevant Confirmation or elsewhere in this Agreement, by reason of force majeure or act of state occurring after a Transaction is entered into, on any day:
- (1) the Office through which such party (which will be the Affected Party) makes and receives payments or deliveries with respect to such Transaction is prevented from performing any absolute or contingent obligation to make a payment or delivery in respect of such Transaction, from receiving a payment or delivery in respect of such Transaction or from complying with any other material provision of this Agreement relating to such Transaction (or would be so prevented if such payment, delivery or compliance were required on that day), or it becomes impossible or impracticable for such Office so to perform, receive or comply (or it would be impossible or impracticable for such Office so to perform, receive or comply if such payment, delivery or compliance were required on that day); or
 - (2) such party or any Credit Support Provider of such party (which will be the Affected Party) is prevented from performing any absolute or contingent obligation to make a

payment or delivery which such party or Credit Support Provider has under any Credit Support Document relating to such Transaction, from receiving a payment or delivery under such Credit Support Document or from complying with any other material provision of such Credit Support Document (or would be so prevented if such payment, delivery or compliance were required on that day), or it becomes impossible or impracticable for such party or Credit Support Provider so to perform, receive or comply (or it would be impossible or impracticable for such party or Credit Support Provider so to perform, receive or comply if such payment, delivery or compliance were required on that day),

so long as the force majeure or act of state is beyond the control of such Office, such party or such Credit Support Provider, as appropriate, and such Office, party or Credit Support Provider could not, after using all reasonable efforts (which will not require such party or Credit Support Provider to incur a loss, other than immaterial, incidental expenses), overcome such prevention, impossibility or impracticability;

Relevance: Relevant to the extent that an emergency can, in and of itself, make performance impossible or impracticable and therefore trigger a Force Majeure Event (and its related remedies), provided that such event continues event after any applicable disruption fallback or remedy has been given effect to. Therefore, parties could in respect of specific Transactions prescribe different fallback provisions to apply in respect of a Force Majeure Event.

- (d) ***Deferral of Payments and Deliveries During Waiting Period.*** If an Illegality or a Force Majeure Event has occurred and is continuing with respect to a Transaction, each payment or delivery which would otherwise be required to be made under that Transaction will be deferred to, and will not be due until:—
- (i) the first Local Business Day or, in the case of a delivery, the first Local Delivery Day (or the first day that would have been a Local Business Day or Local Delivery Day, as appropriate, but for the occurrence of the event or circumstance constituting or giving rise to that Illegality or Force Majeure Event) following the end of any applicable Waiting Period in respect of that Illegality or Force Majeure Event, as the case may be; or
 - (ii) if earlier, the date on which the event or circumstance constituting or giving rise to that Illegality or Force Majeure Event ceases to exist or, if such date is not a Local Business Day or, in the case of a delivery, a Local Delivery Day, the first following day that is a Local Business Day or Local Delivery Day, as appropriate.

Relevance: Neither an Illegality nor a Force Majeure Event constitute a Termination Event unless the Waiting Period has expired. During the Waiting Period, all payment and delivery obligations under Transactions affected by the Illegality or Force Majeure Event are suspended.

- (e) ***Inability of Head or Home Office to Perform Obligations of Branch.*** If (i) an Illegality or a Force Majeure Event occurs under Section 5(b)(i)(1) or 5(b)(ii)(1) and the relevant Office is not the Affected Party's head or home office, (ii) Section 10(a) applies, (iii) the other party seeks performance of the relevant obligation or compliance with the relevant provision by the Affected Party's head or home office and (iv) the Affected Party's head or home office fails so to perform or comply due to the occurrence of an event or circumstance which would, if that head or home office were the Office through which the Affected Party makes and receives payments and deliveries with respect to the relevant Transaction, constitute or give rise to an Illegality or a Force Majeure Event, and such failure would otherwise constitute an Event of Default under Section 5(a)(i) or 5(a)(iii)(1) with respect to such party, then, for so long as the relevant event or circumstance continues to exist with respect to both the Office referred to in Section 5(b)(i)(1) or 5(b)(ii)(1), as the case may be, and the Affected Party's head or home office, such failure will not constitute an Event of Default under Section 5(a)(i) or 5(a)(iii)(1).

Relevance: Where the office which has been affected by the emergency is not the Head Office, the Head Office may (depending on whether Section 10(a) applies) be required to perform the obligations on behalf of the affected office unless it too is affected by the Illegality or Force Majeure Event.

Section 6. Early Termination; Close-out Netting

(b) *Right to Terminate Following Termination Event.*

- (i) **Notice.** If a Termination Event other than a Force Majeure Event occurs, an Affected Party will, promptly upon becoming aware of it, notify the other party, specifying the nature of that Termination Event and each Affected Transaction, and will also give the other party such other information about that Termination Event as the other party may reasonably require. If a Force Majeure Event occurs, each party will, promptly upon becoming aware of it, use all reasonable efforts to notify the other party, specifying the nature of that Force Majeure Event, and will also give the other party such other information about that Force Majeure Event as the other party may reasonably require.

Relevance: The Notice provisions acknowledge that it may not be possible to effect notice where a Force Majeure Event has occurred.

(iv) *Right to Terminate.*

- (2) If at any time an Illegality or a Force Majeure Event has occurred and is then continuing and any applicable Waiting Period has expired:—
- (A) Subject to clause (B) below, either party may, by not more than 20 days notice to the other party, designate (I) a day not earlier than the day on which such notice becomes effective as an Early Termination Date in respect of all Affected Transactions or (II) by specifying in that notice the Affected Transactions in respect of which it is designating the relevant day as an Early Termination Date, a day not earlier than two Local Business Days following the day on which such notice becomes effective as an Early Termination Date in respect of less than all Affected Transactions. Upon receipt of a notice designating an Early Termination Date in respect of less than all Affected Transactions, the other party may, by notice to the designating party, if such notice is effective on or before the day so designated, designate that same day as an Early Termination Date in respect of any or all other Affected Transactions.
- (B) An Affected Party (if the Illegality or Force Majeure Event relates to performance by such party or any Credit Support Provider of such party of an obligation to make any payment or delivery under, or to compliance with any other material provision of, the relevant Credit Support Document) will only have the right to designate an Early Termination Date under Section 6(b)(iv)(2)(A) as a result of an Illegality under Section 5(b)(i)(2) or a Force Majeure Event under Section 5(b)(ii)(2) following the prior designation by the other party of an Early Termination Date, pursuant to Section 6(b)(iv)(2)(A), in respect of less than all Affected Transactions.

Relevance: Rather than imposing an obligation on the Affected Party to transfer all Affected Transactions to another of its Offices or Affiliates, the 2002 ISDA Master Agreement ensures that either party will have the right to terminate the Affected Transactions in the event of an Illegality or Force Majeure Event. Parties are not obliged to

terminate all Affected Transactions in respect of the Illegality or Force Majeure Event, but will instead have the discretion to select the Affected Transactions to be terminated.

(d) **Calculations; Payment Date.**

- (i) **Statement.** On or as soon as reasonably practicable following the occurrence of an Early Termination Date, each party will make the calculations on its part, if any, contemplated by Section 6(e) and will provide to the other party a statement (1) showing, in reasonable detail, such calculations (including any quotations, market data or information from internal sources used in making such calculations), (2) specifying (except where there are two Affected Parties) any Early Termination Amount payable and (3) giving details of the relevant account to which any amount payable to it is to be paid. In the absence of written confirmation from the source of a quotation or market data obtained in determining a Close-out Amount, the records of the party obtaining such quotation or market data will be conclusive evidence of the existence and accuracy of such quotation or market data.

Relevance: Close-out amounts are only required to be calculated as soon as reasonably practicable after the occurrence of an Early Termination Date and therefore a disruption event should not prevent the performance of this provision.

- (e) (iv) **Adjustment for Illegality or Force Majeure Event.** The failure by a party or any Credit Support Provider of such party to pay, when due, any Early Termination Amount will not constitute an Event of Default under Section 5(a)(i) or 5(a)(iii)(1) if such failure is due to the occurrence of an event or circumstance which would, if it occurred with respect to payment, delivery or compliance related to a Transaction, constitute or give rise to an Illegality or a Force Majeure Event. Such amount will (1) accrue interest and otherwise be treated as an Unpaid Amount owing to the other party if subsequently an Early Termination Date results from an Event of Default, a Credit Event Upon Merger or an Additional Termination Event in respect of which all outstanding Transactions are Affected Transactions and (2) otherwise accrue interest in accordance with Section 9(h)(ii)(2).

Relevance: The provisions recognise the possibility that the ability of a party to make a termination payment may be affected by an Illegality or Force Majeure Event.

Section 14. Definitions

"**Local Business Day**" means (a) in relation to any obligation under Section 2(a)(i), a General Business Day in the place or places specified in the relevant Confirmation and a day on which a relevant settlement system is open or operating as specified in the relevant Confirmation or, if a place or a settlement system is not so specified, as otherwise agreed by the parties in writing or determined pursuant to provisions contained, or incorporated by reference, in this Agreement, (b) for the purpose of determining when a Waiting Period expires, a General Business Day in the place where the event or circumstance that constitutes or gives rise to the Illegality or Force Majeure Event, as the case may be, occurs, (c) in relation to any other payment, a General Business Day in the place where the relevant account is located and, if different, in the principal financial centre, if any, of the currency of such payment and, if that currency does not have a single recognised principal financial centre, a day on which the settlement system necessary to accomplish such payment is open, (d) in relation to any notice or other communication, including notice contemplated under Section 5(a)(i), a General Business Day (or a day that would have been a General Business Day but for the occurrence of an event or circumstance which would, if it occurred with respect to payment, delivery or compliance related to a Transaction, constitute or give rise to an Illegality or a Force Majeure Event) in the place specified in the address for notice provided by the recipient and, in the case of a notice contemplated by Section 2(b), in the place where the relevant new account is to be located and (e) in relation to Section 5(a)(v)(2), a General Business Day in the relevant locations for performance with respect to such Specified Transaction.

"**Local Delivery Day**" means, for purposes of Sections 5(a)(i) and 5(d), a day on which settlement systems necessary to accomplish the relevant delivery are generally open for business so that the delivery is capable of being accomplished in accordance with customary market practice, in the place specified in the relevant Confirmation or, if not so specified, in a location as determined in accordance with customary market practice for the relevant delivery.

Relevance: A grace period of one Local Business Day (or Local Delivery Day as applicable) is deemed to be included for the purposes of determining whether or not a Failure to Pay or Deliver or a Default under Specified Transaction has occurred under Section 5. A Waiting Period of three Local Business Days applies in respect of Illegality and a Waiting Period of eight Local Business Days applies in respect of a Force Majeure Event. Payments and deliveries are deferred until the first Local Business Day (or Local Delivery Day as applicable) after the expiry of the relevant Waiting Period in respect of a continuing Illegality or Force Majeure Event. A grace period of two Local Business Days is given to parties required to pay termination amounts due to the occurrence of a Termination Event under Section 6(d)(ii). A notice (including a notice designating an Early Termination Date) is required to be delivered on a Local Business Day under Section 12.

"**Waiting Period**" means:—

- (a) in respect of an event or circumstance under Section 5(b)(i), other than in the case of Section 5(b)(i)(2) where the relevant payment, delivery or compliance is actually required on the relevant day (in which case no Waiting Period will apply), a period of three Local Business Days (or days that would have been Local Business Days but for the occurrence of that event or circumstance) following the occurrence of that event or circumstance; and
- (b) in respect of an event or circumstance under Section 5(b)(ii), other than in the case of Section 5(b)(ii)(2) where the relevant payment, delivery or compliance is actually required on the relevant day (in which case no Waiting Period will apply), a period of eight Local Business Days (or days that would have been Local Business Days but for the occurrence of that event or circumstance) following the occurrence of that event or circumstance.

Relevance: The Waiting Period begins upon the occurrence of the relevant event and not upon the provision of the notice in respect thereof, and the Waiting Period for a Force Majeure Event is longer than for an Illegality.

2000 ISDA DEFINITIONS (AND ANNEX)

Section 1.3. Banking Day. "Banking Day" means, in respect of any city, any day on which commercial banks are open for general business (including dealings in foreign exchange and foreign currency deposits) in that city.

Relevance: Used in the determination of Exercise Business Days and Valuation Business Days (see Section 11.4 and Section 17.2(m) below).

Section 1.4. Business Day. "Business Day" means, in respect of any date that is specified in these 2000 Definitions or in a Confirmation to be subject to adjustment in accordance with any applicable Business Day Convention, a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealings in foreign exchange and foreign currency deposits) in the place(s) and on the days specified for that purpose in the related Confirmation, a TARGET Settlement Day (if "TARGET" or "TARGET Settlement Day" is specified for that purpose in the related Confirmation), a New York Fed Business Day (if "Federal Reserve", "New York Fed" or "New York Fed Business Day" is specified for that purpose in the related Confirmation), a NYSE Business Day (if "New York Stock Exchange", "NYSE" or "NYSE Business Day" is specified for that purpose in the related Confirmation) and, if place(s) and days, or such terms, are not so specified, a day:

- (a) on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealings in foreign exchange and foreign currency deposits) in the same currency as the payment obligation that is payable on or calculated by reference to that date in:
 - (i) the financial center(s) indicated for such currency in Section 1.5 (Financial Centers); and
 - (ii) the financial center(s) indicated for such currency in Section 1.6 (Certain Business Days); and
 - (iii) the principal financial center of such currency, if the currency is other than those currencies specified in Section 1.7 (Currencies); and
- (b) that is a TARGET Settlement Day, if the currency of the payment obligation that is payable on or calculated by reference to that date is the euro; and
- (c) that is a Business Day or TARGET Settlement Day, as the case may be, in respect of each relevant currency, where the payment obligations that are payable on a Payment Date are denominated in different currencies.

Relevance: Payment Dates, Cash Settlement Payment Dates, Exchange Dates, Compounding Dates, Calculation Dates, Mandatory Early Termination Dates, Period End Dates and Reset Dates will be adjusted if they fall on days which are not Business Days.

Section 4.14. Calculation Agent. "Calculation Agent" means the party to a Swap Transaction (or a third party) designated as such for the Swap Transaction and responsible for: (a) calculating the applicable Floating Rate, if any, for each Payment Date or for each Calculation Period or Compounding Period; (b) calculating any Floating Amount payable on each Payment Date or for each Calculation Period; (c) calculating any Fixed Amount payable on each Payment Date or for each Calculation Period; (d) calculating a Currency Amount by reference to a Currency Amount in another currency; (e) giving notice to the parties to the Swap Transaction on the Calculation Date for each Payment Date or for each Calculation Period, specifying (i) the Payment Date, (ii) the party or parties required to make the payment or payments then due, (iii) the amount or amounts of the payment or payments then due and (iv) reasonable details as to how the amount or amounts were determined; (f) if, after notice is given, there is a change in the number of days in the relevant Calculation Period and the amount or amounts of the payment or payments due for that Payment Date or for that Calculation Period, promptly giving

the parties to the Swap Transaction notice of those changes, with reasonable details as to how those changes were determined; (g) determining a Settlement Rate if fewer than three quotations are provided by the Cash Settlement Reference Banks; (h) selecting leading dealers to act as Cash Settlement Reference Banks, if relevant; (i) determining any Cash Settlement Amount, if relevant; and (j) performing any other duties specified in a Confirmation as being duties required to be performed by the Calculation Agent. Whenever the Calculation Agent is required to select banks or dealers for purposes of making any calculation or determination or to select any exchange rate, the Calculation Agent will make the selection in good faith after consultation with the other party (or the parties, if the Calculation Agent is a third party), if practicable, for purposes of obtaining a representative rate that will reasonably reflect conditions prevailing at the time in the relevant market or designating a freely convertible currency, as the case may be. Whenever the Calculation Agent is required to act or to exercise judgment in any other way, it will do so in good faith and in a commercially reasonable manner.

Relevance: In the event of an emergency, it may be difficult to determine "a representative rate that will reasonably reflect conditions prevailing at the time in the relevant market", with the result that the Calculation Agent may have difficulty determining the relevant rates.

Section 11.4. Exercise Business Day. "Exercise Business Day" means any day which is a Banking Day in the place(s) specified for that purpose in the relevant Confirmation and, if place(s) are not so specified, a day which is:

- (a) a Banking Day in respect of the financial center indicated for the currency which is the Cash Settlement Currency in Section 1.5 (Financial Centers);
- (b) a TARGET Settlement Day, if the Cash Settlement Currency is the euro; or
- (c) a Banking Day in respect of the principal financial center for the currency which is the Cash Settlement Currency, if that currency is other than those currencies specified in Section 1.7 (Currencies).

Relevance: In respect of options, Expiration Dates and Bermuda Option Exercise Dates will be adjusted if they fall on days which are not Exercise Business Days.

Section 12.9. Settlement Rate on Automatic or Fallback Exercise. For purposes of Section 12.7 (Automatic Exercise) and Section 12.8 (Fallback Exercise) and determining whether Buyer is in-the-money, and for purposes of Section 17.2(f) (Settlement Rate) where a Swaption is deemed to be exercised pursuant to the provisions of Section 12.7 (Automatic Exercise) or Section 12.8 (Fallback Exercise):

- (a) where Cash Settlement is specified to be applicable to a Swaption, the Settlement Rate will be determined in accordance with the provisions of this Section 12.9(a).
 - (i) Where Seller determines the Settlement Rate at approximately the Expiration Time on the Expiration Date, the Settlement Rate will be the rate determined by Seller on the basis of the par swap rates quoted by the Cash Settlement Reference Banks (which, if institutions are not specified in the related Confirmation, will be five leading dealers selected by Seller in good faith) using the relevant Quotation Rate (or, if a Quotation Rate is not specified in the related Confirmation, using "mid" as the relevant Quotation Rate), as of the Expiration Time on the Expiration Date, for swaps in the currency in which the Relevant Swap Transaction is denominated for a period equivalent to the remaining Term of the Relevant Swap Transaction and with dealers in the relevant market of the highest credit standing which satisfy all the credit criteria which such Cash Settlement Reference Banks apply generally at the time in deciding whether to offer or make an extension of credit. If five quotations are provided as requested, the Settlement Rate will be calculated by eliminating the highest and lowest rates and taking the arithmetic mean of the remaining rates. If at least three, but fewer than five, quotations are

provided, the Settlement Rate will be the arithmetic mean of the quotations. If fewer than three quotations are provided as requested, the Settlement Rate will be determined in accordance with the method set forth in Section 12.9(a)(ii) below.

- (ii) If Seller does not obtain quotes or does not obtain a sufficient number of quotes in accordance with the provisions of Section 12.9(a)(i) above, the Settlement Rate will be the par swap rate for swaps in the currency in which the Relevant Swap Transaction is denominated for a period equivalent to the remaining Term of the Relevant Swap Transaction which appears on the relevant ISDAFIX Page as of the Expiration Time on the Expiration Date. If such rate does not appear on the relevant ISDAFIX Page or an ISDAFIX page is not available for such currency, the Settlement Rate will be determined in accordance with the method set forth in Section 12.9(a)(iii) below.
 - (iii) If a par swap rate for swaps in the currency in which the Relevant Swap Transaction is denominated for a period equivalent to the remaining Term of the Relevant Swap Transaction does not appear on the relevant ISDAFIX Page or an ISDAFIX page is not available for such currency, the Settlement Rate will be the rate determined by Seller on the basis of the par swap rates quoted by the Cash Settlement Reference Banks (which, if institutions are not specified in the related Confirmation, will be five leading dealers selected by Seller in good faith) using the relevant Quotation Rate (or, if a Quotation Rate is not specified in the related Confirmation, using "mid" as the relevant Quotation Rate), as of the Expiration Time on the Expiration Date (if possible) or for the Expiration Date, for swaps in the currency in which the Relevant Swap Transaction is denominated for a period equivalent to the remaining Term of the Relevant Swap Transaction and with dealers in the relevant market of the highest credit standing which satisfy all the credit criteria which such Cash Settlement Reference Banks apply generally at the time in deciding whether to offer or make an extension of credit. If five quotations are provided as requested, the Settlement Rate will be calculated by eliminating the highest and lowest rates and taking the arithmetic mean of the remaining rates. If at least three, but fewer than five, quotations are provided, the Settlement Rate will be the arithmetic mean of the quotations. If fewer than three quotations are provided as requested, the Settlement Rate will be determined by Seller in good faith and in a commercially reasonable manner; and
- (b) where Physical Settlement is specified to be applicable to a Swaption, the Settlement Rate will be calculated in accordance with the provisions of this Section 12.9(b).
- (i) Where Seller determines the Settlement Rate at approximately the Expiration Time on the Expiration Date, the Settlement Rate will be the rate determined by Seller on the basis of the par swap rates quoted by the Cash Settlement Reference Banks (which will be five leading dealers selected by Seller in good faith) using "mid" as the relevant Quotation Rate, as of the Expiration Time on the Expiration Date, for swaps in the currency in which the Relevant Swap Transaction is denominated for a period equivalent to the remaining Term of the Relevant Swap Transaction and with dealers in the relevant market of the highest credit standing which satisfy all the credit criteria which such Cash Settlement Reference Banks apply generally at the time in deciding whether to offer or make an extension of credit. If five quotations are provided as requested, the Settlement Rate will be calculated by eliminating the highest and lowest rates and taking the arithmetic mean of the remaining rates. If at least three, but fewer than five, quotations are provided, the Settlement Rate will be the arithmetic mean of the quotations. If fewer than three quotations are provided as requested, the Settlement Rate will be determined in accordance with the method set forth in Section 12.9(b)(ii) below.
 - (ii) If Seller does not obtain quotes or does not obtain a sufficient number of quotes in accordance with the provisions of Section 12.9(b)(i) above, the Settlement Rate will be the par swap rate for

swaps in the currency in which the Relevant Swap Transaction is denominated for a period equivalent to the remaining Term of the Relevant Swap Transaction which appears on the relevant ISDAFIX Page as of the Expiration Time on the Expiration Date. If such rate does not appear on the relevant ISDAFIX Page or an ISDAFIX page is not available for such currency, the Settlement Rate will be determined in accordance with the method set forth in Section 12.9(b)(iii) below.

- (iii) If a par swap rate for swaps in the currency in which the Relevant Swap Transaction is denominated for a period equivalent to the remaining Term of the Relevant Swap Transaction does not appear on the relevant ISDAFIX Page or an ISDAFIX page is not available for such currency, the Settlement Rate will be the rate determined by Seller on the basis of the par swap rates quoted by the Cash Settlement Reference Banks (which will be five leading dealers selected by Seller in good faith) using "mid" as the relevant Quotation Rate, as of the Expiration Time on the Expiration Date (if possible) or for the Expiration Date, for swaps in the currency in which the Relevant Swap Transaction is denominated for a period equivalent to the remaining Term of the Relevant Swap Transaction and with dealers in the relevant market of the highest credit standing which satisfy all the credit criteria which such Cash Settlement Reference Banks apply generally at the time in deciding whether to offer or make an extension of credit. If five quotations are provided as requested, the Settlement Rate will be calculated by eliminating the highest and lowest rates and taking the arithmetic mean of the remaining rates. If at least three, but fewer than five, quotations are provided, the Settlement Rate will be the arithmetic mean of the quotations. If fewer than three quotations are provided as requested, the Settlement Rate will be determined by Seller in good faith and in a commercially reasonable manner.

Relevance: In the event that an emergency occurs and the relevant quotations are cannot be obtained from the reference banks and the relevant quotes do not appear on the prescribed screens, the Settlement Rate will be determined in the final instance by Seller in good faith and in a commercially reasonable manner.

Section 17.2. Certain Definitions Relating to Cash Settlement.

- (f) **Settlement Rate.** "Settlement Rate" means, in respect of a Swap Transaction and subject to the provisions of Section 12.9 (Settlement Rate on Automatic or Fallback Exercise) and Section 17.6 (Corrections to Published and Displayed Rates for Settlement Rate):
 - (i) if "ISDA Source" is specified in the related Confirmation, the par swap rate for swaps in the currency in which the Relevant Swap Transaction is denominated for a period equivalent to the remaining Term of the Relevant Swap Transaction which appears on the relevant ISDAFIX Page as of the Cash Settlement Valuation Time on the Cash Settlement Valuation Date;
 - (ii) if "Other Price Source" is specified in the related Confirmation, the par swap rate for swaps in the currency in which the Relevant Swap Transaction is denominated for a period equivalent to the remaining Term of the Relevant Swap Transaction which appears in the price source specified for that purpose as of the Cash Settlement Valuation Time on the Cash Settlement Valuation Date and, if appropriate, for the relevant Quotation Rate; or
 - (iii) if a par swap rate for swaps in the currency in which the Relevant Swap Transaction is denominated for a period equivalent to the remaining Term of the Relevant Swap Transaction does not appear on the relevant ISDAFIX Page (or an ISDAFIX page is not available for such currency) (if "ISDA Source" is specified or deemed to be specified) or in the relevant price source (if "Other Price Source" is specified) or if "Reference Banks" is specified in the related Confirmation, the rate will be determined on the basis of the par swap rates quoted by the Cash Settlement Reference Banks using the relevant Quotation Rate, as of the Cash Settlement

Valuation Time on the Cash Settlement Valuation Date, for swaps in the currency in which the Relevant Swap Transaction is denominated for a period equivalent to the remaining Term of the Relevant Swap Transaction and with dealers in the relevant market of the highest credit standing which satisfy all the credit criteria which such Cash Settlement Reference Banks apply generally at the time in deciding whether to offer or make an extension of credit. If five quotations are provided as requested, the Settlement Rate will be calculated by eliminating the highest and lowest rates and taking the arithmetic mean of the remaining rates. If at least three, but fewer than five, quotations are provided, the Settlement Rate will be the arithmetic mean of the quotations. If fewer than three quotations are provided as requested, the Settlement Rate will be determined by the Calculation Agent.

Relevance: In the event that an emergency occurs and the relevant quotations are cannot be obtained from the reference banks and the relevant quotes do not appear on the prescribed screens, the Settlement Rate will be determined in the final instance by the Calculation Agent (see Section 4.14 above).

- (m) **Valuation Business Day.** "Valuation Business Day" means, in respect of a Swap Transaction, any day which is a Banking Day in the place(s) specified for that purpose in the relevant Confirmation and, if place(s) are not so specified, a day:
- (i) which is (A) a Banking Day in respect of the financial center(s) indicated for the currency which is the Cash Settlement Currency in Section 1.5 (Financial Centers), (B) a TARGET Settlement Day, if the Cash Settlement Currency is the euro or (C) a Banking Day in respect of the principal financial center for the Cash Settlement Currency, if the currency is other than those currencies specified in Section 1.7 (Currencies); and
 - (ii) which is a Banking Day in respect of the financial center, if any, referred to in the specified Floating Rate Option; and
 - (iii) which is a TARGET Settlement Day, if the specified Floating Rate Option refers to a TARGET Settlement Day; and
 - (iv) which is a U.S. Government Securities Business Day, if the specified Floating Rate Option refers to a U.S. Government Securities Business Day.

Relevance: In respect of options, Valuation Business Days are used in some instances to determine the Cash Settlement Valuation Date.

Section 17.3. Cash Settlement Methods.

- (a) **Cash Price.** If "Cash Price" is specified in the related Confirmation to be the Cash Settlement Method applicable to an Option Transaction or Swap Transaction to which Mandatory Early Termination is applicable, the Cash Settlement Amount will be an amount determined with respect to the Relevant Swap Transaction as of the Cash Settlement Valuation Time on the Cash Settlement Valuation Date as the amount which would be payable in accordance with the provisions of Section 6(e)(ii) of the ISDA Master Agreement, the necessary changes being made, as though (i) the Relevant Swap Transaction were a Terminated Transaction, (ii) the Cash Settlement Payment Date, Optional Early Termination Date or Mandatory Early Termination Date, as the case may be, were an Early Termination Date, (iii) the Cash Settlement Reference Banks were the Reference Market-makers and (iv) the Cash Settlement Currency were the Termination Currency, and Market Quotation will be deemed to apply for purposes of determining any payment to be made in respect of the Relevant Swap Transaction. Notwithstanding the provisions of Section 6(e) of the ISDA Master Agreement, the Calculation Agent will determine the Cash Settlement Amount on the basis of quotations from the Cash Settlement Reference Banks. The

Calculation Agent will ask each Cash Settlement Reference Bank to provide a quotation using the Quotation Rate specified in the related Confirmation. In providing quotations, the Cash Settlement Reference Banks will be asked to assume that the party requesting the quotations is a dealer in the relevant market of the highest credit standing which satisfies all the credit criteria which such Cash Settlement Reference Banks apply generally at the time in deciding whether to offer or make an extension of credit, and no account will be taken of any existing Credit Support Document. Notwithstanding the provisions of Section 6(e) of the ISDA Master Agreement, if fewer than three quotations are provided, the Cash Settlement Amount will be determined by the Calculation Agent.

Relevance: In the event that an emergency occurs and quotations cannot be obtained from the reference banks, the Cash Settlement Amount will be determined in the final instance by the Calculation Agent (see Section 4.14 above).

- (b) **Cash Price - Alternate Method.** If "Cash Price - Alternate Method" is specified in the related Confirmation to be the Cash Settlement Method applicable to an Option Transaction or Swap Transaction to which Mandatory Early Termination is applicable, the Cash Settlement Amount will be an amount determined with respect to the Relevant Swap Transaction as of the Cash Settlement Valuation Time on the Cash Settlement Valuation Date as the amount which would be payable in accordance with the provisions of Section 6(e)(ii)(2) of the ISDA Master Agreement, the necessary changes being made, as though (i) the Relevant Swap Transaction were a Terminated Transaction, (ii) the Cash Settlement Payment Date, Optional Early Termination Date or Mandatory Early Termination Date, as the case may be, were an Early Termination Date, (iii) the Cash Settlement Reference Banks were the Reference Market-makers and (iv) the Cash Settlement Currency were the Termination Currency, and Market Quotation will be deemed to apply for purposes of determining any payment to be made in respect of the Relevant Swap Transaction. Notwithstanding the provisions of Section 6(e) of the ISDA Master Agreement, each party will ask each Cash Settlement Reference Bank to provide a quotation using the Quotation Rate specified in the related Confirmation. In providing quotations, the Cash Settlement Reference Banks will be asked to assume that the party requesting the quotations is a dealer in the relevant market of the highest credit standing which satisfies all the credit criteria which such Cash Settlement Reference Banks apply generally at the time in deciding whether to offer or make an extension of credit, and no account will be taken of any existing Credit Support Document. Notwithstanding the provisions of Section 6(e) of the ISDA Master Agreement, if fewer than three quotations are provided to either party, the Cash Settlement Amount will be the average of the amounts determined by each of the parties in good faith and in a commercially reasonable manner.

Relevance: In the event that an emergency occurs and quotations cannot be obtained from the reference banks, the Cash Settlement Amount will in the final instance be the average of the amounts determined by each of the parties in good faith and in a commercially reasonable manner.

Annex to the 2000 ISDA Definitions

Section 7.1. Rate Options. For purposes of determining a Relevant Rate:

- (e) **Euro.**
- (i) "EUR-EURIBOR-Telerate" means that the rate for a Reset Date will be the rate for deposits in euros for a period of the Designated Maturity which appears on the Telerate Page 248 as of 11:00 a.m., Brussels time, on the day that is two TARGET Settlement Days preceding that Reset Date. If such rate does not appear on the Telerate Page 248, the rate for that Reset Date will be

determined as if the parties had specified "EUR-EURIBOR-Reference Banks" as the applicable Floating Rate Option.

- (ii) "EUR-EURIBOR-Act/365" means that the rate for a Reset Date will be the rate for deposits in euros for a period of the Designated Maturity which appears on the Telerate Page 249 as of 11:00 a.m., Brussels time, on the day that is two TARGET Settlement Days preceding that Reset Date. If such rate does not appear on the Telerate Page 249, the rate for that Reset Date will be determined as if the parties had specified "EUR-EURIBOR-Reference Banks" as the applicable Floating Rate Option.
- (iii) "EUR-EURIBOR-Reference Banks" means that the rate for a Reset Date will be determined on the basis of the rates at which deposits in euros are offered by the Reference Banks at approximately 11:00 a.m., Brussels time, on the day that is two TARGET Settlement Days preceding that Reset Date to prime banks in the Euro-zone interbank market for a period of the Designated Maturity commencing on that Reset Date and in a Representative Amount (A) in the case of "EUR-EURIBOR-Telerate", assuming an Actual/360 day count basis, or (B) in the case of "EUR-EURIBOR-Act/365", assuming an Actual/365 (Fixed) day count basis. The Calculation Agent will request the principal Euro-zone office of each of the Reference Banks to provide a quotation of its rate. If at least two quotations are provided, the rate for that Reset Date will be the arithmetic mean of the quotations. If fewer than two quotations are provided as requested, the rate for that Reset Date will be the arithmetic mean of the rates quoted by major banks in the Euro-zone, selected by the Calculation Agent, at approximately 11:00 a.m., Brussels time, on that Reset Date for loans in euros to leading European banks for a period of the Designated Maturity commencing on that Reset Date and in a Representative Amount.
- (iv) "EUR-LIBOR-BBA" means that the rate for a Reset Date will be the rate for deposits in euros for a period of the Designated Maturity which appears on the Telerate Page 3750 as of 11:00 a.m., London time, on the day that is two TARGET Settlement Days preceding that Reset Date. If such rate does not appear on the Telerate Page 3750, the rate for that Reset Date will be determined as if the parties had specified "EUR-LIBOR-Reference Banks" as the applicable Floating Rate Option.
- (v) "EUR-LIBOR-Reference Banks" means that the rate for a Reset Date will be determined on the basis of the rates at which deposits in euros are offered by the Reference Banks at approximately 11:00 a.m., London time, on the day that is two TARGET Settlement Days preceding that Reset Date to prime banks in the London interbank market for a period of the Designated Maturity commencing on that Reset Date and in a Representative Amount. The Calculation Agent will request the principal London office of each of the Reference Banks to provide a quotation of its rate. If at least two quotations are provided, the rate for that Reset Date will be the arithmetic mean of the quotations. If fewer than two quotations are provided as requested, the rate for that Reset Date will be the arithmetic mean of the rates quoted by major banks in London, selected by the Calculation Agent, at approximately 11:00 a.m., London time, on that Reset Date for loans in euros to leading European banks for a period of the Designated Maturity commencing on that Reset Date and in a Representative Amount.

Relevance: In respect of Rate Options, as the Euro example above indicates, for most cases, where a rate cannot be determined for any reason, the fallback provision for such rate is the arithmetic mean of the rates quoted by major banks selected by the Calculation Agent. However, some other fallback provisions include: (i) a rate determined by the Calculation Agent having regard to comparable indices then available (AUD-BBR-BBSW); (ii) a rate published by a relevant central bank or governmental body (HUF-BUBOR-Reference Banks; USD-CMT-T7051); and (iii) a rate determined by the Calculation Agent using a representative rate (ZAR-JIBAR-Reference Banks).

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Section 1.29. Exchange Business Day. "Exchange Business Day" means any Scheduled Trading Day on which each Exchange and each Related Exchange are open for trading during their respective regular trading sessions, notwithstanding any such Exchange or Related Exchange closing prior to its Scheduled Closing Time.

Relevance: Prepayment Dates and Exchange Dates which fall on days which are not Exchange Business Days (and Currency Business Days) are adjusted.

Section 1.31. Scheduled Trading Day. "Scheduled Trading Day" means any day on which each Exchange and each Related Exchange are scheduled to be open for trading for their respective regular trading sessions.

Relevance: Options are only exercisable on Scheduled Trading Days. Knock-in Determination Days and Knock-out Determination Days by definition fall on Scheduled Trading Days.

Section 1.32. Currency Business Day. "Currency Business Day" means any day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) in the principal financial center for the relevant currency. In respect of any Transaction in which the Settlement Currency is the euro, any day on which the Trans-European Automated Real-time Gross settlement Express Transfer (TARGET) system is open shall be a Currency Business Day.

Relevance: Prepayment Dates, Cash Settlement Payment Dates, Dividend Payment Dates, Exchange Dates which fall on days which are not Currency Business Days are adjusted.

Section 1.36. Clearance System Business Day. "Clearance System Business Day" means, in respect of a Clearance System, any day on which such Clearance System is (or, but for the occurrence of a Settlement Disruption Event, would have been) open for the acceptance and execution of settlement instructions.

Relevance: Settlement Dates which fall on days which are not Clearance System Business Days are adjusted. Dividend Periods are calculated by reference to Clearance System Business Days.

Section 1.48. Knock-in Determination Day. "Knock-in Determination Day" means, in respect of a Transaction for which a Knock-in Event is specified as being applicable, each Scheduled Trading Day specified as such in the related Confirmation, unless such day is a Disrupted Day due to the occurrence of an event giving rise to a Disrupted Day prior to the Knock-in Valuation Time on such day. If such day is a Disrupted Day due to the occurrence of such an event, then the Knock-in Determination Day shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day, unless each of the eight Scheduled Trading Days immediately following the original date that, but for the occurrence of a Disrupted Day, would have been the Knock-in Determination Day is a Disrupted Day. In that case, that eighth Scheduled Trading Day shall be deemed to be the Knock-in Determination Day, notwithstanding the fact that such day is a Disrupted Day, and the Calculation Agent shall determine the level, price or amount of the Knock-in Reference Security in the same manner that it would determine a level, price or amount of an Index, Share or Basket on a deemed Valuation Date that is also a Disrupted Day in accordance with the provisions of Section 6.6(a)(ii), (b) or (c), as the case may be. In the event that the related Confirmation does not specify any Knock-in Determination Days, each Scheduled Trading Day from and including the Trade Date to and including the final Valuation Date, the Expiration Date or, if there is no such Valuation Date or Expiration Date, the date that is one Settlement Cycle prior to the final Settlement Date in relation to the Transaction (adjusted, if applicable, as provided in Sections 3.1(f) and 6.6) shall be deemed to be Knock-in Determination Days in relation to the Transaction.

Section 1.49. Knock-out Determination Day. "Knock-out Determination Day" means, in respect of a Transaction for which a Knock-out Event is specified as being applicable, each Scheduled Trading Day specified

as such in the related Confirmation, unless such day is a Disrupted Day due to the occurrence of an event giving rise to a Disrupted Day prior to the Knock-out Valuation Time on such day. If such day is a Disrupted Day due to the occurrence of such an event, then the Knock-out Determination Day shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day, unless each of the eight Scheduled Trading Days immediately following the original date that, but for the occurrence of a Disrupted Day, would have been the Knock-out Determination Day is a Disrupted Day. In that case, that eighth Scheduled Trading Day shall be deemed to be the Knock-out Determination Day, notwithstanding the fact that such day is a Disrupted Day, and the Calculation Agent shall determine the level, price or amount of the Knock-out Reference Security in the same manner that it would determine a level, price or amount of an Index, Share or Basket on a deemed Valuation Date that is a Disrupted Day in accordance with the provisions of Section 6.6(a)(ii), (b) or (c), as the case may be. In the event that the related Confirmation does not specify any Knock-out Determination Days, each Scheduled Trading Day from and including the Trade Date to and including the final Valuation Date the Expiration Date or, if there is no such Valuation Date or Expiration Date, the date that is one Settlement Cycle prior to the final Settlement Date in relation to the Transaction (adjusted, if applicable, as provided in Sections 3.1(f) and 6.6) shall be deemed to be Knock-out Determination Days in relation to the Transaction.

Relevance: In the event of a disruption, Knock-in Determination Days and Knock-out Determination Days will be determined in accordance with Section 6.6(a)(ii), (b) or (c), which ultimately relies upon the good faith estimate of the Calculation Agent.

Section 6.3. General Terms Relating to Market Disruption Events.

- (a) **Market Disruption Event.** "Market Disruption Event" means in respect of a Share or an Index, the occurrence or existence of (i) a Trading Disruption, (ii) an Exchange Disruption, which in either case the Calculation Agent determines is material, at any time during the one hour period that ends at the relevant Valuation Time, Latest Exercise Time, Knock-in Valuation Time or Knock-out Valuation Time, as the case may be, or (iii) an Early Closure. For the purposes of determining whether a Market Disruption Event in respect of an Index exists at any time, if a Market Disruption Event occurs in respect of a security included in the Index at any time, then the relevant percentage contribution of that security to the level of the Index shall be based on a comparison of (x) the portion of the level of the Index attributable to that security and (y) the overall level of the Index, in each case immediately before the occurrence of such Market Disruption Event.
- (b) **Trading Disruption.** "Trading Disruption" means any suspension of or limitation imposed on trading by the relevant Exchange or Related Exchange or otherwise and whether by reason of movements in price exceeding limits permitted by the relevant Exchange or Related Exchange or otherwise (i) relating to the Share on the Exchange (or in the case of an Index Transaction or Index Basket Transaction on any relevant Exchange(s) relating to securities that comprise 20 percent or more of the level of the relevant Index), or (ii) in futures or options contracts relating to the Share or the relevant Index on any relevant Related Exchange.
- (c) **Exchange Disruption.** "Exchange Disruption" means any event (other than an Early Closure) that disrupts or impairs (as determined by the Calculation Agent) the ability of market participants in general (i) to effect transactions in, or obtain market values for, the Shares on the Exchange (or in the case of an Index Transaction or Index Basket Transaction, on any relevant Exchange(s) in securities that comprise 20 percent or more of the level of the relevant Index), or (ii) to effect transactions in, or obtain market values for, futures or options contracts relating to the Share or the relevant Index on any relevant Related Exchange.
- (d) **Early Closure.** "Early Closure" means the closure on any Exchange Business Day of the relevant Exchange (or in the case of an Index Transaction or Index Basket Transaction, any relevant Exchange(s) relating to securities that comprise 20 percent or more of the level of the relevant Index) or any Related Exchange(s) prior to its Scheduled Closing Time unless such earlier closing time is announced by such Exchange(s) or Related Exchange(s) at least one hour prior to the earlier of (i) the actual closing time for the regular trading session on such Exchange(s) or Related Exchange(s) on such Exchange Business Day and (ii) the submission deadline for

orders to be entered into the Exchange or Related Exchange system for execution at the Valuation Time on such Exchange Business Day.

Relevance: There are three possible categories of Market Disruption Events, i.e. a disruption affecting trading of particular securities on an exchange, the early closure of an exchange and a disruption affecting the conclusion of transactions. Only the last of these is subject to a determination of materiality by the Calculation Agent.

Section 6.4. Disrupted Day. "Disrupted Day" means any Scheduled Trading Day on which a relevant Exchange or any Related Exchange fails to open for trading during its regular trading session or on which a Market Disruption Event has occurred. The Calculation Agent shall as soon as reasonably practicable under the circumstances notify the parties or other party, as the case may be, of the occurrence of a Disrupted Day on any day that, but for the occurrence of a Disrupted Day, would have been an Averaging Date, a Valuation Date, a Potential Exercise Date, a Knock-in Determination Day, a Knock-out Determination Day or an Expiration Date. Without limiting the obligation of the Calculation Agent to notify the parties as set forth in the preceding sentence, failure by the Calculation Agent to notify the parties of the occurrence of a Disrupted Day shall not affect the validity of the occurrence and effect of such Disrupted Day on any Transaction.

Relevance: A failure of a relevant Exchange to open will result in a Disrupted Day even if no Market Disruption Event has occurred. A day can still be considered to be a Disrupted Day even if the Calculation Agent does not notify the parties of this fact.

Section 6.5. Scheduled Valuation Date. "Scheduled Valuation Date" means any original date that, but for the occurrence of an event causing a Disrupted Day, would have been a Valuation Date (ignoring for the purposes of this Section 6.5 any postponement of the Potential Exercise Date or Expiration Date as a result of the occurrence of a Disrupted Day and assuming that the original Potential Exercise Date or original Expiration Date, as the case may be, would have been a Valuation Date).

Relevance: Scheduled Valuation Dates are defined regardless of whether or not a disruption prevents an actual valuation.

Section 6.6. Consequences of Disrupted Days. If any Valuation Date is a Disrupted Day, then:

- (a) in the case of an Index Transaction or Share Transaction, the Valuation Date shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day, unless each of the eight Scheduled Trading Days immediately following the Scheduled Valuation Date is a Disrupted Day. In that case, (i) that eighth Scheduled Trading Day shall be deemed to be the Valuation Date, notwithstanding the fact that such day is a Disrupted Day, and (ii) the Calculation Agent shall determine:
 - (A) in respect of an Index Transaction, the level of the Index as of the Valuation Time on that eighth Scheduled Trading Day in accordance with the formula for and method of calculating the Index last in effect prior to the occurrence of the first Disrupted Day using the Exchange traded or quoted price as of the Valuation Time on that eighth Scheduled Trading Day of each security comprised in the Index (or, if an event giving rise to a Disrupted Day has occurred in respect of the relevant security on that eighth Scheduled Trading Day, its good faith estimate of the value for the relevant security as of the Valuation Time on that eighth Scheduled Trading Day); and
 - (B) in respect of a Share Transaction, its good faith estimate of the value for the Share as of the Valuation Time on that eighth Scheduled Trading Day;
- (b) in the case of an Index Basket Transaction, the Valuation Date for each Index not affected by the occurrence of a Disrupted Day shall be the Scheduled Valuation Date, and the Valuation Date for each Index affected by the occurrence of a Disrupted Day shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day relating to that Index, unless each of the eight Scheduled Trading Days

immediately following the Scheduled Valuation Date is a Disrupted Day relating to that Index. In that case, (i) that eighth Scheduled Trading Day shall be deemed to be the Valuation Date for the relevant Index, notwithstanding the fact that such day is a Disrupted Day, and (ii) the Calculation Agent shall determine the level of that Index as of the Valuation Time on that eighth Scheduled Trading Day in accordance with the formula for and method of calculating that Index last in effect prior to the occurrence of the first Disrupted Day using the Exchange traded or quoted price as of the Valuation Time on that eighth Scheduled Trading Day of each security comprised in that Index (or, if an event giving rise to a Disrupted Day has occurred in respect of the relevant security on that eighth Scheduled Trading Day, its good faith estimate of the value for the relevant security as of the Valuation Time on that eighth Scheduled Trading Day); and

- (c) in the case of a Share Basket Transaction, the Valuation Date for each Share not affected by the occurrence of a Disrupted Day shall be the Scheduled Valuation Date, and the Valuation Date for each Share affected by the occurrence of a Disrupted Day shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day relating to that Share, unless each of the eight Scheduled Trading Days immediately following the Scheduled Valuation Date is a Disrupted Day relating to that Share. In that case, (i) that eighth Scheduled Trading Day shall be deemed to be the Valuation Date for the relevant Share, notwithstanding the fact that such day is a Disrupted Day, and (ii) the Calculation Agent shall determine its good faith estimate of the value for that Share as of the Valuation Time on that eighth Scheduled Trading Day.

Relevance: The consequences of a Disrupted Day are such that in the event of an emergency, parties are likely to have to rely on the good faith estimate of the Calculation Agent for relevant valuations etc.

Section 6.7. Averaging. If Averaging Dates are specified in the related Confirmation, then notwithstanding any other provisions of these Definitions, the following provisions will apply to the valuation of the relevant Index, Share or Basket in respect of a Valuation Date:

- (c) **Averaging Date Disruption.** If any Averaging Date is a Disrupted Day, then, if under "Averaging Date Disruption" the consequence specified in the related Confirmation is:
- (i) "Omission", then such Averaging Date will be deemed not to be a relevant Averaging Date for purposes of determining the relevant Settlement Price or Final Price. If through the operation of this provision no Averaging Date would occur with respect to the relevant Valuation Date, then Section 6.6 will apply for purposes of determining the relevant level, price or amount on the final Averaging Date in respect of that Valuation Date as if such final Averaging Date were a Valuation Date that was a Disrupted Day;
 - (ii) "Postponement", then Section 6.6 will apply for purposes of determining the relevant level, price or amount on that Averaging Date as if such Averaging Date were a Valuation Date that was a Disrupted Day irrespective of whether, pursuant to such determination, that deferred Averaging Date would fall on a date that already is or is deemed to be an Averaging Date for the Transaction; or
 - (iii) "Modified Postponement", then:
 - (A) in the case of an Index Transaction or a Share Transaction, the Averaging Date shall be the first succeeding Valid Date. If the first succeeding Valid Date has not occurred as of the Valuation Time on the eighth Scheduled Trading Day immediately following the original date that, but for the occurrence of another Averaging Date or Disrupted Day, would have been the final Averaging Date in respect of the relevant Scheduled Valuation Date, then (1) that eighth Scheduled Trading Day shall be deemed the Averaging Date

(irrespective of whether that eighth Scheduled Trading Day is already an Averaging Date), and (2) the Calculation Agent shall determine the relevant level or price for that Averaging Date in accordance with Section 6.6;

- (B) in the case of an Index Basket Transaction or a Share Basket Transaction, the Averaging Date for each Index or Share not affected by the occurrence of a Disrupted Day shall be the date specified in the Confirmation as an Averaging Date in respect of the relevant Valuation Date and the Averaging Date for an Index or Share affected by the occurrence of a Disrupted Day shall be the first succeeding Valid Date in relation to such Index or Share. If the first succeeding Valid Date in respect of such Index or Share has not occurred as of the Valuation Time on the eighth Scheduled Trading Day immediately following the original date that, but for the occurrence of another Averaging Date or Disrupted Day, would have been the final Averaging Date in relation to the relevant Scheduled Valuation Date, then (1) that eighth Scheduled Trading Day shall be deemed to be the Averaging Date (irrespective of whether that eighth Scheduled Trading Day is already an Averaging Date) in respect of such Index or Share, and (2) the Calculation Agent shall determine the relevant level, price or amount for that Averaging Date in accordance with Section 6.6; and
- (C) "Valid Date" shall mean a Scheduled Trading Day that is not a Disrupted Day and on which another Averaging Date in respect of the relevant Valuation Date does not or is not deemed to occur.

Relevance: The Average Date Disruption consequences incorporate Section 6.6 and therefore parties are also likely to have to rely on the good faith estimate of the Calculation Agent for relevant determinations.

Section 6.8. Futures Price Valuation. If "Futures Price Valuation" is specified as applicable in respect of an Index in the related Confirmation of an Index Transaction, then notwithstanding any other provisions of these Definitions the following provisions will apply to the valuation of that Index on a Valuation Date:

- (e) **Non-Commencement or Discontinuance of the Exchange-traded Contract.** If there is no Official Settlement Price as a result of the fact that trading in the Exchange-traded Contract never commences or is permanently discontinued at any time on or prior to a Valuation Date, the Official Settlement Price for that Valuation Date shall be deemed to be the level of the relevant Index at the close of the regular trading session on the relevant Exchange on the Valuation Date. If this Section 6.8(e) applies, then the Expiration Date, in respect of an Option Transaction, or the relevant Valuation Date, in respect of a Forward Transaction or an Equity Swap Transaction, shall mean the date that, but for the non-commencement or permanent discontinuance of the Exchange-traded Contract, would have been the date of publishing the relevant Official Settlement Price unless such day is a Disrupted Day, in which case the provisions of Sections 3.1(f) or 6.6, as applicable, will apply.

Relevance: If there is a disruption that results in there being no Official Settlement Price, the price will be determined by looking at the level of the relevant Index, failing which, Section 6.6 would apply, ultimately relying on the good faith estimate of the Calculation Agent.

Section 9.4. Settlement Date. "Settlement Date" means (a) in respect of Shares to be delivered in respect of an Exercise Date under an Option Transaction, the date that falls one Settlement Cycle following that Exercise Date (or, if such date is not a Clearance System Business Day, the next following Clearance System Business Day), and (b) in respect of Shares to be delivered under a Forward Transaction or an Equity Swap Transaction, the date specified as such in the related Confirmation or if none is specified, the date that falls one Settlement Cycle

following the Valuation Date (or, if such date is not a Clearance System Business Day, the next following Clearance System Business Day), in each case unless a Settlement Disruption Event prevents delivery of such Shares on that date. If a Settlement Disruption Event does prevent delivery on that date, then the Settlement Date will be the first succeeding date on which delivery of the Shares can take place through the relevant Clearance System unless a Settlement Disruption Event prevents settlement on each of the eight relevant Clearance System Business Days immediately following the original date that, but for the Settlement Disruption Event, would have been the Settlement Date. In that case, (x) if such Shares can be delivered in any other commercially reasonable manner, then the Settlement Date will be the first date on which settlement of a sale of Shares executed on that eighth relevant Clearance System Business Day customarily would take place using such other commercially reasonable manner of delivery (which other manner of delivery will be deemed the relevant Clearance System for the purposes of delivery of the relevant Shares), and (y) if such Shares cannot be delivered in any other commercially reasonable manner, then the Settlement Date will be postponed until delivery can be effected through the relevant Clearance System or in any other commercially reasonable manner. In the case of a Share Basket Transaction, if as a result of a Settlement Disruption Event some but not all of the Shares comprised in a Basket are affected, the Settlement Date for Shares not affected by the Settlement Disruption Event will be the original Settlement Date and the Settlement Date for the Shares that are affected by the Settlement Disruption Event shall be determined as provided above. In the event that a Settlement Disruption Event will result in the delivery on a Settlement Date of some but not all of the Shares comprised in a Basket, the Calculation Agent shall determine in its discretion the appropriate pro rata portion of the amount payable to be paid by the relevant party in respect of that partial settlement.

Relevance: In the event of a disruption, commercially reasonable methods of delivery will be acceptable.

Section 9.8. Settlement Disruption Event. "Settlement Disruption Event" means, in respect of a Share, an event beyond the control of the parties as a result of which the relevant Clearance System cannot clear the transfer of such Share.

Section 12.1. General Provisions Relating to Extraordinary Events.

(a) "Extraordinary Event" means a Merger Event, Tender Offer, Index Adjustment Event, Nationalization, Insolvency, Delisting or any applicable Additional Disruption Event, as the case may be.

Section 12.6. Nationalization, Insolvency and Delisting.

(a) The following terms have the meanings given below:

- (i) "Nationalization" means that all the Shares or all or substantially all the assets of an Issuer are nationalized, expropriated or are otherwise required to be transferred to any governmental agency, authority, entity or instrumentality thereof;
- (ii) "Insolvency" means that by reason of the voluntary or involuntary liquidation, bankruptcy, insolvency, dissolution or winding-up of or any analogous proceeding affecting an Issuer, (A) all the Shares of that Issuer are required to be transferred to a trustee, liquidator or other similar official or (B) holders of the Shares of that Issuer become legally prohibited from transferring them; and
- (iii) "Delisting" means that the Exchange announces that pursuant to the rules of such Exchange, the Shares cease (or will cease) to be listed, traded or publicly quoted on the Exchange for any reason (other than a Merger Event or Tender Offer) and are not immediately re-listed, re-traded or re-quoted on an exchange or quotation system located in the same country as the Exchange

(or, where the Exchange is within the European Union, in any member state of the European Union).

- (b) Either party will, upon becoming aware of the occurrence of a Nationalization, Insolvency or Delisting, promptly notify the other party of such event.
- (c) For the purpose of determining the consequence of any Nationalization, Insolvency or Delisting:
 - (i) "Negotiated Close-out" means that the parties may, but are not obliged, to terminate the Transaction on mutually acceptable terms and if the parties do not agree to terminate the Transaction, then it continues on the terms and subject to the conditions then in effect, provided, that any Physically-settled Transaction will, at the election of either party, become a Transaction to which Cash Settlement is applicable, except that if a Scheduled Valuation Date is a Disrupted Day, the Calculation Agent will ignore the provisions of Section 6.6 relating to Disrupted Days and will instead determine its good faith estimate of the Settlement Price or Final Price as of the Valuation Time on that Valuation Date;
 - (ii) "Cancellation and Payment" means that the Transaction will be cancelled as of the Announcement Date and (A) in the case of an Option Transaction, Seller will pay to Buyer the amount calculated in accordance with Section 12.7(b), and (B) in the case of a Forward Transaction or an Equity Swap Transaction, an amount calculated in accordance with Section 12.7(c) will be paid by one party to the other; and
 - (iii) "Partial Cancellation and Payment" means that in respect of a Share Basket Transaction, that portion of the Share Basket Transaction represented by Affected Shares will be cancelled as of the Announcement Date, the amount calculated in accordance with Section 12.7 in respect of such Affected Shares, will be paid by one party to the other, the remainder of the Share Basket Transaction will continue with the Basket comprising Shares that are not Affected Shares, and the Calculation Agent will adjust any relevant terms if necessary to preserve as nearly as practicable the economic terms of the Transaction for the remaining Shares.

Relevance: An emergency may result in the occurrence of an Extraordinary Event but these are treated differently from Market Disruption Events, the consequences being more varied and not relying upon Section 6.6.

Section 12.9. Additional Disruption Events.

- (a) Each of the following terms shall have the meaning set forth below:
 - (i) "Additional Disruption Event" means any of the events set forth in paragraphs (ii) through (viii) below;
 - (ii) "Change in Law" means that, on or after the Trade Date of any Transaction (A) due to the adoption of or any change in any applicable law or regulation (including, without limitation, any tax law), or (B) due to the promulgation of or any change in the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law or regulation (including any action taken by a taxing authority), a party to such Transaction determines in good faith that (X) it has become illegal to hold, acquire or dispose of Shares relating to such Transaction, or (Y) it will incur a materially increased cost in performing its obligations under such Transaction (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on its tax position);

- (iii) "Failure to Deliver" means the failure of a party to deliver, when due, the relevant Shares under that Transaction, where such failure to deliver is due to illiquidity in the market for such Shares;
- (iv) "Insolvency Filing" means that the Issuer institutes or has instituted against it by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organization or the jurisdiction of its head or home office, or it consents to a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official or it consents to such a petition, provided that proceedings instituted or petitions presented by creditors and not consented to by the Issuer shall not be deemed an Insolvency Filing;
- (v) "Hedging Disruption" means that the Hedging Party is unable, after using commercially reasonable efforts, to (A) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the equity price risk of entering into and performing its obligations with respect to the relevant Transaction, or (B) realize, recover or remit the proceeds of any such transaction(s) or asset(s);
- (vi) "Increased Cost of Hedging" means that the Hedging Party would incur a materially increased (as compared with circumstances existing on the Trade Date) amount of tax, duty, expense or fee (other than brokerage commissions) to (A) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the equity price risk of entering into and performing its obligations with respect to the relevant Transaction, or (B) realize, recover or remit the proceeds of any such transaction(s) or asset(s), provided that any such materially increased amount that is incurred solely due to the deterioration of the creditworthiness of the Hedging Party shall not be deemed an Increased Cost of Hedging;
- (vii) "Loss of Stock Borrow" means that the Hedging Party is unable, after using commercially reasonable efforts, to borrow (or maintain a borrowing of) Shares with respect to such Transaction in an amount equal to the Hedging Shares (not to exceed the number of Shares underlying the Transaction) at a rate equal to or less than the Maximum Stock Loan Rate;
- (viii) "Increased Cost of Stock Borrow" means that the Hedging Party would incur a rate to borrow Shares in respect of such Transaction that is greater than the Initial Stock Loan Rate;
- (ix) "Hedging Party" means the party specified in the related Confirmation as the Hedging Party or, if no Hedging Party is specified, either party to the Transaction;
- (x) "Hedging Shares" means the number of Shares that the Hedging Party deems necessary to hedge the equity price risk of entering into and performing its obligations with respect to a Transaction to which "Loss of Stock Borrow" or "Increased Cost of Stock Borrow" is applicable;
- (xi) "Lending Party" means a third party that the Hedging Party considers to be a satisfactory counterparty (acting in good faith and in a commercially reasonable manner in light of other transactions that the Hedging Party may have entered into with such party);
- (xii) "Non-Hedging Party" means the party that is not the Hedging Party;
- (xiii) "Maximum Stock Loan Rate" means, in respect of a Transaction to which "Loss of Stock Borrow" is applicable, the stock loan rate specified as such in the related Confirmation;

- (xiv) "Initial Stock Loan Rate" means, in respect of a Transaction to which "Increased Cost of Stock Borrow" is applicable, the stock loan rate specified as such in the related Confirmation; and
- (xv) "Price Adjustment" means an adjustment to the Strike Price, Initial Price, Forward Price, Forward Floor Price, Forward Cap Price, Knock-in Price, Knock-out Price, spread or other variable with respect to the relevant Transaction.

Relevance: The ultimate prescribed consequence of each of the Additional Disruption Events listed above is the right of the parties to terminate the transactions, as described below.

- (b) For the purpose of determining the consequence of an Additional Disruption Event:
 - (i) If "Change in Law" or "Insolvency Filing" is specified in the related Confirmation to be applicable to a Transaction, then upon the occurrence of such an event either party may elect to terminate the Transaction upon at least two Scheduled Trading Days' notice to the other party specifying the date of such termination (or such lesser notice as may be required to comply with the Change in Law), in which event the Transaction will terminate and the Determining Party will determine the Cancellation Amount payable by one party to the other.
 - (ii) If "Failure to Deliver" is specified in the related Confirmation to be applicable to a Transaction, then such event shall not constitute an Event of Default under the ISDA Master Agreement, but upon the occurrence of such an event, the party required to deliver the relevant Shares (the "Delivering Party") shall (A) give the other party (the "Receiving Party") notice that a Failure to Deliver has occurred within one Clearance System Business Day of the relevant Exercise Date in the case of an Option Transaction and at least one Settlement Cycle prior to the Settlement Date in the case of a Forward Transaction or Equity Swap Transaction and (B) deliver on the Settlement Date to the Receiving Party such number of Shares that it can deliver on such date. The Receiving Party's obligation to make any corresponding payment or delivery to the Delivering Party shall be reduced in proportion to the number of Shares it receives from the Delivering Party. In respect of a European Option or a Forward Transaction, the Receiving Party may then elect to terminate the Transaction by giving notice to the Delivering Party and the Transaction will terminate on the date that such notice is effective. The Receiving Party (who shall be the Determining Party) shall determine the Cancellation Amount payable in relation to such terminated Transaction (after consideration of any partial delivery). In respect of an American Option or a Bermuda Option, the Receiving Party may then elect to terminate that part of the Transaction consisting of the exercised Options by giving notice to the Delivering Party. On the date that such notice is effective, a Transaction consisting of the exercised Options only shall be terminated and the Receiving Party (who shall be the Determining Party) shall determine the Cancellation Amount payable in relation to such terminated Transaction (after consideration of any partial delivery). In respect of an Equity Swap Transaction, the Receiving Party may then elect to terminate that part of the Transaction consisting of the Number of Shares to be Delivered or Number of Baskets to be Delivered, as the case may be, on that Settlement Date by giving notice to the Delivering Party. On the date that such notice is effective, a Transaction consisting of the Number of Shares to be Delivered or Number of Baskets to be Delivered, as the case may be, on that Settlement Date only shall be deemed to have been terminated on such Settlement Date and the Receiving Party (who shall be the Determining Party) shall determine the Cancellation Amount payable in relation to such terminated Transaction (after consideration of any partial delivery). In respect of an American Option or a Bermuda Option, in each case to which Multiple Exercise is applicable and upon which less than all Options have been exercised or deemed exercised on the relevant Exercise Date, or in respect of an Equity Swap Transaction

in relation to which one or more Settlement Dates have not occurred, the Receiving Party may elect within one Settlement Cycle of the Settlement Date on which the Transaction was partially terminated to terminate the remaining Transaction upon two Scheduled Trading Days' notice to the Delivering Party, in which event the Transaction shall terminate on the date that such notice is effective and the Receiving Party (who shall be the Determining Party) shall determine the Cancellation Amount payable in relation to such terminated Transaction.

- (iii) If "Hedging Disruption" is specified in the related Confirmation to be applicable to a Transaction, then upon the occurrence of such an event the Hedging Party may elect, while the Hedging Disruption is continuing, to terminate the Transaction, upon at least two Scheduled Trading Days' notice to the Non-Hedging Party specifying the date of such termination, in which event the Determining Party will determine the Cancellation Amount payable by one party to the other.
- (iv) If "Loss of Stock Borrow" is specified in the related Confirmation to be applicable to a Transaction, then upon the occurrence of such an event the Hedging Party may give notice that a Loss of Stock Borrow has occurred to the Non-Hedging Party, who may (A) lend the Hedging Party, subject to the conditions below, Shares in an amount equal to the Hedging Shares at a rate equal to or less than the Maximum Stock Loan Rate or (B) refer the Hedging Party to a Lending Party that will lend the Hedging Party Shares in an amount equal to the Hedging Shares at a rate equal to or less than the Maximum Stock Loan Rate, in each case within two Scheduled Trading Days of receipt of the notice of Loss of Stock Borrow. If neither the Non-Hedging Party nor the Lending Party lends Shares in the amount of the Hedging Shares or a satisfactory Lending Party is not identified within this period, the Hedging Party may give notice that it elects to terminate the Transaction, specifying the date of such termination, which may be the same day that the notice of termination is effective. The Determining Party will then determine the Cancellation Amount payable by one party to the other.
- (v) If "Increased Cost of Stock Borrow" is specified in the related Confirmation to be applicable to a Transaction, then upon the occurrence of such an event the Hedging Party will give prompt notice to the Non-Hedging Party that an Increased Cost of Stock Borrow has occurred and that a Price Adjustment will be made to the Transaction. The Non-Hedging Party shall, within two Scheduled Trading Days of receipt of the notice of Increased Cost of Stock Borrow and corresponding Price Adjustment, notify the Hedging Party that it elects to (A) agree to amend the relevant Transaction to take into account the Price Adjustment, (B) pay the Hedging Party an amount determined by the Calculation Agent that corresponds to the Price Adjustment or (C) terminate the Transaction as of that second Scheduled Trading Day. If such notice is not given by the end of that second Scheduled Trading Day, then the Hedging Party may give notice that it elects to terminate the Transaction, specifying the date of such termination, which may be the same day that the notice of termination is effective. If either party elects to terminate the Transaction, the Determining Party will determine the Cancellation Amount payable by one party to the other. Within this period, the Non-Hedging Party may, in order to avoid a Price Adjustment or termination with respect to the Transaction, (X) lend the Hedging Party, subject to the conditions below, Shares in an amount equal to the Hedging Shares at a rate equal to or less than the Initial Stock Loan Rate or (Y) refer the Hedging Party to a Lending Party that lends the Hedging Party Shares in an amount equal to the Hedging Shares at a rate equal to or less than the Initial Stock Loan Rate.
- (vi) If "Increased Cost of Hedging" is specified in the related Confirmation to be applicable to a Transaction, then upon the occurrence of such an event the Hedging Party will give prompt notice to the Non-Hedging Party that such increased costs have been incurred and that a Price

Adjustment will be made to the Transaction. The Non-Hedging Party shall, within two Scheduled Trading Days of receipt of the notice of Increased Cost of Hedging and corresponding Price Adjustment, notify the Hedging Party that it elects to (A) agree to amend the relevant Transaction to take into account the Price Adjustment, (B) pay the Hedging Party an amount determined by the Calculation Agent that corresponds to the Price Adjustment or (C) terminate the Transaction as of that second Scheduled Trading Day. If such notice is not given by the end of that second Scheduled Trading Day, then the Hedging Party may give notice that it elects to terminate the Transaction, specifying the date of such termination, which may be the same day that the notice of termination is effective. If either party elects to terminate the Transaction, the Determining Party will determine the Cancellation Amount payable by one party to the other.

- (vii) If both "Hedging Disruption" and "Loss of Stock Borrow" are specified to be applicable to a Transaction and an event or circumstance that would otherwise constitute or give rise to a Hedging Disruption also constitutes a Loss of Stock Borrow, it will be treated as a Loss of Stock Borrow and will not constitute a Hedging Disruption.
- (viii) Any Shares provided by the Non-Hedging Party or the Lending Party, as the case may be, in respect of a Loss of Stock Borrow or Increased Cost of Stock Borrow shall be in book-entry form and freely tradable without any restrictions under relevant law and the lending of such Shares shall be documented under documentation acceptable to the Hedging Party.
- (ix) Any Cancellation Amount payable by one party to the other shall be paid by the party to pay such amount not later than three Currency Business Days following the date that notice of the determination by the Determining Party of such amount (denominated in the currency for settlement of the Transaction as determined by the Determining Party) and the party to pay such amount is effective, which notice shall be provided promptly following such determination.

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Section 1.12. Grace Period; Grace Period Business Day.

- (b) "Grace Period Business Day" means a day on which commercial banks and foreign exchange markets are generally open to settle payments in the place or places and on the days specified for that purpose in the relevant Obligation and if a place or places are not so specified, in the jurisdiction of the Obligation Currency.

Relevance: a Grace Period of three Grace Period Business Days is deemed to be included in the terms of an Obligation for the purposes of determining whether or not a Failure to Pay has occurred.

Section 1.16. Business Day. "Business Day" means a day on which commercial banks and foreign exchange markets are generally open to settle payments in the place or places and on the days specified for that purpose in the relevant Confirmation, a TARGET Settlement Day (if "TARGET" or "TARGET Settlement Day" is specified for that purpose in the related Confirmation), or if a place or places or such terms are not so specified, a day on which commercial banks and foreign exchange markets are generally open to settle payments in the jurisdiction of the currency of the Floating Rate Payer Calculation Amount.

Relevance: Physical Settlement Dates and Cash Settlement Dates are by definition Business Days. Valuation Dates in respect of Cash Settlement are also by definition Business Days.

Section 4.1. Credit Event. "Credit Event" means, with respect to a Credit Derivative Transaction, one or more of Bankruptcy, Failure to Pay, Obligation Acceleration, Obligation Default, Repudiation/Moratorium or Restructuring, as specified in the related Confirmation. If an occurrence would otherwise constitute a Credit Event, such occurrence will constitute a Credit Event whether or not such occurrence arises directly or indirectly from, or is subject to a defense based upon: (a) any lack or alleged lack of authority or capacity of a Reference Entity to enter into any Obligation or, as applicable, an Underlying Obligor to enter into any Underlying Obligation, (b) any actual or alleged unenforceability, illegality, impossibility or invalidity with respect to any Obligation or, as applicable, any Underlying Obligation, however described, (c) any applicable law, order, regulation, decree or notice, however described, or the promulgation of, or any change in, the interpretation by any court, tribunal, regulatory authority or similar administrative or judicial body with competent or apparent jurisdiction of any applicable law, order, regulation, decree or notice, however described, or (d) the imposition of, or any change in, any exchange controls, capital restrictions or any other similar restrictions imposed by any monetary or other authority, however described.

Relevance: Credit Events arising because of an emergency would still constitute a Credit Event for the purposes of a Credit Derivative Transaction.

Section 7.7. Quotation. "Quotation" means each Full Quotation and the Weighted Average Quotation obtained and expressed as a percentage with respect to a Valuation Date in the manner that follows:

- (a) The Calculation Agent shall attempt to obtain Full Quotations with respect to each Valuation Date from five or more Dealers. If the Calculation Agent is unable to obtain two or more such Full Quotations on the same Business Day within three Business Days of a Valuation Date, then on the next following Business Day (and, if necessary, on each Business Day thereafter until the tenth Business Day following the relevant Valuation Date) the Calculation Agent shall attempt to obtain Full Quotations from five or more Dealers and, if two or more Full Quotations are not available, a Weighted Average Quotation.
- (b) If the Calculation Agent is a party to the Credit Derivative Transaction and is unable to obtain two or more Full Quotations or a Weighted Average Quotation on the same Business Day on or prior to the tenth Business Day following the applicable Valuation Date, then the party that is not the Calculation Agent

may attempt to obtain Full Quotations from five or more Dealers and, if two or more Full Quotations are not available, a Weighted Average Quotation. If such party is able to obtain two or more Full Quotations or a Weighted Average Quotation on the same Business Day within an additional five Business Days, the Calculation Agent shall use such Full Quotations or Weighted Average Quotation to determine the Final Price in accordance with the specified Valuation Method. If such party is unable to obtain two or more Full Quotations or a Weighted Average Quotation on the same Business Day within an additional five Business Days, the Quotations shall be deemed to be any Full Quotation obtained from a Dealer at the Valuation Time on such fifth Business Day or, if no Full Quotation is obtained, the weighted average of any firm quotations for the Reference Obligation obtained from Dealers at the Valuation Time on such fifth Business Day with respect to the aggregate portion of the Quotation Amount for which such quotations were obtained and a quotation deemed to be zero for the balance of the Quotation Amount for which firm quotations were not obtained on such day. If the Calculation Agent is a third party and is unable to obtain two or more Full Quotations or a Weighted Average Quotation on the same Business Day on or prior to the tenth Business Day following the applicable Valuation Date, Buyer and Seller each may attempt to obtain Full Quotations from five or more Dealers and, if two or more Full Quotations are not available, a Weighted Average Quotation. If either or both parties is (or are) able to obtain two or more Full Quotations or a Weighted Average Quotation on the same Business Day within an additional five Business Days, the Calculation Agent shall use all such Full Quotations or Weighted Average Quotations to determine the Final Price in accordance with the specified Valuation Method. If the parties are unable to obtain between them two or more Full Quotations or a Weighted Average Quotation on the same Business Day within an additional five Business Days, the Quotations shall be deemed to be any Full Quotation obtained from a Dealer at the Valuation Time on such fifth Business Day or, if no Full Quotation is obtained, the weighted average of any firm quotations for the Reference Obligation obtained from Dealers at the Valuation Time on such fifth Business Day with respect to the aggregate portion of the Quotation Amount for which such quotations were obtained and a quotation deemed to be zero for the balance of the Quotation Amount for which firm quotations were not obtained on such day.

Relevance: If a quotation cannot be obtained from any dealer, the quotation is deemed to be zero, which means the Final Price is zero and the Cash Settlement Amount is the full Floating Rate Payer Calculation Amount multiplied by the Reference Price.

Section 8.6. Physical Settlement Period. "Physical Settlement Period" means the number of Business Days specified as such in the related Confirmation or, if a number of Business Days is not so specified, then, with respect to a Deliverable Obligation specified in the Notice of Physical Settlement, the longest number of Business Days for settlement in accordance with then current market practice of such Deliverable Obligation, as determined by the Calculation Agent after consultation with the parties.

Relevance: In the event of an emergency, the then current market practice for the settlement of the relevant Deliverable Obligation may be difficult to determine, especially if settlement in respect of such Deliverable Obligations has been suspended, with the result that the Physical Settlement Date may be difficult to determine or indefinitely postponed.

Section 9.2. Additional Representations and Agreements for Physical Settlement.

- (c) If Physical Settlement applies to a Credit Derivative Transaction:
- (iii) if an event that would otherwise constitute or give rise to an impossibility or illegality under Section 9.3 occurs and would also constitute an event which would entitle a party to terminate such Credit Derivative Transaction under a master agreement governing the Credit Derivative Transaction, it will be governed by Section 9.3 and will not entitle a party to terminate such Credit Derivative Transaction under a master agreement governing the Credit Derivative Transaction;

Relevance: If Physical Settlement cannot take place because of an impossibility or illegality, the parties will not be entitled to terminate the relevant Credit Derivative Transaction but will instead be required to partially cash settle in accordance with Section 9.3.

Section 9.3. Partial Cash Settlement Due to Impossibility or Illegality. If, due to an event beyond the control of Buyer, it is impossible or illegal for Buyer to Deliver, or due to an event beyond the control of Seller it is impossible or illegal for Seller to accept Delivery of, any of the Deliverable Obligations specified in the Notice of Physical Settlement on the Physical Settlement Date (including, without limitation, failure of the relevant clearance system or due to any law, regulation or court order, but excluding market conditions or the failure to obtain any requisite consent with respect to the Delivery of Loans), then on or before such date (a) Buyer shall Deliver and Seller shall take Delivery of any of the Deliverable Obligations specified in the Notice of Physical Settlement for which it is possible and legal to take Delivery and Seller shall make a payment of that portion of the Physical Settlement Amount that corresponds to the amount of Deliverable Obligations that are Delivered in accordance with market practice applicable to the Deliverable Obligation on the Delivery Date and (b) Buyer or Seller, as applicable, shall provide a description in reasonable detail of the facts giving rise to such impossibility or illegality and, as soon as practicable thereafter, Buyer shall Deliver and Seller shall take Delivery of the Deliverable Obligations specified in the Notice of Physical Settlement which were not Delivered and Seller shall make a payment of that portion of the Physical Settlement Amount that corresponds to the amount of Deliverable Obligations that are Delivered in accordance with market practice applicable to the Deliverable Obligation on the Delivery Date. The date on which the Deliverable Obligations specified in the Notice of Physical Settlement which were not Delivered are subsequently delivered shall be the Termination Date. If, following the occurrence of any such impossibility or illegality, the amount of Deliverable Obligations that are to be Delivered as specified in the Notice of Physical Settlement are not Delivered to Seller on or prior to the Latest Permissible Physical Settlement Date, Cash Settlement pursuant to the Partial Cash Settlement Terms shall be deemed to apply to the Credit Derivative Transaction with respect to the Deliverable Obligations that cannot be Delivered (the "Undeliverable Obligations").

Relevance: See Section 9.2 above.

Section 9.8. Partial Cash Settlement Terms. Unless specified otherwise in the related Confirmation, the following terms are deemed to be defined as follows for the purposes of the Partial Cash Settlement Terms referred to in Sections 9.3, 9.4, 9.5 and 9.6:

- (k) "Quotation" means each Full Quotation, the Weighted Average Quotation and, if Indicative Quotations are applicable, each Indicative Quotation obtained and expressed as a percentage with respect to a Valuation Date in the manner that follows:
 - (i) The Calculation Agent shall attempt to obtain Full Quotations with respect to each Valuation Date from five or more Dealers. If the Calculation Agent is unable to obtain two or more such Full Quotations on the same Business Day within three Business Days of a Valuation Date, then on the next following Business Day (and, if necessary, on each Business Day thereafter until the tenth Business Day following the relevant Valuation Date) the Calculation Agent shall attempt to obtain Full Quotations from five or more Dealers, and, if two or more Full Quotations are not available, a Weighted Average Quotation. If two or more such Full Quotations or a Weighted Average Quotation are not available on any such Business Day and Indicative Quotations are applicable, the Calculation Agent shall attempt to obtain three Indicative Quotations from five or more Dealers.
 - (ii) If the Calculation Agent is a party to the Credit Derivative Transaction and is unable to obtain two or more Full Quotations or a Weighted Average Quotation (or, if Indicative Quotations are applicable, three Indicative Quotations) on the same Business Day on or prior to the tenth Business Day following the applicable Valuation Date, then the party that is not the Calculation

Agent may attempt to obtain Full Quotations from five or more Dealers and, if two or more Full Quotations are not available, a Weighted Average Quotation (or, if Indicative Quotations are applicable, three Indicative Quotations). If such party is able to obtain two or more Full Quotations or a Weighted Average Quotation (or, if Indicative Quotations are applicable, three Indicative Quotations) on the same Business Day within an additional five Business Days, the Calculation Agent shall use such Full Quotations or Weighted Average Quotation (or, if applicable, Indicative Quotations) to determine the Final Price in accordance with the specified Valuation Method. If such party is unable to obtain two or more Full Quotations, a Weighted Average Quotation (or, if Indicative Quotations are applicable, three Indicative Quotations) on the same Business Day within an additional five Business Days, the Quotations shall be deemed to be any Full Quotation obtained from a Dealer at the Valuation Time on such fifth Business Day or, if no Full Quotation is obtained, the weighted average of any firm quotations (or, if applicable, Indicative Quotations) for the Undeliverable Obligation, Undeliverable Loan Obligation, Undeliverable Participation or Unassignable Obligation (as applicable) obtained from Dealers at the Valuation Time on such fifth Business Day with respect to the aggregate portion of the Quotation Amount for which such quotations were obtained and a quotation deemed to be zero for the balance of the Quotation Amount for which firm quotations (or, if applicable, Indicative Quotations) were not obtained on such day. If the Calculation Agent is a third party and is unable to obtain two or more Full Quotations or a Weighted Average Quotation (or, if Indicative Quotations are applicable, three Indicative Quotations) on the same Business Day on or prior to the tenth Business Day following the applicable Valuation Date, Buyer and Seller each may attempt to obtain Full Quotations from five or more Dealers and, if two or more Full Quotations are not available, a Weighted Average Quotation (or, if Indicative Quotations are applicable, three Indicative Quotations). If either or both parties is (or are) able to obtain two or more Full Quotations or a Weighted Average Quotation (or, if Indicative Quotations are applicable, three Indicative Quotations) on the same Business Day within an additional five Business Days, the Calculation Agent shall use all such Full Quotations or Weighted Average Quotations (or, if applicable, Indicative Quotations) to determine the Final Price in accordance with the specified Valuation Method. If the parties are unable to obtain between them two or more Full Quotations or a Weighted Average Quotation (or, if Indicative Quotations are applicable, three Indicative Quotations) on the same Business Day within an additional five Business Days, the Quotations shall be deemed to be any Full Quotation obtained from a Dealer at the Valuation Time on such fifth Business Day or, if no Full Quotation is obtained, the weighted average of any firm quotations (or, if applicable, Indicative Quotations) for the Undeliverable Obligation, Undeliverable Loan Obligation, Undeliverable Participation or Unassignable Obligation (as applicable) obtained from Dealers at the Valuation Time on such fifth Business Day with respect to the aggregate portion of the Quotation Amount for which such quotations were obtained and a quotation deemed to be zero for the balance of the Quotation Amount for which firm quotations (or, if applicable, Indicative Quotations) were not obtained on such day.

Relevance: See Section 7.7 above.

Section 9.9. Buy-in of Bonds Not Delivered. At any time after the date that is five Business Days after the Physical Settlement Date, if Buyer has not Delivered any Deliverable Obligations specified in the Notice of Physical Settlement that are Bonds, Seller may exercise a right to close out all or a portion of the Credit Derivative Transaction by the purchase of such Bonds under the terms of this Section 9.9 (a "buy-in"), unless such failure to Deliver is due to an event described in Section 9.3 (in which case Section 9.3 shall apply). Seller will provide Buyer two or more Business Days' notice (which may be by telephone and may be provided prior to the expiration of the five Business Day period after the Physical Settlement Date) of its intention to buy-in (a "Buy-in Notice"), specifying the date of the anticipated buy-in (the "Buy-in Date"), the Bonds to be subject to the

buy-in (to the extent not Delivered prior to the Buy-in Date, the "Relevant Bonds") and the outstanding principal balance thereof sought to be bought-in.

On the Buy-in Date, Seller shall attempt to obtain from five or more Dealers firm quotations for the sale ("Buy-in Offers") of the specified outstanding principal balance of the Relevant Bonds. The lowest Buy-in Offer or, if Seller obtains only one Buy-in Offer, such Buy-in Offer, for the outstanding principal balance of the Relevant Bonds shall be the "Buy-in Price". If Seller is unable to obtain at least one Buy-in Offer from such Dealers on the relevant Buy-in Date for the specified outstanding principal balance of the Relevant Bonds, Seller will attempt to obtain Buy-in Offers for all or a portion of the specified outstanding principal balance of the Relevant Bonds from five or more Dealers on each Business Day following the Buy-in Date until the earlier of (i) the fourth Business Day (inclusive) following such Buy-in Date and (ii) the date a Buy-in Price or Prices are determined for all of the specified outstanding principal balance of the Relevant Bonds (such period commencing on the Buy-in Date, the "Buy-in Period"). Seller will conduct the buy-in in a commercially reasonable manner and in accordance with the procedures set forth herein.

Buyer's right to Deliver the specified outstanding principal balance of the Relevant Bonds shall be suspended only during the Buy-in Period and shall recommence on the first Business Day following the end of the Buy-in Period to the extent Seller has not determined a Buy-in Price or Prices for the specified outstanding principal balance of the Relevant Bonds. Seller shall commit to purchase such principal balance of the Relevant Bonds at the applicable Buy-in Price or Prices. Thereafter, to the extent a Buy-in Price has not been determined during a Buy-in Period with respect to all of the specified outstanding principal balance of the Relevant Bonds, on or at any time after the sixth Business Day after such Buy-in Period, Seller may give another Buy-in Notice for the purpose of commencing another Buy-in Period for the Relevant Bonds in accordance with the procedures set forth herein. This process may be repeated until the final settlement of the Credit Derivative Transaction.

On the date a Buy-in Price is determined (or as soon as practicable thereafter), Seller will provide notice (which may be by telephone) of the outstanding principal balance of the Relevant Bonds for which Buy-in Prices were determined and the Buy-in Price or Prices therefor. On the third Business Day following such notice, Buyer will be deemed to have Delivered an outstanding principal balance of the Deliverable Obligations specified in the Notice of Physical Settlement for which a Buy-in Price was determined and Seller will pay to Buyer that portion of the Physical Settlement Amount that corresponds to such portion of the Deliverable Obligations, reduced (but not below zero) by the Buy-in Price multiplied by the corresponding outstanding principal balance of the Relevant Bonds for which a Buy-in Price was determined, plus any reasonable brokerage costs incurred by Seller in connection with any purchases by it of the Relevant Bonds as part of the buy-in.

Notices relating to buy-ins shall be subject to the requirements regarding notices set forth in Section 1.10. Unless otherwise agreed by Buyer and Seller, this Section 9.9 shall replace any otherwise applicable buy-in rules.

Relevance: In the event of an emergency, and the Buyer is unable to deliver Bonds in circumstances which do not fall within Section 9.3, Section 9.9 applies so that potentially, the Buyer has an unlimited amount of time in which to effect settlement in respect of the relevant Credit Derivative Transaction if the Seller is unable the relevant quotations from dealers.

1998 FX AND CURRENCY OPTION DEFINITIONS

Section 1.1. Business Day. "Business Day" means for purposes of:

- (a) the definition of Settlement Date and Premium Payment Date,
 - (i) a day on which commercial banks effect (or, but for the occurrence of any Disruption Event applicable to a Transaction, would have effected) delivery of the currency to be delivered on such Settlement Date or Premium Payment Date, respectively, in accordance with the market practice of the foreign exchange market in the place(s) specified for that purpose in a Confirmation generally or specifically for purposes of either the Settlement Date or Premium Payment Date, respectively, or
 - (ii) if a place is not so specified,
 - (A) a day on which commercial banks effect (or, but for the occurrence of any Disruption Event applicable to a Transaction, would have effected) delivery of the currency to be delivered on such Settlement Date or Premium Payment Date, respectively, in accordance with the market practice of the foreign exchange market in the Principal Financial Center of such currency;
 - (B) a day that is an ECU Settlement Day, where the currency to be delivered on such Settlement Date or Premium Payment Date, respectively, is the European Currency Unit;

- (C) a day that is a Euro Settlement Date, where the currency to be delivered on such Settlement Date or Premium Payment Date, respectively, is euro; or
 - (D) a day that is a Business Day, an ECU Settlement Day or a Euro Settlement Date, as the case may be, in respect of each relevant currency where the currencies to be delivered on such Settlement Date or Premium Payment Date, respectively, are different currencies (unless market practice in the relevant foreign exchange markets otherwise provides);
- (b) the definition of Valuation Date or Averaging Date,
- (i) a day on which commercial banks are open (or, but for the occurrence of any Disruption Event applicable to a Transaction, would have been open) for business (including dealings in foreign exchange in accordance with the market practice of the foreign exchange market) in the place(s) specified for that purpose in a Confirmation generally or specifically for purposes of the Valuation Date or Averaging Date, respectively, or
 - (ii) if a place is not so specified,
- (A) a day on which commercial banks are open (or, but for the occurrence of any Disruption Event applicable to a Transaction, would have been open) for business (including dealings in foreign exchange in accordance with the market practice of

the foreign exchange market) in the Principal Financial Center of the Reference Currency or, in the case of a Currency Option Transaction where such a currency is not specified, the Call Currency and the Put Currency, and the places where the offices through which each party is transacting are located, as specified in a Confirmation;

(B) a day that is an ECU Settlement Day and a Business Day in the places where the offices through which each party is transacting are located, where the payment obligation in respect of the Valuation Date or Averaging Date, respectively, is to be made in, or calculated by reference to, the European Currency Unit; or

(C) a day that is a Euro Settlement Date and a Business Day in the places where the offices through which each party is transacting are located, where the payment obligation in respect of the Valuation Date or Averaging Date, respectively, is to be made in, or calculated by reference to, euro;

(c) the definition of Exercise Date, Specified Exercise Date, Exercise Period and Expiration Date, in the case of a Currency Option Transaction,

(i) a day on which commercial banks are open for business (including dealings in foreign exchange in accordance with the market practice of the foreign exchange market) in the place(s) specified for that purpose in a Confirmation generally or specifically for purposes of the Exercise Date, Specified Exercise Date, Exercise Period or Expiration Date, respectively, or

- (ii) if a place is not so specified, a day on which commercial banks are open for business (including dealings in foreign exchange in accordance with the market practice of the foreign exchange market) in the place where the office through which Seller is transacting is located, as specified in a Confirmation;

- (d) the provisions of each Settlement Rate Option defined in these Definitions or in a Confirmation (subject to Section 1.1(b)),
 - (i) a day on which commercial banks are open (or, but for the occurrence of any Disruption Event applicable to a Transaction, would have been open) for business (including dealings in foreign exchange in accordance with the market practice of the foreign exchange market) in the place(s) specified for that purpose in a Confirmation generally or specifically for purposes of that Settlement Rate Option, or

 - (ii) if a place is not so specified (unless otherwise provided in these Definitions),
 - (A) a day on which commercial banks are open (or, but for the occurrence of any Disruption Event applicable to a Transaction, would have been open) for business (including dealings in foreign exchange in accordance with the market practice of the foreign exchange market) in the Principal Financial Center of the Reference Currency;

 - (B) a day that is an ECU Settlement Day where the Reference Currency is the European Currency Unit; or

- (C) a day that is a Euro Settlement Date where the Reference Currency is euro; and
- (e) any other provision of these Definitions or a Confirmation,
- (i) a day on which commercial banks are open for business (including dealings in foreign exchange in accordance with the market practice of the foreign exchange market) in the place(s) specified for that purpose in a Confirmation as Business Day(s) generally or specifically for the relevant purpose, or
 - (ii) if a place is not so specified, a day on which commercial banks are open for business (including dealings in foreign exchange in accordance with the market practice of the foreign exchange market) in the places where the offices through which each party is transacting are located, as specified in a Confirmation.

Relevance: The relevant dates specified above will be adjusted if they fall on days which are not Business Days for such purpose.

Section 3.8. Averaging. If Averaging Dates are specified in a Confirmation, then notwithstanding any other provisions of these Definitions, the following provisions will apply to the determination of the Settlement Rate in relation to a Valuation Date:

(c) **Market Disruption.** Unless the parties otherwise specify, in the case where it becomes impossible to obtain the Spot Rate on an Averaging Date (or, if different, the day on which rates for that Averaging Date would, in the ordinary course, be published or announced by the relevant price source), such Averaging Date will be deemed not to be a relevant Averaging Date for purposes of determining the relevant Settlement Rate. If, through operation of this provision there would not be an Averaging Date with respect to the relevant Valuation Date, the provisions of Article 5 will apply for purposes of determining the relevant Spot Rate on the final Averaging Date with respect to that Valuation Date as if such Averaging Date were a Valuation Date on which a Price Source Disruption had occurred.

Relevance: The Disruption Fallbacks may apply even if no Disruption Event has occurred so long as it is impossible to obtain a Spot Rate on an Averaging Date.

Section 5.1. Disruption Events.

- (a) "Disruption Event" means an event that, if applicable to a Transaction, would give rise in accordance with an applicable Disruption Fallback to either an alternative basis for determining the Settlement Rate or an alternative basis for settling the Transaction (which may include "No-Fault Termination" of that Transaction).
- (b) A Disruption Event is applicable to a Transaction if it is specified in the related Confirmation or if, pursuant to Section 5.1(e), it is deemed to have been specified for that Transaction.
- (c) If the parties have executed:

- (i) an ISDA Master Agreement or a 1987 Interest Rate and Currency Exchange Agreement, as amended and supplemented, (each a "Master Agreement") which governs a Transaction and if an event or circumstance that would otherwise constitute or give rise to an Illegality (as such term is defined in the Master Agreement) or, if applicable, an Impossibility (as such term is defined in the Schedule to the Master Agreement) also constitutes a Disruption Event that is applicable to that Transaction, then such event or circumstance will be treated as a Disruption Event and will be deemed not to constitute an Illegality or Impossibility, as the case may be, for purposes of these Definitions and that Master Agreement; or

- (ii) a FEOMA, IFEMA or ICOM (as amended and supplemented) which governs a Transaction, and if an event or circumstance that would otherwise constitute or give rise to a force majeure, act of state, illegality or impossibility for purposes of Section 9 of such FEOMA, Section 6 of such IFEMA or Section 9 of such ICOM also constitutes a Disruption Event that is applicable to that Transaction, then such event or circumstance will be treated as a Disruption Event and will be deemed not to constitute a force majeure, act of state, illegality or impossibility, as the case may be, for purposes of these Definitions and that FEOMA, IFEMA or ICOM, as appropriate.

Relevance: Disruption Events which are also force majeure events under a master agreement are to be treated as Disruption Events under the Definitions instead of force majeure events under the master agreement.

- (d) When used in relation to a Transaction in conjunction with the term "Disruption Event" and for purposes of Section 5.1(e), the following terms have the indicated meanings:

- (i) "Benchmark Obligation Default" means, with respect to any Benchmark Obligation, the occurrence of a default, event of default or other similar condition or event (however described) including, but not limited to,
- (A) the failure of timely payment in full of any principal, interest or other amounts due (without giving effect to any applicable grace periods) in respect of such Benchmark Obligation,
 - (B) a declared moratorium, standstill, waiver, deferral, Repudiation or rescheduling of any principal, interest or other amounts due in respect of such Benchmark Obligation or
 - (C) the amendment or modification of the terms and conditions of payment of any principal, interest or other amounts due in respect of such Benchmark Obligation without the consent of all holders of such Benchmark Obligation. The determination of the existence or occurrence of any default, event of default or other similar condition or event shall be made without regard to any lack or alleged lack of authority or capacity of the relevant entity to issue or enter into such Benchmark Obligation.
- (ii) "Dual Exchange Rate" means, with respect to the Settlement Rate Option applicable to a Transaction, that the currency exchange rate specified in such Settlement Rate Option splits into dual or multiple currency exchange rates.

- (iii) "General Inconvertibility" means the occurrence of any event that generally makes it impossible to convert the Event Currency into the Non-Event Currency in the Event Currency Jurisdiction through customary legal channels.

- (iv) "General Non-Transferability" means the occurrence of any event that generally makes it impossible to deliver
 - (A) the Non-Event Currency from accounts inside the Event Currency Jurisdiction to accounts outside the Event Currency Jurisdiction or

 - (B) the Event Currency between accounts inside the Event Currency Jurisdiction or to a party that is a nonresident of the Event Currency Jurisdiction.

- (v) "Governmental Authority Default" means, with respect to any security or indebtedness for borrowed money of, or guaranteed by, any Governmental Authority, the occurrence of a default, event of default or other similar condition or event (however described) including, but not limited to,
 - (A) the failure of timely payment in full of any principal, interest or other amounts due (without giving effect to any applicable grace periods) in respect of any such security, indebtedness for borrowed money or guarantee,

- (B) a declared moratorium, standstill, waiver, deferral, Repudiation or rescheduling of any principal, interest or other amounts due in respect of any such security, indebtedness for borrowed money or guarantee or
 - (C) the amendment or modification of the terms and conditions of payment of any principal, interest or other amounts due in respect of any such security, indebtedness for borrowed money or guarantee without the consent of all holders of such obligation. The determination of the existence or occurrence of any default, event of default or other similar condition or event shall be made without regard to any lack or alleged lack of authority or capacity of such Governmental Authority to issue or enter into such security, indebtedness for borrowed money or guarantee.
- (vi) "Illiquidity" means it becomes impossible to obtain a firm quote of the Settlement Rate for the Minimum Amount (either in one transaction or a commercially reasonable number of transactions that, when taken together, total the Minimum Amount) on the Valuation Date (or, if different, the day on which rates for that Valuation Date would, in the ordinary course, be published or announced by the relevant price source) or by such other date (the "Illiquidity Valuation Date") as is specified for such purpose in the related Confirmation. If an Illiquidity Valuation Date is specified for a Transaction and an Illiquidity Disruption Event occurs on such date, then for purposes of any relevant Disruption Fallbacks in Section 5.2, the Illiquidity Valuation Date will be deemed to be the Valuation Date for that Transaction.
- (vii) "Inconvertibility/Non-Transferability" means the occurrence of any event which constitutes a General Inconvertibility Disruption Event, a General Non-Transferability

Disruption Event, a Specific Inconvertibility Disruption Event and a Specific Non-Transferability Disruption Event.

(viii) "Material Change in Circumstance" means the occurrence of any event (other than those events specified as Disruption Events in this Section 5.1(d)) in the Event Currency Jurisdiction beyond the control of the parties to a Transaction which makes it impossible

(A) for a party to fulfill its obligations under that Transaction and

(B) generally to fulfill obligations similar to such party's obligations under that Transaction.

(ix) "Nationalization" means any expropriation, confiscation, requisition, nationalization or other action by any Governmental Authority which deprives a party to the Transaction (or any of its Relevant Affiliates), of all or substantially all of its assets in the Event Currency Jurisdiction.

(x) "Price Materiality" means the Primary Rate differs from the Secondary Rate by at least the Price Materiality Percentage.

- (xi) "Price Source Disruption" means it becomes impossible to obtain the Settlement Rate on the Valuation Date (or, if different, the day on which rates for that Valuation Date would, in the ordinary course, be published or announced by the relevant price source).

- (xii) "Specific Inconvertibility" means the occurrence of any event that makes it impossible for a party to the Transaction (or the Relevant Class, if any) to convert the Minimum Amount of the Event Currency into the Non-Event Currency in the Event Currency Jurisdiction, other than where such impossibility is due solely to the failure by that party (or Relevant Class, as the case may be) to comply with any law, rule or regulation enacted by any Governmental Authority (unless such law, rule or regulation is enacted after the Trade Date of the Transaction and it is impossible for such party (or Relevant Class, as the case may be), due to an event beyond the control of that party (or Relevant Class), to comply with such law, rule or regulation).

- (xiii) "Specific Non-Transferability" means the occurrence of any event that makes it impossible for a party to the Transaction (or the Relevant Class, if any) to deliver
 - (A) the Non-Event Currency from accounts inside the Event Currency Jurisdiction to accounts outside the Event Currency Jurisdiction or

 - (B) the Event Currency between accounts inside the Event Currency Jurisdiction or to a party that is a nonresident of the Event Currency Jurisdiction, other than where such impossibility is due solely to the failure by that party (or Relevant Class, as the case may be) to comply with any law, rule or regulation enacted by any Governmental Authority (unless such law, rule or regulation is enacted after the Trade Date of the Transaction and it is impossible for such party (or Relevant

Class, as the case may be), due to an event beyond the control of that party (or Relevant Class), to comply with such law, rule or regulation).

Relevance: Disruption Events listed above are split up to address different possible disruptions which may occur as a result of an emergency, instead of a single force majeure type of provision, as each such disruption relates to a different proposed solution below.

- (e) Unless the parties otherwise provide in a Confirmation:
 - (i) if the parties do not specify any Disruption Event in a Confirmation, then
 - (A) in respect of a Deliverable Transaction, no Disruption Events will be deemed to have been specified and
 - (B) in respect of a Non-Deliverable Transaction, Price Source Disruption will be deemed to have been specified;
 - (ii) if "General Inconvertibility/Non-Transferability" is specified in a Confirmation as a Disruption Event, then the General Inconvertibility and General Non-Transferability Disruption Events will apply to the Transaction;

- (iii) if "Party Specific Events" is specified in a Confirmation as a Disruption Event, then the Specific Inconvertibility and Specific Non- Transferability Disruption Events will apply to the Transaction; and

- (iv) notwithstanding clauses (i)-(iii) above, if one or more Disruption Events are specified in a Confirmation, then
 - (A) in respect of a Deliverable Transaction, only the Disruption Events specified will apply to the Transaction and

 - (B) in respect of a Non-Deliverable Transaction, Price Source Disruption and the Disruption Events specified will apply to the Transaction.

- (f) If, after the Trade Date of a Transaction, a Disruption Event applicable to that Transaction has occurred and is continuing in respect of that Transaction,
 - (i) in the case of any Disruption Event other than Dual Exchange Rate, Illiquidity, Material Change in Circumstance, Price Materiality and Price Source Disruption, on the day that is the Settlement Date for that Transaction;

 - (ii) in the case of Dual Exchange Rate, Price Materiality or Price Source Disruption, on the day that is the Valuation Date for that Transaction (or, if different, the day on which rates

for that Valuation Date would, in the ordinary course, be published or announced by the relevant price source);

(iii) in the case of Illiquidity,

(A) if an Illiquidity Valuation Date is specified, on the day that is the Illiquidity Valuation Date for that Transaction or,

(B) if such a date is not specified, on the day that is the Valuation Date for that Transaction (or, if different, the day on which rates for that Valuation Date would, in the ordinary course, be published or announced by the relevant price source); and

(iv) in the case of Material Change in Circumstance, on the day that is the Valuation Date (or, if different, the day on which rates for that Valuation Date would, in the ordinary course, be published or announced by the relevant price source) or the Settlement Date for that Transaction,

then the Settlement Rate for that Transaction will be determined or the Transaction will be settled, as the case may be, in accordance with the terms of the first applicable Disruption Fallback pursuant to Section 5.2. For purposes of this subsection (f) only, the definition of Business Day in Section 1.1 as applied to the definition of Valuation Date and Settlement Date will include any day on which, in the case of a Valuation Date, commercial banks would have been open or, in the case of a Settlement Date, commercial banks would have effected delivery of the currency to be delivered, but for the occurrence in the Event Currency Jurisdiction of a banking moratorium or other similar event related to any Disruption Event applicable to a Transaction.

- (g) If "Calculation Agent Determination of Disruption Event" is specified as applicable in a Confirmation, the Calculation Agent, after consultation with the parties or the other party, will determine in good faith whether a Disruption Event applicable to a Transaction has occurred.

Relevance: The Calculation Agent is not automatically tasked with determining whether a Disruption Event has occurred, but if it is, the standard for invoking the Market Disruption provisions is good faith. There are no requirements regarding providing evidence or as to the content of the relevant notification. Also note that the Calculation Agent responsible for determining whether a Market Disruption Event has occurred or is occurring may itself be a party.

Section 5.2. Disruption Fallbacks.

- (a) "Disruption Fallback" means a source or method that, if applicable to a Transaction, gives rise to either an alternative basis for determining the Settlement Rate or an alternative basis for settling a Transaction (which may include "No Fault Termination" of that Transaction), as the case may be, when a Disruption Event has occurred and is continuing on the relevant date set forth in Section 5.1(f).
- (b) A Disruption Fallback is applicable to a Transaction if it is specified in the related Confirmation or if, pursuant to Section 5.2(e), it is deemed to have been specified for that Transaction.
- (c) When used in relation to a Transaction in conjunction with the term "Disruption Fallback" and for purposes of Section 5.2(e), the following terms have the indicated meanings:

- (i) "Assignment of Claim" means that, in respect of a Nationalization Disruption Event, the party or, if applicable, its Relevant Affiliate (the "Nationalized Party") whose assets are subject to such an event (the "Nationalized Assets") will assign its official claim against any Governmental Authority with respect to the occurrence of such Nationalization Disruption Event (the "Claim") in an amount as determined below for recovery of the Nationalized Assets to the other party to the Transaction ("X") if such assignment is permitted under applicable law. If such assignment is not permitted under applicable law (and unless otherwise specified in a Confirmation), the Nationalized Party will transfer a beneficial interest in the Claim to X. The amount of the Claim to be assigned or the beneficial interest in the Claim to be transferred pursuant to the foregoing provisions will be an amount equal to the Event Currency Amount.

- (ii) "Calculation Agent Determination of Settlement Rate" means that the Calculation Agent will determine the Settlement Rate (or a method for determining the Settlement Rate), taking into consideration all available information that in good faith it deems relevant.

- (iii) "Deliverable Substitute" means that on the Settlement Date, in respect of a Non-Deliverable FX Transaction or a Non-Deliverable Currency Option Transaction, the Reference Currency Buyer will pay an amount equal to the Notional Amount to an account designated by the Reference Currency Seller and the Reference Currency Seller will pay an amount equal to the Reference Currency Notional Amount to an account designated by the Reference Currency Buyer.

- (iv) "Escrow Arrangement" means that each party will, if it is legally able, pay any amount payable by it on the Settlement Date pursuant to a Transaction into escrow (the "Escrow Amount"). Each party will use reasonable efforts to deposit (or cause its escrow agent to

deposit) the Escrow Amount in a segregated interest bearing account or otherwise invest the Escrow Amount in a mutually agreeable investment, in each case as more particularly provided in the related Confirmation. The Escrow Amount plus the interest, if any, earned on the Escrow Amount will be delivered to the other party when the applicable Disruption Event ceases to exist, unless that Disruption Event continues to exist (measured from, and including, the Settlement Date) for consecutive Business Days equal to the Maximum Days of Disruption. In that case, the party obligated to pay the Non-Event Currency will deliver (or cause its escrow agent to deliver) the Escrow Amount plus the interest, if any, earned on the Escrow Amount, to the other party on that last consecutive Business Day and the party obligated to pay the Event Currency will deliver the Escrow Amount plus the interest, if any, earned on the Escrow Amount, when the applicable Disruption Event has ceased to exist.

- (v) "Fallback Reference Price" means, in respect of a Dual Exchange Rate Disruption Event, an Illiquidity Disruption Event, a Price Source Disruption Event or a Price Materiality Disruption Event, that the Calculation Agent will determine the Settlement Rate for a Transaction on the relevant Valuation Date (or, if different, the day on which rates for that Valuation Date would, in the ordinary course, be published or announced) pursuant to the first of the alternate Settlement Rate Options, if any, specified as a Fallback Reference Price for such purpose in these Definitions or the related Confirmation that is not subject to a Disruption Event.

- (vi) "Local Asset Substitute-Gross" means that,

(A) in respect of a Deliverable Transaction, the EventCurrency Seller will Deliver Benchmark Obligations with a Specified Value equal to the Event Currency Amount to an account designated by the Event Currency Buyer and the Event

Currency Buyer will pay an amount in the Non-Event Currency equal to the Non-Event Currency Amount to an account designated by the Event Currency Seller;

(B) in respect of a Non-Deliverable Transaction where the Event Currency is the Reference Currency, the Reference Currency Seller will Deliver Benchmark Obligations with a Specified Value equal to the Reference Currency Notional Amount to an account designated by the Reference Currency Buyer and the Reference Currency Buyer will pay an amount in the Settlement Currency equal to the Notional Amount to an account designated by the Reference Currency Seller; and

(C) in respect of a Non-Deliverable Transaction where the Event Currency is the Settlement Currency, the Reference Currency Buyer will Deliver Benchmark Obligations with a Specified Value equal to the Notional Amount to an account designated by the Reference Currency Seller and the Reference Currency Seller will pay an amount in the Reference Currency equal to the Reference Currency Notional Amount to an account designated by the Reference Currency Buyer, in each case, as more particularly provided in Section 5.3 and the related Confirmation.

(vii) "Local Asset Substitute-Net" means that the party obligated to pay the Settlement Currency Amount or the In-the-Money Amount, as the case may be, instead will Deliver to an account designated by the other party Benchmark Obligations with a Specified Value equal to the Event - Currency Amount, as more particularly provided in Section 5.3 and the related Confirmation.

- (viii) "Local Currency Substitute" means that,
- (A) in respect of a Deliverable Transaction, such Transaction will be converted into a Non-Deliverable Transaction in accordance with the provisions of the Non-Deliverable Substitute Disruption Fallback and the party obligated to pay (after giving effect to such conversion) the Settlement Currency Amount or the In-the-Money Amount, as the case may be, will instead deliver on the Settlement Date to an account designated by the other party in the Event Currency Jurisdiction, an amount of Event Currency equal to the Event Currency Amount; and
 - (B) in respect of a Non-Deliverable Transaction, the party obligated to pay the Settlement Currency Amount or the In-the-Money Amount, as the case may be, will instead deliver on the Settlement Date to an account designated by the other party in the Event Currency Jurisdiction an amount of Event Currency equal to the Event Currency Amount.
- (ix) "No Fault Termination" means that the Transaction will terminate in accordance with the applicable provisions set forth in Section 6 of the ISDA Master Agreement (which provisions, excluding Section 6(b)(iii), are hereby incorporated by reference into these Definitions), as if:
- (A) an "Additional Termination Event" had been specified and had occurred,
 - (B) any applicable grace periods had lapsed,

- (C) any notice was effective on the date No Fault Termination became the applicable Disruption Fallback,

 - (D) there were two "Affected Parties" and

 - (E) the Transaction was the only "Affected Transaction". On the date No Fault Termination becomes the applicable Disruption Fallback, either Affected Party may, by notice to the other party, designate such date as an "Early Termination Date" and (unless otherwise specified in the related Confirmation) it will be deemed that "Loss" applies (irrespective of the payment measure, if any, elected by the parties under the Master Agreement, if any, governing the Transaction) and the Termination Currency is the Non-Event Currency. The terms "Additional Termination Event", "Affected Parties", "Affected Transaction", "Early Termination Date", "Loss" and "Termination Currency Equivalent" have the meanings provided for in the ISDA Master Agreement.
- (x) "Non-Deliverable Substitute" means that, in respect of a Deliverable FX Transaction or a Deliverable Currency Option Transaction, the payment obligations will be replaced by an obligation to pay an amount that would be due pursuant to these Definitions as if such Transaction were a Non-Deliverable FX Transaction or a Non-Deliverable Currency Option Transaction, as the case may be, together with interest on such amount at a rate per annum equal to the cost (without proof or evidence of such cost) to the relevant party (certified by it) of funding that amount, as appropriate, for the period from, and including, the original date that, but for the occurrence of a Disruption Event, would have been the Settlement Date to, but excluding, the actual date of payment of that amount. For purposes of this clause, unless otherwise specified in a Confirmation:

- (A) the Valuation Date will be the original date that, but for the occurrence of a Disruption Event, would have been the Settlement Date, the Settlement Rate will be determined as if the Settlement Rate Option were Currency-Reference Dealers, the Settlement Date will be the date determined in accordance with the relevant market practice with respect to such a Non-Deliverable Transaction, the Reference Currency will be the Event Currency, the Settlement Currency will be the Non-Event Currency, the Reference Currency Notional Amount will equal the Event Currency Amount, and the Notional Amount will equal the Non-Event Currency Amount; and

 - (B) in the case of an FX Transaction, the Forward Rate will be the currency exchange rate, expressed as an amount of Event Currency per one unit of Non-Event Currency, obtained by dividing the Event Currency Amount by the Non-Event Currency Amount.
- (xi) "Settlement Postponement" means that the Settlement Date for the Transaction will be deemed to be the first succeeding Business Day on which the applicable Disruption Event ceases to exist, unless that Disruption Event continues to exist (measured from the original date that, but for the occurrence of a Disruption Event, would have been the Settlement Date) for consecutive Business Days equal in number to the Maximum Days of Disruption. In that case, the last such consecutive Business Day will be the Settlement Date and
- (A) if, in conjunction with Settlement Postponement, Escrow Arrangement is specified as applicable to the Transaction, the provisions of the Escrow Arrangement Disruption Fallback will be applicable to that Transaction or,

- (B) if Escrow Arrangement is not specified as applicable to the Transaction, the next Disruption Fallback specified in the related Confirmation will apply to that Transaction. On the original date that, but for the occurrence of a Disruption Event, would have been the Settlement Date, each party required to deliver a payment under a Transaction that is postponed pursuant to the foregoing provisions will use reasonable efforts to deposit such amount in a segregated interest bearing account or otherwise invest that amount in a mutually agreeable investment.

- (d) The parties may specify in a Confirmation other Disruption Fallbacks that will apply to a Transaction.

- (e) Unless the parties otherwise provide in a Confirmation and subject to Section 5.2(g),

 - (i) if the parties do not specify any Disruption Fallbacks in a Confirmation with respect to an applicable Disruption Event, the following Disruption Fallbacks will be deemed to have been specified (in the following order) for the Transaction with respect to the Disruption Event indicated:

 - (A) in respect of General Inconvertibility, General Non-Transferability, Inconvertibility/Non-Transferability, Specific Inconvertibility and Specific Non-Transferability,

- (1) in the case of a Deliverable Transaction, Non-Deliverable Substitute or, in the case of a Non-Deliverable Transaction, Local Currency Substitute; and
 - (2) Settlement Postponement;
- (B) in respect of Benchmark Obligation Default and Governmental Authority Default,
- (1) Local Asset Substitute-Gross, where the Benchmark Obligation so Delivered must be, in the case of Benchmark Obligation Default, the Benchmark Obligation subject to that default or, in the case of Governmental Authority Default, an obligation subject to that default; and
 - (2) Settlement Postponement;
- (C) in respect of Nationalization,
- (1) Settlement Postponement; and
 - (2) Assignment of Claim;

- (D) in respect of Price Materiality, the Fallback Reference Price specified for such purpose or, if none is specified, the Fallback Reference Price as if Currency-Reference Dealers were the alternate Settlement Rate Option;

- (E) in respect of Illiquidity and Price Source Disruption,
 - (1) the Fallback Reference Price specified for such purpose or, if none is specified, the Fallback Reference Price as if Currency-Reference Dealers were the alternate Settlement Rate Option; and

 - (2) Calculation Agent Determination of Settlement Rate;

- (F) in respect of Dual Exchange Rate, the Fallback Reference Price specified for such purpose or, if none is specified, Calculation Agent Determination of Settlement Rate; and

- (G) in respect of Material Change in Circumstance, each party will, promptly upon becoming aware of the Material Change in Circumstance Disruption Event, negotiate in good faith and in a commercially reasonable manner to agree with the other party on an alternative basis for determining the Settlement Rate or an alternative basis for settling the Transaction in accordance with then prevailing market practice and if the parties have not so agreed on or before the Maximum Days of Disruption, the Transaction will terminate in accordance with the provisions of "No Fault Termination".

(ii) in each of clauses (A) through (G), if "Conversion" is specified in a Confirmation, it means that the first Disruption Fallback will be,

(A) in the case of a Deliverable Transaction, Non-Deliverable Substitute and

(B) in the case of a Non-Deliverable Transaction, Deliverable Substitute and in each case, the subsequent Disruption Fallbacks will be applied after giving effect to such conversion into a Deliverable Transaction or a Non-Deliverable Transaction, as the case may be; and

(iii) other than as provided in subsection (f) below, if one or more Disruption Fallbacks are specified in a Confirmation, then only the Disruption Fallbacks specified will apply to the Transaction (in the order so specified).

(f) Unless otherwise specified in a Confirmation, if none of the applicable Disruption Fallbacks provides the parties with a means of determining the Settlement Rate or settling the Transaction, as the case may be, the Transaction will terminate in accordance with the provisions of "No Fault Termination".

(g) Unless otherwise specified in a Confirmation, if more than one Disruption Event applicable to a Transaction has occurred and is continuing on the Settlement Date, then all such Disruption

Events must be remedied in respect of such Transaction in accordance with the terms of the applicable Disruption Fallbacks in the following order:

- (i) if Dual Exchange Rate, Illiquidity, Price Materiality or Price Source Disruption is applicable to the Transaction and is not remedied before the Settlement Date, then the Disruption Fallbacks specified or deemed specified with respect to Dual Exchange Rate, Illiquidity, Price Materiality or Price Source Disruption, respectively, must be applied to that Transaction (in the specified order) until the Dual Exchange Rate Disruption Event, Illiquidity Disruption Event, Price Materiality Disruption Event or Price Source Disruption Event is remedied and a Settlement Rate is determined;
- (ii) if Nationalization is applicable to the Transaction, then the Disruption Fallbacks specified or deemed specified with respect to Nationalization must be applied to that Transaction (in the specified order) until such Nationalization Disruption Event is remedied. If the Transaction settles in accordance with the provisions of the Assignment of Claim Disruption Fallback set forth in Section 5.2(c)(i), then the Disruption Events listed in clauses (iii)-(v) below will be deemed remedied in respect of such Transaction;
- (iii) if Benchmark Obligation Default or Governmental Authority Default is applicable to the Transaction, then the Disruption Fallbacks specified or deemed specified with respect to Benchmark Obligation Default or Governmental Authority Default, as the case may be, must be applied to that Transaction (in the specified order) until such Benchmark Obligation Default Disruption Event or Governmental Authority Default Disruption Event is remedied. If the Transaction settles in accordance with the provisions of the Local Asset Substitute-Gross Disruption Fallback set forth in Section 5.2(c)(vi), then the Disruption Events listed in clauses (iv) and(v) below will be deemed remedied in respect of such Transaction;

- (iv) if General Inconvertibility, General Non-Transferability, Inconvertibility/Non-Transferability, Specific Inconvertibility or Specific Non-Transferability is applicable to the Transaction, then the Disruption Fallbacks specified or deemed specified with respect to General Inconvertibility, General Non-Transferability, Inconvertibility/Non-Transferability, Specific Inconvertibility or Specific Non-Transferability, respectively, must be applied to that Transaction (in the specified order) until such General Inconvertibility Disruption Event, General Non-Transferability Disruption Event, Inconvertibility/Non-Transferability Disruption Event, Specific Inconvertibility Disruption Event or Specific Non-Transferability Disruption Event is remedied; and

- (v) if Material Change in Circumstance is applicable to the Transaction, then the Disruption Fallbacks specified or deemed specified with respect to Material Change in Circumstance must be applied to that Transaction (in the specified order) until such Material Change in Circumstance Disruption Event is remedied.

Relevance: The Disruption Fallbacks are deemed to apply specifically in relation to predetermined Disruption Events, with an ultimate fallback (if none of the Disruption Fallbacks works) of a no fault termination. In addition, the order in which each Disruption Fallback is to be applied is also prescribed.

Section 5.3. Additional Terms Relating to the Delivery of Benchmark Obligations.

- (b) **Failure to Deliver Benchmark Obligations Due to an Event Beyond the Control of the Parties.** If, due to an event beyond the control of the parties, it is impossible or illegal for the relevant party to Deliver the Benchmark Obligations on the Physical Settlement Date (including

without limitation, as a result of failure of the relevant clearance system or due to any law, regulation or court order, but not including as a result of market conditions), then the Benchmark Obligations will be Delivered on the first succeeding day on which Delivery of such Benchmark Obligations can take place unless such an event prevents Delivery for five Business Days. In that case, or if due to an event beyond the control of the party taking Delivery of such Benchmark Obligations, it is impossible or illegal for that party to take such Delivery on the Physical Settlement Date, the Transaction will settle in accordance with the next applicable Disruption Fallback.

Relevance: The Disruption Fallbacks may apply even if no Disruption Event has occurred so long as it is impossible or illegal to Deliver the Benchmark Obligations.

1997 BULLION DEFINITIONS

Section 1.2. Bullion Business Day. "Bullion Business Day" means with respect to a Bullion Transaction any day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) in London and New York, the location where payment is to be made and, in the case of a Bullion Trade or Bullion Option to which in either case Settlement by Delivery applies, which is also a scheduled trading day (meaning a day on which such markets are ordinarily open) in the Bullion market in the delivery location.

Relevance: Valuation Dates, Exercise Dates, Premium Payment Dates and Settlement Dates are by definition Bullion Business Days.

Section 3.4. Settlement Disruption.

- (a) "Settlement Disruption Event" means an event beyond the control of the parties as a result of which delivery cannot be effected by the method of delivery specified by the parties.

- (b) Unless otherwise specified in the relevant Confirmation or elsewhere, where Settlement by Delivery applies to the relevant Bullion Transaction, if there is a Settlement Disruption Event that prevents settlement of Bullion on a day that but for the occurrence of that Settlement Disruption Event would have been the Value Date, then,
 - (i) if, in the relevant Confirmation under "Consequences of Settlement Disruption Events", the consequence specified is "Negotiation", then the Value Date will be the first

succeeding day on which delivery can be effected by the method of delivery specified by the parties, unless a Settlement Disruption Event prevents settlement on each of the ten Bullion Business Days immediately following the original date that, but for the Settlement Disruption Event, would have been the Value Date. In that case, (A) if the Bullion can be delivered in any other commercially reasonable manner, then the Value Date will be the first day on which settlement of a sale of Bullion executed on that tenth Bullion Business Day customarily would take place using such other commercially reasonable manner of delivery and (B) if the Bullion cannot be delivered in any other commercially reasonable manner, then the parties will negotiate in good faith with the object to agree a commercially reasonable manner to settle the relevant Bullion Transaction; or

(ii) if, in the relevant Confirmation under "Consequences of Settlement Disruption Events", the consequence specified or, pursuant to Section 3.4(c) deemed to have been specified, is "Cancellation and Payment", then the Value Date will be the first succeeding day on which delivery can be effected by the method of delivery specified by the parties, unless a Settlement Disruption Event prevents settlement on each of the two Bullion Business Days immediately following the original date that, but for the Settlement Disruption Event, would have been the Value Date. In that case, an Early Termination Date will be deemed to occur on that second Bullion Business Day on the basis that a Termination Event has occurred with the relevant Bullion Transaction the sole Terminated Transaction and the party which had been required to make the relevant delivery the Affected Party.

(c) Unless the parties otherwise provide in the relevant Confirmation or elsewhere, if the parties do not specify the consequences of Settlement Disruption Events in the relevant Confirmation "Cancellation and Payment" will be deemed to have been specified.

Relevance: There is no provision setting out who determines whether a Settlement Disruption Event has occurred. The fallback options anticipate that parties would enter into negotiations, failing which, the relevant transaction would terminate. The deemed fallback option is termination of the transactions.

Section 10.1. Market Disruption Events; Additional Market Disruption Events.

- (a) "Market Disruption Event" or "Additional Market Disruption Event" means an event that, if applicable to a Bullion Transaction, would give rise in accordance with an applicable Disruption Fallback to an alternative basis for determining the Relevant Price in respect of a specified Bullion Reference Price or the termination of the Bullion Transaction, were the event to occur or exist on a day that is a Pricing Date for that Bullion Transaction (or, if different, the day on which prices for that Pricing Date would, in the ordinary course, be published or announced by the Price Source).

- (b) A Market Disruption Event or an Additional Market Disruption Event is applicable to a Bullion Transaction if it is specified in the relevant Confirmation or if, pursuant to Section 10.1(d), it is deemed to have been specified for that Bullion Transaction.

- (c) For purposes of specifying that it is applicable to a Bullion Transaction (by using it in conjunction with the term "Market Disruption Event") and for purposes of Section 10.1(d), each of the following is a Market Disruption Event with a meaning as follows:
 - (i) "Price Source Disruption" means (A) the failure of the Price Source to announce or publish the relevant Bullion Reference Price (or the information necessary for determining the relevant Bullion Reference Price) or (B) the temporary or permanent discontinuance or unavailability of the Price Source or (C) if the Bullion Reference Price is BULLION REFERENCE DEALERS, the failure to obtain at least three quotations as requested from the relevant Reference Dealers.

- (ii) "Trading Suspension or Limitation" means the suspension or limitation of trading in the relevant Futures Contract or the relevant Bullion on the relevant Exchange or in any additional futures contract, options contract or bullion on any exchange or principal trading market as specified in the relevant Confirmation if, in any such case, such suspension or limitation is, in the determination of the Calculation Agent, material.

- (iii) "Disappearance of Bullion Reference Price" means (A) the failure of trading to commence, or the permanent discontinuation of trading, in the relevant Futures Contract on the relevant Exchange or (B) the disappearance of, or of trading in, the relevant Bullion.

- (d) Unless the parties otherwise provide in the relevant Confirmation:
 - (i) if the parties do not specify any Market Disruption Event in the relevant Confirmation, then each of the Market Disruption Events specified in Section 10.1(c) will be deemed to have been specified for a Bullion Transaction;

 - (ii) if one or more Market Disruption Events are specified in the relevant Confirmation, then only the Market Disruption Events specified will apply to the Bullion Transaction; and

 - (iii) if one or more Additional Market Disruption Events are specified in the relevant Confirmation, then each such Additional Market Disruption Event, together with the

Market Disruption Events deemed to have been specified pursuant to Section 10.1(d)(i) will apply to the Bullion Transaction.

Relevance: The default position is that the Market Disruption Events are given effect to by virtue of the deeming provision in Section 10.1(d)(i) above.

- (e) If the Calculation Agent, after consultation with the parties or the other party, determines in good faith that a Market Disruption Event or an Additional Market Disruption Event applicable to a Bullion Transaction has occurred or exists in respect of that Bullion Transaction on a day that is a Pricing Date for that Bullion Transaction (or, if different, the day on which prices for that Pricing Date would, in the ordinary course, be published or announced by the Price Source), the Relevant Price for that Pricing Date will be determined in accordance with the first applicable Disruption Fallback (applied in accordance with its terms) that provides the parties with a Relevant Price or, if there is no such Relevant Price, provides for the termination of the Bullion Transaction.

Relevance: The standard for invoking the Market Disruption provisions is good faith. There are no requirements regarding providing evidence or as to the content of the relevant notification. Also note that the Calculation Agent responsible for determining whether a Market Disruption Event has occurred or is occurring may itself be a party.

Section 10.2. Disruption Fallbacks.

- (a) "Disruption Fallback" means a source or method that, if applicable to a Bullion Transaction, may give rise to an alternative basis for determining the Relevant Price in respect of a specified Bullion Reference Price or the termination of the Bullion Transaction, when a Market Disruption Event or an Additional Market Disruption Event occurs or exists on a day that is a Pricing Date for that Bullion Transaction (or, if different, the day on which prices for that Pricing Date would, in the ordinary course, be published or announced by the Price Source).

- (b) A Disruption Fallback is applicable to a Bullion Transaction if it is specified in the relevant Confirmation or if, pursuant to Section 10.2(d), it is deemed to have been specified for that Bullion Transaction.

- (c) For purposes of specifying that it is applicable to a Bullion Transaction (by using it in conjunction with the term "Disruption Fallback") and for purposes of Section 10.2(d), each of the following is a Disruption Fallback with a meaning as follows:
 - (i) "Fallback Reference Price" means that the Calculation Agent will determine the Relevant Price based on the price for that Pricing Date of the first alternate Bullion Reference Price, if any, specified in the relevant Confirmation and not subject to a Market Disruption Event or an Additional Market Disruption Event.

 - (ii) "Negotiated Fallback" means that each party to a Bullion Transaction will, promptly upon becoming aware of the Market Disruption Event or Additional Market Disruption Event, negotiate in good faith to agree with the other on a Relevant Price (or a method for determining a Relevant Price), and, if the parties have not so agreed on or before the fifth Bullion Business Day following the first Pricing Date on which that Market Disruption Event or Additional Market Disruption Event occurred or existed, the next applicable Disruption Fallback shall apply to the Bullion Transaction.

- (iii) "Postponement" means that the Pricing Date will be deemed to be the first succeeding Bullion Business Day on which the Market Disruption Event or Additional Market Disruption Event ceases to exist, unless that Market Disruption Event or Additional Market Disruption Event continues to exist (measured from and including the original day that would otherwise have been the Pricing Date) for consecutive Bullion Business Days equal in number to the Maximum Days of Disruption. In that case, (A) the last such consecutive Bullion Business Day will be the Pricing Date and (B) the next Disruption Fallback specified in the relevant Confirmation will apply to the Bullion Transaction. If, as a result of a postponement pursuant to this provision, a Relevant Price is unavailable to determine the In-the-Money Amount or Floating Price for a Floating Amount payable on any Value Date, Settlement Date or Payment Date, that Value Date, Settlement Date or Payment Date will be postponed to the same extent as the Pricing Date and if a corresponding Fixed Amount or Floating Amount would otherwise have been payable in respect of the same Transaction on the same date that the postponed Floating Amount would have been payable but for the postponement, the Value Date, Settlement Date or Payment Date for that corresponding Fixed Amount or Floating Amount shall be postponed to the same extent.

- (iv) "No Fault Termination" means that the Bullion Transaction will be terminated in accordance with any applicable provisions set forth in the relevant Confirmation as if a Termination Event and an Early Termination Date had occurred on the day No Fault Termination became the applicable Disruption Fallback and there were two Affected Parties and that Bullion Transaction were the sole Terminated Transaction.

- (v) "Calculation Agent Determination" means that the Calculation Agent will determine the Relevant Price (or a method for determining a Relevant Price), taking into consideration

the latest available quotation for the relevant Bullion Reference Price and any other information that in good faith it deems relevant.

- (vi) "Average Daily Price Disruption" means, in respect of a Bullion Swap, if more than one Pricing Date is established for the Bullion Swap or the Floating Price Payer during (or in respect of) a Calculation Period or in respect of a Payment Date, that the price for the Pricing Date will not be included in the calculation of the Floating Amount, but if a Market Disruption Event or an Additional Market Disruption Event occurs or exists on more than the Maximum Days of Disruption during the relevant Calculation Period, then, for each Pricing Date during that Calculation Period on which a Market Disruption Event or an Additional Market Disruption Event occurred or existed, a price will be determined using the first alternate Bullion Reference Price, if any, specified in the relevant Confirmation. The parties may specify in the relevant Confirmation other Disruption Fallbacks that they agree will apply to a Bullion Transaction.

Relevance: The parties may select several responses to the Market Disruption Event s: a unilateral re-assessment of the relevant price; a negotiation of the relevant price; a postponement of the pricing date etc.

- (d) Unless the parties otherwise provide in the relevant Confirmation:
 - (i) if the parties do not specify any Disruption Fallback in the relevant Confirmation, the following Disruption Fallbacks will be deemed to have been specified (in the following order) for a Bullion Transaction: (A) "Fallback Reference Price" (if the parties have specified an alternate Bullion Reference Price) and (B) "Calculation Agent Determination"; and
 - (ii) if one or more Disruption Fallbacks are specified in the relevant Confirmation, then only the Disruption Fallbacks specified will apply to the Bullion Transaction (in the order so specified).

Relevance: The standard Disruption Fallbacks are given effect to in the deeming provision in Section 10.2(d)(i) and anticipates that parties would rely on the Calculation Agent rather than negotiate a fallback provision of their own

1993 COMMODITY DERIVATIVES (AND SUPPLEMENT)

Section 1.3. Business Day. "Business Day" means a day on which commercial banks and foreign exchange markets settle payments in the local currency in the place(s) specified for that purpose in the relevant Confirmation and, if a place is not so specified, a day on which commercial banks and foreign exchange markets settle payments (a) in U.S. Dollars in New York if the payment obligation is in U.S. Dollars or (b) in Sterling in London if the payment obligation is in Sterling.

Relevance: Payment Dates and Settlement Dates will be adjusted if they fall on days which are not Business Days.

Section 1.4. Commodity Business Day. "Commodity Business Day" means (a) in respect of a Transaction for which the Commodity Reference Price is a price announced or published by an Exchange, a day that is (or, but for the occurrence of a Market Disruption Event, would have been) a trading day on that Exchange and (b) in respect of a Transaction for which the Commodity Reference Price is not a price announced or published by an Exchange, a day in respect of which the relevant Price Source published (or, but for the occurrence of a Market Disruption Event, would have published) a price.

Relevance: Pricing Dates and Expiration Dates will be adjusted if they fall on days which are not Commodity Business Days.

Section 4.5. Calculation Agent. "Calculation Agent" means the party to a Transaction (or a third party) designated as such for the Transaction and responsible for (a) calculating the applicable Floating Price, if any, for each Settlement Date or Payment Date, (b) calculating any Floating Amount or Cash

Settlement Amount payable on each Settlement Date or Payment Date, (c) calculating any Fixed Amount payable on each Settlement Date or Payment Date, (d) giving notice to the parties to the Transaction on the Calculation Date for each Settlement Date or Payment Date, specifying (i) the Settlement Date or Payment Date, (ii) the party or parties required to make the payment or payments then due, (iii) the amount or amounts of the payment or payments then due and (iv) reasonable details as to how the amount or amounts were determined, (e) if, after notice is given, there is a change in the number of days in the relevant Calculation Period and the amount or amounts of the payment or payments due for that Settlement Date or Payment Date, promptly giving the parties to the Transaction notice of those changes with reasonable details as to how those changes were determined and (f) determining, as provided in Section 7.4(e), whether a Market Disruption Event exists on any Pricing Date and, if applicable, the price for that Pricing Date pursuant to Section 7.5(c). Whenever the Calculation Agent is required to act, it will do so in good faith, and its determinations and calculations shall be binding in the absence of manifest error. *When the Calculation Agent is required to select dealers or a quotation for the purpose of making any calculation or determination, the Calculation Agent will make the selection in good faith after consultation with the other party (or the parties, if the Calculation Agent is a third party), if practicable, for the purpose of obtaining a representative price that will reasonably reflect conditions prevailing at the time in the relevant market.*

Relevance: In the event of an emergency, it may be difficult to determine "a representative price that will reasonably reflect conditions prevailing at the time in the relevant market", with the result that the Calculation Agent may have difficulty determining the relevant price.

2000 Supplement to the 1993 Commodity Derivatives Definitions

Section 7.4. Market Disruption Events; Additional Market Disruption Events.

- (a) "Market Disruption Event" or "Additional Market Disruption Event" means an event that, if applicable to a Transaction, would give rise in accordance with an applicable Disruption Fallback to an alternative basis for determining the Relevant Price in respect of a specified Commodity Reference Price or the termination of the Transaction were the event to occur or exist on a day that is a Pricing Date for that Transaction (or, if different, the day on which prices for that Pricing Date would, in the ordinary course, be published or announced by the Price Source).
- (b) A Market Disruption Event or an Additional Market Disruption Event is applicable to a Transaction if it is specified in the relevant agreement or Confirmation or if, pursuant to Section 7.4(d), it is deemed to have been specified for that Transaction.
- (c) For purposes of specifying that it is applicable to a Transaction (by using it in conjunction with the term "Market Disruption Event" or "Additional Market Disruption Event") and for purposes of Section 7.4(d), each of the following is a Market Disruption Event or Additional Market Disruption Event, as the case may be, with a meaning as follows:
- (i) "Price Source Disruption" means (A) the failure of the Price Source to announce or publish the Specified Price (or the information necessary for determining the Specified Price) for the relevant Commodity Reference Price, (B) the temporary or permanent discontinuance or unavailability of the Price Source, (C) if the Commodity Reference Price is "COMMODITYREFERENCE DEALERS", the failure to obtain at least three quotations as requested from the relevant Reference Dealers or (D) if a Price Materiality Percentage is specified in the Confirmation, the Specified Price for the relevant Commodity Reference Price differs from the Specified Price determined in accordance with the Commodity Reference Price "COMMODITY-REFERENCE DEALERS" by such Price Materiality Percentage.

- (ii) "Trading Suspension" means the material suspension of trading in the Futures Contract or the Commodity on the Exchange or in any additional futures contract, options contract or commodity on any exchange or principal trading market as specified in the relevant agreement or Confirmation.

- (iii) "Disappearance of Commodity Reference Price" means (A) the failure of trading to commence, or the permanent discontinuation of trading, in the relevant Futures Contract on the relevant Exchange or (B) the disappearance of, or of trading in, the relevant Commodity.

- (iv) "Material Change in Formula" means the occurrence since the Trade Date of the Transaction of a material change in the formula for or the method of calculating the relevant Commodity Reference Price.

- (v) "Material Change in Content" means the occurrence since the Trade Date of the Transaction of a material change in the content, composition or constitution of the Commodity or relevant Futures Contract.

- (vi) "De Minimis Trading" means that the number of contracts traded on the relevant Exchange on the day that would otherwise be a Pricing Date is fewer than the Minimum Futures Contracts.

- (vii) "Tax Disruption" means the imposition of, change in or removal of an excise, severance, sales, use, value-added, transfer, stamp, documentary, recording or similar tax on, or measured by reference to, the relevant Commodity (other than a tax on, or measured by reference to overall gross or net income) by any government or taxation authority after the Trade Date, if the direct effect of such imposition, change or removal is to raise or lower the Relevant Price on the day that would otherwise be a Pricing Date from what it would have been without that imposition, change or removal.
- (viii) "Trading Limitation" means the material limitation imposed on trading in the Futures Contract or the Commodity on the Exchange or in any additional futures contract, options contract or commodity on any exchange or principal trading market as specified in the relevant agreement or Confirmation.

The parties may specify in the relevant agreement or Confirmation other Market Disruption Events or Additional Market Disruption Events that they agree will apply to a transaction. Such an event should only be characterized as an Additional Market Disruption Event if it is intended that it will apply to the Transaction in addition to the events deemed to have been specified pursuant to Section 7.4(d)(i). The term "Inapplicable" when specified in conjunction with the term "Market Disruption Event" means that the calculation of a Relevant Price will not be adjusted as a result of any Market Disruption Event (in which case there would also be no cause to specify any Additional Market Disruption Event).

Relevance: Market Disruption Events listed above are split up to address different possible disruptions which may occur as a result of an emergency, instead of a single force majeure type of provision, as each such disruption relates to a different proposed solution below.

- (d) Unless the parties provide in the relevant agreement or Confirmation that the calculation of a Relevant Price will not be adjusted as a result of any Market Disruption Event,

- (i) if the parties do not specify any Market Disruption Event in the relevant agreement or Confirmation, the following Market Disruption Events will be deemed to have been specified for a Transaction: (A) "Price Source Disruption", (B) "Trading Suspension", (C) "Disappearance of Commodity Reference Price", (D) "Material Change in Formula" and (E) "Material Change in Content";

- (ii) if one or more Market Disruption Events are specified in the relevant agreement or Confirmation, then only the Market Disruption Events specified will apply to the Transaction; and

- (iii) if one or more Additional Market Disruption Events are specified in the relevant agreement or Confirmation, then each such Additional Market Disruption Event, together with the Market Disruption Events deemed to have been specified pursuant to Section 7.4(d)(i), will apply to the Transaction.

Relevance: The "core" Market Disruption Events are given effect to by the deeming provision in Section 7.4(d)(i) above.

- (e) If the Calculation Agent, after consultation with the parties or the other party, determines in good faith that a Market Disruption Event or an Additional Market Disruption Event applicable to a Transaction has occurred or exists in respect of that Transaction on a day that is a Pricing Date for that Transaction (or, if different, the day on which prices for that Pricing Date would, in the ordinary course, be published or announced by the Price Source), the Relevant Price for that Pricing Date will be determined in accordance with the first applicable Disruption Fallback (applied in accordance with its terms) that provides the parties with a Relevant Price or, if there is no such Relevant Price, provides for the termination of the Transaction.

Relevance: The standard for invoking the Market Disruption provisions is good faith. There are no requirements regarding providing evidence or as to the content of the relevant notification. Also note that the Calculation Agent responsible for determining whether a Market Disruption Event has occurred or is occurring may itself be a party.

Section 7.5. Disruption Fallbacks.

- (a) "Disruption Fallback" means a source or method that, if applicable to a Transaction, may give rise to an alternative basis for determining the Relevant Price in respect of a specified Commodity Reference Price or the termination of the Transaction when a Market Disruption Event or an Additional Market Disruption Event occurs or exists on a day that is a Pricing Date for that Transaction (or, if different, the day on which prices for that Pricing Date would, in the ordinary course, be published or announced by the Price Source).
- (b) A Disruption Fallback is applicable to a Transaction if it is specified in the relevant agreement or Confirmation or if, pursuant to Section 7.5(d), it is deemed to have been specified for that Transaction.
- (c) For purposes of specifying that it is applicable to a Transaction (by using it in conjunction with the term "Disruption Fallback") and for purposes of Section 7.5(d), each of the following is a Disruption Fallback with a meaning as follows:
 - (i) "Fallback Reference Dealers" means that the Relevant Price will be determined in accordance with the Commodity Reference Price, "COMMODITYREFERENCE DEALERS".

- (ii) "Fallback Reference Price" means that the Calculation Agent will determine the Relevant Price based on the price for that Pricing Date of the first alternate Commodity Reference Price, if any, specified in the relevant agreement or Confirmation and not subject to a Market Disruption Event or an Additional Market Disruption Event.

- (iii) "Postponement-Fallback Reference Price" means that the Pricing Date will be deemed to be the first succeeding Commodity Business Day on which the Market Disruption Event or Additional Market Disruption Event ceases to exist, unless that Market Disruption Event or Additional Market Disruption Event continues to exist (measured from and including the original day that would otherwise have been the Pricing Date) for consecutive Commodity Business Days equal in number to the Maximum Days of Disruption specified in the relevant Confirmation. In that case, (A) the last such consecutive Commodity Business Day will be the Pricing Date and (B) the Calculation Agent will determine the Relevant Price based on the price for that Pricing Date of the first alternate Commodity Reference Price, if any, specified in the relevant agreement or Confirmation and not subject to a Market Disruption Event or an Additional Market Disruption Event. If no such alternate Commodity Reference Price is specified, then the Relevant Price shall be determined in accordance with the Commodity Reference Price "COMMODITY-REFERENCE DEALERS".

- (iv) "Negotiated Fallback" means that each party to a Transaction will, promptly upon becoming aware of the Market Disruption Event or Additional Market Disruption Event, negotiate in good faith to agree with the other on a Relevant Price (or a method for determining a Relevant Price), and, if the parties have not so agreed on or before the fifth Business Day following the first Pricing Date on which that Market Disruption Event or Additional Market Disruption Event occurred or existed, the next applicable Disruption Fallback shall apply to the Transaction.

- (v) "No Fault Termination" means that the Transaction will be terminated in accordance with any applicable provisions set forth in the relevant agreement or Confirmation as if a "Termination Event" and an "Early Termination Date" (each as defined in the relevant agreement or Confirmation) had occurred on the day No Fault Termination became the applicable Disruption Fallback and there were two "Affected Parties" (as defined in the relevant agreement or Confirmation).

- (vi) "Postponement" means that the Pricing Date will be deemed to be the first succeeding Commodity Business Day on which the Market Disruption Event or Additional Market Disruption Event ceases to exist, unless that Market Disruption Event or Additional Market Disruption Event continues to exist (measured from and including the original day that would otherwise have been the Pricing Date) for consecutive Commodity Business Days equal in number to the Maximum Days of Disruption. In that case, (A) the last such consecutive Commodity Business Day will be the Pricing Date and (B) the next Disruption Fallback specified in the relevant agreement or Confirmation will apply to the Transaction. If, as a result of a postponement pursuant to this provision, a Relevant Price is unavailable to determine the Floating Price for a Floating Amount payable on any Settlement Date or Payment Date, that Settlement Date or Payment Date will be postponed to the same extent as the Pricing Date and, if a corresponding Fixed Amount or Floating Amount would otherwise have been payable in respect of the same Transaction on the same date that the postponed Floating Amount would have been payable but for the postponement, the Settlement Date or Payment Date for that corresponding Fixed Amount or Floating Amount will be postponed to the same extent.

- (vii) "Calculation Agent Determination" means that the Calculation Agent will determine the Relevant Price (or a method for determining a Relevant Price), taking into consideration

the latest available quotation for the relevant Commodity Reference Price and any other information that in good faith it deems relevant.

- (viii) "Average Daily Price Disruption" means that the price for the Pricing Date will not be included in the calculation of the Floating Amount, but if a Market Disruption Event or an Additional Market Disruption Event occurs or exists on more than the Maximum Days of Disruption during the relevant Calculation Period, then, for each Pricing Date during that Calculation Period on which a Market Disruption Event or an Additional Market Disruption Event occurred or existed, a price will be determined using the first alternate Commodity Reference Price, if any, specified in the relevant agreement or Confirmation. The parties may specify in the relevant agreement or Confirmation other Disruption Fallbacks that they agree will apply to a Transaction.

Relevance: The parties may select several responses to the Market Disruption Event s: a unilateral re-assessment of the relevant price; a negotiation of the relevant price; a postponement of the pricing date etc.

- (d) Unless the parties otherwise provide in the relevant agreement or Confirmation,
- (i) if the parties do not specify any Disruption Fallback in the relevant agreement or Confirmation, the following Disruption Fallbacks will be deemed to have been specified (in the following order) for a Transaction: (A) "Fallback Reference Price" (if the parties have specified an alternate Commodity Reference Price), (B) "Negotiated Fallback" and (C) "No Fault Termination"; and

- (ii) if one or more Disruption Fallbacks are specified in the relevant agreement or Confirmation, then only the Disruption Fallbacks specified will apply to the Transaction (in the order so specified).

- (e) If a Market Disruption Event or an Additional Market Disruption Event occurs or exists on a day that would otherwise be a Pricing Date for the Transaction (or, if different, the day on which prices for that Pricing Date would, in the ordinary course, be published or announced by the Price Source) and none of the applicable Disruption Fallbacks provides the parties with a Relevant Price, the Transaction will terminate in accordance with "No Fault Termination".

Relevance: The standard Disruption Fallbacks are given effect to in the deeming provision in Section 7.5(d)(i) and anticipates that parties would negotiate a fallback provision, failing which, the relevant transaction would terminate.

1994 CREDIT SUPPORT ANNEX (NEW YORK LAW)**Paragraph 12. Definitions.**

"Local Business Day", unless otherwise specified in Paragraph 13, has the meaning specified in the Definitions Section of this Agreement, except that references to a payment in clause (b) thereof will be deemed to include a Transfer under this Annex.

Relevance: Transfers of Eligible Credit Support or Posted Credit Support are required to be made on a Local Business Day. Notifications of calculations or requests for substitution of Credit Support are required to be made on a Local Business Day. The grace period for failure to transfer is two Local Business Days before such failure constitutes an Event of Default.

1995 CREDIT SUPPORT ANNEX (ENGLISH LAW)**Paragraph 10. Definitions.**

"Local Business Day", unless otherwise specified in Paragraph 11(h), means:

- (i) in relation to a transfer of cash or other property (other than securities) under this Annex, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) in the place where the relevant account is located and, if different, in the principal financial centre, if any, of the currency of such payment;
- (ii) in relation to a transfer of securities under this Annex, a day on which the clearance system agreed between the parties for delivery of the securities is open for the acceptance and execution of settlement instructions or, if delivery of the securities is contemplated by other means, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) in the place(s) agreed between the parties for this purpose;
- (iii) in relation to a valuation under this Annex, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) in the place of location of the Valuation Agent and in the place(s) agreed between the parties for this purpose;
and
- (iv) in relation to any notice or other communication under this Annex, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) in the place specified in the address for notice most recently provided by the recipient.

Relevance: Notifications of calculations or requests for exchange of Credit Support are required to be made on a Local Business Day.

"Settlement Day" means, in relation to a date, (i) with respect to a transfer of cash or other property other than securities), the next Local Business Day and (ii) with respect to a transfer of securities, the first Local Business Day after such date on which settlement of a trade in the relevant securities, if effected on such date, would have been settled in accordance with customary practice when settling through the clearance system agreed between the parties for delivery of such securities or, otherwise, on the market in which such securities are principally traded (or, in either case, if there is no such customary practice, on the first Local Business Day after such date on which it is reasonably practicable to deliver such securities).

Relevance: An exchange of Original Credit Support for New Credit Support is required to be made on a Settlement Day and therefore cannot be effected if an emergency prevents the occurrence of a Settlement Day. Distributions are required to be made on a Settlement Day.

1995 CREDIT SUPPORT DEED (ENGLISH LAW)**Paragraph 12. Definitions.**

"Local Business Day", unless otherwise specified in Paragraph 13(1), means:

- (i) in relation to a transfer of cash or other property (other than securities) under this Deed, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) in the place where the relevant account is located and, if different, in the principal financial centre, if any, of the currency of such payment;
- (ii) in relation to a transfer of securities under this Deed, a day on which the clearance system agreed between the parties for delivery of the securities is open for the acceptance and execution of settlement instructions or, if delivery of the securities is contemplated by other means, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) in the place(s) agreed between the parties for this purpose;
- (iii) in relation to a valuation under this Deed, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) in the place of location of the Valuation Agent and in the place(s) agreed between the parties for this purpose;
and

- (iv) in relation to any notice or other communication under this Deed, in the place specified in the address for notice most recently provided by the recipient.

Relevance: Notifications of calculations or requests for substitution of Credit Support are required to be made on a Local Business Day. The grace period for failure to transfer is two Local Business Days before such failure constitutes a Relevant Event.

"Settlement Day" means, in relation to a date, (i) with respect to a transfer of cash or other property (other than securities), the next Local Business Day and (ii) with respect to a transfer of securities, the first Local Business Day after such date on which settlement of a trade in the relevant securities, if effected on such date, would have been settled in accordance with customary practice when settling through the clearance system agreed between the parties for delivery of such securities or, otherwise, on the market in which such securities are principally traded (or, in either case, if there is no such customary practice, on the first Local Business Day after such date on which it is reasonably practicable to deliver such securities).

Relevance: A substitution of Original Credit Support for Substitute Credit Support is required to be made on a Settlement Day and therefore cannot be effected if an emergency prevents the occurrence of a Settlement Day.