

Confirmation of OTC Single
Share Option Transaction
Physical Settlement

Heading for Letter¹

[Letterhead of Party A]

[Date]

Transaction

[Name and Address of Party B]

Heading for Telex¹

Date:

To: [Name and Telex Number of Party B]

From: [Party A]

Re: Equity Option Transaction

Dear _____ :

The purpose of this [letter agreement/telex] (this "Confirmation") is to confirm the terms and conditions of the Transaction entered into between us on the Trade Date specified below (the "Transaction"). [This Confirmation constitutes a "Confirmation" as referred to in the ISDA[®] Master Agreement specified below.]¹

[This Confirmation supplements, forms a part of, and is subject to, the ISDA Master Agreement dated as of [date], as amended and supplemented from time to time (the "Agreement"), between you and us. All provisions contained in the Agreement govern this Confirmation except as expressly modified below.]²

The terms of the Transaction to which this Confirmation relates are as follows:

¹ Include if applicable.

² Include if applicable. If the parties have not yet executed, but intend to execute, an ISDA Master Agreement include, instead of this paragraph, the following: "This Confirmation evidences a complete binding agreement between you and us as to the terms of the Transaction to which this Confirmation relates. In addition, you and we agree to use all reasonable efforts promptly to negotiate, execute and deliver an agreement in the form of the ISDA Master Agreement (Multicurrency-Cross Border) (the "ISDA Form"), with such modifications as you and we will in good faith agree. Upon the execution by you and us of such an agreement, this Confirmation will supplement, form a part of, and be subject to that agreement. All provisions contained or incorporated by reference in that agreement upon its execution will govern this Confirmation except as expressly modified below. Until we execute and deliver that agreement, this Confirmation, together with all other documents referring to the ISDA Form (each a "Confirmation") confirming transactions (each a "Transaction") entered into between us (notwithstanding anything to the contrary in a Confirmation), shall supplement, form a part of, and be subject to an agreement in the form of the ISDA Form as if we had executed an agreement in such form (but without any Schedule) on the Trade Date of the first such Transaction between us. In the event of any inconsistency between the provisions of that agreement and this Confirmation, this Confirmation will prevail for the purpose of this Transaction."

General Terms:

Trade Date: [], 199[]

Option Style: [American] [European]

Option Type: [Put] [Call]

Seller: [Party A] [Party B]

Buyer: [Party A] [Party B]

Shares: [Insert full title, class and/or par value of the Shares and any other identification number or reference for the Shares] of [insert full legal name of the issuer of the Shares] (the "Issuer").

Number of Options: []

Option Entitlement: [] Share(s) per Option

Multiple Exercise: [Applicable/Inapplicable]

[Minimum Number of Options:]³ []

[Maximum Number of Options:]³ []

[Options must be Exercised in Integral Multiples of:]³ []

Strike Price per Share: []⁴

Premium: []
[(Premium per Option: [])]

Premium Payment Date: [], or, if that date is not a Currency Business Day, the next following Currency Business Day.

3 Include if an American style option providing for Multiple Exercise.

4 The parties may insert an amount or a formula from which the Strike Price per Share will be determined and the adjustments, if any, that dividend payments would occasion.

Seller Business Day:	Any day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) ⁵ in []. ⁶
Currency Business Day:	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.
Exchange:	[], ⁷ or any successor to such exchange or quotation system. If the Exchange ceases to list or otherwise include the Shares, the parties will negotiate in good faith to agree on another exchange or quotation system.
Exchange Business Day:	A [day that is a Seller Business Day and is a] trading day on the Exchange other than a day on which trading on the Exchange is scheduled to close prior to its regular weekday closing time.
Clearance System:	[], or any successor to such clearance system. If the Clearance System ceases to clear the Shares, the parties will negotiate in good faith to agree on another manner for delivery.
Clearance System Business Day:	Any day on which the 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.
Calculation Agent: ⁸	[]. Whenever the Calculation Agent is required to act, it will do so in good faith, and its determinations and calculations will be binding in the absence of manifest error.

⁵ If Seller is not a commercial bank and is located in a city in which commercial bank holidays may differ from local securities exchange holidays, add “and which is a scheduled trading day on local securities exchanges”.

⁶ Specify city in which Seller is located for the purpose of receiving notices.

⁷ Insert the name of the principal exchange or quotation system on which the Shares are traded or quoted.

⁸ If the Calculation Agent is a third party, the parties will want to consider any documentation necessary to confirm its undertaking.

Procedure for Exercise:

Exercise Period:	[The Expiration Date between 9:00a.m. (local time in _____) ⁹ and the Expiration Time.] ¹⁰ [Any Exchange Business Day from, and including, [_____] to, and including, the Expiration Date between 9:00 a.m. (local time in _____) and (a) [4:00 p.m.] (local time in _____) on any Exchange Business Day during the Exercise Period that is not the Expiration Date and (b) the Expiration Time on the Expiration Date.] ¹¹
Expiration Date:	[_____] or, if that date is not an Exchange Business Day, the next following Exchange Business Day.
Expiration Time:	[_____] [a.m./p.m.] (local time in _____). ¹²
Notice of Exercise:	Except when automatic exercise applies, Buyer must give irrevocable notice (which will be oral telephonic notice, if practicable, and otherwise written notice) in the Exercise Period to Seller of its exercise of an Option. If the notice of exercise is given after the latest permitted time on an Exchange Business Day, then that notice will be deemed given on the next following Exchange Business Day, if any, in the Exercise Period. ¹³

⁹ Where required in this definition, specify city in which Seller is located for the purpose of receiving notices or, alternatively, specify city in which the Exchange is located.

¹⁰ Include if European style option.

¹¹ Include if American style option.

¹² Specify city in which Seller is located for the purpose of receiving notices or, alternatively, specify city in which the Exchange is located.

¹³ If an American style option providing for Multiple Exercise, add “Buyer must specify in that notice the number of Options being exercised on the relevant Exercise Date” and, as a new paragraph, “Buyer may exercise all or less than all the unexercised Options on one or more Exchange Business Days during the Exercise Period, but (except as set forth below) on any Exchange Business Day may not exercise less than the Minimum Number of Options or more than the Maximum Number of Options and that number of Options must be an integral multiple of the amount specified above. Except as set forth below, any attempt to exercise on any Exchange Business Day (a) more than the Maximum Number of Options will be deemed to be an exercise of the Maximum Number of Options (the number of Options exceeding the Maximum Number of Options being deemed to remain

Written Confirmation: Applicable; Buyer will execute and deliver a written confirmation confirming the substance of any telephonic notice within one Seller Business Day of that notice. Failure to provide that written confirmation will not affect the validity of the telephonic notice.

Seller's Telephone Number and Telex and/or Facsimile Number and Contact Details for Purpose of Giving Notice: []

Exercise Date: In relation to each Option, the Exchange Business Day during the Exercise Period on which that Option is or is deemed to be exercised.

Automatic Exercise:¹⁴ [If not previously exercised]¹⁵ an Option will be deemed to be automatically exercised at the Expiration Time if at such time the Option is In-the-Money, as determined by the Calculation Agent, unless:

(a) the Buyer notifies the Seller (by telephone or in writing) prior to the Expiration Time that it does not wish automatic exercise to occur; or

(b) the Reference Price necessary to determine that the Option is In-the-Money cannot be determined at the Expiration Time

(in which case automatic exercise will not apply).

In-the-Money: An Option will be In-the-Money if the Reference Price is equal to or [greater than 101]¹⁶ [less than 99]¹⁷ percent of the Strike Price per Share.

unexercised) and (b) less than the Minimum Number of Options will be ineffective. Buyer may exercise (x) more than the Maximum Number of Options on the Expiration Date and (y) less than the Minimum Number of Options if it exercises all the Options remaining unexercised.”

¹⁴ Market participants are encouraged as a matter of best practice to exercise an Option pursuant to the Notice of Exercise provisions rather than relying on Automatic Exercise.

¹⁵ Include if American style option.

¹⁶ Include if Call Option. The parties may adjust the percentage as they deem appropriate.

¹⁷ Include if Put Option. The parties may adjust the percentage as they deem appropriate.

Reference Price: [The official closing price per Share on the Exchange on the Expiration Date.]¹⁸

Settlement Terms:

Physical Settlement: Applicable; on the Settlement Date, Buyer will [pay to Seller the Settlement Price]¹⁹ [deliver to Seller the Number of Shares to be Delivered]²⁰ and Seller will [deliver to Buyer the Number of Shares to be Delivered]²¹ [pay to Buyer the Settlement Price]²² (subject in each case to the provisions for Adjustment Events and Extraordinary Events below). Such payment and such delivery will be made through the Clearance System at the accounts specified below [on a delivery versus payment basis].²³

Settlement Date: The first day on which settlement of a sale of Shares executed on the Exercise Date customarily would take place through the Clearance System, unless a Settlement Disruption Event prevents settlement on that day. If a Settlement Disruption Event does prevent settlement on that day, then the Settlement Date will be the first succeeding day on which settlement can take place through the Clearance System unless a Settlement Disruption Event prevents settlement on each of the 10 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, (a) if the Shares can

¹⁸ The parties may specify that the Reference Price will be determined by reference to another specified price (e.g., highest bid at 11:00 a.m.) or another stock exchange or quotation system if, for example, at the Expiration Time an official closing price on the Exchange would be unavailable or reference to another specified price is for another reason preferred.

¹⁹ Include if Call Option.

²⁰ Include if Put Option.

²¹ Include if Call Option.

²² Include if Put Option.

²³ If settlement cannot or will not be on the basis of delivery vs. payment, specify the relevant details. Where the Shares do not settle (or the parties otherwise do not wish to settle the Shares) through a clearance system, the settlement procedures will need to be specified and the definitions of Physical Settlement, Settlement Date, Settlement Disruption Event and Dividends and Expenses may have to be modified to take into account such settlement procedures.

be delivered in any other commercially reasonable manner, then the Settlement Date will be the first day on which settlement of a sale of Shares executed on that 10th 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 Clearance System for purposes of delivery of the relevant Shares), and (b) if the Shares cannot be delivered in any other commercially reasonable manner, then the Settlement Date will be postponed until delivery can be effected through the Clearance System or in any other commercially reasonable manner.²⁴

Settlement Price: The Strike Price per Share multiplied by the Number of Shares to be Delivered.

Number of Shares to be Delivered: The number of Shares equal to the number of Options exercised on the relevant Exercise Date multiplied by the Option Entitlement, rounded down to the nearest whole Share²⁵

Settlement Disruption Event: An event beyond the control of the parties as a result of which the Clearance System cannot clear the transfer of the Shares.

Adjustment Events:

[Adjustments:²⁶

Following each adjustment to the settlement terms of options on the Shares traded on [insert name of options exchange] (the "Options Exchange"), the Calculation Agent will make a corresponding adjustment to any one or more of the Strike Price per Share, the Number of Options, the Option Entitlement and any other variable relevant to the settlement terms of this Transaction, which adjustment will be effective as of the date

²⁴ The parties may wish to consider specifying, in advance, the allocation between them of any additional costs associated with delivering the Shares outside of the Clearance System as a result of a Settlement Disruption Event or otherwise.

²⁵ Where the Shares are traded only in specified numbers (for example, in Japan under the unitary share system) the parties may wish to specify that the Number of Shares to be Delivered will be rounded to the nearest specified number.

²⁶ Include if relying on options exchange adjustments.

determined by the Calculation Agent to be the effective date of the corresponding adjustment made by the Options Exchange. If options on the Shares are not traded on the Options Exchange, the Calculation Agent will make such adjustment, if any, to any one or more of the Strike Price per Share, the Number of Options, the Option Entitlement and any other variable relevant to the settlement terms of this Transaction as the Calculation Agent determines appropriate, with reference to the rules of and precedents (if any) set by the Options Exchange, to account for the diluting or concentrative effect of any event that, in the determination of the Calculation Agent, would have given rise to an adjustment by the Options Exchange if such options were so traded.]

[Adjustments:²⁷

Following the declaration by the Issuer of the terms of any Potential Adjustment Event, the Calculation Agent will determine whether such Potential Adjustment Event would have a diluting or concentrative effect on the theoretical value of the Shares and, if so, will (a) calculate the corresponding adjustment, if any, to be made to any one or more of the Strike Price per Share, the Number of Options, the Option Entitlement and any other variable relevant to the settlement terms of this Transaction as the Calculation Agent determines appropriate to account for that diluting or concentrative effect and (b) determine the effective date of that adjustment. The Calculation Agent may (but need not) determine the appropriate adjustment by reference to the adjustment in respect of such Potential Adjustment Event made by an options exchange to options on the Shares traded on that options exchange.

Potential Adjustment Event:²⁸

Any of the following:

(a) a subdivision, consolidation or reclassification of Shares (unless a Merger Event), or a free distribution or dividend of any Shares to existing

²⁷ Include if not relying on options exchange adjustments.

²⁸ The parties are advised to review the relevant corporate law and practice applicable to the Issuer to determine whether the Potential Adjustment Events are appropriate for the Shares of the Issuer.

holders by way of bonus, capitalization or similar issue;

(b) a distribution or dividend to existing holders of the Shares of (i) Shares or (ii) other share capital or securities granting the right to payment of dividends and/or the proceeds of liquidation of the Issuer equally or proportionately with such payments to holders of Shares or (iii) any other type of securities, rights or warrants or other assets, in any case for payment (cash or other) at less than the prevailing market price as determined by the Calculation Agent;

(c) an [extraordinary]²⁹ dividend;

(d) a call in respect of Shares that are not fully paid;

(e) a repurchase by it of Shares whether out of profits or capital and whether the consideration for such repurchase is cash, securities or otherwise; or

(f) any other similar event that may have a diluting or concentrative effect on the theoretical value of the Shares.]

Extraordinary Events:

Merger Date:

The date, in respect of a Merger Event, upon which all holders of Shares (other than, in the case of a takeover offer, Shares owned or controlled by the offeror) have agreed or have irrevocably become obliged to transfer their Shares.

Merger Event:

Any (a) reclassification or change of the Shares that results in a transfer of or an irrevocable commitment to transfer all outstanding Shares, (b) consolidation, amalgamation or merger of the Issuer with or into another entity (other than a consolidation, amalgamation or merger in which the Issuer is the continuing entity and which does not result in any such reclassification or change of all outstanding Shares) or (c) other takeover offer for the Shares that results in a transfer of or an

²⁹ The parties may wish to consider relevant corporate law and practice in determining whether a dividend payable in the ordinary course by the Issuer also may be a Potential Adjustment Event (*e.g.*, if not limited to payment out of accumulated profits).

irrevocable commitment to transfer all the Shares (other than the Shares owned or controlled by the offeror), in each case if the Merger Date is on or before the Expiration Date.

Consequences of Merger Events:

In respect of each Merger Event:

(a) if the consideration for the Shares in the Merger Event consists (or, at the option of the holder of the Shares, may consist) solely of shares (whether of the offeror or a third party) (“New Shares”), then on or after the Merger Date upon exercise of an Option the deliveror will deliver such number of such New Shares to which a holder of the number of Shares equal to the Option Entitlement would be entitled upon consummation of the Merger Event (and such number of New Shares will be deemed the “Option Entitlement” and the New Shares and their issuer will be deemed the “Shares” and the “Issuer”, respectively) and, if necessary, the Calculation Agent will adjust the Strike Price per Share accordingly;³⁰

(b) if the consideration for the Shares in the Merger Event consists solely of cash and/or any securities (other than New Shares) or assets (whether of the offeror or a third party) other than shares (“Other Consideration”), then *on or after the Merger Date upon exercise of an Option the deliveror will deliver the amount of Other Consideration (as subsequently modified in accordance with any relevant terms and including the proceeds of any redemption, if applicable) to which a holder of the number of Shares equal to the Option Entitlement would be entitled upon consummation of the Merger Event*³¹ **[the Options will be cancelled as of the Merger Date and Seller will pay to Buyer the Payment upon Certain Extraordinary Events as set forth below];**³¹ and

³⁰ The parties instead may elect to follow the adjustments, if any, to the settlement terms of options on the Shares traded on the Options Exchange.

³¹ Two alternative approaches to addressing Extraordinary Events involving this category of consideration are set forth (one in italics and one in bold) in this form of Confirmation. The parties may elect either of these two approaches or instead elect to follow the adjustments, if any, to the settlement terms of options on the Shares traded on the Options Exchange.

(c) if the consideration for the Shares in the Merger Event consists of New Shares in combination with Other Consideration, then on or after the Merger Date upon exercise of an Option the deliveror will deliver *[the number of New Shares and the amount of Other Consideration (together, the “Merger Consideration”, as subsequently modified in accordance with any relevant terms and including the proceeds of any redemption, if applicable) to which a holder of the number of Shares equal to the Option Entitlement would be entitled upon consummation of the Merger Event (and such number of New Shares will be deemed the “Option Entitlement” and such New Shares and their issuer will be deemed the “Shares” and the “Issuer”, respectively) and, if necessary, the Calculation Agent will adjust the Strike Price per Share accordingly]*³² **[a number of New Shares per Option determined as soon as practicable after the Merger Date by the Calculation Agent on a formula basis as follows:**

$$\text{Option Entitlement} \times \text{Reinvestment Ratio} \times \text{Single Share Entitlement}$$

and such number of New Shares per Option (after such determination) will be deemed the “Option Entitlement” and such New Shares and their issuer will be deemed the “Shares” and the “Issuer”, respectively, and for which purpose:

(i) “Reinvestment Ratio” means a fraction the numerator of which is the aggregate value of the number of New Shares (the “New Share Component”) and the amount of Other Consideration (together, the “Merger Consideration”, as subsequently modified in accordance with any relevant terms and including the proceeds of any redemption, if applicable) to which a holder of the number of Shares equal to the Option Entitlement (before the determination referred to above) would be entitled upon consummation of the

³² Two alternative approaches to addressing Extraordinary Events involving this category of consideration are set forth (one in italics and one in bold) in this form of Confirmation. The parties may elect either of these two approaches or instead elect to follow the adjustments, if any, to the settlement terms of options on the Shares indicated on the Options Exchange.

Merger Event and the denominator of which is the aggregate value of the New Share Component (in each case after conversion by the Calculation Agent into a common currency, if necessary);

(ii) “Single Share Entitlement” means the number (which may be a whole number or a fraction) of New Shares to which a holder of a single Share would be entitled upon consummation of the Merger Event;

(iii) the Calculation Agent shall determine (net of any associated dealing costs to the extent the Other Consideration would be deemed under this clause (c) to be reinvested in New Shares) the aggregate value of the Merger Consideration, in the case of a New Share or a security comprised in the Other Consideration, by reference to the price of such New Share or security on the principal exchange or quotation system on which it is traded or quoted and, in the case of any other asset comprised in the Other Consideration, in a commercially reasonable manner for any such asset; and

(iv) the Calculation Agent will adjust the Strike Price per Share accordingly.³³

Where the Calculation Agent determines that the New Share Component of the Merger Consideration (after giving effect to any permitted election) comprises less than 25% of the value of that consideration, the consequences of the Merger Event will, notwithstanding this clause (c), be as set forth in clause (b) above.

If clause (a) or (c) above applies, in respect of each Option exercised the deliveror will deliver the relevant New Shares in accordance with the Settlement Terms set forth above, provided that if on the relevant Settlement Date a holder of the Shares would not yet have received the New Shares to which it is entitled, the Settlement Date will be postponed to the first Clearance System

³³

See Note 32 above.

Business Day falling on or after the first day on which a holder of the Shares, having received the New Shares, would be able to deliver such New Shares to the other party.

[If clause (b) above applies, in respect of each Option exercised the deliveror will deliver the Other Consideration to the other party in a commercially reasonable manner in accordance with the reasonable directions of the other party as soon as reasonably practicable after the later of (i) the relevant Exercise Date and (ii) the first day on which a holder of the Shares, having received the Other Consideration, would be able to deliver such Other Consideration to the other party, and the other party will pay to the deliveror on such day an amount equal to the Strike Price per Share multiplied by the Option Entitlement.]³⁴

[If clause (c) above applies, in respect of each Option exercised the deliveror will deliver the Other Consideration to the other party in a commercially reasonable manner in accordance with the reasonable directions of the other party as soon as reasonably practicable after the later of (i) the relevant Exercise Date and (ii) the first day on which a holder of the Shares, having received the Other Consideration, would be able to deliver such Other Consideration to the other party.]³⁵

Election of Merger Consideration:

To the extent that a holder of Shares equal to the Option Entitlement could elect the Merger Consideration then:

(a) if a holder could elect to receive New Shares as part or all of the Merger Consideration, then the party that would be the deliveror upon exercise of an Option shall be deemed to have elected New Shares to the maximum value permitted; and

(b) if a holder could make any other election, (i) the deliveror may so elect if notice of that election is given to the deliveror at least two Exchange Business Days before the last time

³⁴ Delete this sentence if the second alternative in clause (b) is chosen.

³⁵ Delete this sentence if the second alternative in clause (c) is chosen.

when an election of the Merger Consideration by such holder could be timely made and (ii) otherwise the deliveror will, in its sole discretion, make such election.

Nationalization or Insolvency:

If (a) all the Shares or all the assets or substantially all the assets of the Issuer are nationalized, expropriated or are otherwise required to be transferred to any governmental agency, authority or entity or (b) by reason of the voluntary or involuntary liquidation, bankruptcy or insolvency of or any analogous proceeding affecting the Issuer (i) all the Shares are required to be transferred to a trustee, liquidator or other similar official or (ii) holders of the Shares become legally prohibited from transferring them, then, in the case of (a) or (b), Seller or Buyer will, upon becoming aware of such event, notify the other party of such event and [*Seller will promptly quote a price, if any, at which it would be prepared to offer to repurchase the Options from Buyer*]³⁶ [**the Options will be cancelled, and Seller will pay to Buyer the Payment upon Certain Extraordinary Events as set forth below**].³⁶

[Payment upon Certain Extraordinary Events:³⁷

The payment referred to in Consequences of Merger Events and Nationalization or Insolvency will be made by Seller to Buyer not later than three Currency Business Days following the determination by the Calculation Agent of an amount (denominated in the currency of the Strike Price per Share) determined as provided below.

Such amount will be agreed promptly by the parties, failing which it will be determined by the Calculation Agent and based on quotations sought by it from four leading market dealers. Each quotation will represent the quoting dealer's expert opinion as to the fair value to the Buyer of an option with terms that would preserve for the Buyer the economic equivalent of any payment or delivery (assuming satisfaction of each applicable condition precedent) by the parties in respect of the Transaction that would have been required after that date but for the occurrence of the Option Value Event. Each quotation will be calculated on

³⁶ Two alternative approaches to addressing Nationalization or Insolvency are set forth (one in italics and one in bold) in this form of Confirmation. The parties may elect either of these two approaches.

³⁷ Include if the parties elect the second of the alternative approaches referred to in note 31 or 34.

the basis of the following information provided by the Calculation Agent (and such other factors as the quoting dealer deems appropriate):

(a) a volatility equal to the average of the Option Period Volatility of the Shares for each Exchange Business Day during the two-year historical period ending on the Announcement Date of the Option Value Event;

(b) dividends based on, and payable on the same dates as, amounts determined by the Calculation Agent to have been paid in respect of gross ordinary cash dividends on the Shares in the calendar year ending on the Announcement Date; and

(c) a value ascribed to the Shares equal to the consideration, if any, paid in respect of the Shares to holders of the Shares at the time of the Option Value Event.

If more than three quotations are provided, the amount will be the arithmetic mean of the quotations, without regard to the quotations having the highest and the lowest values. If exactly three quotations are provided, the amount will be the quotation remaining after disregarding the highest and the lowest quotations. For this purpose, if more than one quotation has the same highest or lowest value, then one of such quotations will be disregarded. If two quotations are provided, the amount will be the arithmetic mean of the quotations. If one quotation is provided, the amount will equal the quotation. If no quotation is provided, the amount will be determined by the Calculation Agent in its sole discretion.

For purposes of determining the amount, “Option Value Event” means the Merger Event or the Nationalization or Insolvency, as the case may be; “Option Period Volatility” means, in respect of any Exchange Business Day, the volatility (calculated by referring to the closing price of the Shares on the Exchange) for a period equal to the number of days between the Announcement Date and the Expiration Date; and “Announcement Date” means, in respect of a Merger Event or a Nationalization, the date of the first public announcement of a firm intention, in the case of a Merger Event, to merge or to make an offer and, in the case of a Nationalization, to nationalize that (whether or not amended or on the terms originally announced) leads to the Merger Event or the Nationalization, as the case may be, and, in respect of an Insolvency,

the date of the first public announcement of the institution of a proceeding or presentation of a petition or passing of a resolution (or other analogous procedure in any jurisdiction) that leads to the Insolvency, in each case as determined by the Calculation Agent.]

Miscellaneous:

Dividends and Expenses:

Following exercise of an Option, all dividends on the relevant Shares to be delivered will be payable to and all expenses of transfer of the Shares on delivery (such as any stamp duty or stock exchange tax) will be payable by, the party that would receive such dividend or pay such expenses, as the case may be, according to market practice for a sale of the Shares executed on the Exercise Date to be settled through the Clearance System.

Representation and Agreement:

The party required to deliver the Shares agrees that it will convey, and, on each date that it delivers Shares, represents that it has conveyed, good title to the Shares it is required to deliver, free and clear of any lien, charge, claim or encumbrance (other than a lien routinely imposed on all securities in the Clearance System).

[Failure to Deliver:³⁸

Failure by a party to deliver, when due, Shares under the Transaction will not constitute an Event of Default if the party is unable to deliver the requisite number of Shares due to illiquidity in the market for the Shares and if that party (a) notifies the other party within one Clearance System Business Day of the Exercise Date to that effect and (b) delivers on the Settlement Date such number of Shares, if any, as it can deliver on that date. In such case,

- (i) the party's failure to deliver will constitute an Additional Termination Event with that party the sole Affected Party and the Transaction (after consideration of any partial delivery) the sole Affected Transaction,³⁹ and
- (ii) irrespective of the payment measure elected by the parties, Loss will be deemed to apply for the purpose of determining if any

³⁸ Include if subject to an ISDA Master Agreement.

³⁹ If American style option providing for multiple Exercise Dates, add "or if less than all options have been exercised (or deemed exercised) on the relevant Exercise Date, the Termination Event will occur in respect of a Transaction (after consideration of any partial delivery) consisting of the exercised Options only".

payment will be made in respect of the Transaction.]

[Transfer:⁴⁰

Neither the Transaction or any Option nor any interest or obligation in or under the Transaction or any Option may be transferred (whether by way of security or otherwise) by either party without the prior written consent of the other party, except that a party may make such a transfer of the Transaction pursuant to a consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all its assets to, another entity. Any purported transfer that is not in compliance with this paragraph will be void.]

[Default Interest:⁴¹

If, prior to the occurrence or effective designation of an Early Termination Date in respect of this Transaction, a party defaults in the performance of any obligation required to be settled by delivery, it will indemnify the other party on demand for any costs, losses or expenses (including the costs of borrowing the Shares, if applicable) resulting from such default. A certificate signed by the deliverer setting out such costs, losses or expenses in reasonable detail will be conclusive evidence that they have been incurred.]

Account Details:

Account for payments to Party A:

[Account for delivery of Shares to Party A:]

Account for payments to Party B:

[Account for delivery of Shares to Party B:]

This Confirmation will be governed by and construed in accordance with the laws of []
[(without reference to choice of law doctrine)].⁴²

⁴⁰ Delete if this Confirmation is subject to an ISDA Master Agreement.

⁴¹ For a brief discussion regarding default interest for transactions that settle by physical delivery under a 1992 ISDA Master Agreement, see Section VI of the *User's Guide to the 1992 ISDA Master Agreements, 1993 Edition*.

⁴² The governing law provision can be omitted if this Confirmation is subject to an executed ISDA Master Agreement. Consider whether any additions or deletions relating to any applicable jurisdiction or regulatory, tax, accounting, securities exchange or other requirements should be made in this Confirmation if these are not addressed in a related master agreement. For an indication of further issues that the parties may wish to consider when documenting transactions that settle by physical delivery under a 1992 ISDA Master Agreement, see Section VI of the *User's Guide to the 1992 ISDA Master Agreements, 1993 Edition*.

Closing for Letter⁴³

Please confirm that the foregoing correctly sets forth the terms of our agreement by executing the copy of this Confirmation enclosed for that purpose and returning it to us or by sending to us a letter or telex substantially similar to this letter, which letter or telex sets forth the material terms of the Transaction to which this Confirmation relates and indicates your agreement to those terms.

Yours sincerely,
[Party A]

By: _____

Name:
Title:

Confirmed as of the date first above written:

[Party B]

By: _____

Name:
Title:

Closing for Telex⁴⁴

Please confirm that the foregoing correctly sets forth the terms of our agreement by sending to us a letter or telex substantially similar to this telex, which letter or telex sets forth the material terms of the Transaction to which this Confirmation relates and indicates agreement to those terms, or by sending to us a return telex substantially to the following effect:

“Re:

We acknowledge receipt of your telex dated [] with respect to the above-referenced Transaction between [Party A] and [Party B] with a Trade Date of [] and an Expiration Date of [] and confirm that such telex correctly sets forth the terms of our agreement relating to the Transaction described therein. Very truly yours, [Party B], by [specify name and title of authorized officer].”

Yours sincerely,
[PARTY A]

By: _____

Name:
Title:

⁴³ Include if applicable.

⁴⁴ Include if applicable.