

OCTOBER 2001

ISDA®

International Swaps and Derivatives Association, Inc.

AMENDMENT¹

dated as of

to the

ISDA MASTER AGREEMENT

dated as of

between

..... and

(the "Agreement")

The parties have previously entered into the Agreement and have now agreed to amend the Agreement by the terms of this Amendment (this "Amendment").

The International Swaps and Derivatives Association, Inc. ("ISDA") has published a series of modifications to the forms of ISDA Master Agreement (Multicurrency – Cross Border) and ISDA Master Agreement (Local Currency – Single Jurisdiction). The specific modifications that the parties wish to incorporate in the Agreement are set forth in the Attachments to this Amendment (the "Attachments"). The purpose of this Amendment is to amend the Agreement on the terms set forth in the Attachments.

Accordingly, in consideration of the mutual agreements contained in this Amendment, the parties agree as follows:

1. Amendment of the Agreement

The Agreement is amended in accordance with the amendments set forth in the Attachments specified below to be applicable.²

¹ PARTIES SHOULD CONSULT WITH THEIR LEGAL ADVISERS AND ANY OTHER ADVISERS THEY DEEM APPROPRIATE PRIOR TO USING THIS FORM OF AMENDMENT. BECAUSE OF THE RANGE OF MODIFICATIONS THAT PARTIES MAY HAVE MADE TO THE MASTER AGREEMENT, MODIFICATIONS TO THIS FORM OF AMENDMENT MAY BE NECESSARY OR AN ENTIRELY DIFFERENT FORM OF AMENDMENT MAY BE APPROPRIATE IN REGARD TO A PARTICULAR AGREEMENT.

² Parties should incorporate only those Attachments they select to amend their ISDA Master Agreements and delete any references to Attachments they do not select.

Attachment 1	Condition Precedent	[Applicable]
Attachment 2	Failure to Pay or Deliver	[Applicable]
Attachment 3	Default under Specified Transaction	[Applicable]
Attachment 4	Bankruptcy	[Applicable]
Attachment 5	Credit Event Upon Merger	[Applicable]
Attachment 6	Notices	[Applicable]
Attachment 7	Specified Transaction	[Applicable]
Attachment 8	Section 6 and Related Amendments	[Applicable]
Attachment 9	Illegality and Force Majeure	[Applicable]

2. Representations

Each party represents to the other party in respect of the Agreement, as amended pursuant to this Amendment, that all representations made by it pursuant to the Agreement are true and accurate as of the date of this Amendment.

3. Miscellaneous

(a) **Entire Agreement; Restatement.**

- (i) This Amendment constitutes the entire agreement and understanding of the parties with respect to its subject matter and supersedes all oral communication and prior writings (except as otherwise provided herein) with respect thereto.
- (ii) Except for any amendment to the Agreement made pursuant to this Amendment, all terms and conditions of the Agreement will continue in full force and effect in accordance with its provisions on the date of this Amendment. References to the Agreement will be to the Agreement, as amended by this Amendment.

(b) **Amendments.** No amendment, modification or waiver in respect of the matters contemplated by this Amendment will be effective unless made in accordance with the terms of the Agreement.

(c) **Counterparts.** This Amendment may be executed and delivered in counterparts (including by facsimile transmission), each of which will be deemed an original.

(d) **Headings.** The headings used in this Amendment are for convenience of reference only and are not to affect the construction of or to be taken into consideration in interpreting this Amendment.

(e) **Governing Law.** This Amendment will be governed by and construed in accordance with [English law][the laws of the State of New York (without reference to choice of law doctrine)].³

IN WITNESS WHEREOF the parties have executed this Amendment on the respective dates specified below with effect from the date specified first on the first page of this Amendment.

(Name of Party)

(Name of Party)

By: _____
Name:
Title:
Date:

By: _____
Name:
Title:
Date:

³ Delete as applicable.

ATTACHMENT 1

CONDITION PRECEDENT

The terms of Section 2(a) of the Agreement are amended by the addition of the following subclause (iv):

“(iv) In addition to the conditions precedent set out in Section 2(a)(iii) [and Section 2(a)(v)]⁴, if applicable, each obligation of each party under Section 2(a)(i) is subject to the condition precedent that no Additional Termination Event has occurred and is continuing with respect to which the other party is an Affected Party and with respect to which all outstanding Transactions are Affected Transactions.”

⁴ The reference to Section 2(a)(v) should be included if Attachment 9 – Illegality and Force Majeure has been elected by the parties.

ATTACHMENT 2

FAILURE TO PAY OR DELIVER

- (i) The terms of Section 5(a)(i) of the Agreement are amended in their entirety as follows:

“Failure to Pay or Deliver. Failure by the party to make, when due, any payment under this Agreement or delivery under Section 2(a)(i) or 2(e) required to be made by it if such failure is not remedied (1) in the case of any such payment, on or before the first Local Business Day after notice of such failure is given to the party and (2) in the case of any such delivery, on or before the first Local Delivery Day after notice of such failure is given to the party;”.

- (ii) The terms of Section 14⁵ of the Agreement are amended by the addition of the following term “Local Delivery Day”:

“Local Delivery Day” means, subject to any Schedule and with respect to any obligation under Section 2(a)(i) where settlement is by delivery, a day on which settlement systems necessary to accomplish such delivery are generally open for business such 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 such delivery.”

⁵ This section reference is appropriate if the Amendment relates to an ISDA Master Agreement (Multicurrency - Cross Border). If the Amendment relates to an ISDA Master Agreement (Local Currency - Single Jurisdiction), the reference should be to Section 12 of the Agreement.

ATTACHMENT 3

DEFAULT UNDER SPECIFIED TRANSACTION

- (i) The terms of Section 5(a)(v)(2) of the Agreement are amended in their entirety as follows:

“(2) defaults under a Specified Transaction, after giving effect to any applicable notice requirement or grace period, in making any payment or delivery due on the last payment, delivery or exchange date of, or any payment on early termination of, such Specified Transaction (or, if there is no applicable notice requirement or grace period, such default continues for at least one Local Business Day, in respect to any payment, or at least one Local Delivery Day, in respect to any delivery, and, in the case of a failure to deliver, such failure constitutes an event of default with respect to all transactions included under the documentation applicable to such Specified Transaction; or”

- [(ii) The terms of Section 14⁶ of the Agreement are amended by the addition of the following term “Local Delivery Day”:

“**Local Delivery Day**” means, subject to any Schedule and with respect to any obligation under Section 2(a)(i) where settlement is by delivery, a day on which settlement systems necessary to accomplish such delivery are generally open for business such 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 such delivery.”⁷

⁶ This section reference is appropriate if the Amendment relates to an ISDA Master Agreement (Multicurrency - Cross Border). If the Amendment relates to an ISDA Master Agreement (Local Currency - Single Jurisdiction), the reference should be to Section 12 of the Agreement.

⁷ The bracketed text should be included if the definition of Local Delivery Day has not already been included pursuant to Attachment 2 – Failure to Pay or Deliver.

ATTACHMENT 4

BANKRUPTCY

(i) The terms of Section 5(a)(vii)(4) of the Agreement are amended in their entirety as follows:

“(4)(A) 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, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditor’s rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or official, or (B) has instituted against it 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, and such proceeding or petition is instituted or presented by a person or entity not described in clause (A) and either (I) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (II) is not dismissed, discharged, stayed or restrained in each case within five Local Business Days of the institution or presentation thereof;”.

(ii) The terms of Section 6(a) of the Agreement are amended by the replacement of the reference to “Section 5(a)(vii)(4)” with a reference to “Section 5(a)(vii)(4)(A)”.

ATTACHMENT 5

CREDIT EVENT UPON MERGER

The terms of Section 5(b)(iv)⁸ of the Agreement are amended in their entirety as follows:

“(iv) ***Credit Event Upon Merger.*** If “Credit Event Upon Merger” is specified in the Schedule as applying to the party and a Designated Event (as defined below) occurs with respect to such party, any Credit Support Provider of such party or any applicable Specified Entity of such party (in each case, “X”) and such Designated Event does not constitute a Merger Without Assumption under Section 5(a)(viii) and the creditworthiness of X or, if applicable, the successor, surviving or transferee entity of X, after taking into account any applicable Credit Support Document, is materially weaker than that of X immediately prior to the occurrence of such Designated Event (and, in any such event, such party or its successor, surviving or transferee entity, as appropriate, will be the Affected Party). A “Designated Event” with respect to X means that:

- (1) X consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets (or any substantial part of the assets comprising the business conducted by X as of the date of this Agreement) to another entity;
- (2) any person, related group of persons or entity acquires directly or indirectly the beneficial ownership of (A) equity securities having the power to elect a majority of the board of directors (or its equivalent) of X or (B) any other ownership interest enabling it to exercise control of X; or
- (3) X effects any substantial change in its capital structure by means of the issuance, incurrence or guarantee of debt or the issuance of (A) preferred stock or other securities convertible into, or exchangeable for debt or preferred stock or (B) in the case of entities other than corporations, any other form of ownership interest; or”.

⁸ This section reference is appropriate if the Amendment relates to an ISDA Master Agreement (Multicurrency - Cross Border). If the Amendment relates to an ISDA Master Agreement (Local Currency - Single Jurisdiction), the reference should be to Section 5(b)(ii) of the Agreement.

ATTACHMENT 6

NOTICES

- (i) The terms of Section 9(b)⁹ of the Agreement are amended in their entirety as follows:

“(b) **Amendments.** No amendment, modification or waiver in respect of this Agreement will be effective unless in writing (including a writing evidenced by a facsimile transmission) and executed by each of the parties or confirmed by an exchange of telexes, by an exchange of electronic messages on an electronic messaging system or by an exchange of e-mails.”

- (ii) The terms of Section 9(e)¹⁰ of the Agreement are amended in their entirety as follows:

“(e) **Counterparts and Confirmations.**

(i) This Agreement (and each amendment, modification and waiver in respect to it) may be executed and delivered in counterparts (including by facsimile transmission), each of which will be deemed an original.

(ii) The parties intend that they are legally bound by the terms of each Transaction from the moment they agree to those terms (whether orally or otherwise). A Confirmation shall be entered into as soon as practicable and may be executed and delivered in counterparts (including by facsimile transmission) or be created by an exchange of telexes, by an exchange of electronic messages on an electronic messaging system or by an exchange of e-mails, which in each case will be sufficient for all purposes to evidence a binding supplement to this Agreement. The parties will specify therein or through another effective means that any such counterpart, telex, electronic message or e-mail constitutes a Confirmation.”

- (iii) The terms of Section 12(a)¹¹ of the Agreement are amended in their entirety as follows:

“(a) **Effectiveness.** Any notice or other communication in respect of this Agreement may be given in any manner set forth below to the address or number or in accordance with the e-mail or electronic messaging system details provided (see the Schedule) and will be deemed effective as indicated:—

- (i) if in writing and delivered in person or by courier, on the date it is delivered;
- (ii) if sent by telex, on the date the recipient’s answerback is received;

⁹ This section reference is appropriate if the Amendment relates to an ISDA Master Agreement (Multicurrency - Cross Border). If the Amendment relates to an ISDA Master Agreement (Local Currency - Single Jurisdiction), the reference should be to Section 8(b) of the Agreement.

¹⁰ This section reference is appropriate if the Amendment relates to an ISDA Master Agreement (Multicurrency - Cross Border). If the Amendment relates to an ISDA Master Agreement (Local Currency - Single Jurisdiction), the reference should be to Section 8(e) of the Agreement.

¹¹ This section reference is appropriate if the Amendment relates to an ISDA Master Agreement (Multicurrency - Cross Border). If the Amendment relates to an ISDA Master Agreement (Local Currency - Single Jurisdiction), the reference should be to Section 10(a) of the Agreement.

- (iii) if sent by facsimile transmission, on the date that transmission is received by a responsible employee of the recipient in legible form (it being agreed that the burden of proving receipt will be on the sender and will not be met by a transmission report generated by the sender's facsimile machine);
- (iv) if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), on the date that mail is delivered or its delivery is attempted;
- (v) if sent by electronic messaging system, on the date that electronic message is received; or
- (vi) if sent by e-mail, on the date that e-mail is delivered,

unless the date of the delivery (or attempted delivery) or that receipt, as applicable, is not a Local Business Day or that communication is delivered (or attempted to be delivered) or received, as applicable, after the close of business on a Local Business Day, in which case that communication shall be deemed given and effective on the first following day that is a Local Business Day.”

ATTACHMENT 7

SPECIFIED TRANSACTION

The term “Specified Transaction” in Section 14¹² of the Agreement is amended in its entirety as follows:

“***Specified Transaction***” means, subject to the Schedule, (a) any transaction (including an agreement with respect thereto) now existing or hereafter entered into between one party to this Agreement (or any Credit Support Provider of such party or any applicable Specified Entity of such party) and the other party to this Agreement (or any Credit Support Provider of such other party or any applicable Specified Entity of such other party) (i) which is a rate swap transaction, swap option, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, credit protection transaction, credit swap, credit default swap, credit default option, total return swap, credit spread transaction, repurchase transaction, reverse repurchase transaction, buy/sell-back transaction, securities lending transaction, or forward purchase or sale of a security, commodity or other financial instrument or interest (including any option with respect to any of these transactions) or (ii) which is a type of transaction that is similar to any transaction referred to in clause (i) that is currently, or in the future becomes, recurrently entered into in the financial markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, option or other derivative on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, or economic indices or measures of economic risk or value, (b) any combination of these transactions and (c) any other transaction identified as a Specified Transaction in this Agreement or the relevant confirmation.”

¹² This section reference is appropriate if the Amendment relates to an ISDA Master Agreement (Multicurrency - Cross Border). If the Amendment relates to an ISDA Master Agreement (Local Currency - Single Jurisdiction), the references should be to Section 12 of the Agreement.

ATTACHMENT 8

SECTION 6 AND RELATED AMENDMENTS

- (i) The terms of Section 6(d)(i) of the Agreement are amended in their entirety as follows:

“(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 market information used in determining a Replacement Value 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.”

- (ii) The terms of Section 6(e) of the Agreement are amended in their entirety as follows:

“(e) **Payments on Early Termination.** If an Early Termination Date occurs, the following provisions shall apply based on the parties’ election in the Schedule of a payment method, either the “First Method” or the “Second Method”. If the parties fail to designate a payment method in the Schedule, it will be deemed that the “Second Method” shall apply. The amount, if any, payable in respect of an Early Termination Date and determined pursuant to this Section will be subject to any Set-off.

(i) **Events of Default.** If the Early Termination Date results from an Event of Default:—

(1) **First Method.** If the First Method applies, the Defaulting Party will pay to the Non-defaulting Party the excess, if a positive number, of (A) the sum of the Settlement Amount (determined by the Non-defaulting Party) in respect of the Terminated Transactions and the Termination Currency Equivalent of the Unpaid Amounts owing to the Non-defaulting Party over (B) the Termination Currency Equivalent of the Unpaid Amounts owing to the Defaulting Party.

(2) **Second Method.** If the Second Method applies, an amount will be payable equal to (A) the sum of the Settlement Amount (determined by the Non-defaulting Party) in respect of the Terminated Transactions and the Termination Currency Equivalent of the Unpaid Amounts owing to the Non-defaulting Party less (B) the Termination Currency Equivalent of the Unpaid Amounts owing to the Defaulting Party. If that amount is a positive number, the Defaulting Party will pay it to the Non-defaulting Party; if it is a negative number, the Non-defaulting Party will pay the absolute value of that amount to the Defaulting Party.

(ii) **Termination Events.** If the Early Termination Date results from a Termination Event:

(1) *One Affected Party.* If there is one Affected Party, the amount payable will be determined in accordance with Section 6(e)(i)(2) except that references to the Defaulting Party and to the Non-defaulting Party will be deemed to be references to the Affected Party and the party which is not the Affected Party, respectively.

(2) *Two Affected Parties.* If there are two Affected Parties, each party will determine a Settlement Amount in respect of the Terminated Transactions, and an amount will be payable equal to (I) the sum of (a) one-half of the difference between the Settlement Amount of the party with the higher Settlement Amount (“X”) and the Settlement Amount of the party with the lower Settlement Amount (“Y”) and (b) the Termination Currency Equivalent of the Unpaid Amounts owing to X less (II) the Termination Currency Equivalent of the Unpaid Amounts owing to Y. If the amount payable is a positive number, Y will pay it to X; if it is a negative number, X will pay the absolute value of that amount to Y.

(iii) *Adjustment for Bankruptcy.* In circumstances where an Early Termination Date occurs because “Automatic Early Termination” applies in respect of a party, the amount determined under this Section 6(e) will be subject to such adjustments as are appropriate and permitted by law to reflect any payments or deliveries made by one party to the other under this Agreement (and retained by such other party) during the period from the relevant Early Termination Date to the date for payment determined under Section 6(d)(ii).

(iv) *Pre-Estimate.* The parties agree that an amount recoverable under this Section 6(e) is a reasonable pre-estimate of loss and not a penalty. Such amount is payable for the loss of bargain and the loss of protection against future risks and except as otherwise provided in this Agreement neither party will be entitled to recover any additional damages as a consequence of such losses.”

(ii) The term “Settlement Amount” in Section 14¹³ of the Agreement is amended in its entirety as follows:

“**Settlement Amount**” means, with respect to a party and any Early Termination Date, the sum of the Termination Currency Equivalent of the Replacement Value or Replacement Values (whether positive or negative) for each Terminated Transaction or group of Terminated Transactions, as the case may be.”

(iii) The following term “Replacement Value” is added to Section 14¹¹ of the Agreement:

“**Replacement Value**” means, with respect to each Terminated Transaction or group of Terminated Transactions, as the case may be, and a party making the determination (the “Determining Party”), an amount that the Determining Party or its agent determines in good faith using commercially reasonable procedures to be the amount of the costs (expressed as a positive number) or gains (expressed as a negative number) of the Determining Party that would be incurred or realized to replace, or to provide the economic equivalent of the remaining payments, deliveries or option rights in respect of, that Terminated Transaction or group of Terminated Transactions. A Determining Party (or its agent) may

¹³ This section reference is appropriate if the Amendment relates to an ISDA Master Agreement (Multicurrency - Cross Border). If the Amendment relates to an ISDA Master Agreement (Local Currency - Single Jurisdiction), the references should be to Section 12 of the Agreement.

determine Replacement Values for all Terminated Transactions, any group of Terminated Transactions or individual Terminated Transaction, and may apply different valuation methods to different Transactions or groups of Transactions. A Determining Party (or its agent) will determine Replacement Values for not less than all Terminated Transactions and each Replacement Value shall be determined as of the relevant Early Termination Date, or, if that would not be commercially reasonable, as of the latest date or dates before or the earliest date or dates after the Early Termination Date as would be commercially reasonable under then prevailing circumstances.

A Determining Party (or its agent) may determine a Replacement Value by reference to information either available to it internally or supplied by one or more third parties including, without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets. If information is obtained from internal sources, it should be the same type of information as used by the Determining Party for the valuation of similar transactions for purposes of its own books and records. A Determining Party (or its agent) may use such information to determine a Replacement Value either directly or through application to such information of pricing or other valuation models that are used by the Determining Party in pricing or valuing similar transactions at the time of the determination of Replacement Value. Third parties supplying such information may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information that are used by the Determining Party in pricing or valuing similar transactions at the time of the determination of Replacement Value.

A Determining Party (or its agent) may take into account, or may require third parties supplying such information to take into account, the current creditworthiness and relevant documentation and credit policies of the Determining Party, the size of the Terminated Transaction or Terminated Transactions, market liquidity and other factors relevant under then prevailing circumstances.

A Determining Party's (or its agent's) determination of Replacement Value may reflect one or more of the following, but without duplication:

- (a) any cost or gain (whether or not incurred or realized) of entering into one or more transactions that would have the effect of preserving for the Determining Party the economic equivalent of payments, deliveries or option rights in respect of such Terminated Transaction or group of Terminated Transactions that would, but for the occurrence of the relevant Early Termination Date, have been required or exercisable after that date whether the underlying obligation or option right was absolute or contingent;
- (b) any cost of funding; or
- (c) any loss or cost incurred as a result of its terminating, liquidating, obtaining or reestablishing any hedge or related trading position (or any gain resulting from any of them), whether in one or a group of transactions.

Unpaid Amounts in respect of a Terminated Transaction or group of Terminated Transactions and legal fees and out-of-pocket expenses referred to in Section 11 are to be excluded in all determinations of Replacement Value but payments or deliveries that would, but for the relevant Early Termination Date, have been required (assuming satisfaction of each applicable condition precedent) after the Early Termination Date may be included.”

(iv) The following terms in Section 14¹⁴ of the Agreement are deleted in their entirety:

“Loss”

“Market Quotation”; and

“Reference Market-makers”.

If any of these terms are used in any Annex or Schedule to the Agreement or a Confirmation, the ISDA Credit Support Annex Subject to New York Law, the ISDA Credit Support Annex Subject to English Law, the ISDA Credit Support Deed Subject to English Law, the ISDA Credit Support Annex Subject to Japanese Law, the 1994 ISDA Equity Option Definitions, the 1996 ISDA Equity Derivatives Definitions, the 1997 ISDA Government Bond Option Definitions, the 1998 FX and Currency Option Definitions, the 1999 ISDA Credit Derivatives Definitions or any other ISDA document incorporated by reference or executed by the parties hereto, the terms will have the respective meanings ascribed to them in the standard form 1992 ISDA Master Agreement (Multicurrency-Cross Border).

(v) Part 1(f)(i)¹⁵ of the Schedule to the Agreement is deleted in its entirety and Part 1(f)(ii) becomes Part 1(f) of the Schedule to the Agreement. In case the parties have used another designation for the paragraph of the Schedule specifying the selection of Market Quotation or Loss, the reference herein to Part 1(f)(i) of the Schedule shall be deemed a reference to that paragraph.

¹⁴ This section reference is appropriate if the Amendment relates to an ISDA Master Agreement (Multicurrency - Cross Border). If the Amendment relates to an ISDA Master Agreement (Local Currency - Single Jurisdiction), the references should be to Section 12 of the Agreement.

¹⁵ Parties should confirm whether this is the correct reference to the relevant provision in the Schedule to the Agreement.

ATTACHMENT 9¹⁶

ILLEGALITY AND FORCE MAJEURE

(a) The terms of Section 2(a) of the Agreement are amended by the addition of the following as sub-clause (iv) or, if Section 2(a) has been, or is also, amended by Attachment 1 (Condition Precedent), sub-clause (v):

“In addition to the conditions precedent set out in Section 2(a)(iii) [and Section 2(a)(iv)]¹⁷, each obligation of each party under Section 2(a)(i) is subject to, with respect to all Affected Transactions, the condition precedent that no Illegality or Force Majeure Event has occurred and is continuing with respect to which the other party is an Affected Party.”

(b) The first paragraph of Section 5(b) of the Agreement is amended in its entirety as follows:

“**Termination Events.** The occurrence at any time with respect to a party or, if applicable, any Credit Support Provider of such party or any Specified Entity of such party of any event specified below constitutes an Illegality if the event is specified in (i) below, a Tax Event if the event is specified in (ii) below, a Tax Event Upon Merger if the event is specified in (iii) below or a Force Majeure Event if the event is specified in (vi) below, and, if specified to be applicable, a Credit Event Upon Merger if the event is specified pursuant to (iv) below or an Additional Termination Event if the event is specified pursuant to (v) below:-”

(c) Section 5(b)(i) of the Agreement is amended in its entirety as follows:

“(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, its Credit Support Provider) occurring after the date on which a Transaction is entered into:-

(1) it becomes unlawful under any applicable law (including without limitation the laws of any country in which payment, delivery or performance is required by either party), on any day, or it would be unlawful if the relevant payment, delivery or performance were required on that day (in each case, other than as a result of a breach by the party of Section 4(b)):-

(A) for such party (which will be the Affected Party) 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

¹⁶ This Attachment is designed for use only where the Amendment relates to an ISDA Master Agreement (Multicurrency - Cross Border).

¹⁷ The reference to Section 2(a)(iv) should be included if Attachment 2 – Failure to Pay or Deliver has been elected by the parties.

(B) for any Credit Support Provider of such party (which will be the Affected Party) to perform any contingent or other obligation which such Credit Support Provider has under any Credit Support Document relating to such Transaction; or

(2) it becomes unlawful under any applicable law (including without limitation the laws of any country in which payment, delivery or performance is required by either party), on any day (other than as a result of a breach by the party of Section 4(b)):-

(A) for such party (which will be the Affected Party) to make or receive any payment which is due pursuant to Section 6(e) following the occurrence of an Early Termination Date in respect of such Transaction; or

(B) for any Credit Support Provider of such party (which will be the Affected Party) to make any payment, pursuant to any Credit Support Document, to be made by it in respect of any amount which is due pursuant to Section 6(e) following the occurrence of an Early Termination Date in respect of such Transaction,

and, in each case, the relevant Waiting Period has expired; ”.

(d) The word “or” at the end of Section 5(b)(iv) of the Agreement is deleted, and “.” at the end of Section 5(b)(v) is deleted and replaced by “; or”.

(e) A new Section 5(b)(vi) is added to the Agreement as follows:

“(vi) **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 the date on which a Transaction is entered into, on any day:-

(1) such party (which will be the Affected Party) is prevented from making or receiving any payment or delivery in respect of such Transaction (or would be so prevented if such payment or delivery were required on that day), or it becomes impossible or impracticable for such party to make or receive any such payment or delivery (or it would be impossible or impracticable for such party to make or receive such payment or delivery if such payment or delivery were required on that day);

(2) any Credit Support Provider of such party (which will be the Affected Party) is prevented from performing any contingent or other obligation which such Credit Support Provider has under any Credit Support Document relating to such Transaction (or would be so prevented if performance were required on that day), or it becomes impossible or impracticable for any Credit Support Provider of such party to perform any such obligation (or it would be impossible or impracticable for such Credit Support Provider to perform such obligation if performance were required on that day);

(3) such party (which will be the Affected Party) is prevented from making or receiving any payment which is due pursuant to Section 6(e) following the occurrence of an Early Termination Date in respect of such Transaction, or it becomes impossible or impracticable for such party to make or receive any such payment; or

(4) any Credit Support Provider of such party (which will be the Affected Party) is prevented from making any payment, pursuant to any Credit Support Document, to be made by it in respect of any amount which is due pursuant to Section 6(e) following the occurrence of an Early Termination Date in respect of such Transaction, or it becomes impossible or impracticable for any Credit Support Provider of such party to make any such payment,

provided that (x) such event or circumstance is beyond the control of such party or such Credit Support Provider, and such party or such Credit Support Provider could not, after using all reasonable efforts prior to the end of the relevant Waiting Period (which will not require such party or Credit Support Provider to incur a loss, other than immaterial, incidental expenses), overcome such event or circumstance and (y) the relevant Waiting Period has expired.”

(f) Section 5(c) of the Agreement is amended in its entirety as follows:

“(c) ***Events of Default, Illegality and Force Majeure Event.***

(i) If an event or circumstance which would otherwise constitute or give rise to an Event of Default under Section 5(a)(i) or Section 5(a)(iii) insofar as such event or circumstance relates to the failure to make any payment or delivery also constitutes (or would, with the lapse of time, constitute) an Illegality or a Force Majeure Event, it will not constitute an Event of Default.

(ii) Subject to Section 5(c)(i), if an event or circumstance which would otherwise constitute or give rise to an Event of Default or a Termination Event (other than an Illegality or a Force Majeure Event) also constitutes (or would, with the lapse of time, constitute) an Illegality or a Force Majeure Event, it will not constitute an Illegality or a Force Majeure Event.

(iii) If an event or circumstance which would otherwise constitute or give rise to a Force Majeure Event also constitutes an Illegality, it will not constitute a Force Majeure Event.”

(g) Section 6(b)(i) of the Agreement is amended in its entirety as follows:

“(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 such other party information about that Termination Event as the other party may reasonably require. If a Force Majeure Event occurs, or if an event or circumstance arises that would, with the lapse of time, constitute a Force Majeure Event, each party will use all reasonable efforts, promptly upon becoming aware of it, to notify the other party, specifying the nature of that event or circumstance and will also give such other party information about that event or circumstance as the other party may reasonably require.”

(h) The first paragraph of Section 6(b)(ii) of the Agreement is amended in its entirety as follows:

“(ii) **Transfer to Avoid Termination Event.** If 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.”

(i) Section 6(b)(iii) of the Agreement is amended in its entirety as follows:

“(iii) **Two Affected Parties.** If 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) to avoid that Termination Event.”

(j) Section 6(b)(iv) of the Agreement is amended in its entirety as follows:

“(iv) **Right to Terminate.**

(1) 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, a Force Majeure Event, 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 or a Force Majeure Event, 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, or, in the case of an Illegality or a Force Majeure Event, and subject to Section 6(b)(iv)(2), less than all Affected Transactions.

(2) If an Illegality or a Force Majeure Event occurs, either party may, by not more than 20 days notice to the other party and provided that the relevant Illegality or Force Majeure Event is then continuing, designate 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 by specifying in that notice the Affected Transactions in respect of which it is designating the relevant day as an Early Termination Date. Upon receipt of such notice, 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.

(3) Notwithstanding Sections 6(b)(iv)(1) and 6(b)(iv)(2), if an Illegality under Sections 5(b)(i)(1)(B) or 5(b)(i)(2)(B) or a Force Majeure Event under Sections 5(b)(vi)(2) or 5(b)(vi)(4) occurs, the Affected Party will not have the right to designate an Early Termination Date under Sections 6(b)(iv)(1) or 6(b)(iv)(2), unless such designation follows the designation by the other party of an Early Termination Date in respect of fewer than all Affected Transactions under Section 6(b)(iv)(2).”

(k) A new Section 6(b)(v) is added to the Agreement as follows:

“(v) ***Deferral of Payments for Illegality and Force Majeure Event.***

(1) If an event or circumstance exists in respect of a Transaction which would, after the expiration of the Waiting Period, constitute an Illegality or a Force Majeure Event, 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,

(A) the first Local Business Day following the end of the Waiting Period in respect of that Illegality or Force Majeure Event, as the case may be; or

(B) if earlier, the date on which such event or circumstance ceases to exist.

(2) Following the occurrence of an Illegality or a Force Majeure Event, if the failure by a party to make, when due, any payment or delivery under an Affected Transaction in respect of that Illegality or Force Majeure Event would otherwise constitute an Event of Default under Section 5(a)(i) with respect to that party, then for so long as the event or circumstance giving rise to that Illegality or Force Majeure Event continues to exist, such failure will not constitute an Event of Default.

(3) If a party fails to make, when due, any payment pursuant to Section 6(e) due to the occurrence of an Illegality or a Force Majeure Event and such failure would otherwise constitute an Event of Default under Section 5(a)(i) with respect to that party, then:

(A) for so long as the event or circumstance giving rise to that Illegality or Force Majeure Event continues to exist, such failure will not constitute an Event of Default; and

(B) if 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, such payment obligation will be deemed to be included in the calculation of Unpaid Amounts owing to the other party.”

(l) A new Section 6(b)(vi) is added to the Agreement as follows:

“(vi) *Compensation of Deferred Payments and Deliveries for Illegality and Force Majeure Event.*

(1) In respect of any payment that is deferred pursuant to Section 6(b)(v)(1), the party that would have been required, but for such deferral, to make such payment will compensate the other party at such current market rate for the applicable currency as shall be determined in good faith by the party that is not the Affected Party, or, if there are two Affected Parties, the average of such current market rates determined in good faith by both parties, provided in either case that if either party fails to determine such rate within two Local Business Days (or days which would have been Local Business Days but for the occurrence of the Illegality or Force Majeure Event, as the case may be) after the date on which that payment would otherwise have been due, the relevant rate determined in good faith by the other party will prevail.

(2) In respect of any delivery that is deferred pursuant to Section 6(b)(v)(1) or any failure by a party to make any delivery pursuant to Section 6(b)(v)(2), the party required to make that delivery or that would have been required, but for the deferral, to make that delivery, as the case may be, will, on demand by the other party, compensate that other party for any costs, losses or expenses resulting from such deferral or failure to deliver.

(3) In respect of any failure by a party to make any payment pursuant to Section 6(b)(v)(2) or (3), that party will compensate the other party at the Non-default Rate.”

(m) Section 6(e)(ii) of the Agreement is amended in its entirety as follows:

[Parties should incorporate one of the following versions of Paragraph (m) based on their selection of the measurement of damages under Section 6(e).]

[Alternative A

“(ii) *Termination Events.* If the Early Termination Date results from a Termination Event:-

(1) *One Affected Party.* If there is one Affected Party:-

(A) if Market Quotation applies:-

(I) if that Termination Event is not an Illegality or a Force Majeure Event, the amount payable will be determined in accordance with Section 6(e)(i)(3), except that references to the Defaulting Party and to the Non-defaulting Party will be deemed to be references to the Affected Party and the party which is not the Affected Party, respectively; and

(II) if that Termination Event is either an Illegality or a Force Majeure Event, the amount payable will be determined in accordance with Section 6(e)(ii)(1)(A)(I), except that for the purpose of determining Market Quotation, (a) Reference Market-makers 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 Reference Market-makers apply generally at the time in deciding whether to offer to make an extension of credit, and no account will be taken of any existing Credit Support Document and (b) Reference Market-makers will be asked to provide mid-market quotations; and

(B) if Loss applies:

(I) the amount payable will be determined in accordance with Section 6(e)(i)(4), except that references to the Defaulting Party and to the Non-defaulting Party will be deemed to be references to the Affected Party and the party which is not the Affected Party, respectively, and if fewer than all the Transactions are being terminated, Loss shall be calculated in respect of all Terminated Transactions; and

(II) if that Termination Event is either an Illegality or a Force Majeure Event, Loss shall be determined on the basis of mid-market values in respect of the Terminated Transactions and, in particular, if any quotations of relevant rates or prices are used for the purpose of determining Loss under this section, (a) third parties supplying such quotations 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 those third parties apply generally at the time in deciding whether to offer to make an extension of credit, and no account will be taken of any existing Credit Support Document and (b) those third parties will be asked to provide mid-market quotations.

(2) *Two Affected Parties.* If there are two Affected Parties:-

(A) if Market Quotation applies, each party will determine a Settlement Amount in respect of the Terminated Transactions, and an amount will be payable equal to (I) the sum of (a) one-half of the difference between the Settlement Amount of the party with the higher Settlement Amount (“X”) and the Settlement Amount of the party with the lower Settlement Amount (“Y”) and (b) the Termination Currency Equivalent of the Unpaid Amounts owing to X less (II) the Termination Currency Equivalent of the Unpaid Amounts owing to Y and, if that Termination Event is either an Illegality or a Force Majeure Event, for the purpose of determining Market Quotations (a) Reference Market-makers 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 Reference Market-makers apply generally at the time in deciding whether to offer to make an extension of credit, and no account will be taken of any existing Credit Support Document and (b) Reference Market-makers will be asked to provide mid-market quotations; and

(B) if Loss applies:

(I) each party will determine its Loss in respect of this Agreement (or, if fewer than all the Transactions are being terminated, in respect of all Terminated Transactions) and an amount will be payable equal to one-half of the difference between the Loss of the party with the higher Loss (“X”) and the Loss of the party with the lower Loss (“Y”); and

(II) if that Termination Event is either an Illegality or a Force Majeure Event, Loss shall be determined on the basis of mid-market values in respect of the Terminated Transactions and, in particular, if any quotations of relevant rates or prices are used for the purpose of determining Loss under this section, (a) third parties supplying such quotations 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 those third parties apply generally at the time in deciding whether to offer to make an extension of credit, and no account will be taken of any existing Credit Support Document and (b) those third parties will be asked to provide mid-market quotations.

If the amount payable is a positive number, Y will pay it to X; if it is a negative number, X will pay the absolute value of that amount to Y.”]

[Alternative B

“(ii) **Termination Events.** If the Early Termination Date results from a Termination Event:-

(1) *One Affected Party.* If there is one Affected Party:

(A) if that Termination Event is not an Illegality or a Force Majeure Event, the amount payable will be determined in accordance with Section 6(e)(i)(2) except that references to the Defaulting Party and to the Non-defaulting Party will be deemed to be references to the Affected Party and the party which is not the Affected Party, respectively; and

(B) if that Termination Event is either an Illegality or a Force Majeure Event, the amount payable will be determined in accordance with Section 6(e)(ii)(1)(A), except that for the purpose of determining Replacement Values, the Determining Party will use mid-market values without regard to the creditworthiness of the Determining Party.

(2) *Two Affected Parties.* If there are two Affected Parties, each party will determine a Settlement Amount in respect of the Terminated Transactions, and an amount will be payable equal to (I) the sum of (a) one-half of the difference between the Settlement Amount of the party with the higher Settlement Amount (“X”) and the Settlement Amount of the party with the lower Settlement Amount (“Y”) and (b) the Termination Currency Equivalent of the Unpaid Amounts owing to X less (II) the Termination Currency Equivalent of the Unpaid Amounts owing to Y and, if that Termination Event is either an Illegality or a Force Majeure Event, for the purpose of determining Replacement Values, the Determining Party will use

mid-market values without regard to the creditworthiness of the Determining Party.

If the amount payable is a positive number, Y will pay it to X; if a negative number, X will pay the absolute value of that amount to Y.”]

(n) The terms “ **Affected Transactions**”, “**Terminated Transactions**”, and “**Termination Event**” in Section 14 of the Agreement are amended in their entirety as follows:

““**Affected Transactions**” means (a) with respect to any Termination Event consisting of an Illegality, Tax Event, Tax Event Upon Merger or Force Majeure Event, all Transactions affected by the occurrence of such Termination Event and (b) with respect to any other Termination Event, all Transactions.”

““**Terminated Transactions**” means, with respect to any Early Termination Date, (a) if resulting from an Illegality or a Force Majeure Event, all Affected Transactions specified in the notice given pursuant to Section 6(b)(iv), (b) if resulting from any other Termination Event, all Affected Transactions and (c) if resulting from an Event of Default, all Transactions (in any case) in effect immediately before the effectiveness of the notice designating that Early Termination Date (or, if “Automatic Early Termination” applies, immediately before that Early Termination Date).”

““**Termination Event**” means an Illegality, a Tax Event, a Tax Event Upon Merger or a Force Majeure Event or, if specified to be applicable, a Credit Event Upon Merger or an Additional Termination Event.”

(o) The following terms are added to Section 14 of the Agreement:

““**Force Majeure Event**” has the meaning specified in Section 5(b)(vi).”

““**Waiting Period**” means:-

(a) in respect of an event or circumstance under Section 5(b)(i), 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)(vi), 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.”