

International Swap Dealers Association, Inc.

July 1990 Addendum to Schedule to Interest Rate and Currency Exchange Agreement

Options

(1) As used in this Agreement or in any Confirmation, "Option" means any Swap Transaction that is identified in the related Confirmation as an Option and provides for the grant by Seller to Buyer of (i) the right to cause an underlying Swap Transaction, the terms of which are identified in that Confirmation (an "Underlying Swap Transaction"), to become effective, (ii) the right to cause Seller to pay Buyer pursuant to Section 2(a)(i) of this Agreement the Cash Settlement Amount, if any, in respect of the Underlying Swap Transaction on the Cash Settlement Payment Date, (iii) the right to cause the Optional Termination Date to become the Termination Date and, if so specified in the related Confirmation, the Final Exchange Date of the related Swap Transaction that is identified in that Confirmation (a "Related Swap Transaction") or (iv) any other right or rights specified in the related Confirmation. An Option may provide for the grant of one or more of the foregoing rights, all of which can be identified in a single Confirmation.

(2) The following capitalized terms, if used in relation to an Option, have the respective meanings specified in or pursuant to the related Confirmation (or elsewhere in this Agreement): "Buyer", "Seller", "Option Premium", "Option Premium Payment Date", "Cash Settlement Payment Date", "Cash Settlement Amount", "Optional Termination Date", "Exercise Terms" and "Option Exercise Period".

(3) The following provisions will apply with respect to an Option:

(a) Buyer will pay Seller pursuant to Section 2(a)(i) of this Agreement the Option Premium, if any, on the Option Premium Payment Date or Dates.

(b) On the terms set forth in this Agreement (including the related Confirmation), Seller grants to Buyer pursuant to the Option, (i) if "Physical Settlement" is specified to be applicable to the Option, the right to cause the Underlying Swap Transaction to become effective, (ii) if "Cash Settlement" is specified to be applicable to the Option, the right to cause Seller to pay Buyer pursuant to Section 2(a)(i) of this Agreement the Cash Settlement Amount, if any, in respect of the Underlying Swap Transaction on the Cash Settlement Payment Date or (iii) if "Optional Termination" is specified to be applicable to the Option, the right to cause the Optional Termination Date to become the Termination Date and, if so specified in the related Confirmation, the Final Exchange Date of the Related Swap Transaction. The Underlying Swap Transaction, if any, shall not become effective unless (i) "Physical Settlement" is specified to be applicable to the Option and (ii) the right to cause that Underlying Swap Transaction to become effective has been exercised.

(c) Buyer may exercise the right or rights granted pursuant to the Option only by delivering irrevocable notice (a "Notice of Exercise") to Seller (which, notwithstanding any other provision of this Agreement, may be delivered orally (including by telephone)). The Notice of Exercise must become effective during the Option Exercise Period and must include the Exercise Terms, if any.

(d) Buyer will, if “Written Confirmation” is specified to be applicable to the Option or upon demand from Seller (which, notwithstanding any other provision of this Agreement, may be delivered orally (including by telephone)), (i) execute a written confirmation confirming the substance of the Notice of Exercise and deliver the same to Seller or (ii) issue a telex to Seller setting forth the substance of the Notice of Exercise. Buyer shall cause such executed written confirmation or telex to be received by Seller within one Local Banking Day following the date that the Notice of Exercise or Seller’s demand, as the case may be, becomes effective. If not received within such time, Buyer will be deemed to have satisfied its obligations under the immediately preceding sentence at the time that such executed written confirmation or telex becomes effective.

(e) Any notice or communication given, and permitted to be given, orally (including by telephone) in connection with the Option will be effective when actually received by the recipient.

(4) For purposes of the determination of a Market Quotation for a Terminated Transaction that is identified as an Option, the quotations obtained from Reference Market-makers shall take into account, as of the relevant Early Termination Date, the economic equivalent of the right or rights granted pursuant to that Option which are or may become exercisable.

(5) Notwithstanding the terms of Sections 5 and 6 of this Agreement, if at any time and so long as one of the parties to this Agreement (“X”) shall have satisfied in full all its payment obligations under Section 2(a)(i) of this Agreement and shall at the time have no future payment obligations, whether absolute or contingent, under such Section, then unless the other party (“Y”) is required pursuant to appropriate proceedings to return to X or otherwise returns to X upon demand of X any portion of any such payment, (a) the occurrence of an event described in Section 5(a) of this Agreement with respect to X or any Specified Entity of X shall not constitute an Event of Default or a Potential Event of Default with respect to X as the Defaulting Party and (b) Y shall be entitled to designate an Early Termination Date pursuant to Section 6 of this Agreement only as a result of the occurrence of a Termination Event set forth in (i) either Section 5(b)(i) or 5(b)(ii) of this Agreement with respect to Y as the Affected Party or (ii) Section 5 (b)(iii) of this Agreement with respect to Y as the Burdened Party.

International Swap Dealers Association, Inc.

July 1990 Addendum to Schedule to Interest Rate Swap Agreement

Options

(1) As used in this Agreement or in any Confirmation, “Option” means any Rate Swap Transaction that is identified in the related Confirmation as an Option and provides for the grant by Seller to Buyer of (i) the right to cause an underlying Rate Swap Transaction, the terms of which are identified in that Confirmation (an “Underlying Rate Swap Transaction”), to become effective, (ii) the right to cause Seller to pay Buyer pursuant to Section 2(a) of this Agreement the Cash Settlement Amount, if any, in respect of the Underlying Rate Swap Transaction on the Cash Settlement Payment Date, (iii) the right to cause the Optional Termination Date to become the Termination Date of the related Rate Swap Transaction that is identified in that Confirmation (a “Related Rate Swap Transaction”) or (iv) any other right or rights specified in the related Confirmation. An Option may provide for the grant of one or more of the foregoing rights, all of which can be identified in a single Confirmation.

(2) The following capitalized terms, if used in relation to an Option, have the respective meanings specified in or pursuant to the related Confirmation (or elsewhere in this Agreement): “Buyer”, “Seller”, “Option Premium”, “Option Premium Payment Date”, “Cash Settlement Payment Date”, “Cash Settlement Amount”, “Optional Termination Date”, “Exercise Terms” and “Option Exercise Period”.

(3) The following provisions will apply with respect to an Option:

(a) Buyer will pay Seller pursuant to Section 2(a) of this Agreement the Option Premium, if any, on the Option Premium Payment Date or Dates.

(b) On the terms set forth in this Agreement (including the related Confirmation), Seller grants to Buyer pursuant to the Option, (i) if “Physical Settlement” is specified to be applicable to the Option, the right to cause the Underlying Rate Swap Transaction to become effective, (ii) if “Cash Settlement” is specified to be applicable to the Option, the right to cause Seller to pay Buyer pursuant to Section 2(a) of this Agreement the Cash Settlement Amount, if any, in respect of the Underlying Rate Swap Transaction on the Cash Settlement Payment Date or (iii) if “Optional Termination” is specified to be applicable to the Option, the right to cause the Optional Termination Date to become the Termination Date of the Related Rate Swap Transaction. The Underlying Rate Swap Transaction, if any, shall not become effective unless (i) “Physical Settlement” is specified to be applicable to the Option and (ii) the right to cause that Underlying Rate Swap Transaction to become effective has been exercised.

(c) Buyer may exercise the right or rights granted pursuant to the Option only by delivering irrevocable notice (a “Notice of Exercise”) to Seller (which, notwithstanding any other provision of this Agreement or the Code, may be delivered orally (including by telephone)). The Notice of Exercise must become effective during the Option Exercise Period and must include the Exercise Terms, if any.

(d) Buyer will, if “Written Confirmation” is specified to be applicable to the Option or upon demand from Seller (which, notwithstanding any other provision of this Agreement or the Code, may be delivered orally (including by telephone)), (i) execute a written confirmation confirming the substance of the Notice of Exercise and deliver the same to Seller or (ii) issue a telex to Seller setting forth the substance of the Notice of Exercise. Buyer shall cause such executed written confirmation or telex to be received by Seller within one Local Banking Day following the date that the Notice of Exercise or Seller’s demand, as the case may be, becomes effective. If not received within such time, Buyer will be deemed to have satisfied its obligations under the immediately preceding sentence at the time that such executed written confirmation or telex becomes effective.

(e) Any notice or communication given, and permitted to be given, orally (including by telephone) in connection with the Option will be effective when actually received by the recipient.

(4) For purposes of the determination of a Market Quotation for a Terminated Transaction that is identified as an Option, the quotations obtained from Reference Market-makers shall take into account, as of the relevant Early Termination Date, the economic equivalent of the right or rights granted pursuant to that Option which are or may become exercisable .

(5) Notwithstanding the terms of Sections 5 and 6 of this Agreement and Section 11.6 of the Code, if at any time and so long as one of the parties to this Agreement (“X”) shall have satisfied in full all its payment obligations under Section 2(a) of this Agreement and shall at the time have no future payment obligations, whether absolute or contingent, under such Section, then unless the other party (“Y”) is required pursuant to appropriate proceedings to return to X or otherwise returns to X upon demand of X any portion of any such payment, (a) the occurrence of an event described in Section 5(a) of this Agreement with respect to X or any Specified Entity of X shall not constitute an Event of Default or Potential Event of Default with respect to X as the Defaulting Party and (b) Y shall be entitled to designate an Early Termination Date pursuant to Section 6 of this Agreement only as a result of the occurrence of a Termination Event set forth in (i) either Section 5(b)(i) or 5(b)(ii) of this Agreement with respect to Y as the Affected Party or (ii) Section 5(b)(iii) of this Agreement with respect to Y as the Burdened Party. For purposes of this Agreement, “Potential Event of Default” means an event that with the giving of notice or lapse of time (or both) would become an Event of Default.

**Sample Form of Letter Agreement or Telex
for a Swap Transaction that is
Identified as an Option**

Heading for Letter

[Letterhead of Party A]

[Date]

Swap Transaction

[Name and Address of Party B]

Heading for Telex

Telex

Date:

To: [Name and Telex Number of Party B]

From: [Party A]

Re: Swap Transaction

Dear _____ :

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

The definitions and provisions contained in the 1987 Interest Rate and Currency Exchange Definitions (as published by the International Swap Dealers Association, Inc.) are incorporated into this Confirmation. In the event of any inconsistency between those definitions and provisions and this Confirmation, this Confirmation will govern.

1. This Confirmation supplements, forms part of, and is subject to, the Interest Rate and Currency Exchange 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 particular Swap Transaction to which this Confirmation relates is an Option, the terms of which are as follows:

Seller:	[Party A/B]
Buyer:	[Party B/A]
[Option Premium:]	[\$ _____] [payable in [_____] [equal] installments on each Option Premium Payment Date] [as follows: _____]
[Option Premium Payment Date[s]:]	[Specify date or dates]
Expiration Date:	[_____] [(or if such day is not a [_____] Business Day, the next preceding/following [_____] Business Day)]
[Physical Settlement:	Applicable]

[Cash Settlement Provisions:]
 [Cash Settlement: Applicable]
 [Cash Settlement Payment Date:] [The [first] [] Business Day next following the [Expiration Date][earlier of (i) the Expiration Date and (ii) the day on which the Notice of Exercise is effective]]
 [Cash Settlement Amount:] [Specify means for determination]

[Optional Termination Provisions:]
 [Optional Termination: Applicable]
 [Optional Termination Date:] [Specify date or means for determination, including whether date specified must be prior to the specified Termination Date]

Procedure for Exercise:
 Exercise Terms: [Terms Buyer is required to specify] [None]
 Option Exercise Period: [Specify times and dates during which Option is exercisable (e.g., between 9:00 a.m. and 5:00 p.m., [specify place for exercise] time, on the Expiration Date)]
 [Written Confirmation: Applicable]

3. The particular terms of the [Underlying/Related] Swap Transaction to which the Option relates are as follows:

[Transaction type: (*i.e.*, rate protection/cap/floor/collar transaction)]

[Notional Amount:] [\$]

Trade Date:

Effective Date:

Termination Date:

Fixed Amounts:

Fixed Rate Payer: [Party A/B]

[Fixed Rate Payer Currency Amount:]

Fixed Rate Payer Payment Dates [or Period End Dates, if Delayed Payment or Early Payment applies]: , subject to adjustment: in accordance with the [Following/Modified Following/Preceding] Business Day convention

Fixed Amount [or Fixed Rate and Fixed Rate Day Count Fraction]:

Floating Amounts:

Floating Rate Payer: [Party B/A]

[Floating Rate Payer Currency
Amount:]

Floating Rate Payer Payment Dates
[or Period End Dates, if Delayed
Payment or Early Payment applies]:

, subject to adjustment in
accordance with the [Following/Modified
Following/Preceding] Business Day
convention

[Cap Rate/Floor Rate:] [%]

[Floating Rate for initial Calculation
Period:]

Floating Rate Option:

Designated Maturity:

Spread: [Plus/Minus %] [None]

[Floating Rate Day Count Fraction:]

Reset Dates:

[Rate Cut-off Dates:]

[Method of Averaging:] [Unweighted/Weighted Average Rate]

Compounding: [Applicable/Inapplicable]

[Compounding Dates:]

[Initial Exchange:

Initial Exchange

Date:

Fixed Rate Payer Initial

Exchange Amount:

Floating Rate Payer Initial

Exchange Amount:]

[Final Exchange:

Final Exchange

Date:

Fixed Rate Payer Final

Exchange Amount:

Floating Rate Payer

Final Exchange Amount:]

[Business Days for [first currency]:

[Business Days for [second currency]:

Calculation Agent:

[4. agrees to provide the following Credit Support Document [or agrees to provide the following in accordance with [specify Credit Support Document]:]

[5.] Account Details

Payments to Fixed Rate Payer:

Account for payments in [first currency]:

Account for payments in [second currency]:

Payments to Floating Rate Payer:

Account for payments in [first currency]:

Account for payments in [second currency]:

[6. Offices

(a) The Office of Fixed Rate Payer for the Swap Transaction is _____ ; and

(b) The Office of Floating Rate Payer for the Swap Transaction is _____ .]

[7. Broker/Arranger:]

Closing for Letter

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.

Yours sincerely,

[PARTY A]

By: _____

Name:

Title:

Confirmed as of the
date first above written:

[PARTY B]

By: _____

Name:

Title:

Closing for Telex

Please confirm that the foregoing correctly sets forth the terms of our agreement by a return telex to [Party A] substantially to the following effect:

“Re:

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

Yours sincerely,

[PARTY A]

By: _____

Name:

Title:

**Sample Form of Letter Agreement or Telex
for a Rate Swap Transaction that is
Identified as an Option**

Heading for Letter

[Letterhead of Party A]

[Date]

Rate Swap Transaction

[Name and Address of Party B]

Heading for Telex

Telex

Date:

To: [Name and Telex Number of Party B]

From: [Party A]

Re: Rate Swap Transaction

Dear _____ :

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

1. This Confirmation supplements, forms part of, and is subject to, the Interest Rate Swap Agreement dated as of [date], as amended and supplemented from time to time (the "Rate Swap Agreement"), between you and us. All provisions contained or incorporated by reference in the Rate Swap Agreement shall govern this Confirmation except as expressly modified below.

2. The particular Rate Swap Transaction to which this Confirmation relates is an Option, the terms of which are as follows:

Seller:	[Party A/B]
Buyer:	[Party B/A]
[Option Premium:]	[\$ _____] [payable in [_____] [equal] installments on each Option Premium Payment Date] [as follows: _____]
[Option Premium Payment Date[s]:]	[Specify date or dates]
Expiration Date:	[_____] [(or if such day is not a [_____] Banking Day, the next preceding/following [_____] Banking Day)]
Physical Settlement:	Applicable]
[Cash Settlement Provisions:]	
[Cash Settlement:	Applicable]

[Cash Settlement Payment Date:] [The [first] [] Banking Day next following the [Expiration Date] [earlier of (i) the Expiration Date and (ii) the day on which the Notice of Exercise is effective]]

[Cash Settlement Amount:] [Specify means for determination]

[Optional Termination Provisions:]

[Optional Termination:] Applicable]

[Optional Termination Date:] [Specify date or means for determination, including whether date specified must be prior to the specified Termination Date]

Procedure for Exercise:

Exercise Terms: [Terms Buyer is required to specify] [None]

Option Exercise Period: [Specify times and dates during which Option is exercisable (*e.g.*, between 9:00 a.m. and 5:00 p.m., [specify place for exercise] time, on the Expiration Date)]

[Written Confirmation:] Applicable]

3. The particular terms of the [Underlying/Related] Rate Swap Transaction to which the Option relates are as follows:

[Transaction type:] (*i.e.*, rate protection/cap/floor/collar transaction)]

Notional Amount: [\$]

Trade Date:

Effective Date:

Termination Date:

Fixed Amounts:

Fixed Rate Payor: [Party A/B]

Fixed Rate Payor Payment Dates [or Period End Dates, if Delayed Payment or Early Payment applies]: , subject to adjustment in accordance with the [Following/Modified Following/Preceding] Banking Day convention

Fixed Amount [or Fixed Rate and Fixed Rate Day Count Fraction]:

Floating Amounts:

Floating Rate Payor: [Party B/A]

Floating Rate Payor Payment Dates [or Period End Dates, if Delayed Payment or Early Payment applies]: , subject to adjustment in accordance with the [Following/Modified Following/Preceding] Banking Day Convention

[Cap Rate/Floor Rate:] [%]

[Floating Rate for initial
Calculation Period:]

Floating Rate Option:

Designated Maturity:

Spread: Plus/Minus % [None]

[Floating Rate Day Count Fraction:]

Reset Dates:

[Rate Cut-off Dates:]

[Method of Averaging:] [Unweighted/Weighted Average Rate]

Compounding: [Applicable/Inapplicable]

[Compounding Dates:]

Calculation Agent:

[4. agrees to provide the following Credit Support Document [or agrees to provide the following in accordance with [specify Credit Support Document]:]

[5.] Account Details

Account for payments to Fixed Rate Payor:

Account for payments to Floating Rate Payor:

[6. Offices

(a) The Office of Fixed Rate Payor for the Rate Swap Transaction is ; and

(b) The Office of Floating Rate Payor for the Rate Swap Transaction is .]

[7. Broker/Arranger:]

Closing for Letter

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.

Very truly yours,

[PARTY A]

By: _____

Name:

Title:

Accepted and confirmed as of
the date first above written:

[PARTY B]

By: _____

Name:

Title:

Closing for Telex

Please confirm that the foregoing correctly sets forth the terms of our agreement by a return telex to [Party A] substantially to the following effect:

“Re:

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

Very truly yours,

[PARTY A]

By: _____

Name:

Title:

International Swap Dealers Association, Inc.

COMMENTARY

July 1990 Addenda to ISDA Schedules for Options

The International Swap Dealers Association, Inc. ("ISDA"), has published two addenda—one each for the Interest Rate Swap Agreement and the Interest Rate and Currency Exchange Agreement (the "ISDA Agreements")—designed to facilitate documentation of Options by swap counterparties under the ISDA Agreements. ISDA has also published sample forms of a letter agreement or telex (a "Confirmation") that may be used in conjunction with each of the Addenda for confirming an Option. The Addenda and sample forms of Confirmation reflect the input and suggestions of many of ISDA's members after open Documentation Committee meetings held in London, New York and Montreal.

The Addenda and sample forms of Confirmation represent only one possible approach to documenting Options. Other methods are currently being used by swap market participants. Each participant may elect to use approaches other than the Addenda and sample forms of Confirmation that are the subject of this Commentary.

ANALYSIS OF ADDENDA

1. *Terms Defined in the Addenda.* Paragraph 1 defines terms that are used elsewhere in the Addenda. "Option" is defined broadly to mean any Swap Transaction that is identified as an Option and provides for the grant of certain rights with respect to an "Underlying Swap Transaction" or a "Related Swap Transaction". An "Underlying Swap Transaction" will either become effective (in the case of "Physical Settlement") upon exercise of the right granted by the Option or will serve as the basis for the calculation of the amount payable, if any, upon exercise (in the case of "Cash Settlement"). The term "Related Swap Transaction" refers to a Swap Transaction that may already be effective where the right granted by the Option is, rather than to enter into or cash settle an Underlying Swap Transaction, to change one or more terms of the Related Swap Transaction.

2. *Terms Defined in the Confirmation.* Paragraph 2 identifies the capitalized terms used in the Addenda that may be defined in or pursuant to the related Confirmation or elsewhere in the ISDA Agreement.

3. *Specified Swap Definition.* In addition to the supplemental definitions contained in the Addenda, participants that have not amended their ISDA Agreements to include the applicable May 1989 Addendum to the ISDA Agreement Schedule for Interest Rate Caps, Collars and Floors published by ISDA may wish to expand the definition of Specified Swap they otherwise use in their ISDA Agreements to include a specific reference to options.

4. *Payment of Option Premium.* Paragraph 3(a) requires the Buyer to pay any Option Premium to the Seller on the Option Premium Payment Date or Dates specified in or pursuant to the Confirmation.

5. Grant of the Option. Paragraph 3(b) sets forth the grant of the right that is specified to be applicable to the Option. As new types of options are developed, similar “self-executing” language may be included by participants in the Schedule to their ISDA Agreements or in their Confirmations.* As used in the Addenda, “Physical Settlement” means that, upon exercise, the Underlying Swap Transaction will become effective; “Cash Settlement” means that, upon exercise, rather than becoming effective the Underlying Swap Transaction will be cash settled by the Seller paying the Cash Settlement Amount, if any, on the Cash Settlement Payment Date; and “Optional Termination” means that, upon exercise, the date specified as the Optional Termination Date will become the Termination Date and, if applicable, the Final Exchange Date for the Related Swap Transaction. This paragraph also provides that an Underlying Swap Transaction will not become effective unless Physical Settlement applies and the right has been exercised.

When Cash Settlement applies, it is anticipated that parties will define the method for determining the Cash Settlement Amount in respect of the Underlying Swap Transaction in the Schedule to their ISDA Agreement or in their Confirmations.

When Optional Termination applies, it is anticipated that parties either will specify a date certain or the means for the determination of the Optional Termination Date in the Confirmation (*e.g.*, the first date that is both a Fixed Rate Payer and Floating Rate Payer Period End Date coinciding with or following the date that the Notice of Exercise is effective) or will specify that the Optional Termination Date is an Exercise Term and, if necessary, the means by which the Optional Termination Date will be determined.

6. Procedure for Exercise. Paragraph 3(c) sets forth the procedure for exercising the rights granted by the Option. The Addenda do not place any conditions on the Buyer’s ability to exercise the rights granted by an Option.

Depending on the circumstances, parties may wish to specify, for a particular Option or for all Options entered into with a particular counterparty, that the Buyer’s ability to exercise the rights granted by an Option is subject to the satisfaction of certain conditions. For instance, parties may wish to specify that the Buyer’s ability to exercise the rights granted by an Option is subject to the condition that no Event of Default shall have occurred and be continuing in respect of the Buyer as the Defaulting Party. Parties may decide that such a condition is appropriate for Options to which Physical Settlement is specified to be applicable because the exercise of the Option would result in the Underlying Swap Transaction becoming effective. It should be noted that, if no condition is included and the Buyer is allowed to exercise the Option, the non-Defaulting Party would not be required to make any payments under the Underlying Swap Transaction to the Defaulting Party because of the condition in Section 2 of each of the ISDA Agreements, and the non-Defaulting Party could terminate all Swap Transactions to which it and the Defaulting Party are parties.

As an alternative to specifying conditions to exercise, parties may wish to consider specifying that, in certain circumstances (*e.g.*, where an Event of Default has occurred and is continuing in

* For instance, a right to cause a partial termination could be granted in the Confirmation as follows: “On the terms set forth in this Confirmation, Seller grants to Buyer pursuant to this Option the right to cause the Notional Amount to be reduced [by/to] in respect of each Calculation Period commencing on or after the date that the Notice of Exercise is effective.”

respect of the Buyer as the Defaulting Party), the Option could be exercised only on the basis of Cash Settlement. This would recognize that the Option has value to the Buyer, but fix the amount of that value at the time the Option otherwise would have been exercised.

The Buyer may exercise the rights granted by the Option only by giving irrevocable Notice of Exercise (which may be delivered orally) to the Seller. The Notice of Exercise must become effective during the Option Exercise Period specified in or pursuant to the Confirmation and must include any Exercise Terms set forth in the Confirmation. The time at which a notice becomes effective is determined pursuant to Section 12 of the Interest Rate and Currency Exchange Agreement or Section 14.2 of the Code of Swaps, 1986 Edition, and paragraph 3(e) of each Addendum.

7. *Automatic Exercise.* The Addenda do not include provisions for automatic exercise of the rights granted by an Option. Automatic exercise may be particularly useful for Options to which Cash Settlement is specified to be applicable to avoid any loss of value to the Buyer due to inadvertence. Parties desiring to include such provisions should include them in the Schedule to their ISDA Agreements or in their Confirmations.

8. *Written Confirmation of Notice of Exercise.* Paragraph 3(d) permits the Seller to require the Buyer to deliver an executed written or telex confirmation of any Notice of Exercise given by the Buyer. The Buyer will be obligated to deliver such an executed written or telex confirmation if “Written Confirmation” is specified to be applicable in the Confirmation. Delivery of an executed writing or telex is intended, among other things, to address any concern that, depending on the maturity and other terms of the Swap Transaction, applicable laws relating to the enforceability of oral contracts might require such documentation.

9. *Effectiveness of Oral Notices and Communications.* Paragraph 3(e) specifies when notices and communications permitted to be given orally will be effective.

10. *Market Quotation.* Paragraph 4 is intended to clarify the application of the definition of Market Quotation to an Option. So long as any right granted by the Option is or may become exercisable, the Option will have, in most cases, some value to the Buyer. Parties desiring that certain conditions be fulfilled before giving the Buyer credit for the Option in determining the Market Quotation should modify this provision accordingly.

11. *Fully Paid Transactions.* It is anticipated that some parties may conduct business in such a way that from time to time one will consistently be only a purchaser of fully paid transactions (*e.g.*, cash-settled options, caps and floors) from the other. This may be the case because one or both parties do not as a rule enter into conventional swap transactions, because the creditworthiness of one party is such that the other would not accept the risk associated with purchasing a cash-settled option, cap or floor from the first party or because of other reasons. If two parties do conduct such a “one-way” business, the consistent buyer might argue that it would be inappropriate for the consistent seller to designate an Early Termination Date with respect to such transactions, at least so long as the buyer has satisfied in full all its payment obligations, because the seller does not have any exposure to the credit of the buyer. On the other hand, the occurrence of certain of the Termination Events may adversely affect the seller in that it may become unduly burdensome if, for example, the seller must gross up payments as a result of a Change in Tax Law. Similarly, a change in law making it illegal for the seller to perform should enable it to designate an Early Termination Date. In the case of the designation of an Early Termination Date due to the Tax Event and Illegality Termination Events, the buyer would not

be disadvantaged because the ISDA Agreements call for two way payments, thus permitting the buyer to receive the market value of all the Terminated Transactions.*

To give effect to the foregoing concerns, Paragraph 5 specifies that so long as a party (“X”) has satisfied in full its basic payment obligations, whether absolute or contingent (and the other party (“Y”) is not obligated to or does not return such payments), then (a) neither an Event of Default nor a Potential Event of Default can occur with respect to X as the Defaulting Party and (b) Y shall be entitled to designate an Early Termination Date only as a result of certain specified Termination Events. The contingent payment obligations referred to in Paragraph 5 include payments in respect of an Underlying Swap Transaction which may become effective upon exercise of the right granted by the related Option.

Some parties in the position of Y, the consistent seller, may feel justified in expanding the list of events entitling it to designate an Early Termination Date to include, for example, Default under Specified Swaps (Section 5(a)(v)) or Cross Default (Section 5(a)(vi)). In such a situation, Y may be disadvantaged if it must continue to perform a fully paid transaction when X has failed to perform under other agreements between the same parties.

Since the same provision is also contained in the May 1989 Addendum to the ISDA Agreement Schedule for Interest Rate Caps, Collars and Floors, a party should omit this provision if it is already included or incorporated in the ISDA Agreement.

TERMINATION PROVISIONS

Participants using the ISDA Agreements use a variety of methods to determine termination payments following the occurrence of an Event of Default, particularly when an ISDA Agreement covers fully paid transactions such as cash-settled options, caps and floors, as well as conventional swaps. These methods include limited two way payments, which is provided for in the ISDA Agreements, as well as full two way payments for one or more Events of Default or the two pool approach.

ANALYSIS OF CONFIRMATION

1. *Introductory Paragraphs and Section 1.* These provisions conform to the standard paragraphs from the existing ISDA form of Confirmation.

Participants that enter into Options prior to amending their ISDA Agreements to include the provisions of the appropriate Addendum may include in their Confirmations the following paragraph:

If the Agreement has not been executed by you and us or if the Agreement has been executed by you and us but does not include paragraphs 1, 2 and 3 of the July 1990 Addendum to Schedule to Interest Rate [Swap] [and Currency Exchange] Agreement — Options, as published by the International Swap Dealers Association, Inc. (the “July 1990 Addendum”),

* Some parties, however, may feel that mid-market pricing of the Terminated Transactions in such cases is appropriate and, therefore, the calculation of payments pursuant to Section 6(e) of the ISDA Agreements in respect of the Tax Event and Illegality Termination Events should be performed as if there were two Affected Parties. In such cases, both parties may be permitted to determine the Market Quotations or the parties may provide that the non-Affected Party will determine the Market Quotations that the Affected Party would otherwise be entitled to determine.

then until the Agreement has been executed by you and us and includes therein or as an amendment thereto paragraphs 1, 2 and 3 of the July 1990 Addendum, with such modifications as you and we shall in good faith agree, the definitions and provisions of paragraphs 1, 2 and 3 of the July 1990 Addendum are incorporated herein. In the event of any inconsistency between those definitions and provisions and this Confirmation, this Confirmation will prevail.

2. Section 2. Section 2 contains the provisions relating to an Option, including the line items applicable to Cash Settlement, Optional Termination and the Procedure for Exercise of an Option. The appropriate portions of this section may be completed for each different right granted by the Option. An Option may provide that either “Physical Settlement” or “Cash Settlement” is permitted, in which case, parties may also provide in the Confirmation that only one of these alternative rights may be exercised and that, upon exercise, the other right granted by the Option is terminated.

3. Section 3. Section 3 sets forth certain terms of the Underlying or Related Swap Transaction. This Section conforms to Section 2 from the existing ISDA form of Confirmation, appropriately modified for potential caps, collars and floors.

4. Sections 4 Through 7. These provisions set forth the other terms of the Underlying Swap Transaction or the Related Swap Transaction.

OPTIONAL PROVISIONS

1. Floating Rate for an Initial Calculation Period. For an Option to which Physical Settlement applies, if the date of exercise may occur after the date on which the relevant Floating Rate ordinarily would be determined, the Seller may not adequately be able to hedge the Underlying Swap Transaction. Parties that are concerned with this potential problem may include in their Confirmations a provision along the following lines, which causes the date on which a “LIBOR”-based Floating Rate is determined to coincide with the date (if prior to the Effective Date) that the Notice of Exercise is effective:

() Notwithstanding anything to the contrary in this Confirmation, the Relevant Rate for any Reset Date occurring prior to the second London Banking Day following the date that Notice of Exercise with respect to the Option is effective shall be determined as if the Reset Date were such second London Banking Day.

2. Floating Rate for a Final Calculation Period. For an Option to which Optional Termination applies, if the Optional Termination Date is not required to coincide with a Period End Date, the parties may consider providing for determination of the Floating Rate for the Floating Rate Payer Calculation Period ending on but excluding the Optional Termination Date based on linear interpolation between Floating Rates of the Designated Maturities falling closest to the Optional Termination Date as measured from the immediately preceding Period End Date.