

(Multicurrency-Cross Border)

ISDA®

International Swap Dealers Association. Inc.

MASTER AGREEMENT

dated as of 31 May, 2001

First Flexible No. 5 plc ("Party A")
and
Barclays Bank PLC ("Party B")
and
JPMorgan Chase Bank (the "Trustee")

have entered and/or anticipate entering into one or more transactions (each a "Transaction") that are or will be governed by this Master Agreement, which includes the schedule (the "Schedule"), and the documents and other confirming evidence (each a "Confirmation") exchanged between the parties confirming those Transactions.

Accordingly, the parties agree as follows:-

1. Interpretation

- (a) **Definitions.** The terms defined in Section 14 and in the Schedule will have the meanings therein specified for the purpose of this Master Agreement.
- (b) **Inconsistency.** In the event of any inconsistency between the provisions of the Schedule and the other provisions of this Master Agreement, the Schedule will prevail. In the event of any inconsistency between the provisions of any Confirmation and this Master Agreement (including the Schedule), such Confirmation will prevail for the purpose of the relevant Transaction.
- (c) **Single Agreement.** All Transactions are entered into in reliance on the fact that this Master Agreement and all Confirmations form a single agreement between the parties (collectively referred to as this "Agreement"), and the parties would not otherwise enter into any Transactions.

2. Obligations

- (a) **General Conditions.**
 - (i) Each party will make each payment or delivery specified in each Confirmation to be made by it, subject to the other provisions of this Agreement.
 - (ii) Payments under this Agreement will be made on the due date for value on that date in the place of the account specified in the relevant Confirmation or otherwise pursuant to this Agreement, in freely transferable funds and in the manner customary for payments in the required currency. Where settlement is by delivery (that is, other than by payment), such delivery will be made for receipt on the due date in the manner customary for the relevant obligation unless otherwise specified in the relevant Confirmation or elsewhere in this Agreement.
 - (iii) Each obligation of each party under Section 2(a)(i) is subject to (1) the condition precedent that no Event of Default or Potential Event of Default with respect to the other party has occurred and is continuing, (2) the condition precedent that no Early Termination Date in respect of the relevant Transaction has occurred or been effectively designated and (3) each other applicable condition precedent specified in this Agreement.

(b) **Change of Account.** Either party may change its account for receiving a payment or delivery by giving notice to the other party at least five Local Business Days prior to the scheduled date for the payment or delivery to which such change applies unless such other party gives timely notice of a reasonable objection to such change.

(c) **Netting.** If on any date amounts would otherwise be payable:-

- (i) in the same currency; and
- (ii) in respect of the same Transaction,

by each party to the other, then, on such date, each party's obligation to make payment of any such amount will be automatically satisfied and discharged and, if the aggregate amount that would otherwise have been payable by one party exceeds the aggregate amount that would otherwise have been payable by the other party, replaced by an obligation upon the party by whom the larger aggregate amount would have been payable to pay to the other party the excess of the larger aggregate amount over the smaller aggregate amount.

The parties may elect in respect of two or more Transactions that a net amount will be determined in respect of all amounts payable on the same date in the same currency in respect of such Transactions, regardless of whether such amounts are payable in respect of the same Transaction. The election may be made in the Schedule or a Confirmation by specifying that subparagraph (ii) above will not apply to the Transactions identified as being subject to the election, together with the starting date (in which case subparagraph (ii) above will not, or will cease to, apply to such Transactions from such date). This election may be made separately for different groups of Transactions and will apply separately to each pairing of Offices through which the parties make and receive payments or deliveries.

(d) **Deduction or Withholding for Tax..**

(i) **Gross-Up.** All payments under this Agreement will be made without any deduction or withholding for or on account of any Tax unless such deduction or withholding is required by any applicable law, as modified by the practice of any relevant governmental revenue authority, then in effect. If a party is so required to deduct or withhold, then that party ("X") will:-

- (1) promptly notify the other party ("Y") of such requirement;
- (2) pay to the relevant authorities the full amount required to be deducted or withheld (including the full amount required to be deducted or withheld from any additional amount paid by X to Y under this Section 2(d)) promptly upon the earlier of determining that such deduction or withholding is required or receiving notice that such amount has been assessed against Y;
- (3) promptly forward to Y an official receipt (or a certified copy), or other documentation reasonably acceptable to Y, evidencing such payment to such authorities; and
- (4) if such Tax is an Indemnifiable Tax, pay to Y, in addition to the payment to which Y is otherwise entitled under this Agreement, such additional amount as is necessary to ensure that the net amount actually received by Y (free and clear of Indemnifiable Taxes, whether assessed against X or Y) will equal the full amount Y would have received had no such deduction or withholding been required. However, X will not be required to pay any additional amount to Y to the extent that it would not be required to be paid but for:-

(A) the failure by Y to comply with or perform any agreement contained in Section 4(a)(i), 4(a)(iii) or 4(d); or

(B) the failure of a representation made by Y pursuant to Section 3(f) to be accurate and true unless such failure would not have occurred but for (I) any action taken by a taxing authority, or brought in a court of competent jurisdiction, on or after the date on which a Transaction is entered into

(regardless of whether such action is taken or brought with respect to a party to this Agreement) or (II) a Change in Tax Law.

(ii) **Liability. If:-**

- (1) X is required by any applicable law, as modified by the practice of any relevant governmental revenue authority, to make any deduction or withholding in respect of which X would not be required to pay an additional amount to Y under Section 2(d)(i)(4);
- (2) X does not so deduct or withhold; and
- (3) a liability resulting from such Tax is assessed directly against X,

then, except to the extent Y has satisfied or then satisfies the liability resulting from such Tax, Y will promptly pay to X the amount of such liability (including any related liability for interest, but including any related liability for penalties only if Y has failed to comply with or perform any agreement contained in Section 4(a)(i), 4(a)(iii) or 4(d)).

(e) **Default Interest; Other Amounts.** Prior to the occurrence or effective designation of an Early Termination Date in respect of the relevant Transaction, a party that defaults in the performance of any payment obligation will, to the extent permitted by law and subject to Section 6(c), be required to pay interest (before as well as after judgment) on the overdue amount to the other party on demand in the same currency as such overdue amount, for the period from (and including) the original due date for payment to (but excluding) the date of actual payment, at the Default Rate. Such interest will be calculated on the basis of daily compounding and the actual number of days elapsed. If, prior to the occurrence or effective designation of an Early Termination Date in respect of the relevant Transaction, a party defaults in the performance of any obligation required to be settled by delivery, it will compensate the other party on demand if and to the extent provided for in the relevant Confirmation or elsewhere in this Agreement.

3. Representations

Each party represents to the other party (which representations will be deemed to be repeated by each party on each date on which a Transaction is entered into and, in the case of the representations in Section 3(f), at all times until the termination of this Agreement) that:-

(a) **Basic Representations.**

- (i) **Status.** It is duly organised and validly existing under the laws of the jurisdiction of its organisation or incorporation and, if relevant under such laws, in good standing;
- (ii) **Powers.** It has the power to execute this Agreement and any other documentation relating to this Agreement to which it is a party, to deliver this Agreement and any other documentation relating to this Agreement that it is required by this Agreement to deliver and to perform its obligations under this Agreement and any obligations it has under any Credit Support Document to which it is a party and has taken all necessary action to authorise such execution, delivery and performance;
- (iii) **No Violation or Conflict.** Such execution, delivery and performance do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets;
- (iv) **Consents.** All governmental and other consents that are required to have been obtained by it with respect to this Agreement or any Credit Support Document to which it is a party have been obtained and are in full force and effect and all conditions of any such consents have been complied with; and

- (v) **Obligations Binding.** Its obligations under this Agreement and any Credit Support Document to which it is a party constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).
- (b) **Absence of Certain Events.** No Event of Default or Potential Event of Default or, to its knowledge, Termination Event with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement or any Credit Support Document to which it is a party.
- (c) **Absence of Litigation.** There is not pending or, to its knowledge, threatened against it or any of its Affiliates any action, suit or proceeding at law or in equity or before any court, tribunal, governmental body, agency or official or any arbitrator that is likely to affect the legality, validity or enforceability against it of this Agreement or any Credit Support Document to which it is a party or its ability to perform its obligations under this Agreement or such Credit Support Document.
- (d) **Accuracy of Specified Information.** All applicable information that is furnished in writing by or on behalf of it to the other party and is identified for the purpose of this Section 3(d) in the Schedule is, as of the date of the information, true, accurate and complete in every material respect.
- (e) **Payer Tax Representation.** Each representation specified in the Schedule as being made by it for the purpose of this Section 3(e) is accurate and true.
- (f) **Payee Tax Representations.** Each representation specified in the Schedule as being made by it for the purpose of this Section 3(f) is accurate and true.

4. Agreements

Each party agrees with the other that, so long as either party has or may have any obligation under this Agreement or under any Credit Support Document to which it is a party:-

- (a) **Furnish Specified Information.** It will deliver to the other party or, in certain cases under subparagraph (iii) below, to such government or taxing authority as the other party reasonably directs:-
- (i) any forms, documents or certificates relating to taxation specified in the Schedule or any Confirmation;
 - (ii) any other documents specified in the Schedule or any Confirmation; and
 - (iii) upon reasonable demand by such other party, any form or document that may be required or reasonably requested in writing in order to allow such other party or its Credit Support Provider to make a payment under this Agreement or any applicable Credit Support Document without any deduction or withholding for or on account of any Tax or with such deduction or withholding at a reduced rate (so long as the completion, execution or submission of such form or document would not materially prejudice the legal or commercial position of the party in receipt of such demand), with any such form or document to be accurate and completed in a manner reasonably satisfactory to such other party and to be executed and to be delivered with any reasonably required certification,

in each case by the date specified in the Schedule or such Confirmation or, if none is specified, as soon as reasonably practicable.

- (b) **Maintain Authorisations.** It will use all reasonable efforts to maintain in full force and effect all consents of any governmental or other authority that are required to be obtained by it with respect to this Agreement or any Credit Support Document to which it is a party and will use all reasonable efforts to obtain any that may become necessary in the future.

(c) **Comply with Laws.** It will comply in all material respects with all applicable laws and orders to which it may be subject if failure so to comply would materially impair its ability to perform its obligations under this Agreement or any Credit Support Document to which it is a party.

(d) **Tax Agreement.** It will give notice of any failure of a representation made by it under Section 3(f) to be accurate and true promptly upon learning of such failure.

(e) **Payment of Stamp Tax.** Subject to Section 11, it will pay any Stamp Tax levied or imposed upon it or in respect of its execution or performance of this Agreement by a jurisdiction in which it is incorporated, organised, managed and controlled, or considered to have its seat, or in which a branch or office through which it is acting for the purpose of this Agreement is located ("Stamp Tax Jurisdiction") and will indemnify the other party against any Stamp Tax levied or imposed upon the other party or in respect of the other party's execution or performance of this Agreement by any such Stamp Tax Jurisdiction which is not also a Stamp Tax Jurisdiction with respect to the other party.

5. Events of Default and Termination Events

(a) **Events of Default.** 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 of the following events constitutes an event of default (an "Event of Default") with respect to such party:-

(i) **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 on or before the third Local Business Day after notice of such failure is given to the party;

(ii) **Breach of Agreement.** Failure by the party to comply with or perform any agreement or obligation (other than an obligation to make any payment under this Agreement or delivery under Section 2(a)(i) or 2(e) or to give notice of a Termination Event or any agreement or obligation under Section 4(a)(i), 4(a)(iii) or 4(d)) to be complied with or performed by the party in accordance with this Agreement if such failure is not remedied on or before the thirtieth day after notice of such failure is given to the party;

(iii) **Credit Support Default.**

(1) Failure by the party or any Credit Support Provider of such party to comply with or perform any agreement or obligation to be complied with or performed by it in accordance with any Credit Support Document if such failure is continuing after any applicable grace period has elapsed;

(2) the expiration or termination of such Credit Support Document or the failing or ceasing of such Credit Support Document to be in full force and effect for the purpose of this Agreement (in either case other than in accordance with its terms) prior to the satisfaction of all obligations of such party under each Transaction to which such Credit Support Document relates without the written consent of the other party, or

(3) the party or such Credit Support Provider disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, such Credit Support Document;

(iv) **Misrepresentation.** A representation (other than a representation under Section 3(e) or (f)) made or repeated or deemed to have been made or repeated by the party or any Credit Support Provider of such party in this Agreement or any Credit Support Document proves to have been incorrect or misleading in any material respect when made or repeated or deemed to have been made or repeated;

(v) **Default under Specified Transaction.** The party, any Credit Support Provider of such party or any applicable Specified Entity of such party (1) defaults under a Specified Transaction and, after giving effect to any applicable notice requirement or grace period,

there occurs a liquidation of, an acceleration of obligations under, or an early termination of, that Specified Transaction, (2) defaults, 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, a Specified Transaction (or such default continues for at least three Local Business Days if there is no applicable notice requirement or grace period) or (3) disaffirms, disclaims, repudiates or rejects, in whole or in part, a Specified Transaction (or such action is taken by any person or entity appointed or empowered to operate it or act on its behalf);

(vi) **Cross Default.** If "Cross Default" is specified in the Schedule as applying to the party, the occurrence or existence of (1) a default, event of default or other similar condition or event (however described) in respect of such party, any Credit Support Provider of such party or any applicable Specified Entity of such party under one or more agreements or instruments relating to Specified Indebtedness of any of them (individually or collectively) in an aggregate amount of not less than the applicable Threshold Amount (as specified in the Schedule) which has resulted in such Specified Indebtedness becoming, or becoming capable at such time of being declared, due and payable under such agreements or instruments, before it would otherwise have been due and payable or (2) a default by such party, such Credit Support Provider or such Specified Entity (individually or collectively) in making one or more payments on the due date thereof in an aggregate amount of not less than the applicable Threshold Amount under such agreements or instruments (after giving effect to any applicable notice requirement or grace period);

(vii) **Bankruptcy.** The party, any Credit Support Provider of such party or any applicable Specified Entity of such party:-

(1) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (2) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due; (3) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (4) institutes or 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, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (A) 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 (B) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof; (5) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (6) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (7) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter; (8) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (1) to (7) (inclusive); or (9) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts; or

(viii) **Merger Without Assumption.** The party or any Credit Support Provider of such party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer:-

(1) the resulting, surviving or transferee entity fails to assume all the obligations of such party or such Credit Support Provider under this Agreement or any Credit Support Document to which it or its predecessor was a party by operation of law or

pursuant to an agreement reasonably satisfactory to the other party to this Agreement;
or

(2) the benefits of any Credit Support Document fail to extend (without the consent of the other party) to the performance by such resulting, surviving or transferee entity of its obligations under this Agreement.

(b) **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 or a Tax Event Upon Merger if the event is specified in (iii) 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:-

(i) **Illegality.** Due to the adoption of, or any change in, any applicable law after the date on which a Transaction is entered into, or due to the promulgation of, or any change in, the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law after such date, it becomes unlawful (other than as a result of a breach by the party of Section 4(b)) for such party (which will be the Affected Party):-

(1) 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

(2) to perform, or for any Credit Support Provider of such party to perform, any contingent or other obligation which the party (or such Credit Support Provider) has under any Credit Support Document relating to such Transaction;

(ii) **Tax Event.** Due to (x) any action taken by a taxing authority, or brought in a court of competent jurisdiction, on or after the date on which a Transaction is entered into (regardless of whether such action is taken or brought with respect to a party to this Agreement) or (y) a Change in Tax Law, the party (which will be the Affected Party) will, or there is a substantial likelihood that it will, on the next succeeding Scheduled Payment Date (1) be required to pay to the other party an additional amount in respect of an Indemnifiable Tax under Section 2(d)(i)(4) (except in respect of interest under Section 2(e), 6(d)(ii) or 6(e)) or (2) receive a payment from which an amount is required to be deducted or withheld for or on account of a Tax (except in respect of interest under Section 2(e), 6(d)(ii) or 6(e)) and no additional amount is required to be paid in respect of such Tax under Section 2(d)(i)(4) (other than by reason of Section 2(d)(i)(4)(A) or (B));

(iii) **Tax Event Upon Merger.** The party (the "Burdened Party") on the next succeeding Scheduled Payment Date will either (1) be required to pay an additional amount in respect of an Indemnifiable Tax under Section 2(d)(i)(4) (except in respect of interest under Section 2(e), 6(d)(ii) or 6(e)) or (2) receive a payment from which an amount has been deducted or withheld for or on account of any Indemnifiable Tax in respect of which the other party is not required to pay an additional amount (other than by reason of Section 2(d)(i)(4)(A) or (B)), in either case as a result of a party consolidating or amalgamating with, or merging with or into, or transferring all or substantially all its assets to, another entity (which will be the Affected Party) where such action does not constitute an event described in Section 5(a)(viii);

(iv) **Credit Event Upon Merger.** If "Credit Event Upon Merger" is specified in the Schedule as applying to the party, such party ("X"), any Credit Support Provider of X or any applicable Specified Entity of X consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity and such action does not constitute an event described in Section 5(a)(viii) but the creditworthiness of the resulting, surviving or transferee entity is materially weaker than that of X, such Credit Support Provider or such Specified Entity, as the case may be, immediately prior to such action (and, in such event, X or its successor or transferee, as appropriate, will be the Affected Party); or

(v) **Additional Termination Event.** If any "Additional Termination Event" is specified in the Schedule or any Confirmation as applying, the occurrence of such event (and, in such event the Affected Party or Affected Parties shall be as specified for such Additional Termination Event in the Schedule or such Confirmation).

(c) **Event of Default and Illegality.** If an event or circumstance which would otherwise constitute or give rise to an Event of Default also constitutes an Illegality, it will be treated as an Illegality and will not constitute an Event of Default.

6. Early Termination

(a) **Right to Terminate Following Event of Default.** If at any time an Event of Default with respect to a party (the "Defaulting Party") has occurred and is then continuing, the other party (the "Non-defaulting Party") may, by not more than 20 days notice to the Defaulting Party specifying the relevant Event of Default, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect of all outstanding Transactions. If, however, "Automatic Early Termination" is specified in the Schedule as applying to a party, then an Early Termination Date in respect of all outstanding Transactions will occur immediately upon the occurrence with respect to such party of an Event of Default specified in Section 5(a)(vii)(1), (3), (5), (6) or, to the extent analogous thereto, (8), and as of the time immediately preceding the institution of the relevant proceeding or the presentation of the relevant petition upon the occurrence with respect to such party of an Event of Default specified in Section 5(a)(vii)(4) or, to the extent analogous thereto, (8).

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

(i) **Notice.** If a Termination 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 information about that Termination Event as the other party may reasonably require.

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

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

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

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

(iv) **Right to Terminate.** If:-

(1) 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

(2) an Illegality under Section 5(b)(i)(2), a Credit Event Upon Merger or an Additional Termination Event occurs, or a Tax Event Upon Merger occurs and the Burdened Party is not the Affected Party,

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

(c) ***Effect of Designation.***

(i) If notice designating an Early Termination Date is given under Section 6(a) or (b), the Early Termination Date will occur on the date so designated, whether or not the relevant Event of Default or Termination Event is then continuing.

(ii) Upon the occurrence or effective designation of an Early Termination Date, no further payments or deliveries under Section 2(a)(i) or 2(e) in respect of the Terminated Transactions will be required to be made, but without prejudice to the other provisions of this Agreement. The amount, if any, payable in respect of an Early Termination Date shall be determined pursuant to Section 6(e).

(d) ***Calculations.***

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

(ii) ***Payment Date.*** An amount calculated as being due in respect of any Early Termination Date under section 6(e) will be payable on the day that notice of the amount payable is effective (in the case of an Early Termination Date which is designated or occurs as a result of an Event of Default) and on the day which is two Local Business Days after the day on which notice of the amount payable is effective (in the case of an Early Termination Date which is designated as a result of a Termination Event). Such amount will be paid together with (to the extent permitted under applicable law) interest thereon (before as well as after judgment) in the Termination Currency, from (and including) the relevant Early Termination Date to (but excluding) the date such amount is paid, at the Applicable Rate. Such interest will be calculated on the basis of daily compounding and the actual number of days elapsed.

(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 measure, either "Market Quotation" or "Loss", and a payment method, either the "First Method" or the "Second Method". If the parties fail to designate a payment measure or payment method in the Schedule, it will be deemed that "Market Quotation" or the "Second Method", as the case may be, 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 and Market Quotation.*** If the First Method and Market Quotation apply, 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) *First Method and Loss.* If the First Method and Loss apply, the Defaulting Party will pay to the Non-defaulting Party, if a positive number, the Non-defaulting Party's Loss in respect of this Agreement.

(3) *Second Method and Market Quotation.* If the Second Method and Market Quotation apply, 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.

(4) *Second Method and Loss.* If the Second Method and Loss apply, an amount will be payable equal to the Non-defaulting Party's Loss in respect of this Agreement. 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)(3), if Market Quotation applies, or Section 6(e)(i)(4), if Loss applies, except that, in either case, 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 Loss applies and fewer than all the Transactions are being terminated, Loss shall be calculated in respect of all Terminated Transactions.

(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

(B) if Loss applies, 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").

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 if Market Quotation applies 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.

7. Transfer

Subject to Section 6(b)(ii), neither this Agreement nor any interest or obligation in or under this Agreement may be transferred (whether by way of security or otherwise) by either party without the prior written consent of the other party, except that:-

(a) a party may make such a transfer of this Agreement pursuant to a consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all its assets to, another entity (but without prejudice to any other right or remedy under this Agreement); and

(b) a party may make such a transfer of all or any part of its interest in any amount payable to it from a Defaulting Party under Section 6(e).

Any purported transfer that is not in compliance with this Section will be void.

8. Contractual Currency

(a) *Payment in the Contractual Currency.* Each payment under this Agreement will be made in the relevant currency specified in this Agreement for that payment (the "Contractual Currency"). To the extent permitted by applicable law, any obligation to make payments under this Agreement in the Contractual Currency will not be discharged or satisfied by any tender in any currency other than the Contractual Currency, except to the extent such tender results in the actual receipt by the party to which payment is owed, acting in a reasonable manner and in good faith in converting the currency so tendered into the Contractual Currency, of the full amount in the Contractual Currency of all amounts payable in respect of this Agreement. If for any reason the amount in the Contractual Currency so received falls short of the amount in the Contractual Currency payable in respect of this Agreement, the party required to make the payment will, to the extent permitted by applicable law, immediately pay such additional amount in the Contractual Currency as may be necessary to compensate for the shortfall. If for any reason the amount in the Contractual Currency so received exceeds the amount in the Contractual Currency payable in respect of this Agreement, the party receiving the payment will refund promptly the amount of such excess.

(b) *Judgments.* To the extent permitted by applicable law, if any judgment or order expressed in a currency other than the Contractual Currency is rendered (i) for the payment of any amount owing in respect of this Agreement, (ii) for the payment of any amount relating to any early termination in respect of this Agreement or (iii) in respect of a judgment or order of another court for the payment of any amount described in (i) or (ii) above, the party seeking recovery, after recovery in full of the aggregate amount to which such party is entitled pursuant to the judgment or order, will be entitled to receive immediately from the other party the amount of any shortfall of the Contractual Currency received by such party as a consequence of sums paid in such other currency and will refund promptly to the other party any excess of the Contractual Currency received by such party as a consequence of sums paid in such other currency if such shortfall or such excess arises or results from any variation between the rate of exchange at which the Contractual Currency is converted into the currency of the judgment or order for the purposes of such judgment or order and the rate of exchange at which such party is able, acting in a reasonable manner and in good faith in converting the currency received into the Contractual Currency, to purchase the Contractual Currency with the amount of the currency of the judgment or order actually received by such party. The term "rate of exchange" includes, without limitation, any premiums and costs of exchange payable in connection with the purchase of or conversion into the Contractual Currency.

(c) *Separate Indemnities.* To the extent permitted by applicable law, these indemnities constitute separate and independent obligations from the other obligations in this Agreement, will be enforceable as separate and independent causes of action, will apply notwithstanding any indulgence

granted by the party to which any payment is owed and will not be affected by judgment being obtained or claim or proof being made for any other sums payable in respect of this Agreement.

(d) **Evidence of Loss.** For the purpose of this Section 8, it will be sufficient for a party to demonstrate that it would have suffered a loss had an actual exchange or purchase been made.

9. Miscellaneous

(a) **Entire Agreement.** This Agreement constitutes the entire agreement and understanding of the parties with respect to its subject matter and supersedes all oral communication and prior writings with respect thereto.

(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 or electronic messages on an electronic messaging system.

(c) **Survival of Obligations.** Without prejudice to Sections 2(a)(iii) and 6(c)(ii), the obligations of the parties under this Agreement will survive the termination of any Transaction.

(d) **Remedies Cumulative.** Except as provided in this Agreement, the rights, powers, remedies and privileges provided in this Agreement are cumulative and not exclusive of any rights, powers, remedies and privileges provided by law.

(e) **Counterparts and Confirmations.**

(i) This Agreement (and each amendment, modification and waiver in respect of 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 or by an exchange of electronic messages on an electronic messaging system, 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 or electronic message constitutes a Confirmation.

(f) **No Waiver of Rights.** A failure or delay in exercising any right, power or privilege in respect of this Agreement will not be presumed to operate as a waiver, and a single or partial exercise of any right, power or privilege will not be presumed to preclude any subsequent or further exercise, of that right, power or privilege or the exercise of any other right, power or privilege.

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

10. Offices; Multibranch Parties

(a) If Section 10(a) is specified in the Schedule as applying, each party that enters into a Transaction through an Office other than its head or home office represents to the other party that, notwithstanding the place of booking office or jurisdiction of incorporation or organisation of such party, the obligations of such party are the same as if it had entered into the Transaction through its head or home office. This representation will be deemed to be repeated by such party on each date on which a Transaction is entered into.

(b) Neither party may change the Office through which it makes and receives payments or deliveries for the purpose of a Transaction without the prior written consent of the other party.

(c) If a party is specified as a Multibranch Party in the Schedule, such Multibranch Party may make and receive payments or deliveries under any Transaction through any Office listed in the Schedule, and the Office through which it makes and receives payments or deliveries with respect to a Transaction will be specified in the relevant Confirmation.

11. Expenses

A Defaulting Party will, on demand, indemnify and hold harmless the other party for and against all reasonable out-of-pocket expenses, including legal fees and Stamp Tax, incurred by such other party by reason of the enforcement and protection of its rights under this Agreement or any Credit Support Document to which the Defaulting Party is a party or by reason of the early termination of any Transaction, including, but not limited to, costs of collection.

12. Notices

(a) **Effectiveness.** Any notice or other communication in respect of this Agreement may be given in any manner set forth below (except that a notice or other communication under Section 5 or 6 may not be given by facsimile transmission or electronic messaging system) to the address or number or in accordance with the 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;
- (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; or
- (v) if sent by electronic messaging system, on the date that electronic message is received,

unless the date of that delivery (or attempted delivery) or that receipt, as applicable, is not a Local Business Day or that communication is delivered (or attempted) 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.

(b) **Change of Addresses.** Either party may by notice to the other change the address, telex or facsimile number or electronic messaging system details at which notices or other communications are to be given to it.

13. Governing Law and Jurisdiction

(a) **Governing Law.** This Agreement will be governed by and construed in accordance with the law specified in the Schedule.

(b) **Jurisdiction.** With respect to any suit, action or proceedings relating to this Agreement ("Proceedings"), each party irrevocably:-

- (i) submits to the jurisdiction of the English courts, if this Agreement is expressed to be governed by English law, or to the non-exclusive jurisdiction of the courts of the State of New York and the United States District Court located in the Borough of Manhattan in New York City, if this Agreement is expressed to be governed by the laws of the State of New York; and

- (ii) waives any objection which it may have at any time to the laying of venue of any Proceedings brought in any such court, waives any claim that such Proceedings have been brought in an inconvenient forum and further waives the right to object, with respect to such Proceedings, that such court does not have any jurisdiction over such party.

Nothing in this Agreement precludes either party from bringing Proceedings in any other jurisdiction (outside, if this Agreement is expressed to be governed by English law, the Contracting States, as defined in Section 1(3) of the Civil Jurisdiction and Judgments Act 1982 or any modification, extension or re-enactment thereof for the time being in force) nor will the bringing of Proceedings in any one or more jurisdictions preclude the bringing of Proceedings in any other jurisdiction.

(c) **Service of Process.** Each party irrevocably appoints the Process Agent (if any) specified opposite its name in the Schedule to receive, for it and on its behalf, service of process in any Proceedings. If for any reason any party's Process Agent is unable to act as such, such party will promptly notify the other party and within 30 days, appoint a substitute process agent acceptable to the other party. The parties irrevocably consent to service of process given in the manner provided for notices in Section 12. Nothing in this Agreement will affect the right of either party to serve process in any other manner permitted by law.

(d) **Waiver of Immunities.** Each party irrevocably waives, to the fullest extent permitted by applicable law, with respect to itself and its revenues and assets (irrespective of their use or intended use), all immunity on the grounds of sovereignty or other similar grounds from (i) suit, (ii) jurisdiction of any court, (iii) relief by way of injunction, order for specific performance or for recovery of property, (iv) attachment of its assets (whether before or after judgment) and (v) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be entitled in any Proceedings in the courts of any jurisdiction and irrevocably agrees, to the extent permitted by applicable law, that it will not claim any such immunity in any Proceedings.

14. Definitions

As used in this Agreement:-

"Additional Termination Event" has the meaning specified in Section 5(b).

"Affected Party" has the meaning specified in Section 5(b).

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

"Affiliate" means, subject to the Schedule, in relation to any person, any entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person. For this purpose, "control" of any entity or person means ownership of a majority of the voting power of the entity or person.

"Applicable Rate" means:-

- (a) in respect of obligations payable or deliverable (or which would have been but for Section 2(a)(iii)) by a Defaulting Party, the Default Rate;
- (b) in respect of an obligation to pay an amount under Section 6(e) of either party from and after the date (determined in accordance with Section 6(d)(ii)) on which that amount is payable, the Default Rate;
- (c) in respect of all other obligations payable or deliverable (or which would have been but for Section 2(a)(iii)) by a Non-defaulting Party, the Non-default Rate; and
- (d) in all other cases, the Termination Rate.

"Burdened Party" has the meaning specified in Section 5(b).

“Change in Tax Law” means the enactment, promulgation, execution or ratification of, or any change in or amendment to, any law (or in the application or official interpretation of any law) that occurs on or after the date on which the relevant Transaction is entered into.

“consent” includes a consent, approval, action, authorisation, exemption, notice, filing, registration or exchange control consent.

“Credit Event Upon Merger” has the meaning specified in Section 5(b).

“Credit Support Document” means any agreement or instrument that is specified as such in this Agreement.

“Credit Support Provider” has the meaning specified in the Schedule.

“Default Rate” means a rate per annum equal to the cost (without proof or evidence of any actual cost) to the relevant payee (as certified by it) if it were to fund or of funding the relevant amount plus 1% per annum.

“Defaulting Party” has the meaning specified in Section 6(a).

“Early Termination Date” means the date determined in accordance with Section 6(a) or 6(b)(iv).

“Event of Default” has the meaning specified in Section 5(a) and, if applicable, in the Schedule.

“Illegality” has the meaning specified in Section 5(b).

“Indemnifiable Tax” means any Tax other than a Tax that would not be imposed in respect of a payment under this Agreement but for a present or former connection between the jurisdiction of the government or taxation authority imposing such Tax and the recipient of such payment or a person related to such recipient (including, without limitation, a connection arising from such recipient or related person being or having been a citizen or resident of such jurisdiction, or being or having been organised, present or engaged in a trade or business in such jurisdiction, or having or having had a permanent establishment or fixed place of business in such jurisdiction, but excluding a connection arising solely from such recipient or related person having executed, delivered, performed its obligations or received a payment under, or enforced, this Agreement or a Credit Support Document).

“law” includes any treaty, law, rule or regulation (as modified, in the case of tax matters, by the practice of any relevant governmental revenue authority) and **“lawful”** and **“unlawful”** will be construed accordingly.

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

“Loss” means, with respect to this Agreement or one or more Terminated Transactions, as the case may be, and a party, the Termination Currency Equivalent of an amount that party reasonably determines in good faith to be its total losses and costs (or gain, in which case expressed as a negative number) in connection with this Agreement or that Terminated Transaction or group of Terminated Transactions, as the case may be, including any loss of bargain, cost of funding or, at the election of such party but without duplication, 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). Loss includes losses and costs (or gains) in respect of any payment or delivery required to have been made (assuming satisfaction of each applicable condition precedent) on or before the relevant Early Termination Date and not made, except, so as to avoid duplication, if Section 6(e)(i)(1) or (3) or 6(e)(ii)(2)(A) applies. Loss does not include a party's legal fees and out-of-pocket expenses referred to under Section 11. A party will determine its Loss as of the relevant Early Termination Date, or, if that is not reasonably practicable, as of the earliest date thereafter as is reasonably practicable. A party may (but need not) determine its Loss by reference to quotations of relevant rates or prices from one or more leading dealers in the relevant markets.

"Market Quotation" means, with respect to one or more Terminated Transactions and a party making the determination, an amount determined on the basis of quotations from Reference Market-makers. Each quotation will be for an amount, if any, that would be paid to such party (expressed as a negative number) or by such party (expressed as a positive number) in consideration of an agreement between such party (taking into account any existing Credit Support Document with respect to the obligations of such party) and the quoting Reference Market-maker to enter into a transaction (the "Replacement Transaction") that would have the effect of preserving for such party the economic equivalent of any payment or delivery (whether the underlying obligation was absolute or contingent and assuming the satisfaction of each applicable condition precedent) by the parties under Section 2(a)(i) 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 after that date. For this purpose, Unpaid Amounts in respect of the Terminated Transaction or group of Terminated Transactions are to be excluded but, without limitation, any payment or delivery that would, but for the relevant Early Termination Date, have been required (assuming satisfaction of each applicable condition precedent) after that Early Termination Date is to be included. The Replacement Transaction would be subject to such documentation as such party and the Reference Market-maker may, in good faith, agree. The party making the determination (or its agent) will request each Reference Market-maker to provide its quotation to the extent reasonably practicable as of the same day and time (without regard to different time zones) on or as soon as reasonably practicable after the relevant Early Termination Date. The day and time as of which those quotations are to be obtained will be selected in good faith by the party obliged to make a determination under Section 6(e), and, if each party is so obliged, after consultation with the other. If more than three quotations are provided, the Market Quotation will be the arithmetic mean of the quotations, without regard to the quotations having the highest and lowest values. If exactly three such quotations are provided, the Market Quotation will be the quotation remaining after disregarding the highest and lowest quotations. For this purpose, if more than one quotation has the same highest value or lowest value, then one of such quotations shall be disregarded. If fewer than three quotations are provided, it will be deemed that the Market Quotation in respect of such Terminated Transaction or group of Terminated Transactions cannot be determined.

"Non-default Rate" means a rate per annum equal to the cost (without proof or evidence of any actual cost) to the Non-defaulting Party (as certified by it) if it were to fund the relevant amount.

"Non-defaulting Party" has the meaning specified in Section 6(a).

"Office" means a branch or office of a party, which may be such party's head or home office.

"Potential Event of Default" means any event which, with the giving of notice or the lapse of time or both, would constitute an Event of Default.

"Reference Market-makers" means four leading dealers in the relevant market selected by the party determining a Market Quotation in good faith (a) from among dealers of the highest credit standing which satisfy all the criteria that such party applies generally at the time in deciding whether to offer or to make an extension of credit and (b) to the extent practicable from among such dealers having an office in the same city.

"Relevant Jurisdiction" means, with respect to a party, the jurisdictions (a) in which the party is incorporated, organised, managed and controlled or considered to have its seat, (b) where an Office through which the party is acting for purposes of this Agreement is located, (c) in which the party executes this Agreement and (d) in relation to any payment, from or through which such payment is made.

"Scheduled Payment Date" means a date on which a payment or delivery is to be made under Section 2(a)(i) with respect to a Transaction.

"Set-off" means set-off, offset, combination of accounts, right of retention or withholding or similar right or requirement to which the payer of an amount under Section 6 is entitled or subject (whether arising under this Agreement, another contract, applicable law or otherwise) that is exercised by, or imposed on, such payer.

"Settlement Amount" means, with respect to a party and any Early Termination Date, the sum of:-

- (a) the Termination Currency Equivalent of the Market Quotations (whether positive or negative) for each Terminated Transaction or group of Terminated Transactions for which a Market Quotation is determined; and
- (b) such party's Loss (whether positive or negative and without reference to any Unpaid Amounts) for each Terminated Transaction or group of Terminated Transactions for which a Market Quotation cannot be determined or would not (in the reasonable belief of the party making the determination) produce a commercially reasonable result.

"Specified Entity" has the meaning specified in the Schedule.

"Specified Indebtedness" means, subject to the Schedule, any obligation (whether present or future, contingent or otherwise, as principal or surety or otherwise) in respect of borrowed money.

"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) which is a rate swap transaction, 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 or any other similar transaction (including any option with respect to any of these transactions), (b) any combination of these transactions and (c) any other transaction identified as a Specified Transaction in this Agreement or the relevant confirmation.

"Stamp Tax" means any stamp, registration, documentation or similar tax.

"Tax" means any present or future tax, levy, impost, duty, charge, assessment or fee of any nature (including interest, penalties and additions thereto) that is imposed by any government or other taxing authority in respect of any payment under this Agreement other than a stamp, registration, documentation or similar tax.

"Tax Event" has the meaning, specified in Section 5(b).

"Tax Event Upon Merger" has the meaning specified in Section 5(b).

"Terminated Transactions" means with respect to any Early Termination Date (a) if resulting from a Termination Event, all Affected Transactions and (b) if resulting from an Event of Default, all Transactions (in either 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 Currency" has the meaning specified in the Schedule.

"Termination Currency Equivalent" means, in respect of any amount denominated in the Termination Currency, such Termination Currency amount and, in respect of any amount denominated in a currency other than the Termination Currency (the "Other Currency"), the amount in the Termination Currency determined by the party making the relevant determination as being required to purchase such amount of such Other Currency as at the relevant Early Termination Date,

or, if the relevant Market Quotation or Loss (as the case may be), is determined as of a later date, that later date, with the Termination Currency at the rate equal to the spot exchange rate of the foreign exchange agent (selected as provided below) for the purchase of such Other Currency with the Termination Currency at or about 11:00 a.m. (in the city in which such foreign exchange agent is located) on such date as would be customary for the determination of such a rate for the purchase of such Other Currency for value on the relevant Early Termination Date or that later date. The foreign exchange agent will, if only one party is obliged to make a determination under Section 6(e), be selected in good faith by that party and otherwise will be agreed by the parties.

"Termination Event" means an Illegality, a Tax Event or a Tax Event Upon Merger or, if specified to be applicable, a Credit Event Upon Merger or an Additional Termination Event.

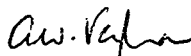
"Termination Rate" means a rate per annum equal to the arithmetic mean of the cost (without proof or evidence of any actual cost) to each party (as certified by such party) if it were to fund or of funding such amounts.

"Unpaid Amounts" owing to any party means, with respect to an Early Termination Date, the aggregate of (a) in respect of all Terminated Transactions, the amounts that became payable (or that would have become payable but for Section 2(a)(iii)) to such party under Section 2(a)(i) on or prior to such Early Termination Date and which remain unpaid as at such Early Termination Date and (b) in respect of each Terminated Transaction, for each obligation under Section 2(a)(i) which was (or would have been but for Section 2(a)(iii)) required to be settled by delivery to such party on or prior to such Early Termination Date and which has not been so settled as at such Early Termination Date, an amount equal to the fair market value of that which was (or would have been) required to be delivered as of the originally scheduled date for delivery, in each case together with (to the extent permitted under applicable law) interest, in the currency of such amounts, from (and including) the date such amounts or obligations were or would have been required to have been paid or performed to (but excluding) such Early Termination Date, at the Applicable Rate. Such amounts of interest will be calculated on the basis of daily compounding and the actual number of days elapsed. The fair market value of any obligation referred to in clause (b) above shall be reasonably determined by the party obliged to make the determination under Section 6(e) or, if each party is so obliged, it shall be the average of the Termination Currency Equivalents of the fair market values reasonably determined by both parties.

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

First Flexible No.5 plc

.....
(Party A)

By: 

Name: A.W. VAUGHAN
Title: TREASURY & CAPITAL MARKETS DIRECTOR
Date: 11 JUNE 2002.

Barclays Bank PLC


.....
(Party B)

By: 

Name: **Richard Grant**
Title: **Authorised Signatory**
Date:

JPMorgan Chase Bank

.....
(Trustee)

By: 

Name: **REMI BOLA**
Title: **VICE PRESIDENT**
Date:

SCHEDULE
to the
Master Agreement

dated as of 31 May, 2002

between

- 1 First Flexible No. 5 plc ("**Party A**");
- 2 Barclays Bank PLC ("**Party B**"); and
- 3 JPMorgan Chase Bank (the "**Trustee**", which expression shall include such company and all other persons and companies for the time being acting as trustee or trustees under the Trust Deed) which has agreed to become a party to this Agreement solely for the purposes of taking the benefit of certain provisions of this Agreement.

Part 1

Termination Provisions

In this Agreement:-

- 1 "**Specified Entity**":
 - (a) shall not apply in relation to Party A for the purposes of Section 5(a)(v), Section 5(a)(vi), Section 5(b)(vii) and Section 5(b)(iv);
 - (b) shall not apply in relation to Party B for the purposes of Section 5(a)(v), Section 5(a)(vi), Section 5(b)(vii) and Section 5(b)(iv).
- 2 "**Specified Transaction**" will have the meaning specified in Section 14 of this Agreement.
- 3 The "**Cross Default**" provisions of Section 5(a)(vi) will not apply to Party A or Party B.
- 4 "**Termination Currency**" means Sterling.
- 5 The "**Credit Event Upon Merger**" provisions of Section 5(b)(iv) of the Agreement will not apply to Party A and Party B.
- 6 The "**Automatic Early Termination**" provisions of Section 6(a) will not apply to Party A or to Party B.
- 7 **Payment on Early Termination:**
 - (a) Market Quotation will apply; and
 - (b) The Second Method will apply.

Part 2

Tax Representations

- 1 **Payer Representation.** For the purpose of Section 3(e) of this Agreement, Party A and Party B hereby makes the following representation:

It is not required by any applicable law, as modified by the practice of any relevant governmental revenue authority, of any Relevant Jurisdiction to make any deduction or withholding for or on account of any Tax from any payment (other than interest under Section 2(e), 6(d)(ii) or 6(e) of this Agreement) to be made by it to the other party under this Agreement. In making this representation, it may rely on:

- (a) the accuracy of any representations made by the other party pursuant to Section 3(f) of this Agreement;
- (b) the satisfaction of the agreement of a party contained in Section 4(a)(i) or 4(a)(iii) and the accuracy and effectiveness of any document provided by the other party pursuant to Section 4(a)(i) or 4(a)(iii) of this Agreement; and
- (c) the satisfaction of the agreement of the other party contained in Section 4(d) of this Agreement,

provided that it shall not be a breach of this representation where reliance is placed on clause (b) and the other party does not deliver a form or document under Section 4(a)(iii) by reason of material prejudice to its legal or commercial position.

Payee Representations of Party A. For the purpose of Section 3(f) of this Agreement Party A will not make any representation.

Payee Representation of Party B. For the purposes of Section 3(f) of this Agreement Party B will not make any representation.

Part 3

Agreement to Deliver Documents

For the purpose of Section 4(a)(i) and (ii) of this Agreement, Party A and Party B agrees to deliver the following documents, as applicable:

- (A) Both parties will, upon execution of this Agreement and thereafter upon demand, deliver to the other party a certificate (or, if available, its current authorised signature book) specifying the names, title and specimen signatures of the persons authorised to execute this Agreement, each Confirmation with respect to any Transaction hereunder, and any Credit Support Document (as applicable) on its behalf, as the case may be.
- (B) Party A will, upon execution of this Agreement, deliver to Party B a certified resolution of its Board of Directors authorising the entering into, execution and delivery of this Agreement and each Transaction hereunder, and (ii) a legal opinion of external counsel to Party A, in such form as is acceptable to Party B.

- (C) Party A will, upon execution of this Agreement, deliver to the other party a duly executed original of the Credit Support Document specified in Part 4 of this Schedule.
- (D) Party B will, upon execution of this Agreement, deliver to Party A a legal opinion of counsel to Party B, in such form as is acceptable to Party A.

Each of the foregoing documents, other than the legal opinion above required pursuant to subsections (B)(ii) and (D) above, are covered by the representation contained in Section 3(d) of this Agreement.

Part 4

Miscellaneous

1 **Governing Law.** This Agreement will be governed by and construed in accordance with English law.

2 **Address for Notices.** For the purpose of Section 12(a) of this Agreement:

Address for notices or communications to Party A:-

Address: First Flexible No. 5 plc, Sir William Atkins House, Ashley Avenue,
Epsom, Surrey KT18 5AS

Attention: Company Secretary

Facsimile No. 01372 737 777

Telephone No. 01372 737 737

Address for notices or communications to Party B:-

For notices regarding operation, payment and confirmation matters only, notices should be sent to the address of the relevant branch set out in the relevant Confirmation (as may be amended from time to time).

With a copy in the case of notices or communications relating to Sections 5, 6, 7, 11 or 13 to:

Address: 5 The North Colonnade, Canary Wharf, London E14 4BB

Attention: Legal Director, Legal Division (marked urgent)

Facsimile No. 0207 773 4934

Telephone No. 0207 773 4720

In connection with Sections 5, 6 and 12(a), all notices to the Trustee shall be sent to the address, telex number or facsimile number specified below:

Address: JPMorgan Chase Bank, Trinity Tower, 9 Thomas More Street, London E1W 1YT

Attention: Structured Finance

Telephone 020 7777 2000

Facsimile No. 020 7777 5460

- 3 **Netting of Payments.** Section 2(c)(ii) of this Agreement will apply with respect to all Transactions under this Agreement.
- 4 **Offices; Multibranch Party.** Section 10(a) of this Agreement will apply, and for the purpose of Section 10(c):
- (a) Party A is not a Multibranch Party.
- (b) Party B is not a Multibranch Party.
- 5 **Credit Support Documents.**
- The Deed of Charge and Assignment dated on or about 11 June 2002 and made between, *inter alia*, Party A, Party B and the Trustee.
- 6 **Credit Support Provider.**
- Not applicable.
- 7 **Process Agents.** Not applicable.

Part 5

Other Provisions

- 1 **Confirmations.** For each Transaction Party A and Party B agree to enter into under this Agreement, Party B shall use reasonable efforts to promptly send to Party A a confirmation setting forth the terms and conditions of such Transaction. Party A shall execute and return the Confirmation promptly. Any correction of an error shall be made promptly upon receipt of the telex or the facsimile transmission.
- 2 **Relationship Between Parties.** Party A and Party B will be deemed to represent to the other party on the date on which it enters into a Transaction that (absent a written agreement between the parties that expressly imposes affirmative obligations to the contrary for that Transaction):-
- (i) **Non-Reliance** It is acting for its own account, and it has made its own independent decisions to enter into that Transaction and as to whether that Transaction is appropriate or proper for it is based upon its own judgement and upon advice from such advisers as it has deemed necessary. It is not relying on any communication (written or oral) of the other party as investment advice or as a recommendation to enter into that Transaction; it being understood that information and explanations related to the terms and conditions of a Transaction shall not be considered investment advice or a recommendation to enter into that Transaction. No communication (written or oral) received from the other party shall be deemed to be an assurance or guarantee as to the expected results of the Transaction.
- (ii) **Assessment and Understanding** It is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and

understands and accepts, the terms, conditions and risks of that Transaction. It is also capable of assuming, and assumes, the risks of that Transaction.

(iii) **Status of Parties.** The other party is not acting as a fiduciary for or an adviser to it in respect of that Transaction.

(iv) **No Agency.** It is entering into this Agreement and each Transaction as principal and not as agent of any person.

3 **Telephone Recording.** Each party to this Agreement acknowledges and agrees to the tape recording of conversations between the parties to this Agreement whether by one or other or both of the parties and that any such tape recordings may be submitted in evidence to any court or legal proceedings for the purpose of establishing any matters relating to this Agreement.

4 **No Third Party Rights.** No person shall have any right to enforce any provision of this Agreement under the Contracts (Rights of Third Parties) Act 1999.

5 **Additional Event of Default**

Section 5(a) of this Agreement is modified by adding the following new clause:-

Specific Cross Default. Without limiting the applicability of Section 5(a)(vi) of this Agreement, the following shall be an Event of Default hereunder with respect to Party A:-

(a) if the Trustee shall declare the Class A Notes due and payable or the Class M Notes due and payable or the Class B Notes due and payable pursuant to Condition 9 of the Class A Notes or Condition 9 of the Class M Notes or Condition 9 of the Class B Notes, as the case may be, and/or

(b) if the Class A Notes, the Class M Notes and the Class B Notes are redeemed in full pursuant to Condition 5 of the Class A Notes, Condition 5 of the Class M Notes and Condition 5 of the Class C Notes.

6 **ISDA Definitions.** Reference is hereby made to the 2000 ISDA Definitions (the “**2000 Definitions**”) and the 1998 FX and Currency Option Definitions (the “**FX Definitions**”) (collectively the “**ISDA Definitions**”) each as published by the International Swaps and Derivatives Association, Inc., which are hereby incorporated by reference herein. Any terms used and not otherwise defined herein which are contained in the ISDA Definitions shall have the meaning set forth therein.

7 **Scope of Agreement.** Notwithstanding anything contained in this Agreement to the contrary, any transaction which may otherwise constitute a “Specified Transaction” for purposes of this Agreement which has been or will be entered into between the parties shall constitute a “Transaction” which is subject to, governed by, and construed in accordance with the terms of this Agreement, unless any Confirmation with respect to a Transaction entered into after the execution of this Agreement expressly provides otherwise.

8 **Inconsistency.** In the event of any inconsistency between any of the following documents, the relevant document first listed below shall govern: (i) a Confirmation; (ii) the Schedule; (iii) the ISDA Definitions; and (iv) the printed form of ISDA Master Agreement. In the event of any

inconsistency between provisions contained in the 2000 Definitions and the FX Definitions, the FX Definitions shall prevail.

9 **Calculation Agent.** The Calculation Agent will be Party B.

10 **ISDA EMU Protocol.** Annex 1 of the ISDA EMU Protocol, as published by the International Swaps and Derivatives Association, Inc. (the "EMU Annex"), is hereby incorporated by reference herein and effective as between the parties upon execution of this Agreement.

If the United Kingdom participates in European Economic and Monetary Union in a manner with similar effect to the third stage of European Economic and Monetary Union, it is understood that the Class A Notes, Class M Notes, and Class B Notes may be redenominated into euro by Party A with the prior written consent of the Trustee, that payments made with respect to the Interest Rate Swaps, the Base Rate Swaps and the Interest Rate Caps (as defined in the Master Definitions Schedule) may be made in euro. It is the intention of the parties that, provided the changes are within the parameters as would fall within generally accepted practice in the derivatives market, the parties' obligations would change to a corresponding new basis, failing which the Calculation Agent will, in its sole discretion, determine the consequences to this Agreement (and the Transactions hereunder) which follow from such redenomination into euro of the Interest Rate Swaps, the Base Rate Swaps and the Interest Rate Caps.

11 **Non-Petition/Limited Recourse**

The parties hereto acknowledge that Party A will grant security over its assets, including an assignment by way of first fixed security over, *inter alia*, this Agreement in favour of certain of its creditors on the terms contained in the Credit Support Document and therefore the provisions of this Agreement and any Transaction hereunder will be subject to the provisions of the Credit Support Document.

Limited Recourse

No sum shall become payable by Party A pursuant to this Agreement:

- (i) except in accordance with the Credit Support Document;
- (ii) until all sums required to be paid or provided for in priority to such sum according to the Priority of Payments set out in the Credit Support Document shall have been paid or discharged in full in accordance with such Priority of Payments; and
- (iii) unless, following the payments and provisions referred to in (ii) above, Party A has sufficient assets available to it in accordance with such Priority of Payments to make such payment in full.

Any sum that shall have become payable by Party A in accordance with this clause shall cease to be payable and the right to such payment shall be extinguished in the event that the outstanding Notes are redeemed in full in accordance with the Conditions of such Notes and Party A does not following such redemption have sufficient assets that are available in accordance with the Priority of Payments and the provisions of the Credit Support Document to make such payment.

Any sum which Party A does not pay pursuant to the operation of this clause shall not constitute a claim against, or any obligation of, Party A unless and until it becomes payable pursuant to this clause.

Enforcement

Party B further agrees that only the Trustee may enforce the Security created in favour of the Trustee by the Credit Support Document in accordance with the provisions thereof and Party B shall not take any steps whatsoever for the purpose of recovering any debts owing to it by Party A or enforcing any rights arising out of this Agreement against Party A, whether directly or indirectly, by set-off or otherwise.

Non-Petition

Party B hereby agrees with Party A and the Trustee that it shall not, until two years following the payment of all sums outstanding and owing by Party A under the Notes, take any corporate action or other steps or legal proceedings for the winding-up, dissolution or reorganisation or for the appointment of a receiver, administrator, administrative receiver, trustee, liquidator, sequestrator or similar officer of Party A or any or all of Party A's revenues and assets. Notwithstanding any other term in this Agreement, this clause shall survive the termination of this Agreement for any reason whatsoever.

Improper Payment

Party B hereby covenants with Party A and the Trustee that if, whether in the liquidation of Party A or otherwise, any payment or other distribution is received by it in respect of the obligations of Party A pursuant to this Agreement other than in accordance with the Priority of Payments or the Credit Support Document, the amount so paid shall be received and held by Party B upon trust for the Trustee and shall be paid over to the Trustee forthwith upon receipt.

12 Termination by Party B – Events of Default

Notwithstanding the provisions of Section 5(a) of this Agreement, the only events which shall constitute Events of Default when they occur in relation to Party A shall be those events specified in Sections 5(a) (i) (Failure to Pay or Deliver), Section 5(a) (vii) (Bankruptcy) and Section 5(a) (viii) (Merger without Assumption). Accordingly, the "Breach of Agreement" provisions of Section 5(a) (ii), the "Credit Support Default" provisions of Section 5(a) (ii), the "Misrepresentation" provisions of Section 5(a) (iv), the "Default under Specified Transaction" provisions of Section 5(a) (v), the "Cross Default" provisions of Section 5(a) (vi) and Section 2 of Section 5(a) (vii) (Bankruptcy) shall in no circumstances be regarded as having given rise to an Event of Default in respect of Party A. The "Merger without Assumption" provisions of Section 5(a) (viii) will not apply to Party A in respect of a transfer to the Trustee or in respect of a transfer to any entity which has succeeded the Trustee in that capacity.

13 Termination by Party A – Events of Default and Termination Event.

The provisions of Section 5 of this Agreement shall apply with respect to Party B without amendment save that (i) Section 5 (a) (vi) (Cross Default), and Section 5(b) (iv) "Credit Event Upon Merger" will in no circumstances give rise to an Event of Default or Termination Event

as the case may be with respect to Party B and (ii) Section 2 of Section 5(a) (vii) (Bankruptcy) shall not apply to Party B.

14 **Transfers**

Section 7 of this Agreement shall be deleted in its entirety and replaced by the following:

- (i) Subject as otherwise provided in the Agreement, Party B may transfer all its interest and obligations in and under this Agreement to any other entity whose short term, unsecured, unguaranteed and unsubordinated indebtedness is then rated not less than A – 1+ by Standard & Poor's Rating Services, a division of The McGraw-Hill Companies, Inc ("S&P") and P-1 by Moody's Investors Service Limited ("Moody's") or to an entity whose obligations under this Agreement are guaranteed by an entity whose short term, unsecured and unsubordinated indebtedness is then rated not less than A-1+ by S&P and P-1+ by Moody's, subject in either case to (i) prior written consent of the Trustee and (ii) Party B receiving written confirmation from both S&P and Moody's, that such transfer would not result in the Notes being downgraded or placed under review for possible downgrade.
- (ii) Neither this Agreement nor any interest or obligation in or under this Agreement may be transferred by Party A to any other entity other than the Trustee.

15 Capitalised terms used in this Agreement shall, except where the context otherwise requires and save where otherwise defined in the Agreement or the Confirmation, bear the respective meaning given to them in the Master Definitions Schedule signed on behalf of *inter alios*, the parties hereto on or about 11 June 2002.

16 **Tax.**

- (i) Notwithstanding the definition of "Indemnifiable Tax" in Section 14, in respect of payments made by either party no Tax shall be an Indemnifiable Tax and accordingly neither Party A nor Party B shall be obliged to gross-up payments pursuant to the provisions of Section 2(d)(i)(4) of the Agreement.
- (ii) Section 5(b)(iii) of this Agreement shall be amended by the insertion of the words "but for the provisions of Part 5 (14)(i) of the Schedule to this Agreement" immediately following the number "(1)" on the second line thereof and before the words "be required to pay".

17 **Rating Event.** In the event that the short-term, unsecured and unsubordinated debt obligations of Party B (or any applicable assignee or its guarantor) shall cease to be rated A- 1+ by S&P or P-1 by Moody's, then Party B shall immediately notify the Rating Agencies, the Trustee and Party A and within 30 days of such downgrade (unless during this period, it, the Trustee and Party A receives written confirmation by both S&P and Moody's that such downgrade would not result in the Notes either being downgraded or placed under review for possible downgrade) at its cost either:-


- (i) Put in place an appropriate mark-to-market collateral agreement which may be based either on the credit support documentation published by the International Swaps and Derivatives Association, Inc. ("ISDA") or on any other agreement reached between the parties, and relates to collateral in the form of cash or securities or both or, in support of its obligations under this Agreement, provided that Party A and the Trustee receive prior written confirmation from S&P and Moody's that the rating assigned to the Notes then outstanding by S&P and Moody's is not adversely affected by the downgrade following such collateral arrangements being put in place; or
- (ii) Transfer all of its rights and obligations with respect to this Agreement to a replacement third party whose short-term, unsecured, unguaranteed and unsubordinated debt obligations are rated at least A-1+ by S&P and P-1 by Moody's, subject to the Trustee and Party A receiving written confirmation from both S&P and Moody's that such action would not result in the Notes being downgraded or placed under review for possible downgrade; or
- (iii) Procure that its obligations with respect to this Agreement are guaranteed by a third party whose short-term, unsecured, unguaranteed and unsubordinated debt obligations are rated at least A-1+ by S&P and P-1 by Moody's, subject to the Trustee and Party A receiving written confirmation from both S&P and Moody's that such action would not result in the Notes being downgraded or placed under review for possible downgrade.

If Party B shall fail to take the measures described above, then an Additional Termination Event shall be deemed to have occurred on the thirtieth day following such downgrade with Party B as the sole Affected Party and all Transactions as Affected Transactions.

- 18 **Trustee.** The Trustee is a party to this Agreement to take the benefit of certain provisions herein and the Trustee will not be assuming any other obligations under this Agreement.
- 19 **Non-Reliance of Trustee.** The Trustee represents to Party A and Party B that it is acting for its own account, and it has made its own independent decisions to enter into this Agreement and as to whether this Agreement is appropriate or proper for it is based upon its own judgement and upon advice from such advisers as it has deemed necessary. It is not relying on any communication (written or oral) of Party A or Party B as a recommendation to enter into this Agreement and it is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of this Agreement.

Please confirm your agreement to the terms of the foregoing Schedule by signing below.

BARCLAYS BANK PLC

By: 
Name: **Richard Grant**
Authorised Signatory
Title:

FIRST FLEXIBLE NO.5 PLC

By: _____
Name:
Title:

JPMORGAN CHASE BANK

By: _____
Name:
Title:

Barclays Capital
5 The North Colonnade
Canary Wharf
London E14 4BB

BARCLAYS

To: FIRST FLEXIBLE NO 5 PLC
Attn.: STEPHEN BOWCOTT
Fax No: 01372-737817
Date: June 6, 2002
Reference: 284512B \ 527573

Rate Cap Confirmation

The purpose of this letter agreement is to confirm the terms and conditions of the Transaction entered into between Barclays Bank PLC (London Head Office) ("Barclays") and FIRST FLEXIBLE NO 5 PLC (the "Counterparty") on the Trade Date specified below (the "Transaction"). This letter agreement constitutes a "Confirmation" for purposes of the Agreement referred to below.

This letter agreement supersedes any previous confirmation or other writing with respect to the Transaction described below and evidences a complete binding agreement between Barclays and Counterparty as to the terms of the Transaction described below.

If Barclays and Counterparty are parties to either a 1987 Interest Rate and Currency Exchange Agreement, or a 1992 ISDA Master Agreement, this Confirmation supplements, forms a part of, and is subject to such 1987 Interest Rate and Currency Exchange Agreement or such 1992 ISDA Master Agreement, as the case may be.

In the event Barclays and Counterparty have not entered into a 1987 Interest Rate and Currency Exchange Agreement or a 1992 ISDA Master Agreement, the parties hereto agree to negotiate in good faith and enter into either a 1987 Interest Rate and Currency Exchange Agreement or a 1992 ISDA Master Agreement with such additions, deletions and modifications thereto as the parties hereto may agree.

Upon execution and delivery by the parties hereto of a 1987 Interest Rate and Currency Exchange Agreement or a 1992 ISDA Master Agreement, the preceding sentence shall be of no further force and effect, and this Confirmation shall supplement, form a part of and be subject to the terms of such 1987 Interest Rate and Currency Exchange Agreement or such 1992 ISDA Master Agreement, as the case may be.

Until Barclays and Counterparty execute and deliver a 1987 Interest Rate and Currency Exchange Agreement or a 1992 ISDA Master Agreement, this Confirmation (together with all other documents confirming transactions previously entered into between the parties hereto, which documents contemplate that the parties will enter into such an Agreement, but which are not part of such an Agreement, notwithstanding anything to the contrary in such documents) shall be deemed to supplement, form a part of, and be subject to an agreement in the form of a 1992 ISDA Master Agreement (Multicurrency-Cross Border), as published by the International Swaps and Derivatives Association, Inc. ("ISDA") (without any Schedule thereto), governed by English law, with a Termination Currency of GBP and including as section 6(f) of such agreement the provisions of Section V(A) of ISDA's User's Guide to the 1992 Master Agreements, as if, on the "Trade Date" of the first such transaction, Barclays and Counterparty had executed an agreement in such form.

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As used herein, "Agreement" at any time shall mean whichever of the 1987 Interest Rate and Currency Exchange Agreement or 1992 ISDA Master Agreement this Confirmation then supplements, forms a part of and is subject to (or is deemed to supplement, form a part of and be subject to, as provided above). All provisions of the Agreement shall govern this Confirmation, except as expressly modified below.

The definitions contained in the 2000 ISDA Definitions, as published by the International Swaps and Derivatives 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 for purposes of the Transaction. References herein to a "Transaction" shall be deemed to be references to a "Swap Transaction" for the purposes of the 2000 ISDA Definitions. Capitalized terms used in this Confirmation and not defined in this Confirmation or the 2000 ISDA Definitions shall have the respective meanings assigned in the Agreement. Each party hereto agrees to make payment to the other party hereto in accordance with the provisions of this Confirmation and of the Agreement.

Each party hereto represents and warrants to the other party hereto that, in connection with the Transaction, (i) it is acting for its own account, and it has made its own independent decisions to enter into this Transaction and as to whether this Transaction is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. It is not relying on any communication (written or oral) of the other party as investment advice or as a recommendation to enter into this Transaction; it being understood that information and explanations related to the terms and conditions of this Transaction shall not be considered investment advice or a recommendation to enter into this Transaction. No communication (written or oral) received from the other party shall be deemed to be an assurance or guarantee as to the expected results of this Transaction; (ii) it is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of this Transaction. It is also capable of assuming, and assumes, the risks of this Transaction; (iii) the other party is not acting as a fiduciary for or an adviser to it in respect of this Transaction.

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

A. TRADE DETAILS	
Notional Amount:	GBP 8,096,616.96
Trade Date:	June 5, 2002
Effective Date:	July 1, 2002
Termination Date:	May 1, 2003; subject to adjustment in accordance with the Modified Following Business Day Convention
Fixed Amounts:	
Fixed Rate Payer:	Counterparty
Fixed Rate Payer Payment Date:	June 11, 2002; subject to adjustment in accordance with the Modified Following Business Day Convention
Fixed Amount:	GBP 3,400
Floating Amounts:	
Floating Rate Payer:	Barclays
Cap Rate:	6 % per annum

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Floating Rate Payer Payment Date(s):	The 1st of each month in each year from (and including) August 1, 2002 to (and including) the Termination Date; subject to adjustment in accordance with the Modified Following Business Day Convention
Floating Rate Option:	GBP-LIBOR-BBA
Floating Rate Day Count Fraction:	Actual / 365 (Fixed)
Designated Maturity:	1 Month
Reset Dates:	The first day in each Calculation Period
Business Days:	London
Calculation Agent:	Barclays Bank PLC
Assignment:	Except as expressly provided in the Agreement, the Transaction may not be assigned by either party hereto without the consent of the other party hereto, and any purported assignment of the Transaction without such consent shall be void
Governing Law:	The Transaction and this Confirmation will be governed by and construed in accordance with English Law

B. ACCOUNT DETAILS

Payments to Barclays:	Correspondent: BARCLAYS BK PLC 54 LOMBARD ST. LDN CHAPS: 20-00-00 Beneficiary: BARCLAYS SWAPS Beneficiary Account: 00152021
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Payments to Counterparty:	Please Advise
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20-19-90 AIC 20

10794309

C. OFFICES

Barclays:	<u>Address for notices:</u> 5 THE NORTH COLONNADE CANARY WHARF LONDON E14 4BB Tel: 44(20) 77732313 Fax: 44(20) 77736810/6834
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Counterparty:	<u>Address for notices:</u> SIR WILLIAM ATKINS HOUSE ASHLEY AVENUE EPSOM SURREY KT18 5AS Tel: 44(01372) 737813 Fax: 44(01372) 737817
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4 of 4

Please confirm that the foregoing correctly sets forth all the terms and conditions of our agreement with respect to the Transaction by responding within three (3) Business Days by promptly signing in the space provided below and both (i) faxing the signed copy to Barclays, Swap Operations. Fax +(44) 20-7773-6810/6045, Tel +(44) 20-7773-6901/6904/6965, and (ii) mailing the signed copy to Barclays Bank PLC, 5 The North Colonnade, Canary Wharf, London E14 4BB, Attention of Swap Operations. Your failure to respond within such period shall not affect the validity or enforceability of the Transaction as against you.

For and on behalf of
BARCLAYS BANK PLC

For and on behalf of
FIRST FLEXIBLE NO 5 PLC



Neil Barrett

Date: June 6, 2002

For and on behalf of
BARCLAYS BANK PLC



Emilio di Nello

Date: June 6, 2002

NAME: *A.W. VAUGHAN*
A-W. VAUGHAN
Authorised Signatory
Date: *10 JUNE 2002*

For and on behalf of
FIRST FLEXIBLE NO 5 PLC

NAME:
Authorised Signatory
Date:

<UniqueID:284512B4v1Jun0602.doc><AtTime:+1><ToName:STEPHEN
BOWCOTT><ToCompany:FIRST FLEXIBLE NO 5 PLC><ToContactNum:9-01372-
737813><ToFaxNum:9-01372-
737817><BillInfo1:Confirms><BillInfo2:C37><FromName:Global Transaction
Documentation><FromPhone:44(20) 77732313><FromFaxNum:44(20)
77736810/6834>

Jun 10. 2002

284512B4v1Jun0602

Barclays Capital
5 The North Colonnade
Canary Wharf
London E14 4BB

BARCLAYS

To: FIRST FLEXIBLE NO 5 PLC
Attn.: STEPHEN BOWCOTT
Fax No: 01372-737817
Date: June 7, 2002
Reference: 284366B \ 527491

Amended Rate Swap Confirmation

The purpose of this letter agreement is to confirm the terms and conditions of the Transaction entered into between Barclays Bank PLC (London Head Office) ("Barclays") and FIRST FLEXIBLE NO 5 PLC (the "Counterparty") on the Trade Date specified below (the "Transaction"). This letter agreement constitutes a "Confirmation" for purposes of the Agreement referred to below.

This letter agreement supersedes any previous confirmation or other writing with respect to the Transaction described below and evidences a complete binding agreement between Barclays and Counterparty as to the terms of the Transaction described below.

If Barclays and Counterparty are parties to either a 1987 Interest Rate and Currency Exchange Agreement, or a 1992 ISDA Master Agreement, this Confirmation supplements, forms a part of, and is subject to such 1987 Interest Rate and Currency Exchange Agreement or such 1992 ISDA Master Agreement, as the case may be.

In the event Barclays and Counterparty have not entered into a 1987 Interest Rate and Currency Exchange Agreement or a 1992 ISDA Master Agreement, the parties hereto agree to negotiate in good faith and enter into either a 1987 Interest Rate and Currency Exchange Agreement or a 1992 ISDA Master Agreement with such additions, deletions and modifications thereto as the parties hereto may agree.

Upon execution and delivery by the parties hereto of a 1987 Interest Rate and Currency Exchange Agreement or a 1992 ISDA Master Agreement, the preceding sentence shall be of no further force and effect, and this Confirmation shall supplement, form a part of and be subject to the terms of such 1987 Interest Rate and Currency Exchange Agreement or such 1992 ISDA Master Agreement, as the case may be.

Until Barclays and Counterparty execute and deliver a 1987 Interest Rate and Currency Exchange Agreement or a 1992 ISDA Master Agreement, this Confirmation (together with all other documents confirming transactions previously entered into between the parties hereto, which documents contemplate that the parties will enter into such an Agreement, but which are not part of such an Agreement, notwithstanding anything to the contrary in such documents) shall be deemed to supplement, form a part of, and be subject to an agreement in the form of a 1992 ISDA Master Agreement (Multicurrency-Cross Border), as published by the International Swaps and Derivatives Association, Inc. ("ISDA") (without any Schedule thereto), governed by English law, with a Termination Currency of GBP and including as section 6(f) of such agreement the provisions of Section V(A) of ISDA's User's Guide to the 1992 Master Agreements, as if, on the "Trade Date" of the first such transaction, Barclays and Counterparty had executed an agreement in such form.

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As used herein, "Agreement" at any time shall mean whichever of the 1987 Interest Rate and Currency Exchange Agreement or 1992 ISDA Master Agreement this Confirmation then supplements, forms a part of and is subject to (or is deemed to supplement, form a part of and be subject to, as provided above). All provisions of the Agreement shall govern this Confirmation, except as expressly modified below.

The definitions contained in the 2000 ISDA Definitions, as published by the International Swaps and Derivatives 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 for purposes of the Transaction. References herein to a "Transaction" shall be deemed to be references to a "Swap Transaction" for the purposes of the 2000 ISDA Definitions. Capitalized terms used in this Confirmation and not defined in this Confirmation or the 2000 ISDA Definitions shall have the respective meanings assigned in the Agreement. Each party hereto agrees to make payment to the other party hereto in accordance with the provisions of this Confirmation and of the Agreement.

Each party hereto represents and warrants to the other party hereto that, in connection with the Transaction: (i) it is acting for its own account, and it has made its own independent decisions to enter into this Transaction and as to whether this Transaction is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. It is not relying on any communication (written or oral) of the other party as investment advice or as a recommendation to enter into this Transaction: it being understood that information and explanations related to the terms and conditions of this Transaction shall not be considered investment advice or a recommendation to enter into this Transaction. No communication (written or oral) received from the other party shall be deemed to be an assurance or guarantee as to the expected results of this Transaction; (ii) it is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of this Transaction. It is also capable of assuming, and assumes, the risks of this Transaction; (iii) the other party is not acting as a fiduciary for or an adviser to it in respect of this Transaction.

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

A.	TRADE DETAILS
Notional Amount:	11/06/2002 GBP 206,113,028.65 (Amortizing as per attached Schedule A); subject to adjustment in accordance with the Modified Following Business Day Convention
Trade Date:	June 5, 2002
Effective Date:	June 11, 2002
Termination Date:	November 1, 2006; subject to adjustment in accordance with the Modified Following Business Day Convention
Fixed Amounts:	
Fixed Rate Payer:	Counterparty
Fixed Rate Payer Payment Date(s):	The 1st of each month in each year from (and including) August 1, 2002 to (and including) the Termination Date; subject to adjustment in accordance with the Modified Following Business Day Convention
Fixed Rate:	See Schedule A
Fixed Rate Day Count Fraction:	Actual / 365 (Fixed)
Floating Amounts:	

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Floating Rate Payer:	Barclays
Floating Rate Payer Payment Date(s):	The 1st of each month in each year from (and including) August 1, 2002 to (and including) the Termination Date; subject to adjustment in accordance with the Modified Following Business Day Convention
Floating Rate for initial Calculation Period:	To be determined with reference to the 1 and 2 month interpolated rate
Floating Rate Option:	GBP-LIBOR-BBA
Spread:	None
Floating Rate Day Count Fraction:	Actual / 365 (Fixed)
Designated Maturity:	1 Month
Reset Dates:	The first day in each Calculation Period
Compounding:	Not Applicable
Business Days:	London
Calculation Agent:	Barclays Bank PLC
Additional Payment:	Counterparty pays Barclays GBP 1,422,000 value June 11, 2002
Assignment:	Except as expressly provided in the Agreement, the Transaction may not be assigned by either party hereto without the consent of the other party hereto, and any purported assignment of the Transaction without such consent shall be void
Governing Law:	The Transaction and this Confirmation will be governed by and construed in accordance with English Law
B.	ACCOUNT DETAILS
Payments to Barclays:	Correspondent: BARCLAYS BK PLC 54 LOMBARD ST. LDN CHAPS: 20-00-00 Beneficiary: BARCLAYS SWAPS Beneficiary Account: 00152021
Payments to Counterparty:	Please Advise 20-19-90 ML 10794309
C.	OFFICES
Barclays:	<u>Address for Notices:</u> 5 THE NORTH COLONNADE CANARY WHARF LONDON E14 4BB Tel: 44(20) 77732313 Fax: 44(20) 77736810/6834

Counterparty:

Address for Notices:

SIR WILLIAM ATKINS HOUSE
ASHLEY AVENUE
EPSOM
SURREY KT18 5AS
Tel: 44(01372) 737813
Fax: 44(01372) 737817

Please confirm that the foregoing correctly sets forth all the terms and conditions of our agreement with respect to the Transaction by responding within three (3) Business Days by promptly signing in the space provided below and both (i) faxing the signed copy to Barclays, Swap Operations, Fax +(44) 20-7773-6810/6045, Tel +(44) 20-7773-6901/6904/6965, and (ii) mailing the signed copy to Barclays Bank PLC, 5 The North Colonnade, Canary Wharf, London E14 4BB, Attention of Swap Operations. Your failure to respond within such period shall not affect the validity or enforceability of the Transaction as against you.

For and on behalf of
BARCLAYS BANK PLC

For and on behalf of
FIRST FLEXIBLE NO 5 PLC



Joanne Bullard

Date: June 7, 2002

For and on behalf of
BARCLAYS BANK PLC



Emilio di Nello

Date: June 7, 2002



NAME: A.W. VAUGHAN
Authorised Signatory

Date: 10 JUNE 2002

For and on behalf of
FIRST FLEXIBLE NO 5 PLC

NAME:
Authorised Signatory
Date:

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SCHEDULE A

<u>Start Date</u>	<u>Notional</u>	<u>Fixed Rate</u>
11-Jun-02	206,113,028.65 ✓	4.44%
01-Aug-02	205,954,688.03 ✓	4.44%
01-Sep-02	205,496,998.03 ✓	4.44%
01-Oct-02	205,150,218.89	4.44%
01-Nov-02	205,058,543.76 ✓	4.44%
01-Dec-02	204,921,086.26	4.44%
01-Jan-03	204,355,491.61	4.44%
01-Feb-03	204,355,491.61	4.44%
01-Mar-03	204,355,491.61	4.44%
01-Apr-03	204,355,491.61	4.44%
01-May-03	204,355,491.61	4.44%
01-Jun-03	204,355,491.61 ✓	4.44% ✓
01-Jul-03	202,610,734.04 ✓	4.43%
01-Aug-03	159,214,554.51 ✓	4.44%
01-Sep-03	102,746,039.45 ✓	4.44%
01-Oct-03	56,492,858.53 ✓	4.40%
01-Nov-03	36,516,743.31 ✓	4.39%
01-Dec-03	30,509,139.08 ✓	4.36%
01-Jan-04	28,458,698.77 ✓	4.34%
01-Feb-04	19,075,497.60 ✓	4.23%
01-Mar-04	18,394,353.60 ✓	4.22%
01-Apr-04	7,286,246.69 ✓	4.96%
01-May-04	7,244,248.09 ✓	4.96%
01-Jun-04	7,244,248.09	4.96%
01-Jul-04	7,244,248.09 ✓	4.96%
01-Aug-04	5,961,988.91 ✓	4.93%
01-Sep-04	5,543,389.44 ✓	4.93%
01-Oct-04	5,162,371.41 ✓	4.93%
01-Nov-04	5,162,371.41	4.93%
01-Dec-04	5,162,371.41	4.93%
01-Jan-05	5,162,371.41 ✓	4.93%
01-Feb-05	1,821,453.16	5.34%
01-Mar-05	1,821,453.16	5.34%
01-Apr-05	1,821,453.16 ✓	5.34%
01-May-05	1,632,935.28 ✓	5.39%
01-Jun-05	1,632,935.28	5.39%
01-Jul-05	1,632,935.28	5.39%
01-Aug-05	1,632,935.28	5.39%
01-Sep-05	1,632,935.28	5.39%
01-Oct-05	1,632,935.28	5.39%
01-Nov-05	1,632,935.28	5.39%
01-Dec-05	1,632,935.28	5.39%
01-Jan-06	1,632,935.28	5.39%
01-Feb-06	1,632,935.28	5.39%
01-Mar-06	1,632,935.28	5.39%
01-Apr-06	1,632,935.28	5.39%
01-May-06	1,632,935.28	5.39%
01-Jun-06	1,632,935.28	5.39%
01-Jul-06	1,632,935.28	5.39%

Jun 7, 2002

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01-Aug-06	416,848.63 ✓	5.35%
01-Sep-06	339,217.97 ✓	5.35%
01-Oct-06	127,298.14 ✓	5.35%