

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

FORM 10-Q

(Mark One)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d)  
OF THE SECURITIES EXCHANGE ACT OF 1934  
For the quarterly period ended September 30, 1997

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d)  
OF THE SECURITIES EXCHANGE ACT OF 1934  
For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number: 0-19311

IDEC PHARMACEUTICALS CORPORATION  
(Exact name of registrant as specified in its charter)

Delaware

33-0112644

-----  
(State or other jurisdiction of  
incorporation or organization)

-----  
(I.R.S. Employer  
Identification No.)

11011 Torreyana Road, San Diego, CA 92121

-----  
(Address of principal executive offices) (Zip code)

(619) 550-8500

-----  
(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

As of October 31, 1997, the Registrant had 19,092,493 shares of its common stock, \$.001 par value, issued and outstanding.

IDEC PHARMACEUTICALS CORPORATION  
FORM 10-Q -- QUARTERLY REPORT  
FOR THE QUARTERLY PERIOD ENDED SEPTEMBER 30, 1997

TABLE OF CONTENTS

PART I. FINANCIAL INFORMATION

Item 1. Financial Statements  
Condensed Consolidated Balance Sheets -- September 30, 1997 and December 31, 1996 .....1  
Condensed Consolidated Statements of Operations -- Three months ended September 30, 1997 and

1996 and nine months ended September 30, 1997 and 1996 .....	2
Condensed Consolidated Statements of Cash Flows -- Nine months ended September 30, 1997 and 1996 .....	3
Notes to Condensed Consolidated Financial Statements .....	4

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations .....	6
Risk Factors .....	9

PART II            OTHER INFORMATION

Item 1. Legal Proceedings .....	15
Item 2. Changes in Securities .....	15
Item 3. Defaults upon Senior Securities .....	15
Item 4. Submission of Matters to a Vote of Security Holders .....	15
Item 5. Other Information .....	15
Item 6. Exhibits and Reports on Form 8-K .....	15

PART I -- FINANCIAL INFORMATION

Item 1. FINANCIAL STATEMENTS.

IDEC PHARMACEUTICALS CORPORATION AND SUBSIDIARY

CONDENSED CONSOLIDATED BALANCE SHEETS  
(In thousands)

	September 30, 1997 ----- (unaudited)	December 31, 1996 -----
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 7,389	\$ 25,337
Securities available-for-sale	41,033	53,390
Current portion of note receivable	672	804
Contract research revenue receivables	3,549	3,635
Due from related party	6,790	1,532
Inventories	6,917	4,384
Prepaid expenses and other current assets	1,473	2,533
	-----	-----
Total current assets	67,823	91,615
Property and equipment, net	23,310	21,453
Note receivable, less current portion	--	445
Investment and other assets	3,365	316
	-----	-----
	\$ 94,498	\$ 113,829

	=====	=====
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Current portion of notes payable	\$ 4,520	\$ 3,830
Accounts payable	915	3,106
Due to related party, current	800	800
Accrued expenses and other liabilities	8,017	5,951
Deferred revenue	1,804	--
	-----	-----
Total current liabilities	16,056	13,687
Notes payable, less current portion	4,374	5,015
Other long-term liabilities	1,889	1,513
Due to related party, noncurrent	1,000	1,000
Stockholders' equity:		
Convertible preferred stock, \$.001 par value	--	--
Common stock, \$.001 par value	19	18
Additional paid-in capital	178,767	176,448
Unrealized losses on securities available-for-sale	(113)	(37)
Accumulated deficit	(107,494)	(83,815)
	-----	-----
Total stockholders' equity	71,179	92,614
	-----	-----
	\$ 94,498	\$ 113,829
	=====	=====

See accompanying notes to condensed consolidated financial statements.

1

4

IDEC PHARMACEUTICALS CORPORATION AND SUBSIDIARY

CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS

(In thousands, except per share data)  
(unaudited)

	Three months ended September 30,		Nine months ended September 30,	
	1997	1996	1997	1996
	-----	-----	-----	-----
Revenues:				
Revenue from unconsolidated joint business	\$ 2,332	\$ --	\$ 4,210	\$ --
Contract research revenues	2,595	2,902	7,783	8,902
License fees	1,500	--	6,500	9,500
Sales	--	--	--	1,505
	-----	-----	-----	-----
	6,427	2,902	18,493	19,907
Operating expenses:				
Manufacturing expenses	5,261	--	10,475	1,384
Research and development	7,988	6,292	25,754	19,011
Selling, general and administrative	3,477	1,844	8,183	5,305
	-----	-----	-----	-----
	16,726	8,136	44,412	25,700
	-----	-----	-----	-----
Loss from operations	(10,299)	(5,234)	(25,919)	(5,793)
Interest income (expense), net	723	730	2,240	(354)
	-----	-----	-----	-----
Net loss	\$ (9,576)	\$ (4,504)	\$ (23,679)	\$ (6,147)
	=====	=====	=====	=====
Net loss per share common share	\$ (0.51)	\$ (0.26)	\$ (1.27)	\$ (0.38)
	=====	=====	=====	=====
Shares used in computing net loss per common share	18,875	17,528	18,601	16,127

See accompanying notes to condensed consolidated financial statements.

2

5

IDEC PHARMACEUTICALS CORPORATION AND SUBSIDIARY

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS  
(In thousands)  
(unaudited)

	Nine months ended September 30,	
	1997	1996
Cash flows from operating activities:		
Net cash used in operating activities	\$ (25,146)	\$ (5,926)
Cash flows from investing activities:		
Purchase of property and equipment	(4,729)	(1,993)
Investment in Cytokine Networks, Inc.	(3,000)	--
Purchase of securities available-for-sale	(27,141)	(31,324)
Sales and maturities of securities available-for-sale	39,434	14,274
Net cash provided by (used in) investing activities	4,564	(19,043)
Cash flows from financing activities:		
Proceeds from issuance of common stock	2,585	47,513
Proceeds from issuance of preferred stock	--	12,500
Proceeds from notes payable	3,003	1,790
Payments on notes payable	(2,954)	(2,557)
Net cash provided by financing activities	2,634	59,246
Net increase (decrease) in cash and cash equivalents	(17,948)	34,277
Cash and cash equivalents, beginning of period	25,337	18,828
Cash and cash equivalents, end of period	\$ 7,389	\$ 53,105

See accompanying notes to condensed consolidated financial statements.

3

6

IDEC PHARMACEUTICALS CORPORATION AND SUBSIDIARY

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS  
(Unaudited)

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation

The information at September 30, 1997, and for the three and nine month periods ended September 30, 1997 and 1996, is unaudited. In the opinion of management, these condensed consolidated financial statements include all adjustments, consisting of normal recurring adjustments, necessary for a fair presentation of results for the interim periods presented. Interim results are

not necessarily indicative of results for a full year. These financial statements should be read in conjunction with IDEC Pharmaceuticals(R) Corporation's (the "Company") Annual Report to Shareholders incorporated by reference in the Company's Annual Report on Form 10-K for the year ended December 31, 1996, which was filed with the United States Securities and Exchange Commission on March 31, 1997.

#### New Accounting Standard

On March 3, 1997, the Financial Accounting Standards Board issued Statement of Financial Accounting Standards No. 128 "Earnings per Share" ("Statement No. 128"). Statement No. 128 supersedes Accounting Principles Board Opinion No. 15 ("APB No. 15") and replaces "primary" and "fully diluted" earnings per share ("EPS") under APB No. 15 with "basic" and "diluted" EPS. Unlike primary EPS, basic EPS excludes the dilutive effects of options, warrants and other convertible securities. Diluted EPS reflects the potential dilution of securities that could share in the earnings of an entity, similar to fully diluted EPS. Statement No. 128 is effective for years ending after December 15, 1997. The Company is currently evaluating the impact of the implementation of Statement No. 128.

#### Reclassification

The prior year balances in preferred stock, common stock and additional paid-in capital have been reclassified to effect the change in par value to \$.001 per share resulting from stockholder approval on May 22, 1997, of a change in the state of incorporation of the Company from the State of California to the State of Delaware.

#### NOTE 2. RELATED PARTY ARRANGEMENTS

In March 1995, the Company and Genentech, Inc. ("Genentech") entered into a collaborative agreement for the clinical development and commercialization of the Company's anti-CD20 monoclonal antibody, Rituxan(TM) (formerly IDEC-C2B8), for the treatment of non-Hodgkin's B-cell lymphomas. Concurrent with the collaborative agreement, the Company and Genentech also entered into an expression technology license agreement for a proprietary gene expression technology developed by the Company and a preferred stock purchase agreement providing for certain equity investments in the Company by Genentech. Under the terms of these agreements, the Company may receive payments totaling \$57,000,000, subject to the attainment of certain milestone events. Genentech may terminate this agreement for any reason. For the nine months ended September 30, 1997, the Company recognized \$1,500,000, in license fees under these agreements.

In addition, the Company and Genentech will co-promote Rituxan in the United States under a joint business arrangement, with the Company receiving a share of the profits. Additionally, the Company has an obligation to supply Rituxan for the first two years after regulatory approval of Rituxan with an option to continue supplying Rituxan thereafter. Included in inventories at September 30, 1997, is \$3,002,000 in finished goods inventory that will be sold to Genentech. Included in revenue from unconsolidated joint business for the three and nine months ended September 30, 1997 is \$2,332,000 and \$4,210,000, respectively, for bulk Rituxan sold to Genentech.

Under the terms of separate agreements with Genentech, commercialization of Rituxan outside the United States will be the responsibility of F. Hoffmann-La Roche Ltd, except in Japan where Zenyaku Kogyo Co., Ltd. ("Zenyaku") will be responsible for development, marketing and sales. The Company will receive royalties on sales outside the U.S. and Canada. Additionally, the Company will receive royalties on sales of any Genentech products manufactured using the Company's proprietary gene expression system.

#### IDEC PHARMACEUTICALS CORPORATION AND SUBSIDIARY

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS  
(Unaudited)

#### NOTE 3. STOCKHOLDERS EQUITY

In September 1997, the Company entered into an agreement with a financial institution under which the Company purchased in a private transaction a capped call option, exercisable only at maturity, representing the Company's right to purchase from the financial institution up to 600,000 shares of the Company's common stock. The Company has the right to settle the capped call option with

cash or stock. The capped call option which the Company purchased is expected to be settled, if exercised, with cash paid to the Company in an amount equal to the difference between the strike price and the market price, subject to caps which will limit the total amount of cash the Company could receive.

Simultaneously, the Company sold to the same financial institution a call option, exercisable only at maturity, entitling the financial institution to purchase from the Company up to 900,000 shares of the Company's common stock. The Company has the right to settle the call option with cash or stock and, if exercised, the Company expects the call option to be settled by the issuance of up to 900,000 shares of the Company's common stock. The financial institution has advised the Company that it has engaged, and may engage, in transactions, including buying and selling shares of the Company's common stock, to offset its risk relating to the call options, which could affect the market price of the Company's common stock.

5

8

## ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS.

### OVERVIEW

IDEC Pharmaceuticals Corporation (the "Company") is primarily engaged in the research and development of targeted therapies for the treatment of cancer and autoimmune and inflammatory diseases. To date, the Company has not received any revenues from the commercial sale of its products. The Company has funded its operations primarily through the sale of equity securities as well as through contract research and license fee revenues received in connection with collaborative arrangements entered into with the Company's strategic partners.

The Company has incurred increasing annual operating expenses and, as the Company prepares for product commercialization, it expects such trends to continue. The Company has incurred annual operating losses since its inception in 1985, and the transition of the Company to profitability will be dependent upon the timing of regulatory approval and the commercial success of Rituxan(TM) (formerly IDEC-C2B8). As of September 30, 1997, the Company had an accumulated deficit of \$107.5 million.

### RESULTS OF OPERATIONS

Revenue from unconsolidated joint business consist of bulk Rituxan sales to Genentech, Inc. ("Genentech"), the Company's development partner.

Contract research revenues for the three and nine months ended September 30, 1997 totaled \$2.6 million and \$7.8 million, respectively, compared to \$2.9 million and \$8.9 million for the comparable periods in 1996. The decrease in contract research revenues for the three and nine months ended September 30, 1997 is primarily due to the expiration in December 1996 of a collaborative and license agreement with Mitsubishi Chemical Corporation.

License fees for the three months ended September 30, 1997, totaled \$1.5 million and decreased to \$6.5 million from \$9.5 million for the nine months ended September 30, 1997 and 1996, respectively. License fees for the three months ended September 30, 1997 resulted from the achievement of a product development milestone event under the Company's collaboration with Seikagaku Corporation ("Seikagaku") for the development of PRIMATIZED(R) anti-CD23 antibodies. License fees for the nine months ended September 30, 1997 consist of a license fee received from Boehringer Ingelheim GmbH for the license of the Company's proprietary gene expression technology for the manufacture of recombinant proteins ("gene expression technology") and the aforementioned development milestone from Seikagaku. License fees for the nine months ended September 30, 1996, resulted from the achievement of product development milestone events under collaborations with Genentech and Seikagaku, a license fee from Chugai Pharmaceutical Co., Ltd. for the Company's gene expression technology and a license fee from Genentech for the expansion of its collaboration with the Company. The Company continues to pursue other collaborative and license arrangements; however, no assurance can be given that discussions in this regard will result in any such arrangements or that the Company will receive significant revenues from any such collaborative or license arrangements.

Sales for the nine months ended September 30, 1996 were a result of the Company completing a contract manufacturing arrangement.

Manufacturing expenses for the three months ended September 30, 1997, totaled \$5.2 million and increased to \$10.5 million from \$1.4 million for the nine months ended September 30, 1997 and 1996, respectively. Manufacturing expenses for 1997 consist of manufacturing costs related to production of bulk Rituxan sold to Genentech and includes a charge of approximately \$2.0 million made during the second quarter of 1997, for costs associated with the start-up of the Company's manufacturing facility. Manufacturing expenses for 1996 were a result of the Company completing a contract manufacturing arrangement. The Company expects to continue incurring substantial additional manufacturing expenses as the Company continues to build Rituxan inventory in anticipation of marketing clearance from the United States Food and Drug Administration.

Research and development expenses totaled \$8.0 million and \$25.8 million for the three and nine months ended September 30, 1997, respectively, compared to \$6.3 million and \$19.0 million for the comparable periods in 1996. Research and development expenses for the three months ended September 30, 1997 increased primarily due to a

6

9

license fee payment for Anti-MIF antibody technology rights and the completion of contract manufacturing for IDEC-Y2B8 in preparation for a Phase III trial in 1998. Research and development expenses for the nine months ended September 30, 1997 increased primarily due to a \$3.0 million up-front licensing fee to Pharmacia & Upjohn for exclusive rights to 9-aminocamptothecin, a broad spectrum anti-cancer agent, the aforementioned license fee payment for Anti-MIF antibody technology rights and contract manufacturing costs for IDEC-Y2B8. Research and development expenses for the three and nine months ended September 30, 1997 were partially offset by the utilization of the Company's manufacturing facility for bulk production of Rituxan inventory in 1997 compared to research and development manufacturing production in 1996 of clinical material used for clinical trials. The Company expects to continue incurring substantial additional research and development costs in the future, due to expansion or addition of research and development programs; technology licensing costs and regulatory-related costs; preclinical and clinical testing of the Company's various products under development; and production scale-up and manufacturing of products used in clinical trials.

Selling, general and administrative expenses totaled \$3.5 million and \$8.2 million for the three and nine months ended September 30, 1997, compared to \$1.8 million and \$5.3 million for the comparable periods in 1996. Selling, general and administrative expenses increased in 1997 due to higher personnel costs to support expanded manufacturing operations and initial costs incurred for the creation of a marketing and sales organization. Selling, general and administrative expenses necessary to support expanded manufacturing capacity, expanded clinical trials, research and development and the potential expansion of the marketing and sales organization are expected to increase in the foreseeable future.

Net interest income totaled \$0.7 million and \$2.2 million for the three and nine months ended September 30, 1997, respectively, compared to net interest income of \$0.7 million for the three months ended September 30, 1996 and net interest expense of \$0.4 million for the nine months ended September 30, 1996. The increase in net interest income for the nine months ended September 30, 1997 from net interest expense for the nine months ended September 30, 1996 is due to higher balances in cash, cash equivalents and securities available-for-sale, a decrease in noncash interest charges for common stock warrants issued in connection with certain debt financings and a decrease in interest expense due to lower balances in notes payable.

#### LIQUIDITY AND CAPITAL RESOURCES

The Company has financed its operations and capital expenditures since inception principally through the sale of equity securities, license fees, contract research revenues, lease financing transactions and interest income. The Company expects to finance its current and planned operating requirements principally through cash on hand, funds from the commercialization of Rituxan and with funds from existing collaborative agreements and contracts which the Company believes will be sufficient to meet its near-term operating requirements. Existing agreements and contracts, however, could be canceled by the contracting parties. In addition, the Company may pursue additional capital through a combination of new collaborative agreements, strategic alliances and equity and debt financings. However, no assurance can be provided that additional capital will be obtained through these sources on favorable terms or

at all. Should the Company not enter into any such arrangements, the Company anticipates its cash, cash equivalents and securities available-for-sale, together with the existing agreements and contracts, will be sufficient to finance the Company's currently anticipated needs for operating and capital expenditures through early commercialization of its first product. If adequate funds are not available from additional sources of financing, or if the commercialization of Rituxan is not approved or delayed, the Company's business could be materially and adversely affected.

The Company's working capital and capital requirements will depend upon numerous factors, including the progress of the Company's preclinical and clinical testing; manufacturing; research and development programs; timing and cost of obtaining regulatory approvals; levels of resources that the Company devotes to the development of manufacturing and marketing capabilities; technological advances; status of competitors; and the ability of the Company to establish collaborative arrangements with other organizations.

Until required for operations, the Company's policy under established guidelines is to keep its cash reserves in bank deposits, certificates of deposit, commercial paper, corporate notes, United States government instruments and other readily marketable debt instruments, all of which are investment-grade quality.

At September 30, 1997, the Company had \$48.4 million in cash, cash equivalents and securities available-for-sale compared to cash, cash equivalents and securities available-for-sale of \$78.7 million at December 31, 1996. Sources of cash, cash equivalents and securities available-for-sale during the nine months ended September 30, 1997

7

10

include \$2.6 million from the issuance of common stock under employee stock option and employee stock purchase plans and \$3.0 million from funding under a loan to finance equipment purchases. Uses of cash, cash equivalents and securities available-for-sale during the nine months ended September 30, 1997 include \$25.1 million used in operations, \$4.7 million used to purchase capital equipment, a \$3.0 million preferred equity investment in Cytokine Networks, Inc. and \$3.0 million used to pay notes payable.

In September 1997, the Company entered into an agreement with a financial institution under which the Company purchased in a private transaction a capped call option, exercisable only at maturity, representing the Company's right to purchase from the financial institution up to 600,000 shares of the Company's common stock. The Company has the right to settle the capped call option with cash or stock. The capped call option which the Company purchased is expected to be settled, if exercised, with cash paid to the Company in an amount equal to the difference between the strike price and the market price, subject to caps which will limit the total amount of cash the Company could receive.

Simultaneously, the Company sold to the same financial institution a call option, exercisable only at maturity, entitling the financial institution to purchase from the Company up to 900,000 shares of the Company's common stock. The Company has the right to settle the call option with cash or stock and, if exercised, the Company expects the call option to be settled by the issuance of up to 900,000 shares of the Company's common stock. The financial institution has advised the Company that it has engaged, and may continue to engage, in transactions, including buying and selling shares of the Company's common stock, to offset its risk relating to the call option, which could affect the market price of the Company's common stock.

In August 1995, the Company completed receipt of funding under a \$10.0 million lease financing agreement to finance both equipment and facility improvements. Terms of the financing agreement require final principal payments of \$1.1 million and \$0.4 million in July 1998 and January 1999, respectively.

This quarterly report contains predictions, estimates and other forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended and Section 21E of the Securities Exchange Act of 1934, as amended, that involve a number of risks and uncertainties. Such risk and uncertainties are set forth below under the caption "Risk Factors" and elsewhere in this report and in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 1996. While this outlook represents our current judgment on the future direction of the business, such risks and uncertainties could cause actual results to differ materially from any future performance suggested above.



## RISK FACTORS

## Lengthy Regulatory Process; No Assurance of Regulatory Approvals

The testing, manufacturing, labeling, advertising, promotion, export, and marketing, among other things, of IDEC Pharmaceuticals Corporation's ("IDEC Pharmaceuticals" or the "Company") products are subject to extensive regulation by governmental authorities in the United States and other countries. In the United States, pharmaceutical products are regulated by the United States Food and Drug Administration ("FDA") under the Federal Food, Drug, and Cosmetic Act and other laws, including, in the case of biologics, the Public Health Service Act. The nature and extent of regulation by governmental authorities in the United States differs with respect to different products. At the present time, with the exception of 9-aminocamptothecin ("9-AC"), the Company believes that its products will be regulated by the FDA as biologics. 9-AC will be regulated by the FDA as a drug which will require the submission of a New Drug Application ("NDA") for approval by the FDA. The regulatory approval process for a NDA is similar to the approval process for a BLA discussed below. Manufacturers of biologics and drugs may also be subject to state regulations.

The steps required before a biologic may be approved for marketing in the United States generally include (i) preclinical laboratory tests and animal tests, (ii) the submission to the FDA of an Investigational New Drug application ("IND") for human clinical testing, which must become effective before human clinical trials may commence, (iii) adequate and well-controlled human clinical trials to establish the safety and efficacy of the product, (iv) the submission to the FDA of a Biological License Application ("BLA"), (v) FDA review of the BLA, and (vi) satisfactory completion of a FDA inspection of the manufacturing facility or facilities at which the product is made to assess compliance with current Good Manufacturing Practices ("cGMP"). The testing and approval process requires substantial time, effort and financial resources and there can be no assurance that any approval will be granted on a timely basis, if at all. The FDA may suspend clinical trials at any time on various grounds, including a finding that the subjects or patients are being exposed to an unacceptable safety risk.

The results of the preclinical studies and clinical studies, together with detailed information on the manufacture and composition of the product, are submitted to the FDA in the form of a BLA requesting approval to market the product. Before approving a BLA, the FDA will inspect the facilities at which the product is manufactured, and will not approve the product unless safety and efficacy criteria and cGMP compliance is satisfactory. The FDA may deny a BLA if applicable regulatory criteria are not satisfied, may require additional testing or information, and/or may require postmarketing testing and surveillance to monitor the safety or efficacy of a product. There can be no assurance that FDA approval of any BLA submitted by the Company will be granted on a timely basis, if at all. Also, if regulatory approval of a product is granted, such approval may entail limitations on the indicated uses for which the product may be marketed.

Both before and after approval is obtained, violations of regulatory requirements may result in various adverse consequences, including the FDA's delay in approving or refusal to approve a product, withdrawal of an approved product from the market, and/or the imposition of criminal penalties against the manufacturer and/or license holder. For example, license holders are required to report certain adverse reactions among patients who use the Company's products to the FDA, and to comply with certain requirements concerning advertising and promotional labeling for their products. Also, quality control and manufacturing procedures must continue to conform to cGMP regulations after approval, and the FDA periodically inspects manufacturing facilities to assess compliance with cGMP. Accordingly, manufacturers must continue to expend time, money and effort in the area of production and quality control to maintain cGMP compliance. In addition, discovery of problems may result in restrictions on a product, manufacturer or holder, including withdrawal of the product from the market. Also, new government requirements may be established that could delay or prevent regulatory approval of the Company's products under development.

The Company will also be subject to a variety of foreign regulations governing clinical trials and sales of its products. Whether or not FDA approval has been obtained, approval of a product by the comparable regulatory authorities of foreign countries must be obtained prior to the commencement of marketing of the product in those countries. The approval process varies from country to country and the time may be longer or shorter than that required for FDA approval. At least initially, the Company intends, to the extent possible, to rely on foreign licensees, other than in Canada, to obtain regulatory

approval for marketing its products in foreign countries.

12

In February 1997, the Company and Genentech, Inc. ("Genentech") submitted BLAs to the FDA for Rituxan(TM) (formerly IDEC-C2B8) as a single agent therapy for the treatment of relapsed low grade or follicular non-Hodgkin's lymphoma and in July 1997, Rituxan was recommended unanimously for marketing clearance by the Biological Response Modifiers Advisory Committee to the FDA. F. Hoffmann-La Roche Ltd ("Hoffmann-La Roche"), also submitted, through one of its subsidiaries in the European Union, a Marketing Authorization Application ("MAA") with the European Medicines Evaluation Agency ("EMEA") for marketing Rituxan in Europe under the trade name Mabthera. There can be no assurance that the FDA and the EMEA approval of the BLAs and MAA submitted by the Company, Genentech and Hoffmann-La Roche will be granted on a timely basis, if at all, and delays in receipt or failure to receive regulatory approval could have a material adverse effect on the Company's business, financial condition and results of operations.

Under the Orphan Drug Act, the FDA may grant orphan drug designation to drugs intended to treat a "rare disease or condition," which generally is a disease or condition that affects fewer than 200,000 individuals in the United States. Orphan drug designation must be requested before submitting a BLA. After the FDA grants orphan drug designation, the generic identity of the therapeutic agent and its potential orphan use are publicly disclosed by the FDA. Orphan drug designation does not convey any advantage in, or shorten the duration of, the regulatory review and approval process. If a product that has an orphan drug designation subsequently receives FDA approval for the indication for which it has such designation, the product is entitled to orphan drug status, i.e., the FDA may not approve any other applications to market the same drug for the same indication, except in certain very limited circumstances, for a period of seven years.

In 1994, the Company obtained orphan drug designation for Rituxan, IDEC-Y2B8 and IDEC-In2B8 from the FDA to treat low grade B-cell lymphoma. There can be no assurance that any of these compounds will receive orphan drug status for the low grade B-cell lymphoma indication, and it is possible that competitors of the Company could obtain approval, and attendant orphan drug status, for these same compounds for the low grade B-cell lymphoma indication, thus precluding the Company from marketing its products for the same indication in the United States. In addition, even if the Company does obtain orphan drug status for any of its compounds for low grade B-cell lymphoma, there can be no assurance that competitors will not receive approval of other, different drugs or biologics for low grade B-cell lymphoma. Although obtaining FDA approval to market a product with orphan drug status can be advantageous, there can be no assurance that the scope of protection or the level of marketing exclusivity that is currently afforded by orphan drug status will remain in effect in the future.

#### Reliance on Third Party Development and Marketing Efforts

The Company has adopted a research, development and product commercialization strategy that is dependent upon various arrangements with strategic partners and others. The success of the Company's products is substantially dependent upon the success of these outside parties in performing their obligations, which include, but are not limited to, providing funding, performing research and development, fulfilling long term manufacturing demands and marketing, distribution and sales with respect to the Company's products. The Company's strategic partners may also develop products that may compete with the Company. Although the Company believes that its partners have an economic incentive to succeed in performing their contractual obligations, the amount and timing of resources that they devote to these activities is not within the control of the Company. There can be no assurance that these parties will perform their obligations as expected or that any revenue will be derived from such arrangements. The Company has entered into collaborative research and development and license agreements with Genentech, Zenyaku Kogyo, Ltd. ("Zenyaku"), SmithKline Beecham p.l.c. ("SmithKline Beecham"), Mitsubishi Chemical Corporation ("Mitsubishi"), Seikagaku Corporation ("Seikagaku") and Eisai Co., Ltd. ("Eisai"). These agreements generally may be terminated at any time by the strategic partner, typically on short notice to the Company. If one or more of these partners elect to terminate their relationship with the Company, or if the Company or its partners fail to achieve certain milestones, it could have a material adverse effect on the Company's ability to fund the related programs and to develop and market any products that may have resulted from such collaborations. There can be no assurance that these collaborations will be successful. In addition, some of the Company's current partners have

certain rights to control the planning and execution of product development and clinical programs, and there can be no assurance that such partners' rights to control aspects of such programs will not impede the Company's ability to conduct such programs in accordance with the schedules currently contemplated by the Company for such programs and will not otherwise impact the Company's strategy.

10

13

#### Limited Manufacturing Experience and Dependence on Contract Manufacturer

The Company has not yet commercialized any therapeutic products. To conduct clinical trials on a timely basis, to obtain regulatory approval and to be commercially successful, the Company must manufacture its products either directly or through third parties in commercial quantities in compliance with regulatory requirements and at an acceptable cost. Although the Company has produced its products in the laboratory, scaled its production process to pilot levels and has the ability to manufacture limited commercial bulk quantities of certain of its products, the Company has not received regulatory approval for such commercial production. The Company anticipates that production of its products in commercial quantities will create technical as well as financial challenges for the Company. The Company has limited experience in manufacturing and no fill/finish experience and capacity. No assurance can be given as to the ultimate performance of the Company's manufacturing facility in San Diego, its suitability for approval for commercial production or the Company's ability to make a successful transition to commercial production.

The Company has an obligation to supply Rituxan in the United States for the first two years after regulatory approval of Rituxan. The Company has the ability to manufacture limited commercial bulk quantities of Rituxan and is dependent upon Genentech to manufacture worldwide requirements and to complete all the fill/finish production of Rituxan. There can be no assurance that the Company and/or Genentech can manufacture sufficient quantities of Rituxan to meet yet undetermined market demands or that Genentech will be able to fill/finish Rituxan on a timely and costs effective basis to avoid an insufficient supply of Rituxan inventory, any of which could materially and adversely affect the Company's business. In addition, there can be no assurance that there will be sufficient sales of Rituxan, if approved, to achieve profitable operations.

The Company is dependent upon Genentech to fulfill fill/finish and long term manufacturing demands for Rituxan and SmithKline Beecham to fulfill all of the manufacturing requirements for IDEC-CE9.1 and/or IDEC-151. Genentech is currently constructing a larger manufacturing plant to satisfy long term demands for Rituxan and SmithKline Beecham has constructed a larger manufacturing plant for IDEC-CE9.1 and/or IDEC-151. The Company is considering the addition of another manufacturing facility to meet its long term requirements for additional products under development. Failure by the Company or its strategic partners to establish additional manufacturing capacity on a timely basis would have a material adverse effect on the Company.

The Company is also dependent upon contract manufacturers to fulfill the Company's manufacturing demands for clinical quantities of 9-aminocamptothecin ("9-AC") and long term manufacturing demands for IDEC-Y2B8 and IDEC-In2B8. There can be no assurance that the Company will be able to establish any such contract manufacturing arrangements or that contract manufacturers will be able to complete any such manufacturing contracts in a timely or cost-effective manner, if at all, or that the Company could obtain such capacity from others. Failure by the Company to establish contract manufacturing arrangements or failure by contract manufacturers to meet the Company's manufacturing needs will result in delayed clinical trials for 9-AC and may have a material adverse effect on the Company.

#### Patents and Proprietary Rights

The Company's success will depend, in large part, on its ability to maintain a proprietary position in its products through patents, trade secret and orphan drug status. The Company has title or exclusive rights to four issued and 16 allowed United States patents, 19 United States patent applications and numerous corresponding foreign patent applications, and has licenses to patents or patent applications of other entities. No assurance can be given, however, that the patent applications of the Company or the Company's licensors will be issued or that any issued patents will provide competitive advantages for the Company's products or will not be successfully challenged or circumvented by its competitors. Moreover, there can be no assurance that any patents issued to the Company or the Company's licensors will not be infringed by others or will be

enforceable against others. In addition, there can be no assurance that the patents, if issued, would not be held invalid or unenforceable by a court of competent jurisdiction. Enforcement of the Company's patents may require substantial financial and human resources. Moreover, the Company may have to participate in interference proceedings if declared by the United States Patent and Trademark Office to determine priority of inventions, which typically take several years to resolve and could result in substantial cost to the Company.

A substantial number of patents have already been issued to other biotechnology and biopharmaceutical companies. Particularly in the monoclonal antibody field, competitors may have filed applications for or have been issued patents and are likely to obtain additional patents and proprietary rights relating to products or processes competitive with or similar to those of the Company. To date, no consistent policy has emerged regarding the breadth of claims allowed in biopharmaceutical patents, however, patents may issue with claims that conflict with the Company's own patent filings or read on its own products. There can be no assurance that patents do not already exist in the United States or in foreign countries or that patents will not be issued that would entail substantial costs to challenge and that, if unsuccessfully challenged, would have a material adverse effect on the Company's ability to market its products. Specifically, the Company is aware of several patents and patent applications which may affect the Company's ability to make, use and sell its products. Accordingly, the Company expects that commercializing monoclonal antibody-based products may require licensing and/or cross-licensing of patents with other companies in

11

14

this field. There can be no assurance that the licenses, which might be required for the Company's processes or products, would be available, if at all, on commercially acceptable terms. The ability to license any such patents and the likelihood of successfully contesting infringement or validity of such patents are uncertain and the costs associated therewith may be significant. If the Company is required to acquire rights to valid and enforceable patents but cannot do so at a reasonable cost, the Company's ability to manufacture or market its products would be materially adversely affected.

The owners, or licensees of the owners, of these patents may assert that one or more of the Company's products infringe one or more claims of such patents. If legal action is commenced against the Company to enforce any of these patents and the plaintiff in such action prevails, the Company could be prevented from practicing the subject matter claimed in such patents. In such event or under other appropriate circumstances, the Company may attempt to obtain licenses to such patents. However, no assurance can be given that any owner would license the patents to the Company at all or on terms that would permit commercialization of the Company's products. An inability to commercialize such products could have a material adverse effect on the Company's operations and ability to pursue its long term objectives.

#### Limited Sales and Marketing Experience

Commercialization of the Company's products is expensive and time-consuming. The Company has adopted a strategy of pursuing collaborative agreements with strategic partners that provide for co-promotion of certain of the Company's products. In the event that the Company elects to participate in co-promotion efforts in the United States or Canada, and, in those instances where the Company has retained exclusive marketing rights in specified territories, the Company will need to build a sales and marketing capability in the targeted markets. The Company currently has limited marketing and sales personnel. There can be no assurance that the Company will be able to establish a successful direct sales and marketing capability in any or all targeted markets or that it will be successful in gaining market acceptance for its products. To the extent that the Company enters into co-promotion or other licensing arrangements, any revenues received by the Company will be dependent on the efforts of third parties and there can be no assurance that such efforts will be successful. Outside of the United States and Canada, the Company has adopted a strategy to pursue collaborative arrangements with established pharmaceutical companies for marketing, distribution and sale of its products. There can be no assurance that any of these companies or their sublicensees will successfully market, distribute or sell the Company's products or that the Company will be able to establish and maintain successful co-promotion or distribution arrangements. Failure to establish a sales capability in the United States or outside the United States may have a material adverse effect on the Company.

#### Uncertainties Associated with Clinical Trials

The Company has conducted and plans to continue to undertake extensive and costly clinical testing to assess the safety, efficacy and applicability of its potential products. The rate of completion of the Company's clinical trials is dependent upon, among other factors, the rate of patient enrollment. Patient enrollment is a function of many factors, including the nature of the Company's clinical trial protocols, existence of competing protocols, size of the patient population, proximity of patients to clinical sites, changes in managed care and eligibility criteria for the study. Delays in patient enrollment will result in increased costs, which could have a material adverse effect on the Company. The Company cannot ensure that patients enrolled in the Company's clinical trials will respond to the Company's product candidates. Setbacks are to be expected in conducting human clinical trials. Failure to comply with the FDA regulations applicable to such testing can result in delay, suspension or cancellation of such testing, and/or refusal by the FDA to accept the results of such testing. In addition, the FDA may suspend clinical trials at any time if it concludes that the subjects or patients participating in such trials are being exposed to unacceptable health risks. Thus, there can be no assurance that Phase I, Phase II or Phase III testing will be completed successfully within any specific time period, if at all, with respect to any of the Company's potential products. Further, there can be no assurance that human clinical testing will show any current or future product candidate to be safe and effective or that data derived therefrom will be suitable for submission to the FDA or will support the Company's submission of a BLA/NDA.

#### Additional Financing Requirements and Uncertain Access to Capital Markets

The Company has expended and will continue to expend substantial funds to complete the research, development, manufacturing and marketing of its products. The Company may seek additional funding for these purposes through a combination of new collaborative arrangements, strategic alliances, additional equity or debt

12

15

financings or from other sources. There can be no assurance that such additional funds will be available on acceptable terms, if at all. Even if available, the cost of funds may result in substantial dilution to current stockholders. If adequate funds are not available from operations or additional sources of financing, the Company's business could be materially and adversely affected.

#### History of Operating Losses; Accumulated Deficit

The Company has incurred annual operating losses since its inception in 1985. As of September 30, 1997, the Company's accumulated deficit was approximately \$107.5 million. Such losses have been and will be principally the result of the various costs associated with the Company's research and development, clinical and manufacturing activities. The Company has not generated operating profits from the sale of its products. All revenues to date have resulted from collaborative research, development and licensing arrangements, contract manufacturing arrangements, research grants and interest income. The Company has no products approved by the FDA or any foreign authority and does not expect to achieve profitable operations on an annual basis unless product candidates now under development receive FDA and foreign regulatory approval and are thereafter commercialized successfully.

#### Possible Volatility of Stock Price

The stock market has from time to time experienced significant price and volume fluctuations that may be unrelated to the operating performance of particular companies. In addition, the market price of the Company's common stock, like the stock prices of many publicly traded biotechnology companies, has been highly volatile. Announcements of technological innovations or new commercial products by the Company or its competitors, developments or disputes concerning patent or proprietary rights, publicity regarding actual or potential medical results relating to products under development by the Company or its competitors, regulatory developments in both the United States and foreign countries, public concern as to the safety of biotechnology products and economic and other external factors, as well as period-to-period fluctuations in financial results may have a significant impact on the market price of the Company's common stock. It is likely that, in some future quarter, the Company's operating results will be below the expectations of public market analysts and investors. In such event, the price of the Company's common stock would likely be materially adversely affected.

## Uncertainties Regarding Health Care Reimbursement and Reform

The future revenues and profitability of biopharmaceutical companies as well as the availability of capital may be affected by the continuing efforts of government and third party payors to contain or reduce costs of health care through various means. For example, in certain foreign markets pricing or profitability of prescription pharmaceuticals is subject to government control. In the United States, there have been, and the Company expects that there will continue to be, a number of federal and state proposals to implement similar government controls. While the Company cannot predict whether any such legislative or regulatory proposals will be adopted, the announcement or adoption of such proposals could have a material adverse effect on the Company's business, financial condition or prospects.

The Company's ability to commercialize its products successfully will depend, in part, on the extent to which appropriate reimbursement levels for the cost of such products and related treatment are obtained from governmental authorities, private health insurers and other organizations, such as health maintenance organizations ("HMOs"). Third party payors are increasingly challenging the prices charged for medical products and services. Also, the trend toward managed health care in the United States and the concurrent growth of organizations such as HMOs, which could control or significantly influence the purchase of health care services and products, as well as legislative proposals to reform health care or reduce government insurance programs may all result in lower prices for the Company's products. The cost containment measures that health care payors and providers are instituting and the effect of any health care reform could materially adversely affect the Company's ability to operate profitably.

## Product Liability Exposure

Clinical trials, manufacturing, marketing and sale of any of the Company's or its strategic partners' pharmaceutical products or processes licensed by the Company may expose the Company to product liability claims. The Company currently carries limited product liability insurance. There can be no assurance that the Company or its strategic partners will be able to continue to maintain or obtain additional insurance or, if available, that sufficient coverage can be acquired at a reasonable cost. An inability to obtain sufficient insurance coverage at an

13

16

acceptable cost or otherwise protect against potential product liability claims could prevent or inhibit the commercialization of pharmaceutical products developed by the Company or its strategic partners. A product liability claim or recall would have a material adverse effect on the business and financial condition of the Company.

## Environmental Concerns

The Company's research and development involves the controlled use of hazardous materials, chemicals and radioactive compounds. Although the Company believes that its safety procedures for handling and disposing of such materials comply with the standards prescribed by state and federal regulations, the risk of accidental contamination or injury from these materials cannot be completely eliminated. In the event of such an accident, the Company could be held liable for any damages that result and any such liability could exceed the resources of the Company. In addition, disposal of radioactive materials used by the Company in its research efforts may only be made at approved facilities. Approval of a site in California has been delayed indefinitely. The Company currently stores such radioactive materials on site. The Company may incur substantial cost to comply with environmental regulations.

14

17

## PART II -- OTHER INFORMATION

- ITEM 1. LEGAL PROCEEDINGS. None
- ITEM 2. CHANGES IN SECURITIES. None
- ITEM 3. DEFAULTS UPON SENIOR SECURITIES. None

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS. None  
ITEM 5. OTHER INFORMATION. None  
ITEM 6. EXHIBITS AND REPORTS ON FORM 8-K.

(a) Exhibits.

The following exhibits are referenced.

Exhibit Number	Description
4.10*	Agreement Regarding Registration Rights and Related Obligations pursuant to the ISDA Master Agreement between the Company and Swiss Bank Corporation, London Branch.
10.72	ISDA Master Agreement between the Company and Swiss Bank Corporation, London Branch dated August 26, 1997, together with Schedules thereto.
10.73*	Confirmation for Contract A entered into pursuant to the ISDA Master Agreement between the Company and Swiss Bank Corporation, London Branch.
10.74*	Confirmation for Contract B entered into pursuant to the ISDA Master Agreement between the Company and Swiss Bank Corporation, London Branch.
27.1	Financial Data Schedule.

-----  
\* Confidential treatment requested as to certain portions of this agreement.

(b) Report on Form 8-K. None

15

18

#### SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

IDEC PHARMACEUTICALS CORPORATION

Date: November 12, 1997  
-----

By: /s/ William H. Rastetter  
-----

William H. Rastetter  
Chairman of the Board,  
President and Chief Executive  
Officer (Principal Executive  
Officer)

Date: November 12, 1997  
-----

By: /s/ Phillip M. Schneider  
-----

Phillip M. Schneider  
Vice President and  
Chief Financial Officer  
(Principal Financial and  
Accounting Officer)

16

AGREEMENT REGARDING  
REGISTRATION RIGHTS AND RELATED OBLIGATIONS

This Agreement Regarding Registration Rights and Related Obligations (this "Agreement") is entered into this \_\_\_th day of \_\_\_\_\_, 199\_, between IDEC PHARMACEUTICALS CORPORATION, a DELEWARE corporation (the "Company"), and Swiss Bank Corporation, a Swiss banking corporation, acting by and through its London Branch ("SBC").

WHEREAS, on \*\_\_\_\_\_\* Indicates that material has been omitted and confidential treatment has been requested therefor. All such omitted material has been filed separately with Secretary of the Commission in the Company's Application Requesting Confidential Treatment pursuant to Rule 246-2 under the Securities Exchange Act of 1934, as amended. \*\_\_\_\_\_, the Company issued to SBC, and SBC acquired from the Company, the Call Warrant, as defined in Section 1.2 hereof, in consideration of the cash premium amount specified in the Call Warrant, as well as the other undertakings and obligations of the Company set forth therein; and

WHEREAS, pursuant to the terms and conditions of the Call Warrant, on \*\_\_\_\_\_(the "Maturity Date"), SBC has the right to purchase from the Company, and, upon exercise of that right by SBC, the Company has the obligation, at its election, either (i) to sell to SBC, at the exercise price provided for in the Call Warrant, the number of shares of the Company's common stock, par value \$46.40 per share (the "Common Stock"), underlying the Call Warrant ("Physical Settlement") or (ii) to pay to SBC an amount of cash calculated as provided in the Call Warrant ("Cash Settlement"); and

WHEREAS, pursuant to the terms and conditions of the Call Warrant, in the event the Company elects to discharge its obligations thereunder by Physical Settlement, the Company and SBC shall enter into this Agreement; and

WHEREAS, SBC's right under the Call Warrant has been exercised, and the Company has elected to discharge its obligations thereunder by Physical Settlement;

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the Company and SBC hereby agree as follows:

ARTICLE I DEFINITIONS

For purposes of this Agreement, the following terms shall have the following meanings:

- -----  
\*\_\_\_\_\_\* Indicates that material has been omitted and confidential treatment has been requested therefor. All such omitted material has been filed separately with Secretary of the Commission in the Company's Application Requesting Confidential Treatment pursuant to Rule 24b-2 under the Securities Exchange Act of 1934, as amended.

1.1 Call Warrant. "Call Warrant" shall mean the warrant to purchase Common Stock issued by the Company to SBC pursuant to the terms and conditions of the Warrant Agreement.

1.2 Commission. "Commission" shall mean the United States Securities and Exchange Commission or any successor agency thereto.

1.3 Exchange Act. "Exchange Act" shall mean the United States Securities Exchange Act of 1934, as amended.

1.4 Expiration Date. "Expiration Date" shall mean\*\_\_\_\_\_\*.

1.5 Local Business Day. "Local Business Day" shall mean a day on which commercial banks are open for business (including dealings in foreign exchange



and foreign currency deposits) in London, England, New York, New York and

1.6 Preliminary Prospectus. "Preliminary Prospectus" shall mean any preliminary prospectus, including all documents incorporated by reference therein, included in the Registration Statement or filed with the Commission pursuant to Rule 424(a) of the rules and regulations of the Commission under the Securities Act; any reference to any amendment or supplement to the Preliminary Prospectus shall be deemed to include any documents filed under the Exchange Act after the date of such Preliminary Prospectus and incorporated by reference therein; and any reference to the Preliminary Prospectus as amended or supplemented shall be deemed to include the Preliminary Prospectus as amended or supplemented by any such documents filed under the Exchange Act after the date of such Preliminary Prospectus and incorporated by reference therein.

1.7 Prospectus. "Prospectus" shall mean any prospectus, including all documents incorporated by reference therein, (i) included in the Registration Statement as of the time that the Registration Statement is declared effective or (ii) filed with the Commission in connection with the Registration Statement pursuant to Rule 424(b) of the rules and regulations of the Commission under the Securities Act; any reference to any amendment or supplement to the Prospectus shall be deemed to include any documents filed under the Exchange Act after the date of

- -----  
\* \_\_\_\_\_\* Indicates that material has been omitted and confidential treatment has been requested therefor. All such omitted material has been filed separately with Secretary of the Commission in the Company's Application Requesting Confidential Treatment pursuant to Rule 24b-2 under the Securities Exchange Act of 1934, as amended.

2

3

such Prospectus and incorporated by reference therein; and any reference to the Prospectus as amended or supplemented shall be deemed to include the Prospectus as amended or supplemented by any such documents filed under the Exchange Act after the date of such Prospectus and incorporated by reference therein.

1.8 Registration Statement. "Registration Statement" shall mean a registration statement on Form S-3 (or any applicable successor form then in effect; provided that if, at the time a registration statement is to be filed, the Company is not eligible to use Form S-3 or applicable successor form for a primary offering by or on behalf of the Company, "Registration Statement" shall mean a registration statement on such form as is then available to the Company), which is to be filed with the Commission pursuant to Section 4.1 hereof, covering the resale of the Shares from time to time, including all exhibits thereto and all documents incorporated by reference in the Prospectus contained in such Registration Statement at the time it is declared effective, each as amended at the time the Registration Statement is declared effective.

1.9 Securities Act. "Securities Act" shall mean the United States Securities Act of 1933, as amended.

1.10 Shares. "Shares" shall mean the shares of Common Stock issuable upon exercise of the Call Warrant.

1.11 Warrant Agreement. "Warrant Agreement" shall mean the confirmation setting forth the terms of the Call Warrant, together with the Master Agreement incorporated therein, dated as of August 26, 1997.

## ARTICLE II REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company represents and warrants to SBC that the following are true and correct as of the date hereof:

2.1 Organization and Existence of the Company. The Company has been duly incorporated and is validly existing as a corporation in good standing under the laws of the State of Delaware with power and authority (corporate and other) to own its properties and conduct its business as described in the 1934 Act Reports, and has been duly qualified as a foreign corporation for the transaction of business and is in good standing under the laws of each other jurisdiction in which it owns or leases properties, or conducts any business, so

as to require such qualification, or is subject to no material liability or disability by reason of the failure to be so qualified in any such jurisdiction; and each subsidiary of the Company has been duly incorporated and is validly existing as a corporation and is in good standing under the laws of its jurisdiction of incorporation, except where the failure to be so would not have a material adverse effect on the Company and the subsidiaries taken as a whole.

3

4

2.2 Authorization of Transactions and Agreement. The execution, delivery and performance of this Agreement have been duly authorized by the board of directors of the Company in accordance with the Company's Certificate of Incorporation and by-laws and governing law. Assuming the due execution thereof by SBC, this Agreement constitutes the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms. The Company has the corporate power to execute and deliver this Agreement and to consummate the transactions contemplated herein.

2.3 Capitalization. (a) The authorized capital stock of the Company consists of (i) \_\_\_\_\_ shares of Common Stock and (ii) \_\_\_\_\_ shares of preferred stock, par value \$\_\_\_ per share (the "Preferred Stock"), of which [SPECIFY SERIES OF PREFERRED STOCK]. As of \_\_\_\_\_, 199\_, \_\_\_\_\_ shares of Common Stock and \_\_\_\_\_ shares of Preferred Stock were issued and outstanding, and \_\_\_\_\_ shares of Common Stock were reserved for issuance upon exercise of outstanding stock options and [SPECIFY OTHER RESERVED SHARES].

(b) The outstanding shares of Common Stock have been duly and validly authorized and issued and are fully paid and non-assessable. The Company's stockholders have no preemptive rights with respect to the Shares. All of the issued shares of capital stock of each subsidiary of the Company that is a "significant subsidiary" (as defined in Rule 12b-2 under the Exchange Act) have been duly and validly authorized and issued, are fully paid and non-assessable and (except for directors' qualifying shares) are owned directly or indirectly by the Company, free and clear of all liens, encumbrances, equities or claims, with such exceptions as would not have a material adverse effect on the Company's ownership of a significant subsidiary.

(c) The Shares have been duly authorized and, when issued upon exercise of the Call Warrant in accordance with the terms and conditions thereof, will be validly issued, fully paid and nonassessable.

2.4 SEC Filings and Financial Statements. (a) The Company has heretofore delivered to SBC copies of the Company's (i) Annual Report on Form 10-K for the fiscal year ended [THEN MOST RECENTLY ENDED FISCAL YEAR], and (ii) the proxy statement for its 199\_ Annual Meeting of Stockholders, in each case, substantially in the form filed by the Company with the Commission (collectively, together with any other reports filed, as of the date of this Agreement, by the Company under the Exchange Act and the rules and regulations of the Commission since [TWO YEARS BEFORE DATE IN CLAUSE (I)] (the "1934 Act Reports"). All of the 1934 Act Reports have complied in all material respects, as of their respective filing dates, with all applicable requirements of the Exchange Act and the related rules and regulations thereunder. As of their respective filing dates, none of the 1934 Act Reports contained any untrue statement of a material fact or omitted to state a material fact required to be

4

5

stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(b) The audited consolidated financial statements and unaudited interim financial statements of the Company contained or incorporated by reference in the Company's 1934 Act Reports have been prepared in accordance with generally accepted accounting principles applied on a consistent basis and, together with the notes thereto, present fairly the consolidated financial position of the Company and its subsidiaries at the dates shown and the consolidated results of their operations, changes in stockholders' equity and cash flows for the periods then ended.

2.5 No Material Adverse Change. Neither the Company nor any of its subsidiaries has sustained since the date of the latest audited financial statements included or incorporated by reference in the 1934 Act Reports any material loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, otherwise than as set forth or contemplated in the 1934 Act Reports. Since the date of the latest audited financial statements included or incorporated by reference in the 1934 Act Reports, and except as may be set forth or contemplated in the 1934 Act Reports, there has not been (i) any material change in the capital stock of the Company or material increase in consolidated short-term debt of the Company and its consolidated subsidiaries (other than a change solely attributable to, or resulting from, the issuance of Common Stock pursuant to a director, officer or employee stock option, benefit or compensation plan), (ii) any material increase in the long-term consolidated debt of the Company and its consolidated subsidiaries or (iii) any material adverse change, or any development involving a prospective material adverse change, in the general affairs, management, financial position, stockholders' equity or results of operations of the Company and its subsidiaries, taken as a whole.

2.6 No Conflicts. The execution and delivery of this Agreement and the consummation of the transactions herein contemplated will not conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, any indenture, mortgage, deed of trust, sale/leaseback agreement, loan agreement, similar financing agreement or instrument or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries is bound or to which any of the property or assets of the Company or any of its subsidiaries is subject; nor will such actions result in any violation of the provisions of the Certificate of Incorporation or by-laws of the Company or any statute applicable to the Company or any of its subsidiaries or any order, rule or regulation applicable to the Company or any of its subsidiaries of any court or governmental agency or body having jurisdiction over the Company or any of its subsidiaries or any of their properties; and no consent, approval, authorization, order, registration or qualification of or with any such court or governmental agency or body is required for

5

6

the consummation by the Company of the transactions contemplated by this Agreement, except such as may be required under the Securities Act prior to the resale of Shares and any such consents, approvals, authorizations, registrations or qualifications as may be required under state securities or Blue Sky laws in connection with the resale of Shares.

2.7 Litigation. Other than as set forth or contemplated in the 1934 Act Reports, there are no legal or governmental proceedings pending to which the Company or any of its subsidiaries is a party or of which any property of the Company or any of its subsidiaries is the subject which, if determined adversely to the Company or any of its subsidiaries, would individually or in the aggregate have a material adverse effect on the consolidated financial position, stockholders' equity or results of operations of the Company and its subsidiaries; and to the best of the Company's knowledge, no such proceedings are threatened or contemplated by governmental authorities or threatened by others.

2.8 Title to Property. The Company and its subsidiaries have good and marketable title in fee simple to all real property and good and marketable title to all personal property owned by them, in each case free and clear of all liens, encumbrances and defects, except such as are described in the 1934 Act Reports or as do not have a material adverse effect on the value of such property and do not interfere with the use made and proposed to be made of such property by the Company and its subsidiaries. Any real property and buildings held under lease by the Company and its subsidiaries are held by them under valid, subsisting and enforceable leases with such exceptions as are not material and do not interfere with the use made and proposed to be made of such property and buildings by the Company and its subsidiaries.

2.9 Independence of Public Accountants. [AUDITORS], who have audited certain financial statements of the Company and its subsidiaries, are independent public accountants as required by the Securities Act and the Exchange Act and the rules and regulations of the Commission thereunder.

2.10 Not an Investment Company. The Company is not subject to regulation under the Investment Company Act of 1940, as amended.

2.11 No Registration Rights. Except as provided herein or in other agreements with SBC, no person has any right to request or demand to have any shares of Common Stock or other securities of the Company registered pursuant to the Registration Statement or another registration statement pursuant to the Securities Act.

2.12 Anticipated Effectiveness of the Registration Statement. The Company meets the registrant requirements of General Instruction I.A. of Form S-3 under the

6

7

Securities Act, as in effect on the date of this Agreement. As of the date of this Agreement, there is no reason that would lead the Company to believe the Registration Statement will not become effective on a timely basis and remain effective, as contemplated by Section 5.1 hereof.

#### ARTICLE III REPRESENTATIONS AND WARRANTIES OF SBC

SBC represents and warrants to the Company that the following are true and correct as of the date hereof:

3.1 Organization and Existence of SBC. SBC is a banking corporation organized under the laws of Switzerland, with power and authority (corporate and other) to own its properties and conduct its business.

3.2 Authorization of Transactions and Agreement. The execution, delivery and performance of this Agreement have been duly authorized by SBC in accordance with its charter and by-laws and governing law. Assuming the due execution thereof by the Company, this Agreement constitutes the legal, valid and binding obligation of SBC, enforceable against SBC in accordance with its terms. SBC has the corporate power to execute and deliver this Agreement and to consummate the transactions contemplated herein.

3.3 No Conflicts. The execution and delivery of this Agreement and the consummation of the transactions herein contemplated will not conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, any agreement or instrument to which SBC is a party or by which SBC is bound or to which any of the property or assets of SBC is subject, nor will such action result in any violation of the charter or by-laws of SBC or any statute or any order, rule or regulation of any court or governmental agency or body having jurisdiction over SBC or any of its properties; and no consent, approval, authorization, order, registration or qualification of or with any such court or governmental agency or body is required for the consummation by SBC of the transactions contemplated by this Agreement, except such as may be required under the Securities Act prior to the resale of Shares and any such consents, approvals, authorizations, registrations or qualifications as may be required under state securities or Blue Sky laws in connection with the resale of Shares.

#### ARTICLE IV AGREEMENTS OF THE COMPANY

The Company agrees, with respect to the period beginning on the date hereof through and including the earlier of the Expiration Date or the date on which the

7

8

Company receives written notice from SBC that all of the Shares have been resold (except that the provisions of Section 4.10 may continue by its terms after such date), as follows:

4.1 Filing of Registration Statement. (a) The Company shall, as soon as practicable but in no event later than 15 business days after the date hereof, file with the Commission a registration statement, covering the resale of the

Shares from time to time by SBC and such affiliated entities as SBC may designate on securities exchanges or over-the-counter or in such other lawful manner as SBC may specify, in a form previously reviewed by SBC.

(b) The Company shall (i) use its best efforts to cause such registration statement to become effective no later than the Maturity Date and to remain in effect until the earlier of the Expiration Date or the date on which the Company receives written notice from SBC that all of the Shares have been resold, (ii) inform SBC promptly upon notice from the Commission that the Registration Statement has been declared effective, (iii) advise SBC promptly of any proposed amendment or supplement to the Prospectus after the effective date thereof and furnish SBC with a draft prior to the filing thereof, (iv) for so long as delivery of a prospectus is required in connection with the offering or sale of any of the Shares, (A) unless the Company is legally required to so amend or supplement the Prospectus, make no further amendment or any supplement to the Prospectus after the effective date thereof to which SBC reasonably objects within two business days after receipt of a draft of the proposed amendment or supplement and (B) file promptly all reports and any definitive proxy or information statements required to be filed by the Company pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act, (v) during such same period, advise SBC, promptly after the Company receives notice thereof, (A) of the time when any amendment to the Registration Statement has been filed or becomes effective or any supplement to the Prospectus or any amended Prospectus has been filed with the Commission, (B) of the issuance by the Commission of any stop order or of any order preventing or suspending the use of any prospectus relating to the Shares, (C) of the suspension of the qualification of the Shares for offering or sale in any jurisdiction, (D) of the initiation or threatening of any proceeding for any such purpose, or (E) of any request by the Commission for the amending or supplementing of the Registration Statement or the Prospectus or for additional information, and (vi) in the event of the issuance of any such stop order or of any such order preventing or suspending the use of any prospectus relating to the Shares or suspending any such qualification, use promptly its best efforts to obtain the withdrawal of such order. The Company shall not include in the Registration Statement any securities other than the Shares.

4.2 Qualification of the Shares under State Securities Laws. The Company shall promptly take, from time to time, such action as SBC may reasonably request to

8

9

qualify the Shares for offering and sale under the securities laws of such of the United States as SBC may request and to comply with such laws so as to permit the continuance of sales and dealings therein in such jurisdictions for as long as may be necessary to complete the resale of the Shares (but not to exceed the period specified in the first paragraph of this Article IV); provided that, in connection therewith, the Company shall not be required to qualify as a foreign corporation or to file a general consent to service of process in any jurisdiction.

4.3 Preparation of Registration Statement; Reasonable Investigation. The Company shall (a) give SBC and its representatives the opportunity to participate in the preparation of the Registration Statement and, to the extent practicable, each amendment or supplement thereto and document incorporated by reference therein which is filed with the Commission after the filing of the Registration Statement, (b) give SBC and its representatives such access to the books, records and properties of the Company and its subsidiaries (to the extent customarily given to those who are underwriters of the Company's securities) and such opportunities to discuss the business of the Company with its officers and the independent public accountants who have certified its financial statements and will have such officers and accountants supply such information as shall be reasonably requested by SBC or its representatives in connection with a "reasonable investigation" within the meaning of Section 11(b) of the Securities Act and (c) furnish SBC with copies of any press release or other public announcement which it intends to issue, or any report or document which it intends to file under the Exchange Act with the Commission or other regulatory agency, insofar as such press release, public announcement, report or other document regards this Agreement and the Call Warrant promptly (where practicable, at least two business days prior to the proposed issuance or filing

thereof), and consider in good faith any comments received from SBC concerning the timing and content of such press release, public announcement, report or other document.

4.4 Compliance with Applicable Law and Commission Requirements. (a) The Registration Statement and Prospectus and all amendments or supplements thereto shall conform in all material respects to the requirements of the Securities Act and the rules and regulations of the Commission thereunder and shall not, as of the applicable effective date as to the Registration Statement and any amendment thereto and as of the applicable filing date of the Prospectus and any amendment or supplement thereto, contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading; provided, however, that this covenant shall not apply to any statements or omissions made in reliance upon and in conformity with information furnished in writing to the Company by SBC expressly for use in the Prospectus or any amendment or supplement thereto.

9

10

(b) All of the documents incorporated by reference in the Registration Statement and Prospectus, or any amendment or supplement thereto, whether previously filed with the Commission or filed with the Commission following the date hereof, at their respective times of filing, (i) shall have conformed or shall conform, as applicable, in all material respects to the requirements of the Securities Act or the Exchange Act, as applicable, and the rules and regulations of the Commission thereunder and (ii) shall not have contained or shall not contain, as applicable, an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with information furnished in writing to the Company by SBC expressly for use in the Prospectus or any amendment or supplement thereto.

4.5 Furnishing of Prospectuses; Notice to SBC of Need for Amendment. The Company shall furnish SBC with copies of the Prospectus, including any amendments or supplements thereto, in such quantities as SBC may from time to time reasonably request. If, while the Registration Statement is effective, the delivery of a prospectus is required at any time during the period specified in the first paragraph of this Article IV in connection with the offering and sale of the Shares by SBC and if, at such time, any event shall have occurred as a result of which the Prospectus, including the Prospectus as then amended or supplemented, would include an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made when such Prospectus is delivered, not misleading, or, if for any other reason it shall be necessary during such same period to amend or supplement the Prospectus or to file under the Exchange Act any document incorporated by reference in the Prospectus in order to comply with the Securities Act or the Exchange Act, the Company shall notify SBC in writing and, as promptly as reasonably possible (and, where possible, no later than three business days following notice thereof to SBC), provided that where such report is required under this Section 4.5 solely to comply with the periodic reporting provisions under the Exchange Act, such report need not be filed sooner than required by such provisions and no such written notice to SBC shall be required, shall amend or supplement the Prospectus or file such document so as to correct such statement or omission or effect such compliance and shall prepare and furnish to SBC without charge as many copies as SBC may from time to time reasonably request of any amended Prospectus or supplement to the Prospectus.

4.6 Listing of the Shares. The Company shall use its best efforts to list the Shares on the [APPLICABLE STOCK EXCHANGE].

4.7 Delivery of Opinion and Comfort Letter. On the effective date of the Registration Statement, the Company shall cause to be furnished to SBC (i) an

10

opinion or opinions of counsel for the Company, addressed to SBC and dated as of the effective date of the Registration Statement, in substantially the form of Exhibit A hereto, and (ii) a letter signed by [AUDITORS], addressed to SBC and dated as of the effective date of the Registration Statement, in substantially the form set forth in Exhibit B hereto.

4.8 Delivery of Prospectuses to the [APPLICABLE STOCK EXCHANGE]. The Company shall deliver to the [APPLICABLE STOCK EXCHANGE], for delivery to its members upon their request, such number of prospectuses as the [APPLICABLE STOCK EXCHANGE] may require or request in order to permit SBC to rely on Rule 153 under the Securities Act in meeting the prospectus delivery requirements of Section 5(b)(2) of the Securities Act.

4.9 Furnishing of Additional Information. Until the earlier of the Expiration Date or completion of resale of the Shares, the Company shall furnish to SBC copies of all reports or other communications (financial or other) generally furnished to stockholders and, as soon as they are available, copies of any reports and financial statements furnished to or filed with the Commission or any national securities exchange on which the Shares or any class of securities of the Company are listed and such additional information concerning the business and financial condition of the Company as SBC may from time to time reasonably request (such financial statements to be on a consolidated basis to the extent the accounts of the Company and its subsidiaries are consolidated in reports furnished to its stockholders generally or to the Commission).

4.10 Payment of Expenses. The Company shall pay or cause to be paid the following: (i) the fees, disbursements and expenses of the Company's counsel and accountants in connection with the registration of the Shares and all other expenses in connection with the preparation, printing and filing of the Registration Statement, the Prospectus and any amendments and supplements thereto and the mailing and delivering of copies thereof, (ii) any fees incurred in connection with the listing of the Shares on the [APPLICABLE STOCK EXCHANGE], (iii) all expenses in connection with the qualification of the Shares for offering and sale under Section 4.2 hereof, (iv) the cost of preparing certificates for the Shares, (v) the cost and charges of any transfer agent or registrar or dividend disbursing agent, and (vi) all other costs incident to the performance of the Company's obligations under Article IV hereof which are not otherwise specifically provided for in this Section. It is understood, however, that except as provided in this Section 4.10, SBC will pay all of its own costs and expenses, including the fees of its counsel and brokerage fees and commissions and transfer taxes on resale of any of the Shares by SBC.

#### ARTICLE V AGREEMENTS OF SBC

SBC agrees, with respect to the period beginning on the date hereof through and including the Expiration Date, as follows:

5.1 Information for Use in the Prospectus. As soon as practicable but in no event later than the third business day following the receipt of a written request from the Company, SBC shall furnish the Company with such information regarding SBC and its proposed dispositions of Shares as the Company may from time to time reasonably request for use in preparing the Registration Statement and Prospectus, including any amendments or supplements thereto.

5.2 Suspension of Disposition of Shares. Upon receipt of written notice from the Company pursuant to Section 4.5 that an event has occurred as a result of which, or that the Company has discovered that, the Prospectus, including the Prospectus as then amended or supplemented, includes an untrue statement of a material fact or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, or that for any other reason it shall be necessary to amend or supplement the Prospectus, SBC shall immediately discontinue disposition of the Shares pursuant to the Registration Statement until such time as SBC shall have received copies of an amended or supplemented Prospectus or until it receives notice from the Company that dispositions of Shares may be

resumed without amendment or supplementation of the Prospectus.

5.3 Notice of Completion. SBC shall promptly notify the Company upon completion of its disposition of the Shares.

5.4 Resales of Shares. SBC agrees that it will not offer, transfer, sell, pledge, hypothecate or otherwise dispose of any of the Shares (or solicit any offers to buy, purchase or otherwise acquire or take a pledge of any Shares), except in compliance with the Securities Act and the rules and regulations of the Commission thereunder, and in compliance with applicable state securities or Blue Sky laws.

12

13

#### ARTICLE VI INDEMNIFICATION

The Company and SBC further agree as follows:

6.1 Indemnification with Respect to the Registration Statement. (a) The Company will indemnify and hold harmless SBC against any losses, claims, damages or liabilities, joint or several, to which SBC may become subject, under the Securities Act, the Exchange Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in any Preliminary Prospectus, any preliminary prospectus supplement, the Registration Statement, the Prospectus or any amendment or supplement thereto, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and will reimburse SBC for any legal or other expenses reasonably incurred by SBC in connection with investigating or defending any such action or claim as such expenses are incurred; provided, however, that the Company shall not be liable in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in any Preliminary Prospectus, any supplement thereto, the Registration Statement, the Prospectus or any amendment or supplement thereto in reliance upon and in conformity with written information furnished to the Company by SBC expressly for use therein.

(b) SBC will indemnify and hold harmless the Company against any losses, claims, damages or liabilities to which the Company may become subject, under the Securities Act, the Exchange Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in any Preliminary Prospectus, any preliminary prospectus supplement, the Registration Statement, the Prospectus and any amendment or supplement thereto, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in any Preliminary Prospectus, any preliminary prospectus supplement, the Registration Statement, the Prospectus and any amendment or supplement thereto in reliance upon and in conformity with written information furnished to the Company by SBC expressly for use therein and will reimburse the Company for any legal or other expenses reasonably incurred by the Company in connection with investigating or defending any such action or claim as such expenses are incurred.

(c) Promptly after receipt by an indemnified party under subsection (a) or (b)

13

14

above of notice of the commencement of any action, such indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party under such subsection, notify the indemnifying party in writing of the commencement thereof; but the omission so to notify the indemnifying party shall not relieve



it from any liability which it may have to any indemnified party otherwise than under such subsection. In case any such action shall be brought against any indemnified party and it shall notify the indemnifying party of the commencement thereof, the indemnifying party shall be entitled to participate therein and, to the extent that it shall wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel satisfactory to such indemnified party (who shall not, except with the consent of the indemnified party, be counsel to the indemnifying party), and, after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party shall not be liable to such indemnified party under such subsection for any legal expenses of other counsel or any other expenses, in each case subsequently incurred by such indemnified party, in connection with the defense thereof other than reasonable costs of investigation.

(d) If the indemnification provided for in this Section 6.1 is unavailable to or insufficient to hold harmless an indemnified party under subsection (a) or (b) above in respect of any losses, claims, damages or liabilities (or actions in respect thereof) referred to therein, then each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages or liabilities (or actions in respect thereof) in such proportion as is appropriate to reflect the relative fault of the Company on the one hand and SBC on the other in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities (or actions in respect thereof), as well as any other relevant equitable considerations. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company on the one hand or SBC on the other and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The Company and SBC agree that it would not be just and equitable if contribution pursuant to this subsection (d) were determined by pro rata allocation or by any other method of allocation which does not take account of the equitable considerations referred to above in this subsection (d). The amount paid or payable by an indemnified party as a result of the losses, claims, damages or liabilities (or actions in respect thereof) referred to above in this subsection (d) shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

14

15

(e) The obligations of the Company under this Section 6.1 shall be in addition to any liability which the Company may otherwise have and shall extend, upon the same terms and conditions, to each "affiliate" (as defined under the Securities Act) of SBC, to each director and each officer of SBC and of its affiliates, to each person, if any, who controls SBC or any of its affiliates within the meaning of the Securities Act; and the obligations of SBC under this Section 6.1 shall be in addition to any liability which SBC may otherwise have and shall extend, upon the same terms and conditions, to each officer and director of the Company and to each person, if any, who controls the Company within the meaning of the Securities Act.

#### ARTICLE VII GENERAL

7.1 Notices. (a) Any notice or other communication in respect of this Agreement may be given in any manner set forth below to the address or number specified in paragraph (b) of this Section 7.1 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 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); or (iii) if sent by certified or registered mail or the equivalent (return receipt requested), on the date that mail is delivered or its delivery is attempted; unless that delivery (or attempted delivery) or that receipt, as applicable, is not on a Local Business Day or occurs after the close of business

on a Local Business Day, in which case that notice or communication shall be deemed given and effective on the first following day that is a Local Business Day.

(b) Notices shall be given to the addresses or facsimile numbers reflected below:

If to SBC, to: Swiss Bank Corporation, London Branch  
c/o SBC Warburg Inc.  
141 West Jackson Boulevard  
Chicago, Illinois 60604  
  
Attention: Legal Department  
Facsimile: (312) 554-5734  
Telephone: (312) 554-5376

If to the Company, to: -----  
-----  
-----  
-----  
  
Attention: \_\_\_\_\_  
Facsimile: \_\_\_\_\_  
Telephone: \_\_\_\_\_

(c) Either party may by notice to the other change the address or facsimile number at which notices or other communications are to be given to it.

7.2 Entire Agreement. This Agreement, together with the Warrant Agreement, constitute the entire agreement and understanding of the parties with respect to their subject matter and supersede all oral communications and prior writings with respect thereto.

7.3 Governing Law and Jurisdiction. (a) This Agreement shall be governed by and construed in accordance with New York law (without reference to choice of law doctrine).

(b) With respect to any suit, action or proceedings relating to this Agreement ("Proceedings"), each party irrevocably (i) submits 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, 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, nor will the bringing of Proceedings in any one or more jurisdictions preclude the bringing of Proceedings in any other jurisdiction.

(c) SBC hereby appoints Swiss Bank Corporation, New York Branch, 222 Broadway, New York, New York 10038, Attention: Legal Affairs, to receive, for it and on its behalf, service of process of any Proceedings. The parties irrevocably consent to service of process given in the manner provided for notices in Section 7.1. Nothing in this Agreement will affect the right of either party to serve process in any other manner permitted by law.

7.4 Amendments and Waivers. No amendment, modification or waiver in respect of this Agreement shall be effective unless in writing and executed by each of the parties. A failure or delay in exercising any right, power or privilege in respect of

this Agreement shall 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.

7.5 Remedies Cumulative. 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.

7.6 Headings. The headings used in this Agreement are for convenience of reference only and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

7.7 No Third-Party Beneficiaries. Except as expressly provided in Section 6.1(e), nothing in this Agreement is intended or shall be construed to confer upon any person other than the parties hereto any right, remedy or claim under or by reason of this Agreement.

7.8 Survival. The representations, warranties, indemnities and agreements contained in this Agreement shall remain in full force and effect, regardless of any investigation by or on behalf of any party, and shall survive delivery of the Shares to SBC and resale of the Shares by SBC or any affiliated entity.

7.9 Counterparts. This Agreement may be executed in one or more counterparts with the same effect as if the signatures to each counterpart were upon the same instrument.

7.10 Assignability. This Agreement is not assignable by either party without the prior written consent of the other; provided that, with the consent of the Company, which consent shall not be unreasonably withheld, SBC may assign this Agreement and SBC's rights and obligations hereunder to SBC Warburg Inc., an indirect, wholly owned subsidiary of SBC.

IN WITNESS WHEREOF, [ISSUER] and Swiss Bank Corporation, London Branch, have executed this Agreement as of the day and year first written above.

[ISSUER]

By: \_\_\_\_\_  
Title: \_\_\_\_\_

SWISS BANK CORPORATION,  
LONDON BRANCH

By: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Form of Opinion of Counsel  
In Connection With Registration Statement

Counsel reasonably satisfactory to SBC shall have furnished to SBC his or their written opinion, dated the effective date of the Registration Statement, in form and substance reasonably satisfactory to SBC, to the effect that:

(i) The Company has been duly incorporated and is validly existing as a corporation in good standing under the laws of the State of \_\_\_\_\_, with corporate power and authority to own its properties and conduct its business as described in the prospectus; and each subsidiary of the Company has been duly incorporated and is validly existing as a corporation and is in good standing under the laws of its jurisdiction of incorporation, except where the failure to be so would not have a material adverse effect on the Company and the subsidiaries taken as a whole;

(ii) The Company has been duly qualified as a foreign corporation for the transaction of business and is in good standing under the laws of each jurisdiction other than the State of \_\_\_\_\_ in which it owns or leases properties, or conducts any business, so as to require such qualification, or is subject to no material liability or disability by reason of the failure to be so qualified in any jurisdiction (such counsel being entitled to rely in respect of the opinion in this clause upon opinions of local counsel and in respect of matters of fact upon certificates of officers of the Company, provided that such counsel shall state that they believe that both SBC and they are justified in relying upon such opinions and certificates);

(iii) The Company has authorized capital stock as set forth in the prospectus, and all of the issued shares of capital stock of the Company (including the Shares delivered in exercise of the Call Warrant and registered pursuant to the Registration Statement) have been duly and validly authorized and issued and are fully paid and non-assessable; the Common Stock conforms in all material respects to the description thereof incorporated by reference in the Prospectus; all of the issued shares of capital stock of the subsidiaries of the Company have been duly and validly authorized and issued, are fully paid and non-assessable, and (except for directors' qualifying shares) are owned directly or indirectly by the Company, free and clear of all liens, encumbrances, equities or claims; and the Company's stockholders have no preemptive rights with respect to the Shares delivered in exercise of the Call Warrant (such counsel being entitled to rely in respect of the opinion in this clause upon opinions of local counsel and in respect of matters of fact upon certificates of officers of the Company or its subsidiaries, provided that such counsel shall state that they believe that both SBC and they are justified in relying upon such opinions and

19

20

certificates);

(iv) To the best of such counsel's knowledge and other than as set forth or incorporated by reference in the Prospectus, there are no legal or governmental proceedings pending to which the Company or any of its subsidiaries is a party or of which any property of the Company or any of its subsidiaries is the subject which, if determined adversely to the Company or any of its subsidiaries, would individually or in the aggregate have a material adverse effect on the business operations, consolidated financial position, shareholders' equity or results of operations of the Company and its subsidiaries, taken as a whole; and, to the best of such counsel's knowledge, no such proceedings are threatened or contemplated by governmental authorities or threatened by others;

(v) The documents incorporated by reference in the Prospectus (other than the financial statements, related schedules and other financial information therein, as to which such counsel need express no opinion), when they were filed with the Commission complied as to form in all material respects with the requirements of the Exchange Act and the rules and regulations of the Commission

thereunder; and

(vi) The Registration Statement and the Prospectus (other than the financial statements, related schedules and other financial information therein, as to which such counsel need express no opinion) comply as to form in all material respects with the requirements of the Securities Act and the rules and regulations thereunder; and such counsel do not know of any amendment to the Registration Statement required to be filed or any contracts or other documents of a character required to be filed as an exhibit to the Registration Statement or required to be incorporated by reference into the Prospectus or required to be described in the Registration Statement or the Prospectus which are not filed or incorporated by reference or described as required.

[(vii) Each of the Company and each of its subsidiaries has all consents, approvals, authorizations, orders, registrations and all statutes, orders, rules and regulations of, all courts and governmental agencies and bodies having jurisdiction over it and any of its properties, except where the failure to have any such consent, approval, authorization, order, registration or qualification, or so to comply, would not, individually or in the aggregate with all other such failures, have a material adverse effect on the business operations, consolidated financial position, shareholders' equity or results of operations of the Company and its subsidiaries, taken as a whole; and, to the best of such counsel's knowledge, there is no pending or threatened action, suit, proceeding or investigation that reasonably could lead to the revocation, termination or suspension of, or render invalid or otherwise ineffective, any such license, consent, approval, authorization, order, registration or qualification, other than any such revocation, termination, suspension, invalidity or ineffectiveness that would not, individually or in the aggregate with all other such revocations, terminations,

20

21

suspensions, invalidity and ineffectiveness, have a material adverse effect on the business operations, consolidated financial position, shareholders' equity or results of operations of the Company and its subsidiaries, taken as a whole.]

In addition to the matters set forth above, the opinion shall also contain a statement to the effect that while such counsel are not passing upon, and do not assume responsibility for, the accuracy, completeness or fairness of the Registration statement or the Prospectus, including the documents incorporated by reference therein, based upon the procedures referred to in such opinion nothing has come to the attention of such counsel which leads him or them to believe (i) that the Registration Statement as of its effective date to the Prospectus as of its date (other than the financial statements, related schedules and other financial information therein as to which such counsel need express no belief) contains an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading or (ii) that any of the documents incorporated by reference in the Prospectus which were filed with the Commission prior to such effective time (other than the financial statements, related schedules and other financial information therein, as to which such counsel need express no belief), as of the respective dates when they were filed with the Commission in each case after excluding any statement in any such document which does not constitute part of the Registration Statement or the Prospectus pursuant to Rule 412 of Regulation C under the Securities Act and after substituting therefor any statement modifying or superseding such excluded statement, contained an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made when such documents were so filed, not misleading.

21

(Multicurrency-Cross Border)

ISDA  
International Swap Dealers Association, Inc.

MASTER AGREEMENT

dated as of August 26, 1997

Swiss Bank Corporation,  
London Branch

and IDEC PHARMACEUTICALS CORPORATION

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.

(e) 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.

Copyright 1992 by International Swap Dealers Association, Inc.

(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.

3

## (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)).

3

4

(b) Absence of Certain Events. No Event of Default or Potendal 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) Payer 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 local 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

4

5  
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

5

6

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, of 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):--

6

7

(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).

7

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 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).

8

9

(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 (1) 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 conveying 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 herein 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 holding 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.

(h) Change of Address. 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:

14

(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.

14

15

"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 paces 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

15

16  
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; toy 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

16

17

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.

SWISS BANK CORPORATION,  
LONDON BRANCH

IDEC PHARMACEUTICALS CORPORATION

By: /s/ Amelia Sicilia

By: /s/ Phillip Schneider

-----  
Name: Amelia Sicilia  
Title: Attorney-In-Fact  
Date: August 26, 1997

-----  
Name: Phillip Schneider  
Title: Vice President & C.F.O.  
Date: September 4, 1997

By: /s/ Bernd E. Kallmeyer

-----  
Name: Bernd E. Kallmeyer  
Title: Attorney-In-Fact  
Date:

17

18

SCHEDULE  
to the Master Agreement  
dated as of August 26, 1997  
between

SWISS BANK CORPORATION,  
LONDON BRANCH

and IDEC PHARMACEUTICALS CORPORATION,  
a corporation organized  
under the laws of the State of Delaware

("Party A")

("Party B")

PART 1  
TERMINATION PROVISIONS

In this Agreement:

(a) "SPECIFIED ENTITY" means in relation to Party A for the purpose of:

Section 5(a)(v),	NONE
Section 5(a)(vi),	NONE
Section 5(a)(vii),	NONE
Section 5(b)(iv),	NONE

and in relation to Party B for the purpose of:

Section 5(a)(v),	NONE
Section 5(a)(vi),	NONE
Section 5(a)(vii),	NONE
Section 5(b)(iv),	NONE

(b) The definition of "SPECIFIED TRANSACTION" shall have the meaning specified in Section 14 of the Agreement.

(c) The "CROSS DEFAULT" provisions of Section 5(a)(vi) will apply to both parties but shall exclude any default that results solely from wire transfer difficulties or an error or omission of an administrative or operational nature (so long as sufficient funds are available to the relevant party on the relevant date), but only if payment is made within three Business Days after such transfer difficulties have been corrected or the occurrence of an error or omission has been discovered.

If such provisions apply:

"SPECIFIED INDEBTEDNESS" means any obligation (whether present or future, contingent or otherwise, as principal or surety or otherwise) in respect of borrowed money or any Derivative Transaction other than any Specified Transaction.

"THRESHOLD AMOUNT" means

(i) with respect to Party A, 2% of "Total Capital and Reserves" of Swiss Bank Corporation as shown on the most recent annual audited financial statements of Swiss Bank Corporation and



(ii) with respect to Party B, or any Specified Entity or Credit Support Provider, the lesser of U.S. Dollars 10mm or 2% of the stockholders' equity (however described) of Party B or the relevant Specified Entity or the Credit Support Provider as shown on the most recent annual audited financial statements of Party B or the relevant Specified Entity or the Credit Support Provider.

1

19

(d) "THE CREDIT EVENT UPON MERGER" provisions of Section 5 (b) (iv) will not apply to Party A or Party B.

(e) THE "AUTOMATIC EARLY TERMINATION" provision of Section 6 (a) will not apply to Party A or Party B.

(f) "PAYMENTS ON EARLY TERMINATION". For the purpose of Section 6 (e) of this Agreement:

(i) Loss will apply.

(ii) The Second Method will apply.

(g) "TERMINATION CURRENCY" means United States Dollars.

(h) "ADDITIONAL TERMINATION EVENT" will not apply.

PART 2  
TAX REPRESENTATIONS

(a) Payer Representation. For the purpose of Section 3(e) of this Agreement, Party A will make the following representation and Party B will make 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 (i) the accuracy of any representations made by the other party pursuant to Section 3 (f) of this Agreement, (ii) the satisfaction of the agreement contained in Section 4 (a) (iii) of this Agreement 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 (iii) 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 (ii) 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.

(b) Payee Representations. For the purpose of Section 3(f) of this Agreement, Party A makes the following representation:

Each payment received or to be received by it in connection with this Agreement will be effectively connected with its conduct of a trade or business in the United States of America.

PART 3  
AGREEMENT TO DELIVER DOCUMENTS

For the purpose of Sections 4(a) (i) and (ii) of this Agreement, each party agrees to deliver the following documents, as applicable:

(a) Tax forms, documents or certificates to be delivered are:

PARTY REQUIRED TO DELIVER DOCUMENT	FORM/DOCUMENT/CERTIFICATE	DATE BY WHICH TO BE DELIVERED
Party A	Department of the Treasury	On or before execution of this

	Internal Revenue Service Form 4224	Agreement and on an annual basis thereafter
Party B	Department of the Treasury Internal Revenue Service Form W-9	On or before execution of this Agreement

2

20

(b) Other documents to be delivered are:

PARTY REQUIRED TO DELIVER DOCUMENT	FORM/DOCUMENT/CERTIFICATE	DATE BY WHICH TO BE DELIVERED	COVERED BY SECTION 3(D) REPRESENTATION
Party A and Party B	Signature authentication satisfactory to the other party hereto	On or before execution of this Agreement	YES
Party B	Copy (certified by an officer) of the board resolution (or equivalent authorizing documentation) permitting the entering into of this Agreement and Transactions hereunder	On or before execution of this Agreement	YES
Party B	Legal opinion satisfactory to Party A regarding (inter alia) the ability of Party B to enter into this Agreement and Transactions hereunder	On or before execution of this Agreement	YES

PART 4  
MISCELLANEOUS

(a) ADDRESSES FOR NOTICES. For the purposes of Section 12(a) of this Agreement:

(i) All notices or communications to Party A shall be sent to the address, telex number, or facsimile number reflected below:

Address: Swiss Bank Corporation, London Branch, 1 High Timber Street,  
London EC4V 3SB, Attention: Swaps Group, Telex: 887434, Answerback:  
SBCO G

(ii) All notices or communications to Party B shall be sent to the address, telex number, or facsimile number reflected below:

Address: IDEC Pharmaceuticals Corporation  
3030 Callan Road  
San Diego, CA 92121

Attention: Phillip Schneider, Vice President and Chief Financial  
Officer

Facsimile: (619) 458-8439 Telephone No: (619) 458-8813

(b) PROCESS AGENT. For the purpose of Section 13(c) of this Agreement:

Party A appoints as its Process Agent: Swiss Bank Corporation, New York  
Branch, 222 Broadway, New York, NY 10038, Attention: Legal Affairs

Party B appoints as its Process Agent: N/A

(c) OFFICES. The provisions of Section 10(a) will apply to Party A and Party B, it being the understanding of the parties that while obligations entered into by an Office of a party pursuant to this Agreement constitute obligations of the company (and not merely of such Office), each party will, in respect of any Transaction and in the ordinary course of business, send payments and notices to

and receive payments and notices from the Office of the other party specified in the Confirmation of such Transaction rather than any other office of such party. A party (the "owed party") may seek payment from the head office of the other party (the "owing party") with respect to this Agreement in the event that an amount payable to the owed party by the owing party pursuant to this Agreement (including any amount payable as a result of the occurrence or designation of an Early Termination Date) has not been paid in full when due.

3

21

(d) MULTIBRANCH PARTY. For the purpose of Section 10(c) of this Agreement neither Party A nor Party B is a Multibranch Party.

(e) CALCULATION AGENT. The Calculation Agent is Party A, unless otherwise specified in a Confirmation in relation to the relevant Transaction.

(f) CREDIT SUPPORT DOCUMENT. Details of any Credit Support Document: NONE

(g) CREDIT SUPPORT PROVIDER. Credit Support Provider means: NOT APPLICABLE

(h) GOVERNING LAW. THIS AGREEMENT WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK (WITHOUT REFERENCE TO CHOICE OF LAW DOCTRINE).

(i) NETTING OF PAYMENTS. Subparagraph (ii) of Section 2(c) of this Agreement will apply.

(j) "AFFILIATE" will have the meaning specified in Section 14 of this Agreement.

PART 5  
OTHER PROVISIONS

(a) SET-OFF. Without affecting the provisions of the Agreement requiring the calculation of certain net payment amounts, all payments under this Agreement will be made without set-off or counterclaim; provided, however, that upon the designation of any Early Termination Date, in addition to and not in limitation of any other right or remedy (including any right to set off, counterclaim, or otherwise withhold payment or any recourse to any Credit Support Document) under applicable law the Non-defaulting Party or Non-affected Party (in either case, "X") may without prior notice to any person set off any sum or obligation (whether or not arising under this Agreement and whether matured or unmatured, whether or not contingent and irrespective of the currency, place of payment or booking office of the sum or obligation) owed by the Defaulting Party or Affected Party (in either case, "Y") to X or any Affiliate of X against any sum or obligation (whether or not arising under this Agreement, whether matured or unmatured, whether or not contingent and irrespective of the currency, place of payment or booking office of the sum or obligation) owed by X or any Affiliate of X to Y and, for this purpose, may convert one currency into another at a market rate determined by X. If any sum or obligation is unascertained, X may in good faith estimate that sum or obligation and set-off in respect of that estimate, subject to X or Y, as the case may be, accounting to the other party when such sum or obligation is ascertained.

(b) PAYMENT AND DELIVERY OBLIGATIONS. Section 2(a) (iii) is amended by deleting the words "or Potential Event of Default" from subsection (1) thereof.

(c) REPRESENTATIONS AND WARRANTIES. Section 3(a) is amended by adding the following paragraphs (vi) and (vii):

(vi) NO AGENCY. It is entering into this Agreement and each Transaction as principal (and not as agent or in any other capacity, fiduciary or otherwise).

(vii) ELIGIBLE SWAP PARTICIPANT. It is an eligible swap participant as that term is defined by the United States Commodity Futures Trading Commission in 17 C.F.R. ss. 35.1 (b) (2) and it has entered into this Agreement and it is entering into each Transaction in connection with its line of business (including financial intermediation services) or the financing of its business; and the material terms of this Agreement and such Transaction have been individually tailored and negotiated.

(d) RELATIONSHIP BETWEEN PARTIES. Each party 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 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 that Transaction; it being understood that information and explanations related to the terms and conditions of a

4

22

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 that 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.

(e) TRANSFER. Section 7 is amended by the deletion of "and" at the end of paragraph (a), the deletion of the full stop at the end of paragraph (b) and the insertion of a semi-colon followed by "and" in its place, and the insertion of a new paragraph after paragraph (b) at the end thereof "(c) Party A may transfer its rights and obligations under this Agreement in whole (but not in part) to any branch of Swiss Bank Corporation provided that as a result of such transfer:

- (i) it does not become unlawful for either party to perform any obligation under this Agreement;
- (ii) neither party is required to pay to the other party an additional amount under Section 2(d)(i)(4) or to receive a payment from which an amount is required to be deducted or withheld for or on account of a Tax and no additional amount is required to be paid in respect of such Tax under Section 2(d)(i)(4); and
- (iii) no Event of Default occurs in respect of either party."

(f) WAIVER OF JURY TRIAL. Each party hereby irrevocably waives any and all right to trial by jury in any suit, action or proceeding arising out of or relating to this Agreement or any Transaction and acknowledges that this waiver is a material inducement to the other party's entering into this Agreement.

(g) CONSENT TO RECORDING. The parties agree that each may electronically record all telephonic conversations between them and that any such recordings may be submitted in evidence to any court or in any Proceedings for the purpose of establishing any matters pertinent to any Transaction.

(h) SEVERANCE. In the event any one or more of the provisions contained in this Agreement should be held invalid, illegal or unenforceable in any respect, such provisions shall be severed from this Agreement to the extent of such invalidity, illegality or unenforceability, unless such severance shall substantially impair the benefits of the remaining portions of this Agreement. The Agreement after such severance shall remain the valid, binding and enforceable obligation of the parties hereto.

(i) NETTING PROVISIONS. If an Early Termination Date occurs, amounts determined in respect of all Terminated Transactions shall be aggregated with and netted against one another in performing the calculations contemplated by Section 6(e). If the calculation of the amount payable pursuant to Section 6(e) in respect of an Early Termination Date would involve the aggregation or netting of amounts

determined in respect of Transactions of different types, and under applicable law amounts determined in respect of one or more types of Transactions hereunder may not be aggregated with or netted against amounts determined in respect of one or more other types of Transactions in performing such calculation, then, notwithstanding the foregoing or any other provision of this Agreement, aggregation and netting will be performed within and between types of Transactions to the fullest extent permitted by law in performing such calculation, and the setoff provisions of this Agreement and applicable law shall be applied to the resulting amount or amounts.

(j) DEFINITIONS. The following definition shall appear in Section 14 after the definition of "Defaulting Party":

"Derivative Transaction means:

(a) any transaction (including an agreement with respect thereto) 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, repurchase transaction, reverse

5

23

repurchase transaction, precious metals 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); and

(b) any combination of these transactions."

(k) ONE-WAY TRANSACTION. Party B agrees that in the event the parties enter into a Transaction, other than a call option transaction written by either Party A or Party B where the property underlying the transaction is the common stock of Party B, then Party B will enter into a new Master Agreement with Party A or will amend this Agreement, in either case in a form satisfactory to Party A and Party B.

#### PART 6

#### ADDITIONAL TERMS FOR EQUITY AND EQUITY INDEX TRANSACTIONS

Notwithstanding anything to the contrary in this Agreement, the following provisions will apply for the purposes of any Transaction which is an option on a single security, a basket of securities or an index, including any Transaction which contemplates by its terms the physical delivery of shares, participation certificates or other equity securities ("Shares"):

(a) DIVIDENDS AND EXPENSES. The following provision shall be included as Section 2(f):

(f) DIVIDENDS AND EXPENSES ON DELIVERY: All dividends on the Shares to be delivered shall be payable to and all costs and expenses incurred in connection with the delivery of Shares (including, without prejudice to Section 2(d), any Tax or Stamp Tax and any interest or penalties payable in connection therewith) shall be payable by the party who would customarily receive such dividend or bear such costs or expenses under a contract for the purchase of the Shares by the deliverer through the clearance system specified in the relevant Confirmation.

(b) DEFAULT INDEMNITY. If prior to the occurrence or effective designation of an Early Termination Date in respect of any Transaction a party defaults in the performance of any obligation under such Transaction required to be settled by delivery, it will indemnify the other party on demand for any costs, losses or expenses (including the costs of borrowing Shares, if applicable) resulting from such default.

(c) REPRESENTATIONS. Each party acknowledges that (i) certain Transactions may be securities that have not been registered under the Securities Act of 1933 of the United States of America, as amended (the "1933 Act"), or under the laws of any state, (ii) no federal or state agency has passed upon such Transactions or made any finding or determination as to the fairness of such Transactions and

(iii) such Transactions are intended to be exempt from registration under the 1933 Act. In addition to the representations made pursuant to Section 3 of this Agreement, each party represents to the other party with respect to any such Transaction that (i) it is an accredited investor, as such term is defined in Regulation D promulgated under the 1933 Act, (ii) it has had access to such information regarding such Transaction and the other party as it requested, (iii) it has knowledge and experience in financial and business matters and is capable of evaluating the merits and risks of such Transaction and is able to bear the economic risk of its investment, including without limitation the risk of complete loss on the investment, (iv) it acquired its interest in such Transaction for its own account for investment and not with a view to, or in connection with, any distribution of such interests, (v) it will not sell, transfer, assign or otherwise dispose such Transaction or interests herein and therein in violation of the 1933 Act and the rules and regulations promulgated thereunder, and (vi) with respect to any Transaction which contemplates by its terms the physical delivery of Shares, at the time of the delivery of any such Shares to the other party, it possesses full legal and beneficial title thereto and it is delivering the same free and clear of any lien, claim, encumbrance or security interest of any kind whatsoever created by the deliveror.

CONFIRMATION

Date: September 11, 1997  
To: IDEC Pharmaceuticals Corporation ("Party B")  
Attention: Phillip Schneider  
From: Swiss Bank Corporation, London Branch ("Party A")  
Re: Equity Option Confirmation  
Reference Number 1262211/ 1262212

-----  
The purpose of this communication is to confirm the terms and conditions of the transaction (the "Transaction") entered into between us on the Trade Date specified below.

The definitions and provisions contained in the 1991 ISDA Definitions (as published by the International Swaps and Derivatives Association, Inc. (formerly known as the International Swap Dealers Association, Inc.) ("ISDA")) are incorporated into this Confirmation. In the event of any inconsistency between those definitions and provisions and this Confirmation, this Confirmation will govern.

This Confirmation supplements, forms part of, and is subject to, the ISDA Master Agreement dated as of August 26, 1997, as amended and supplemented from time to time (the "Agreement"), between you and Swiss Bank Corporation. All provisions contained in the Agreement govern this Confirmation except as expressly modified below.

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

Trade Date : \* \_\_\_\_\_ \*  
Buyer : Party B  
Seller : Party A  
Option Style : European Option

-----  
\* \_\_\_\_\_ \* Indicates that material has been omitted and confidential treatment has been requested therefor. All such omitted material has been filed separately with Secretary of the Commission in the Company's Application Requesting Confidential Treatment pursuant to Rule 24b-2 under the Securities Exchange Act of 1934, as amended.

Option Type : Capped Call  
Shares : Common Stock of IDEC Pharmaceuticals Corporation (Symbol: IDPH)  
Number of Options : 600,000  
Contract Multiplier : 1.00  
Strike Price : \* \_\_\_\_\_ \*  
Cap Price : USD 46.40  
Total Premium : \* \_\_\_\_\_ \*.  
Expiration Date : \* \_\_\_\_\_ \*, or, if that date is not an Exchange Business Day, the following day that is an Exchange Business Day.

Currency  
Business Day : Any day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) in the cities from which and in which a payment is to be made.

Exchange  
Business Day : A day that is (or but for the occurrence of a Market Disruption Event, would have been) a trading day on the Exchange and the Pacific Stock Exchange (other than a day on which trading on any such exchange is scheduled to close prior to its regular weekday closing time, first announced on the day of such closing).

Normal  
Trading Day : An Exchange Business Day on which no Market Disruption Event has occurred or is continuing.

Market  
Disruption Event : The occurrence or existence on any Exchange Business Day during the one-half hour period that ends at the close of business of any suspension of or limitation imposed on trading (by reason of

- - - - -

\* \_\_\_\_\_ \* Indicates that material has been omitted and confidential treatment has been requested therefor. All such omitted material has been filed separately with Secretary of the Commission in the Company's Application Requesting Confidential Treatment pursuant to Rule 24b-2 under the Securities Exchange Act of 1934, as amended.

movements in price exceeding levels permitted by the relevant exchange or otherwise), provided that any such event is material in the reasonable determination of the Calculation Agent, on: (i) the Exchange in the Shares; or (ii) the Pacific Stock Exchange in options contracts on the Shares.

Exchange : Nasdaq National Market

Clearance System  
Business Day : Any day on which the Clearance System is open for the acceptance and execution of settlement instructions.

Clearance System : Depository Trust Company, or any successor to or transferee of such clearance system.

Calculation Agent : Party A, whose calculations shall be binding absent manifest error.

Procedure for Exercise

Exercise Date : The Expiration Date.

Expiration Time : 5:00 p.m. local time in New York City

Automatic Exercise : The Transaction will be deemed to be automatically exercised if it is In-the-Money on the Expiration Date, unless (i) the Buyer has notified the Seller or its agent (by telephone or in writing) prior to 5:00 p.m. local time in New York



City on the Expiration Date that it does not wish to exercise the Transaction; or (ii) the Closing Value cannot be determined on the Expiration Date. If the Transaction is to be cash settled, "In-the-Money" means that the Cash Settlement Amount is greater than zero. If the Transaction is to be physically settled, "In-the-Money" means that the Closing Value is greater than the Strike Price. "Closing Value" means the closing price of the Shares, as reported on the Exchange, on the Expiration Date.

Telephone or facsimile number of Seller's agent for purposes of giving notice

: Telephone: 312-554-5249  
Fax: 312-554-6271  
Attention: David P. Stowell

Settlement Terms

Settlement

: The Transaction will be cash settled; provided, however, that Party B may elect to physically settle the Transaction by giving notice to Party A no later than twenty Exchange Business Days before the Expiration Date.

Physical Settlement

: If the Transaction is to be physically settled, on the Settlement Date, the Seller shall deliver to the Buyer the number of Shares equal to the Contract Multiplier multiplied by the number of Options exercised against payment by the Buyer to the Seller of an amount equal to the product of (a) the Strike Price, adjusted as hereinafter

provided, multiplied by (b) the Contract Multiplier multiplied by (c) the number of Options exercised. If the Closing Value exceeds the Cap Price, the Strike Price shall be increased by the amount by which the Closing Value exceeds the Cap Price; if the Closing Value is equal to or less than the Cap Price, no adjustment will be made to the Strike Price. Such payment and such delivery will be made through the Clearance System at the accounts specified below, on a delivery versus payment basis.

Cash Settlement

: If the Transaction is to be cash settled, on the Settlement Date, Party A shall pay to Party B the Cash Settlement Amount, if any. The "Cash Settlement Amount" shall be the greater of (a) zero and (b) an amount calculated by the Calculation Agent equal to (i) the Contract Multiplier multiplied by (ii) the number of Options exercised multiplied by (iii) the Price Differential. "Price Differential" means (x) if the Reference Price exceeds the Cap Price, the result of subtracting the Strike Price from the Cap Price, and (y) if the Reference Price is equal to or less than the Cap Price, the result of subtracting the Strike Price from the Reference Price.

Reference Price : (a) If the Valuation Period contains \* \_\_\_\* Normal Trading Day, the Reference Price shall be the arithmetic average of the Share Prices on those \* \_\_\_\* Normal Trade Days.

(b) If the Valuation Period does not contain \* \_\_\_\_\_\* Normal Trading Days, the parties shall jointly determine the Share Price for the Valuation Date and as many Exchange Business Days immediately preceding the Valuation Date as shall be necessary, when such Share Prices are taken together with the Share Prices on all Normal Trading Days occurring within the Valuation Period, to provide \* \_\_\_\_\_\* Share Prices, and in such case the Reference Price shall be the arithmetic average of those \* \_\_\_\_\_\* Share Prices. If the parties are unable to reach agreement on the foregoing determination, then the parties will negotiate in good faith to agree on an independent third party that will make such determination, and, if they cannot agree within three Exchange Business Days each of Party A and Party B will promptly choose an independent third party and instruct the parties so chosen to agree on another independent third party that will make such determination. The determination of an independent third party will be binding absent manifest error. The costs of such independent third party will be borne equally by Party A and Party B.

Share Price : The closing price of the Shares as reported on the Exchange.

Valuation Period : The period from and including the \* \_\_\_\* Exchange Business Day immediately preceding the Expiration Date (the "Initial Date") to and including the Expiration Date, provided that if any Exchange Business Day in the Valuation Period as so determined, shall not be a Normal Trading Day, the Valuation Period shall be extended so that the Valuation Period includes \* \_\_\_\_\_\* Normal Trading

- - - - -

\* \_\_\_\_\_\* Indicates that material has been omitted and confidential treatment has been requested therefor. All such omitted material has been filed separately with Secretary of the Commission in the Company's Application Requesting Confidential Treatment pursuant to Rule 24b-2 under the Securities Exchange Act of 1934, as amended.

Days, but in no event shall the last day of the Valuation Period be later than the \* \_\_\_\* Exchange Business Day following the Expiration Date, and in no event shall the Valuation Period include any day before the Initial Date.

Valuation Date : The last day of the Valuation Period.

Settlement Date : If the Transaction is to be cash settled, the Settlement Date shall be three Currency Business Days after the Valuation Date. If the Transaction is to be physically

settled, the Settlement Date shall be three Clearance System Business Days after the Exercise Date.

Adjustment Events

Adjustments : During the life of the Transaction, if any adjustment is made by The Options Clearing Corporation or its successors ("OCC") in the terms of outstanding OCC-issued options ("OCC Options") on the Shares which are the subject of the Transactions, an equivalent adjustment shall be made in the terms of the Transaction. Except as provided in the following paragraph and in the "Additional Adjustment Provisions" below, no adjustment shall be made in the terms of the Transaction for any event that does not result in an adjustment to the terms of outstanding OCC Options on the Shares. Without limiting the generality of the foregoing, NO ADJUSTMENT SHALL BE MADE IN THE TERMS OF THE TRANSACTIONS FOR ORDINARY CASH DIVIDENDS ON THE SHARES EXCEPT AS PROVIDED IN THE "ADDITIONAL ADJUSTMENT PROVISIONS" BELOW.

If at any time during the life of the Transaction there shall be no outstanding OCC Options on the Shares, and an event shall occur for which an adjustment might otherwise be made under the By-Laws, Rules, and stated policies of the OCC applicable to the adjustment of OCC Options (the "OCC Adjustment Rules"), the parties shall use their best efforts, applying the principles set forth in the OCC Adjustment Rules, to jointly determine whether to adjust the terms of the Transaction and the nature of any such adjustment.

Additional Adjustments : Notwithstanding the foregoing, if upon the occurrence of the following events during the life of the Transaction no adjustment is required to be made to the terms of the Transaction in accordance with the foregoing provisions or if an adjustment has been made but such adjustment is, in the determination of the Calculation Agent, insufficient to preserve the economic benefit of the Transaction for the parties, the following additional adjustments shall be made to the terms of the Transaction:

(a) If (i) an ordinary cash dividend is declared or paid on the

- - - - -

\* \_\_\_\_\_ \* Indicates that material has been omitted and confidential treatment has been requested therefor. All such omitted material has been filed separately with Secretary of the Commission in the Company's Application Requesting Confidential Treatment pursuant to Rule 24b-2 under the Securities Exchange Act of 1934, as amended.

Shares or (ii) a special cash dividend is declared or paid on the Shares and in either case the Ex-Dividend Date with respect to such dividend occurs during the period from, and including, the Effective

Date to, but excluding, the Expiration Date (each, a "Dividend Event"), the Strike Price and the Contract Multiplier shall each be adjusted for each Dividend Event in accordance with the following formulas:

$$SP[1] = \frac{SP[0] (CP[0] - DA)}{CP[0]}$$

$$CM[1] = \frac{SP[0]}{SP[1]}$$

Where:

(i) SP[1] = Strike Price after the Dividend Event

(ii) CM[1]= Contract Multiplier after the Dividend Event

(iii) SP[0] = Strike Price on the Exchange Business Day immediately preceding the Ex-Dividend Date with respect to the Dividend Event

(iv) CP[0] = The closing price of the Shares, as reported on the Exchange, on the Exchange Business Day immediately preceding the Ex-Dividend Date with respect to the Dividend Event

(vi) DA = The amount of the ordinary cash dividend or the special cash dividend, as the case may be

(b) If there occurs a tender offer, by the issuer of the Shares (the "Issuer") or a third party, for the Shares, and the date of the expiration of such offer (the "Termination Date") occurs during the period from, and including, the Effective Date to, but excluding, the Expiration Date (an "Adjustment Event"), the Strike Price and the Contract Multiplier shall each be adjusted for each Adjustment Event in accordance with the following formulas:

$$SP[1] = SP[0] \times \frac{(CP[0] \times N[0]) - C}{[CP[0] \times (N[0]-N[1])]}$$

$$CM[1] = \frac{SP[0]}{SP[1]}$$

Where:

(i) SP[1] = Strike Price after the Adjustment Event

(ii) CM[1] = Contract Multiplier after the Adjustment Event

(iii) SP[0] = Strike Price on the Completion Date (as hereinafter defined)

(iv) CP[0] = The closing price of the

Shares, as reported on the Exchange,  
on the Completion Date

- (v) N[0] = Total number of shares of common stock of the Issuer outstanding on the Completion Date
- (vi) C = Price paid by the offeror per share of common stock of the Issuer multiplied by the total number of shares purchased by the offeror pursuant to the Adjustment Event
- (vii) N[1] = Total number of shares of common stock of the Issuer purchased by the offer or pursuant to the Adjustment Event
- (viii) "Completion Date" means the Termination Date; provided, however, that if the period following the Termination Date within which delivery of tendered shares may be guaranteed is less than the customary settlement period for a sale of the Shares executed through the Clearance System, the Completion Date shall be the date which precedes the Termination Date by the number of Exchange Business Days equal to such difference

Miscellaneous  
Transfer

:

Neither party may transfer the Transaction, in whole or in part, without the prior written consent of the non-transferring party.

Account Details

Payments and deliveries to Party A: Previously provided

Payments and deliveries to Party B: Previously provided

7

8

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

Yours sincerely,

SWISS BANK CORPORATION, LONDON BRANCH

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

Confirmed as of the \_\_\_ day  
of \_\_\_\_\_, 199\_\_

IDEC PHARMACEUTICALS CORPORATION

By: \_\_\_\_\_

Name:

Title:

CONFIRMATION

Date: September 11, 1997  
To: IDEC Pharmaceuticals Corporation ("Party B")  
Attention: Phillip Schneider  
From: Swiss Bank Corporation, London Branch ("Party A")  
Re: Equity Option Confirmation  
Reference Number 1262213

-----  
The purpose of this communication is to confirm the terms and conditions of the transaction (the "Transaction") entered into between us on the Trade Date specified below.

The definitions and provisions contained in the 1991 ISDA Definitions (as published by the International Swaps and Derivatives Association, Inc. (formerly known as the International Swap Dealers Association, Inc.) ("ISDA")) are incorporated into this Confirmation. In the event of any inconsistency between those definitions and provisions and this Confirmation, this Confirmation will govern.

This Confirmation supplements, forms part of, and is subject to, the ISDA Master Agreement dated as of August 26, 1997, as amended and supplemented from time to time (the "Agreement"), between you and Swiss Bank Corporation. All provisions contained in the Agreement govern this Confirmation except as expressly modified below.

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

Trade Date : \* \_\_\_\_\_ \*  
Buyer : Party A  
Seller : Party B  
Option Style : European Option

-----  
\* \_\_\_\_\_ \*Indicates that material has been omitted and confidential treatment has been requested therefor. All such omitted material has been filed separately with Secretary of the Commission in the Company's Application Requesting Confidential Treatment pursuant to Rule 24b-2 under the Securities Exchange Act of 1934, as amended.

Option Type : Call  
Shares : Common Stock of IDEC Pharmaceuticals Corporation (Symbol: IDPH)  
Number of Options : 900,000  
Contract Multiplier : 1.00  
Strike Price : USD 46.40  
Total Premium : \* \_\_\_\_\_ \*.  
Expiration Date : \* \_\_\_\_\_ \*, or, if that date is not an Exchange Business Day, the following day that is an Exchange Business Day  
Currency

Business Day : Any day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) in the cities from which and in which a payment is to be made.

Exchange Business Day : A day that is (or but for the occurrence of a Market Disruption Event, would have been) a trading day on the Exchange and the Pacific Stock Exchange (other than a day on which trading on any such exchange is scheduled to close prior to its regular weekday closing time, first announced on the day of such closing).

Normal Trading Day : An Exchange Business Day on which no Market Disruption Event has occurred or is continuing.

Market Disruption Event : The occurrence or existence on any Exchange Business Day during the one-half hour period that ends at the close of business of any suspension of or limitation imposed on trading (by reason of movements in price exceeding levels permitted by the relevant exchange or otherwise), provided that any such event is material in the reasonable determination of the Calculation Agent, on: (i) the Exchange in the Shares; or (ii) the Pacific Stock Exchange in

- - - - -

\* \_\_\_\_\_ \* Indicates that material has been omitted and confidential treatment has been requested therefor. All such omitted material has been filed separately with Secretary of the Commission in the Company's Application Requesting Confidential Treatment pursuant to Rule 24b-2 under the Securities Exchange Act of 1934, as amended.

options contracts on the Shares.

Exchange : Nasdaq National Market

Clearance System Business Day : Any day on which the Clearance System is open for the acceptance and execution of settlement instructions.

Clearance System : Depository Trust Company, or any successor to or transferee of such clearance system.

Calculation Agent : Party A, whose calculations shall be binding absent manifest error.

Procedure for Exercise

Exercise Date : The Expiration Date.

Expiration Time : 5:00 p.m. local time in New York City

Automatic Exercise : The Transaction will be deemed to be automatically exercised if it is In-the-Money on the Expiration Date, unless (i) the Buyer has notified the Seller (by telephone or in writing) prior to 5:00 p.m. local time in New York City on the Expiration Date that it does not wish to



exercise the Transaction; or (ii) the Closing Value cannot be determined on the Expiration Date. If the Transaction is to be cash settled or net share settled, "In-the-Money" means that the Cash Settlement Amount is greater than zero. If the Transaction is to be physically settled, "In-the-Money" means that the Closing Value is greater than the Strike Price. "Closing Value" means the closing price of the Shares, as reported on the Exchange, on the Expiration Date.

Seller's telephone  
or facsimile number  
for purposes of  
giving notice

: Telephone: 619-458-8813  
Fax: 619-458-8439  
Attention: Phil Schneider

#### Settlement Terms

Settlement : The Transaction will be physically settled; provided, however, that Party B may elect to cash settle or net share settle the Transaction by giving notice to Party A no later than 20 Exchange Business Days before the Expiration Date (the date of such notice, the "Election Date"). Notwithstanding the foregoing, if on the Initial Date the registration statement referred to in Section 4.1 of the Agreement Regarding Registration Rights and Related Obligations (the "Registration Agreement") attached hereto as Exhibit I has not become effective, the Transaction will be cash settled and the parties shall have no further obligations under the Registration Agreement.

Physical Settlement : If the Transaction is to be physically settled:

3

4

(a) within three Exchange Business Days after the Election Date, Party A and Party B will enter into the Registration Agreement attached hereto as Exhibit I; and

(b) on the Settlement Date, the Seller shall deliver to the Buyer the number of Shares equal to the Contract Multiplier multiplied by the number of Options exercised against payment by the Buyer to the Seller of an amount equal to the product of (A) the Strike Price multiplied by (B) the Contract Multiplier multiplied by (C) the number of Options exercised. Such payment and such delivery will be made through the Clearance System at the accounts specified below, on a delivery versus payment basis.

Cash Settlement : If the Transaction is to be cash settled:

(a) within one Currency Business Day after written notice by Party A, Party B will pay to Party A the Prepayment Amount. The "Prepayment Amount" shall be an amount calculated by the Calculation Agent equal

to (i) the Contract Multiplier multiplied by (ii) the number of Options to be exercised multiplied by (iii) the result of subtracting the Strike Price from the closing price of the Shares, as reported on the Exchange, on the Election Date.

(b) on the Settlement Date, the following payment shall be made:

(i) if a Prepayment Amount has been paid by Party B, then (A) if the Final Payment Amount is a positive number, Party B shall pay to Party A an amount equal to the Final Payment Amount and (B) if the Final Payment Amount is a negative number, Party A shall pay to Party B an amount equal to the absolute value of the Final Payment Amount. The "Final Payment Amount" shall be an amount, which may be less than zero, calculated by the Calculation Agent equal to (A) the Cash Settlement Amount minus (B) the Prepayment Amount minus (C) the Interest Amount. The "Cash Settlement Amount" shall be the greater of (A) zero and (B) an amount calculated by the Calculation Agent equal to (1) the Contract Multiplier multiplied by (2) the number of Options exercised multiplied by (3) the result of subtracting the Strike Price from the Reference Price. The "Interest Amount" shall be an amount calculated by the Calculation Agent equal to the aggregate sum of the amounts of interest calculated for each day in the period from (and including) the date the Prepayment Amount is received by Party A to (but excluding) the Settlement Date, determined as follows: (A) the Prepayment Amount multiplied by (B) the overnight Federal Funds Rate for such day as reported in Federal Reserve Publication H.15-519 divided by (C) 360.

(ii) if a Prepayment Amount has not been paid by Party B, Party B shall pay to Party A the Cash Settlement Amount, if any.

4

5

Reference Price

:

(a) If the Valuation Period contains \* \_\_\_\_\_ \* Normal Trading Days, the Reference Price shall be the arithmetic average of the Share Prices on those \* \_\_\_\_\_ \* Normal Trading Days.

(b) If the Valuation Period does not contain \* \_\_\_\_\_ \* Normal Trading Days, the parties shall jointly determine the Share Price for the Valuation Date and as many Exchange Business Days immediately preceding the Valuation Date as shall be necessary, when such Share Prices are taken together with the Share Prices on all Normal Trading Days occurring within the Valuation Period, to provide \* \_\_\_\_\_ \* Share Prices, and in such case the Reference Price shall be the arithmetic average of those \* \_\_\_\_\_ \* Share Prices. If the parties are unable to reach

agreement on the foregoing determination, then the parties will negotiate in good faith to agree on an independent third party that will make such determination, and, if they cannot agree within three Exchange Business Days each of Party A and Party B will promptly choose an independent third party and instruct the parties so chosen to agree on another independent third party that will make such determination. The determination of an independent third party will be binding absent manifest error. The costs of such independent third party will be borne equally by Party A and Party B.

Share Price : The closing price of the Shares as reported on the Exchange.

Valuation Period : The period from and including the \* \_\_\_\_\_\* Exchange Business Day immediately preceding the Expiration Date (the "Initial Date") to and including the \* \_\_\_\_\_\* Exchange Business Day immediately following the Expiration Date, provided that if any Exchange Business Day in the Valuation Period as so determined, shall not be a Normal Trading Day, the Valuation Period shall be extended so that the Valuation Period includes \* \_\_\_\_\_\* Normal Trading Days, but in no event shall the last day of the Valuation Period be later than the \* \_\_\_\_\_\* Exchange Business Day following the Expiration Date, and in no event shall the Valuation Period include any day before the Initial Date.

Valuation Date : The last day of the Valuation Period.

Net Share Settlement : If a Transaction is to be net share settled,  
  
(a) within three Exchange Business Days after the Election Date, Party A and Party B will enter into the Registration Agreement attached hereto as Exhibit I; and  
  
(b) on the Settlement Date, Party B shall deliver to Party A the number of whole Shares (the "Settlement Shares") equal to (i) the Cash Settlement Amount divided by (ii) the Closing Value, plus cash in lieu of any fractional Shares. If within ten Exchange Business Days after the Settlement Date, Party A resells all or any

- - - - -  
  
\* \_\_\_\_\_\* Indicates that material has been omitted and confidential treatment has been requested therefor. All such omitted material has been filed separately with Secretary of the Commission in the Company's Application Requesting Confidential Treatment pursuant to Rule 24b-2 under the Securities Exchange Act of 1934, as amended.

portion of the Settlement Shares and the net proceeds received by the Party A upon resale of such Shares exceed the Cash Settlement Amount (or if less than all of the Settlement Shares are resold, the applicable

pro rata portion of the Cash Settlement Amount), Party A shall promptly refund in cash such difference to Party B. In the event that such net proceeds are less than the Cash Settlement Amount (or if less than all of the Settlement Shares are resold, the applicable pro rata portion of the Cash Settlement Amount), Party B shall pay in cash or additional Shares such difference (the "Make-whole Amount") to Party A promptly after receipt of notice thereof. In the event that Party B elects to pay the Make-whole Amount in additional Shares, Party B shall deliver to Party A the number of whole Shares (the "Make-whole Shares") equal to (i) the Make-whole Amount divided by (ii) the closing price of the Shares as reported on the Exchange on the Exchange Business Day prior to delivery of such Shares. If within ten Exchange Business Days after the delivery of the Make-whole Shares to Party A, Party A resells all or any portion of such Shares and the net proceeds received by Party A exceed or are less than the Make-whole Amount (or if less than all of the Make-whole Shares are resold, the applicable pro rata portion of the Make-whole Amount), the provisions set forth above with respect to payment of the Settlement Payment in Shares, including Make-whole requirements, shall apply.

Settlement Date : If the Transaction is to be cash settled, the Settlement Date shall be three Currency Business Days after the Valuation Date. If the Transaction is to be physically settled or net share settled, the Settlement Date shall be three Clearance System Business Days after the Exercise Date.

Change in Expiration Date

Delay of Expiration Date : At any time prior to fifteen days prior to the date that otherwise would have been the Expiration Date, Party B may notify Party A that it would like to delay the Expiration Date to a date (the "Termination Date") not less than ten Exchange Business Days after the date of such notice and not more than 90 days after the original Expiration Date. Promptly after receipt of such notice, Party A shall notify Party B of the additional amount, if any, required to be paid (the "Settlement Amount") by the Buyer of the Transaction to compensate the Seller of the Transaction for such delay. The Settlement Amount shall be reasonably determined by Party A based upon Party A's then current methodology for pricing options. Within five Exchange Business Days after receipt of notice of the Settlement Amount from Party A, Party B shall notify Party A whether it agrees to the Settlement Amount (the date of such notice, the "Agreement Date"). If Party B agrees to the Settlement Amount (i) the Termination Date shall be deemed to be the Expiration Date for all purposes of this Confirmation; and (ii) the Settlement Amount, which shall be in addition to any payment or delivery, if any, otherwise required to be made under the terms of the Transaction, shall be paid by the Buyer on the third Currency Business Day after the Agreement Date. If Party B does not agree to

the

6

7

Settlement Amount, the Expiration Date shall not be delayed.

Adjustment Events

Adjustments : During the life of the Transaction, if any adjustment is made by The Options Clearing Corporation or its successors ("OCC") in the terms of outstanding OCC-issued options ("OCC Options") on the Shares which are the subject of the Transactions, an equivalent adjustment shall be made in the terms of the Transaction. Except as provided in the following paragraph and in the "Additional Adjustment Provisions" below, no adjustment shall be made in the terms of the Transaction for any event that does not result in an adjustment to the terms of outstanding OCC Options on the Shares. Without limiting the generality of the foregoing, NO ADJUSTMENT SHALL BE MADE IN THE TERMS OF THE TRANSACTIONS FOR ORDINARY CASH DIVIDENDS ON THE SHARES EXCEPT AS PROVIDED IN THE "ADDITIONAL ADJUSTMENT PROVISIONS" BELOW.

If at any time during the life of the Transaction there shall be no outstanding OCC Options on the Shares, and an event shall occur for which an adjustment might otherwise be made under the By-Laws, Rules, and stated policies of the OCC applicable to the adjustment of OCC Options (the "OCC Adjustment Rules"), the parties shall use their best efforts, applying the principles set forth in the OCC Adjustment Rules, to jointly determine whether to adjust the terms of the Transaction and the nature of any such adjustment.

Additional Adjustments

: Notwithstanding the foregoing, if upon the occurrence of the following events during the life of the Transaction no adjustment is required to be made to the terms of the Transaction in accordance with the foregoing provisions or if an adjustment has been made but such adjustment is, in the determination of the Calculation Agent, insufficient to preserve the economic benefit of the Transaction for the parties, the following additional adjustments shall be made to the terms of the Transaction:

(a) If (i) an ordinary cash dividend is declared or paid on the Shares or (ii) a special cash dividend is declared or paid on the Shares and in either case the Ex-Dividend Date with respect to such dividend occurs during the period from, and including, the Effective Date to, but excluding, the Expiration Date (each, a "Dividend Event"), the Strike Price and the Contract Multiplier shall each be adjusted for each Dividend Event in accordance with the following formulas:

$$SP[1] = \frac{SP[0] (CP[0] - DA)}{CP[0]}$$

$$CM[1] = \frac{SP[0]}{SP[1]}$$

Where:

7

8

- (i) SP[1] = Strike Price after the Dividend Event
- (ii) CM[1] = Contract Multiplier after the Dividend Event
- (iii) SP[0] = Strike Price on the Exchange Business Day immediately preceding the Ex-Dividend Date with respect to the Dividend Event
- (iv) CP[0] = The closing price of the Shares, as reported on the Exchange, on the Exchange Business Day immediately preceding the Ex-Dividend Date with respect to the Dividend Event
- (vi) DA = The amount of the ordinary cash dividend or the special cash dividend, as the case may be

(b) If there occurs a tender offer, by the issuer of the Shares (the "Issuer") or a third party, for the Shares, and the date of the expiration of such offer (the "Termination Date") occurs during the period from, and including, the Effective Date to, but excluding, the Expiration Date (an "Adjustment Event"), the Strike Price and the Contract Multiplier shall each be adjusted for each Adjustment Event in accordance with the following formulas:

$$SP[1] = SP[0] \times \frac{(CP[0] \times N[0]) - C}{[CP[0] \times (N[0] - N[1])]}$$

$$CM1 = \frac{SP[0]}{SP[1]}$$

Where:

- (i) SP[1] = Strike Price after the Adjustment Event
- (ii) CM[1] = Contract Multiplier after the Adjustment Event
- (iii) SP[0] = Strike Price on the Completion Date (as hereinafter defined)
- (iv) CP[0] = The closing price of the Shares, as reported on the Exchange, on the Completion Date

- (v) N[0] = Total number of shares of common stock of the Issuer outstanding on the Completion Date
- (vi) C = Price paid by the offeror per share of common stock of the Issuer multiplied by the total number of shares purchased by the offer or pursuant to the Adjustment Event
- (vii) N[1] = Total number of shares of common stock of the Issuer purchased by the offeror pursuant to the Adjustment Event

8

9

- (viii) "Completion Date" means the Termination Date; provided, however, that if the period following the Termination Date within which delivery of tendered shares may be guaranteed is less than the customary settlement period for a sale of the Shares executed through the Clearance System, the Completion Date shall be the date which precedes the Termination Date by the number of Exchange Business Days equal to such difference

Miscellaneous

Transfer : Neither party may transfer the Transaction, in whole or in part, without the prior written consent of the non-transferring party.

Account Details

Payments and deliveries to Party A: Previously provided  
 Payments and deliveries to Party B: Previously provided

9

10

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

Yours sincerely,

SWISS BANK CORPORATION, LONDON BRANCH

By: \_\_\_\_\_ By: \_\_\_\_\_  
 Name: \_\_\_\_\_ Name: \_\_\_\_\_  
 Title: \_\_\_\_\_ Title: \_\_\_\_\_

Confirmed as of the \_\_\_\_ day  
 of \_\_\_\_\_, 199\_\_

IDEC PHARMACEUTICALS CORPORATION

By: \_\_\_\_\_

Name:

Title:



WARNING: THE EDGAR SYSTEM ENCOUNTERED ERROR(S) WHILE PROCESSING THIS SCHEDULE.

<ARTICLE> 5

<LEGEND>

THIS SCHEDULE CONTAINS SUMMARY FINANCIAL INFORMATION EXTRACTED FROM THE CONDENSED CONSOLIDATED BALANCE SHEETS AND CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS CONTAINED IN THE COMPANY'S QUARTERLY REPORT ON FORM 10-Q FOR THE QUARTER ENDED SEPTEMBER 30, 1997 AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO SUCH FINANCIALS STATEMENTS AND THE NOTES THERETO.

</LEGEND>

<MULTIPLIER> 1,000

<PERIOD-TYPE>	9-MOS	
<FISCAL-YEAR-END>		DEC-31-1997
<PERIOD START>		JAN-01-1997
<PERIOD-END>		SEP-30-1997
<CASH>		7,389
<SECURITIES>		41,033
<RECEIVABLES>		3,549
<ALLOWANCES>		0
<INVENTORY>		6,917
<CURRENT-ASSETS>		67,823
<PP&E>		34,787
<DEPRECIATION>		11,477
<TOTAL-ASSETS>		94,498
<CURRENT-LIABILITIES>		16,056
<BONDS>		0
<PREFERRED-MANDATORY>		0
<PREFERRED>		0
<COMMON>		19
<OTHER-SE>		71,160
<TOTAL-LIABILITY-AND-EQUITY>		71,179
<SALES>		0
<TOTAL-REVENUES>		18,493
<CGS>		0
<TOTAL-COSTS>		10,475
<OTHER-EXPENSES>		25,754
<LOSS-PROVISION>		0
<INTEREST-EXPENSE>		699
<INCOME-PRETAX>		0
<INCOME-TAX>		0
<INCOME-CONTINUING>		0
<DISCONTINUED>		0
<EXTRAORDINARY>		0
<CHANGES>		0
<NET-INCOME>		(23,679)
<EPS-PRIMARY>		(1.27)
<EPS-DILUTED>		0