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**Anhang I:** Definition der Ratingsymbole von Standard & Poor's und Moody's<sup>1</sup>

Ratings		Interpretation	
S&P	Moody's		
AAA	Aaa	Anlagebereich (investment grade)	Beste Qualität, geringstes Ausfallrisiko
AA+	Aa1		Hohe Qualität, aber etwas größeres Risiko als die Spitzengruppe
AA	Aa2		
AA-	Aa3		
A+	A1		Gute Qualität, aber auch Elemente, die sich bei veränderter Wirtschaftsentwicklung negativ auswirken können
A	A2		
A-	A3		
BBB+	Baa1		Mittlere Qualität, aber mangelnder Schutz gegenüber sich verändernder Wirtschaftsentwicklung
BBB	Baa2		
BBB-	Baa3		
BB+	Ba1	Spekulationsbereich (speculative grade)	Spekulative Anlage, nur mäßige Deckung für Zins- und Tilgungsleistung
BB	Ba2		
BB-	Ba3		
B+	B1		Sehr spekulativ, geringe Sicherheit der langfristigen Schuldenbedienung
B	B2		
B-	B3		
CCC	Caa		Niedrigste Qualität, geringster Anlegerschutz oder in direkter Gefahr des Zahlungsverzuges bzw. in Zahlungsverzug
CC	Ca		
C	C		

<sup>1</sup> Vgl. Standard & Poor's (1998), S. 1 f.; Moody's (2000), S. 1 ff.

**Anhang II:** 1999 ISDA Credit Derivatives Definitions (ausgewählte Teile)

**Section 1.2. Confirmation.** "Confirmation" means, with respect to a Credit Derivative Transaction, one or more documents and other confirming evidence exchanged between the parties which, taken together, confirm all of the terms of a Credit Derivative Transaction.

**Section 1.4. Effective Date.** "Effective Date" means the date specified as such in the related Confirmation.

**Section 1.5. Trade Date.** "Trade Date" means the date on which the parties enter into the Credit Derivative Transaction, as specified in the related Confirmation.

**Section 1.6. Scheduled Termination Date.** "Scheduled Termination Date" means the date specified as such in the related Confirmation.

**Section 1.13. Calculation Agent.** "Calculation Agent" means the party to a Credit Derivative Transaction (or a third party) specified as such in the related Confirmation (or, if a person is not so specified, Seller) and who, if necessary (and in accordance with the terms specified in the related Confirmation), is responsible for: (a) determining a Successor, (b) determining whether (i) the aggregate outstanding principal amount of any Reference Obligation has been materially reduced by redemption or otherwise (other than due to any regularly scheduled amortization or prepayments), (ii) any Reference Obligation is an obligation guaranteed by a Reference Entity and, other than due to the existence or occurrence of a Credit Event, the guarantee of that Reference Entity is no longer a valid and binding obligation of such Reference Entity enforceable in accordance with its terms, and (iii) for any reason other than (i) or (ii) above and other than due to the existence or occurrence of a Credit Event, any Reference Obligation is no longer an obligation of a Reference Entity, (c) identifying and determining a Substitute Reference Obligation, (d) obtaining Quotations (and determining whether such Quotations shall include or exclude accrued but unpaid interest) and determining the Market Value, (e) converting the Quotation Amount into the relevant Obligation Currency, (f) determining the Dealers in consultation with the parties (where none have been specified in the Confirmation) and substituting Dealers, (g) determining the Currency Rate, (h) determining the Valuation Time pursuant to the Partial Cash Settlement Terms, (i) determining (after consultation with the parties) the number of Business Days in the Physical Settlement Period and (j) if "Include Accrued Interest" is specified in the related Confirmation with respect to Portfolio, determining (after consultation with the parties) accrued but unpaid interest and converting it to the Settlement Currency. The Calculation Agent shall, as soon as practicable after obtaining any Quotation, notify the parties in writing of each such Quotation (including the bid and offer Quotations received from each Dealer) that it receives in connection with the calculation of the Final Price and shall provide to the parties a written computation showing its calculation of the Final Price. Whenever the Calculation Agent is required to act or to exercise judgment, it will do so in good faith and in a commercially reasonable manner. Furthermore, each party agrees that the Calculation Agent is not acting as a fiduciary for or as an advisor to such party in respect of its duties as Calculation Agent in connection with any Credit Derivative Transaction.

**Section 1.14. Calculation Agent City.** "Calculation Agent City" means the city specified as such in the related Confirmation or, if a city is not so specified, the city in which the Office through which the Calculation Agent is acting for purposes of the Credit Derivative Transaction is located.

**Section 1.15. Business Day.** "Business Day" means a day on which commercial banks and foreign exchange markets are generally open to settle payments in the place or places and on the days specified for that purpose in the relevant Confirmation and if a place or places are not so specified, in the jurisdiction of the currency of the Floating Rate Payer Calculation Amount.

**Section 2.1. Reference Entity.** "Reference Entity" means each entity specified as such in the related Confirmation and any Successor.

**Section 2.3. Reference Obligation.** "Reference Obligation" means each obligation specified as such or of a type described in the related Confirmation (if any are so specified or described) and any Substitute Reference Obligation.

**Section 2.4. Reference Price.** "Reference Price" means the percentage specified as such in the related Confirmation or, if a percentage is not so specified, one hundred percent.

**Section 2.6. Fixed Rate Payer.** "Fixed Rate Payer" means, in respect of a Credit Derivative Transaction, the party obligated to make one or more payments of a Fixed Amount as specified in the related Confirmation.

**Section 2.7. Fixed Rate Payer Calculation Amount.** "Fixed Rate Payer Calculation Amount" means the amount specified as such in the related Confirmation or, if an amount is not so specified, the Floating Rate Payer Calculation Amount.

**Section 2.10. Fixed Rate Payer Payment Date.** "Fixed Rate Payer Payment Date" means each date specified as such in the related Confirmation, commencing on the earliest to occur of the first such specified date, the Termination Date and the first Settlement Date and ending on the earlier to occur of the Termination Date and the first Settlement Date.

**Section 2.11. Business Day Convention.** (a) "Business Day Convention" means the convention for adjusting any relevant date if it would otherwise fall on a day that is not a Business Day. The following terms, when used in conjunction with the term "Business Day Convention" and a date, shall mean that an adjustment will be made if that date would otherwise fall on a day that is not a Business Day so that:

(i) if "Following" is specified, that date will be the first following day that is a Business Day;

(ii) if "Modified Following" or "Modified" is specified, that date will be the first following day that is a Business Day unless that day falls in the next calendar

month, in which case that date will be the first preceding day that is a Business Day; and

(iii) if "Preceding" is specified, that date will be the first preceding day that is a Business Day.

(b) The Business Day Convention applicable to a date that is specified in a Confirmation to be subject to adjustment in accordance with an applicable Business Day Convention shall be the Business Day Convention specified for that date in that Confirmation or, if a Business Day Convention is not so specified for that date but a Business Day Convention is specified in a Confirmation for a Credit Derivative Transaction, the Business Day Convention shall be the Business Day Convention specified in the Confirmation for that Credit Derivative Transaction and, if a Business Day Convention is not specified for that date or in the Confirmation, the Modified Following Business Day Convention shall apply to that date.

**Section 2.12. Floating Rate Payer.** "Floating Rate Payer" means, in respect of a Credit Derivative Transaction, the party specified as such in the related Confirmation.

**Section 2.13. Floating Rate Payer Calculation Amount.** "Floating Rate Payer Calculation Amount" means the amount specified as such in the related Confirmation.

**Section 2.14. Obligation.** "Obligation" means (a) any obligation of a Reference Entity (either directly or as a provider of a guarantee of payment of principal and interest that is unconditional but for any requirement for the beneficiary to give notice that a payment is due under such guarantee) determined pursuant to the method described in Section 2.18 (but excluding each Excluded Obligation, if any), (b) each Reference Obligation, unless specified in the related Confirmation as an Excluded Obligation, and (c) any other obligation of a Reference Entity specified as such in the related Confirmation.

**Section 2.15. Deliverable Obligation.** "Deliverable Obligation" means (a) any obligation of a Reference Entity (either directly or as provider of a guarantee of payment of principal and interest that is unconditional but for any requirement for the beneficiary to give notice that a payment is due under such guarantee) determined pursuant to the method described in Section 2.19 (but excluding each Excluded Deliverable Obligation, if any) that is payable in an amount equal to its outstanding principal balance or Due and Payable Amount, as applicable, and is not subject to any counterclaim, defense (other than a counterclaim or defense based on the factors set forth in Section 4.1 (a)-(d)) or right of setoff by a Reference Entity, (b) each Reference Obligation, unless specified in the related Confirmation as an Excluded Deliverable Obligation, and (c) any other obligation of a Reference Entity specified as such in the related Confirmation.

**Section 2.18. Method for Determining Obligation.** With respect to any Credit Derivative Transaction, the term *Obligation* may be defined as each obligation of each Reference Entity described by the Obligation Category specified in the related

Confirmation, and having the Obligation Characteristics, if any, specified in the related Confirmation. The following terms shall have the following meanings:

(a) "Obligation Category" means Payment, Borrowed Money, Reference Obligations Only, Bond, Loan, or Bond or Loan, only one of which shall be specified in the related Confirmation, and:

(i) "Payment" means any obligation (whether present or future, contingent or otherwise) for the payment or repayment of money, including, without limitation, Borrowed Money;

(ii) "Borrowed Money" means any obligation of a type included in the "Payment" Obligation Category (whether present or future, contingent or otherwise) in respect of borrowed money (which term shall include, without limitation, deposits and reimbursement obligations arising from drawings pursuant to letters of credit);

(iii) "Reference Obligations Only" means any obligation that is a Reference Obligation and no Obligation Characteristics shall be applicable to Reference Obligations Only;

(iv) "Bond" means any Obligation of a type included in the "Borrowed Money" Obligation Category (whether present or future, contingent or otherwise) that is in the form of, or represented by, a bond, note (other than notes delivered pursuant to Loans), certificated debt security or other debt security and shall not include any other type of Borrowed Money Obligation;

(v) "Loan" means any Obligation of a type included in the "Borrowed Money" Obligation Category that is documented by a term loan agreement, revolving loan agreement or other similar credit agreement and shall not include any other type of Borrowed Money Obligation; and

(vi) "Bond or Loan" means any obligation that is either a Bond or a Loan.

(b) "Obligation Characteristics" means any one or more of Pari Passu Ranking, Specified Currency, Not Sovereign Lender, Not Domestic Currency, Not Domestic Law, Listed, Not Contingent and Not Domestic Issuance, and:

(i) "Pari Passu Ranking" means an obligation that ranks at least pari passu with the most senior Reference Obligation in priority of payment or, if no Reference Obligation is specified in the related Confirmation, the obligations of the Reference Entity that are neither subordinated by their terms (or otherwise) nor secured;

(ii) "Specified Currency" means an obligation that is payable in the currency or currencies specified as such in the related Confirmation or, if Specified Currency is specified in a Confirmation and no currency is so specified, any of the lawful currencies of Canada, Federal Republic of Germany, Japan, Republic of France, Republic of Italy, United Kingdom and the United States of America and the euro (and

any successor currency to any such currency which may be referred to collectively in a Confirmation as the "Standard Specified Currencies");

(iii) "Not Sovereign Lender" means any obligation that is not primarily owed to a Sovereign or Supranational Organization, including without limitation, obligations generally referred to as "Paris Club debt";

(iv) "Not Domestic Currency" means any obligation that is payable in any currency other than the Domestic Currency;

(v) "Not Domestic Law" means any obligation that is not governed by the laws of (A) the relevant Reference Entity, if such Reference Entity is a Sovereign, or (B) the jurisdiction of organization of the relevant Reference Entity, if such Reference Entity is not a Sovereign;

(vi) "Listed" means an obligation that is quoted, listed or ordinarily purchased and sold on an exchange and the Listed Obligation Characteristic applies only to Bonds;

(vii) "Not Contingent" means any obligation (A) the payment or repayment of principal in respect of which is not in an amount determined by reference to any formula or index, or which is not subject to any contingency, and (B) which bears interest at either a fixed or floating rate that is paid on a periodic basis and computed on a benchmark interest rate plus or minus a spread, if any; and

(viii) "Not Domestic Issuance" means any obligation other than an obligation that was, at the time the relevant obligation was issued (or reissued, as the case may be) or incurred, intended to be offered for sale primarily in the domestic market of the relevant Reference Entity.

**Section 3.1. Payment.** Upon the occurrence of a Credit Event applicable to a Credit Derivative Transaction and satisfaction of all of the Conditions to Payment with respect to such Credit Derivative Transaction, the parties shall perform their respective obligations in accordance with the applicable Settlement Method.

### **Section 3.2. Conditions to Payment.**

(a) **Conditions to Payment.** "Conditions to Payment" means (i) with respect to a Credit Derivative Transaction to which Cash Settlement is specified in the related Confirmation, Credit Event Notice and, if specified as applicable in the related Confirmation, Notice of Publicly Available Information and (ii) with respect to a Credit Derivative Transaction to which Physical Settlement is specified in the related Confirmation, Credit Event Notice and Notice of Intended Physical Settlement, and, if specified as applicable in the related Confirmation, Notice of Publicly Available Information.

(b) **Credit Event Notice.** The Credit Event Notice Condition to Payment may be satisfied as follows:

(i) if ABuyer is specified in the related Confirmation as the Notifying Party, by the delivery of a Credit Event Notice by Buyer to Seller that is effective during the Notice Delivery Period; and

(ii) if ABuyer or Seller is specified in the related Confirmation as Notifying Parties, by the delivery of a Credit Event Notice by Buyer or Seller to the other party that is effective during the Notice Delivery Period.

(c) **Notice of Publicly Available Information.** The Notice of Publicly Available Information Condition to Payment is satisfied by the delivery of a Notice of Publicly Available Information by the party delivering the Credit Event Notice to the other party that is effective during the Notice Delivery Period.

(d) **Notice of Intended Physical Settlement.** The Notice of Intended Physical Settlement Condition to Payment is satisfied by the delivery by Buyer of a Notice of Intended Physical Settlement to Seller that is effective no later than thirty calendar days after the Event Determination Date.

(e) **Notifying Party.** "Notifying Party" means, with respect to a Credit Derivative Transaction, each party specified as such in the related Confirmation.

**Section 3.3. Credit Event Notice.** "Credit Event Notice" means an irrevocable notice from a Notifying Party (which may be oral, including by telephone) to the other party that describes a Credit Event that occurred on or after the Effective Date and on or prior to the later of

(a) the Scheduled Termination Date; and

(b) the Grace Period Extension Date if:

(i) Grace Period Extension is specified as applicable in the related Confirmation;

(ii) the Credit Event that is the subject of the Credit Event Notice is a Failure to Pay that occurred after the Scheduled Termination Date; and

(iii) the Potential Failure to Pay with respect to such Failure to Pay occurred on or prior to the Scheduled Termination Date.

A Credit Event Notice must contain a description in reasonable detail of the facts relevant to the determination that a Credit Event has occurred. The Credit Event that is the subject of the Credit Event Notice need not be continuing on the date the Credit Event Notice is effective. A

Credit Event Notice shall be subject to the requirements regarding notices set forth in Section 3.9.

**Section 3.4. Notice of Intended Physical Settlement.** "Notice of Intended Physical Settlement" means an irrevocable notice from Buyer (which may be oral, including by telephone) to Seller that confirms that Buyer will settle the Credit Derivative Transaction and require performance in accordance with the Physical Settlement Method, and containing a detailed description of the type of Deliverable Obligations that Buyer reasonably expects to Deliver to Seller, including the outstanding principal balance or Due and Payable Amount of such Deliverable Obligations to be Delivered. If an effective Notice of Intended Physical Settlement is not delivered by Buyer on or before the thirtieth calendar day after the Event Determination Date, such thirtieth calendar day shall be the Termination Date. A Notice of Intended Physical Settlement shall be subject to the requirements regarding notices set forth in Section 3.9.

**Section 3.6. Notice of Publicly Available Information.** "Notice of Publicly Available Information" means an irrevocable notice from the party delivering the relevant Credit Event Notice (which may be oral, including by telephone) to the other party that cites Publicly Available Information confirming the occurrence of the Credit Event described in the Credit Event Notice. The notice given must contain a copy, or a description in reasonable detail, of the relevant Publicly Available Information. A Notice of Publicly Available Information shall be subject to the requirements regarding notices set forth in Section 3.9. If Notice of Publicly Available Information is applicable to a Credit Derivative Transaction and a Credit Event Notice cites Publicly Available Information, such Credit Event Notice will also be deemed to be a Notice of Publicly Available Information.

**Section 4.1. Credit Event.** "Credit Event" means, with respect to a Credit Derivative Transaction, one or more of Bankruptcy, Failure to Pay, Obligation Acceleration, Obligation Default, Repudiation/Moratorium or Restructuring, as specified in the related Confirmation. If an occurrence would otherwise constitute a Credit Event, such occurrence will constitute a Credit Event whether or not such occurrence arises directly or indirectly from: (a) any lack or alleged lack of authority or capacity of a Reference Entity to enter into any Obligation, (b) any actual or alleged unenforceability, illegality, impossibility or invalidity with respect to any Obligation, however described, (c) any applicable law, order, regulation, decree or notice, however described, or the promulgation of, or any change in, the interpretation by any court, tribunal, regulatory authority or similar administrative or judicial body with competent or apparent jurisdiction of any applicable law, order, regulation, decree or notice, however described, or (d) the imposition of, or any change in, any exchange controls, capital restrictions or any other similar restrictions imposed by any monetary or other authority, however described.

**Section 4.2. Bankruptcy.** "Bankruptcy" means a Reference Entity (a) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (b) 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; (c) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (d) 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 (i) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (ii) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof; (e) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (f) 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; (g) 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; (h) 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 (a) to (g) (inclusive); or (i) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

**Section 4.3. Obligation Acceleration.** "Obligation Acceleration" means one or more Obligations have become due and payable before they would otherwise have been due and payable as a result of, or on the basis of, the occurrence of a default, event of default or other similar condition or event (however described), other than a failure to make any required payment, in respect of a Reference Entity under one or more Obligations in an aggregate amount of not less than the Default Requirement.

**Section 4.4. Obligation Default.** "Obligation Default" means one or more Obligations have become capable of being declared due and payable before they would otherwise have been due and payable as a result of, or on the basis of, the occurrence of a default, event of default or other similar condition or event (however described), other than a failure to make any required payment, in respect of a Reference Entity under one or more Obligations in an aggregate amount of not less than the Default Requirement.

**Section 4.5. Failure to Pay.** "Failure to Pay" means, after the expiration of any applicable (or deemed) Grace Period (after the satisfaction of any conditions precedent to the commencement of such Grace Period), the failure by a Reference Entity to make, when and where due, any payments in an aggregate amount of not less than the Payment Requirement under one or more Obligations.

**Section 4.6. Repudiation/Moratorium.** "Repudiation/Moratorium" means a Reference Entity or Governmental Authority (a) disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, one or more Obligations in an aggregate amount of not less than the Default Requirement, or (b) declares or imposes a moratorium, standstill or deferral, whether de facto or de jure, with respect to one or more Obligations in an aggregate amount of not less than the Default Requirement.

**Section 5.3. Fixed Rate Day Count Fraction.** "Fixed Rate Day Count Fraction" means, in respect of a Credit Derivative Transaction and the calculation of a Fixed Amount:

(c) if "Actual/360" is specified in the Confirmation, the actual number of days in the Fixed Rate Payer Calculation Period in respect of which payment is being made divided by 360;

**Section 6.1. Settlement Method.** "Settlement Method" means, with respect to a Credit Derivative Transaction, (a) if Cash Settlement is specified in the related Confirmation or is deemed to be applicable, Cash Settlement, or (b) if Physical Settlement is specified in the related Confirmation, Physical Settlement.

**Section 8.1. Physical Settlement.** If "Physical Settlement" is specified in relation to a Credit Derivative Transaction, Buyer shall, subject to Section 3.1, on or prior to the Physical Settlement Date Deliver to Seller all or part of that portion of the Portfolio specified in the Notice of Intended Physical Settlement and Seller shall pay to Buyer that portion of the Physical Settlement Amount that corresponds to the portion of the Portfolio that Buyer has Delivered. If Buyer Delivers Deliverable Obligations in an amount greater than the portion of the Portfolio specified in the Notice of Intended Physical Settlement, Seller shall not be required to pay more than the portion of the Physical Settlement Amount that corresponds to the portion of the Portfolio specified in the Notice of Intended Physical Settlement. For the purposes of the foregoing, Delivery by Buyer and payment by Seller shall be contemporaneous.

**Section 8.5. Physical Settlement Period.** "Physical Settlement Period" means the number of Business Days specified as such in the related Confirmation or, if a number of Business Days is not so specified, the longest of the number of Business Days for settlement in accordance with then current market practice of any Deliverable Obligation being Delivered in the Portfolio, as determined by the Calculation Agent, after consultation with the parties.

**Section 8.6. Portfolio.** "Portfolio" means Deliverable Obligations with (a) an outstanding principal balance (including accrued but unpaid interest (as determined by the Calculation Agent after consultation with the parties) if "Include Accrued Interest" is specified in the related Confirmation but excluding accrued but unpaid interest if "Include Accrued Interest" is not specified in the related Confirmation), (b) a Due and Payable Amount, or (c) the equivalent Currency Amount of any such amount, as applicable to such Deliverable Obligations in an aggregate amount equal to the Physical Settlement Amount as of the Physical Settlement Date.