

SAMPLE MARKET FLEX LANGUAGE

Typical Language:

"The Arranger shall be entitled, after consultation with you, to change the pricing, terms, structure or amount of, or to eliminate, any of the Credit Facilities if the Arranger determines that such changes are advisable to insure a successful syndication of the Credit Facilities. The commitments hereunder are subject to the agreements in this paragraph."

Constant principal coupled with interest rate floor:

"The Arranger shall be entitled, after consultation with you, to change the pricing, terms or structure of any of the Credit Facilities if the Arranger determines that such changes are advisable to insure a successful syndication of the Credit Facilities; provided, however, that (i) the total amount of the Credit Facilities remains unchanged and (ii) the interest rate on each of the Credit Facilities will not increase by more than [] basis points."

Downward adjusting market flex:

"It is understood and agreed that downward adjustments to the pricing of the Credit Facilities will be available to the extent the Arranger determines that the Credit Facilities may be successfully syndicated notwithstanding such adjustments, and the Arranger agrees to make such determination upon your request."

Sample Market Flex provisions from underwriter's form of High Yield Commitment Letter (revised November, 1999):

Sample 1, Dollar floor option:

"It is understood and agreed that [underwriter] shall be entitled, prior to the issuance of the Discount Debentures and the Notes, to change the amount of the gross proceeds of the Discount Debentures and the aggregate principal amount of the Notes, in our sole discretion, in order to facilitate the successful placement of such securities; provided, however, that the sum of the amount of the gross proceeds of the Discount Debentures and the aggregate principal amount of the

Notes as so changed shall remain equal to \$[] million."

Sample 2, Negotiated option:

"[Underwriter] reserves the right to change any or all of the terms, structure, amount, tenor or pricing of the Facilities if such changes are advisable, in CSFB's judgment, to ensure that the Facilities are successfully syndicated (as determined by CSFB). If CSFB determines that such changes are advisable, CSFB and you will negotiate such changes in good faith for a period of up to [5] business days. If CSFB and you are unable to reach agreement on such changes during such period, CSFB may terminate its commitment hereunder."

Sample 3, Bridge component:

"[Underwriter] reserves the right, after consultation with the Acquiror and before the execution of the Bridge Loan Documents, to change the structure, terms, amount, or pricing of [either] [the] Facility if [underwriter] determines that such changes would be advisable in order to ensure a successful syndication of such Facility."

Sample 4, Reasonableness requirement coupled with constant principal:

"[Underwriter] shall be entitled, with your consent (which shall not be unreasonably withheld), to change the structure, terms or amount of, or to eliminate, [any of the] [the] Facilities if CSFB determine that such changes are advisable in order to ensure a successful syndication and if the aggregate amount of the Facilities shall remain unchanged."