

**Merrill Lynch S.A.***(a Luxembourg Public Limited Liability Company)***Merrill Lynch International & Co. C.V.***(a Curaçao Limited Partnership)***NOTE, WARRANT AND CERTIFICATE PROGRAMME**

Irrevocably guaranteed

by

**Bank of America Corporation***(a Delaware (U.S.A.) corporation)*

*This document (the “**Base Prospectus**”) constitutes a base prospectus in respect of the Programme (as defined below). Any Securities (as defined below) issued on or after the date of this Base Prospectus are issued subject to the provisions herein. This Base Prospectus constitutes a base prospectus for the purpose of Article 5.4 of Directive 2003/71/EC (as amended by Directive 2010/73/EU, the “**Prospectus Directive**”). The Issuers have also prepared a registration document (the “**Registration Document**”) for use in connection with the issue of Securities under the Programme. Securities issued under the Programme by way of Registration Document shall be documented in a Securities Note (the “**Securities Note**”), and, if applicable, a Summary (the “**Summary**”). The Registration Document and any Securities Note and Summary prepared in connection therewith do not form part of this Base Prospectus.*

Under the terms of the Note, Warrant and Certificate Programme (the “**Programme**”), Merrill Lynch S.A. (“**MLSA**”) may from time to time issue notes (“**Notes**”) or certificates (“**Certificates**”) and Merrill Lynch International & Co. C.V. (“**MLICo.**” and, together with MLSA, the “**Issuers**” and each an “**Issuer**”) may from time to time issue Certificates or warrants (“**Warrants**” and, together with Certificates, “**W&C Securities**”), and W&C Securities together with Notes, “**Securities**”). Securities of any kind may be issued including but not limited to Securities relating to a specified index or a basket of indices (“**Index Linked Securities**”), a specified share or a basket of shares (“**Share Linked Securities**”), a specified debt instrument or a basket of debt instruments (“**Debt Linked Securities**”), a specified global depositary receipt (“**GDR**”) or American depositary receipt (“**ADR**”) or basket of GDRs and/or ADRs (“**GDR/ADR Linked Securities**”), a specified currency or a basket of currencies (“**FX Linked Securities**”), a specified commodity or commodity index or a basket of commodities and/or commodity indices (“**Commodity Linked Securities**”), a specified fund or basket of funds (“**Fund Linked Securities**”), a specified inflation index or a basket of inflation indices (“**Inflation Linked Securities**”), the credit of a specified entity or entities (“**Credit Linked Securities**”) and, in the case of Warrants, a specified share of a company listed on the Saudi Stock Exchange (*Tadawul*) or a basket of such shares (“**Saudi Share Linked Warrants**”) or any combination of the foregoing (and each such underlying asset or basis of reference, a “**Reference Item**”). Securities may also bear interest (in the case of Notes) or pay additional amounts (in the case of W&C Securities). Each issue of Notes will be issued on the terms set out herein which are relevant to such Notes under “Terms and Conditions of the Notes” on pages 140 to 176 and the additional Terms and Conditions on pages 284 to 412 and pages 465 to 469 (the “**Note Conditions**”) and each issue of Warrants and Certificates will be issued on the terms set out herein which are relevant to such W&C Securities under “Terms and Conditions of the W&C Securities” on pages 219 to 282 and the additional Terms and Conditions on pages 284 to 359 pages 413 to 464 and pages 470 to 489 (the “**W&C Conditions**”) and, in each case, on such additional terms as will be set out in the applicable Final Terms (the “**Final Terms**”). **The Securities, and any non-contractual obligations arising out of them, will be governed by, and construed in accordance with, English law.**

Bank of America Corporation (“**BAC**”) (a) has in a guarantee dated 24 May 2012 (the “**Original Guarantee**”), irrevocably and unconditionally guaranteed the payment and non-cash delivery obligations in respect of the Securities (other than the Swiss COSI Securities (as defined in the W&C Conditions)) issued by each Issuer from time to time under the Programme on or after the date of this Base Prospectus (see the section entitled “Form of the Original Guarantee”), and (b) will in a guarantee to be executed by BAC, substantially in the form contained in the section entitled “Form of Swiss COSI Securities Guarantee” in this Base Prospectus (the “**Swiss COSI Securities Guarantee**”, and, together with the Original Guarantee, the “**Guarantees**” and each a “**Guarantee**”) conditionally but irrevocably guarantee MLICo.’s payment obligations to the extent of any Shortfall (as defined in the W&C Conditions) in respect of the Swiss COSI Securities issued by MLICo. from time to time under the Programme on or after the date of the Swiss COSI Securities Guarantee (see the section entitled “Form of the Swiss COSI Securities Guarantee”). **Each of the Guarantees will be governed by, and construed in accordance with, the laws of the State of New York.**

The maximum aggregate nominal amount of all Notes from time to time outstanding under the Programme and MLSA's other structured products programmes will not exceed EUR 15,000,000,000 (or its equivalent in other currencies), subject to increase as described herein.

Application has been made to the *Commission de Surveillance du Secteur Financier* (the "**CSSF**") in its capacity as competent authority under the Luxembourg Act dated 10 July 2005 on prospectuses for securities, to approve this Base Prospectus as a base prospectus. Pursuant to Article 7 (7) of the Luxembourg Law on Prospectuses for Securities dated 10 July 2005, by approving this Base Prospectus, the CSSF gives no undertaking as to, and assumes no responsibility for, the economic and financial characteristics of the Securities to be issued hereunder or the quality and solvency of any Issuer. Application has also been made to the Luxembourg Stock Exchange for Securities issued under the Programme to be admitted to trading on the Luxembourg Stock Exchange's regulated market and to be listed on the Official List of the Luxembourg Stock Exchange. The Luxembourg Stock Exchange's regulated market is a regulated market for the purposes of Directive 2004/39/EC. Application has also been made to the Luxembourg Stock Exchange for Securities issued under the Programme to be admitted to trading on the Luxembourg Stock Exchange's alternative market – Euro MTF – and to be listed on the Official List of the Luxembourg Stock Exchange. The Programme provides that Securities may be listed or admitted to trading, as the case may be, on such further or other stock exchanges or markets as the relevant Issuer and the Dealer(s) (as defined herein) may agree. The applicable Final Terms will specify whether or not the Securities are to be listed on the Official List of the Luxembourg Stock Exchange and traded on the regulated market, Euro MTF and/or any other stock exchanges. The relevant Issuer may also issue unlisted Securities and/or Securities not admitted to trading on any market.

Any person (an "**Investor**") intending to acquire or acquiring any Securities from any person (an "**Offeror**") should be aware that, in the context of an offer of Securities to the public as defined in the Prospectus Directive, the relevant Issuer may be responsible to the Investor for this Base Prospectus only if such Issuer is acting in association with that Offeror to make the offer to the Investor. Each Investor should therefore verify with the Offeror whether or not the Offeror is acting in association with the relevant Issuer. If the Offeror is not acting in association with the such Issuer, the Investor should check with the Offeror whether anyone is responsible for this Base Prospectus for the purposes of Article 6 of the Prospectus Directive as implemented by the national legislation of each European Economic Area Member State in the context of the offer to the public, and, if so, who that person is. If the Investor is in any doubt about whether it can rely on this Base Prospectus and/or who is responsible for its contents it should take legal advice.

In respect of Securities to be listed on the SIX Swiss Exchange AG (the "**SIX Swiss Exchange**"), the relevant Term Sheet (as defined below), if any, and/or Final Terms in respect of such Securities will specify that such Securities will be listed on the SIX Swiss Exchange and application for trading of such Securities on Scoach Switzerland or any successor thereto ("**Scoach Switzerland**") has been or will be made. In the case of a listing of Securities on the SIX Swiss Exchange, this Base Prospectus will constitute the base prospectus for the SIX Swiss Exchange registered issuance programme pursuant to Section 21 of the Additional Rules for the Listing of Derivatives of the SIX Swiss Exchange and may be supplemented from time to time by filing an appropriate supplement (each a "**Supplement**") with the SIX Swiss Exchange modifying, updating or amending the information contained herein. In respect of Securities to be listed on the SIX Swiss Exchange, this Base Prospectus, together with any Supplement and the applicable Final Terms, will constitute the listing prospectus pursuant to the Listing Rules of the SIX Swiss Exchange.

In respect of Securities which will not be listed on the SIX Swiss Exchange or which will be listed on the SIX Swiss Exchange only after the commencement of trading, such Issuer may prepare a term sheet (the "**Term Sheet**") setting forth, on a preliminary basis, certain information with respect to such Securities, the date of issue, the issue price, the redemption amount, the redemption date, the notional amount, the capital protection, the coupon, the strike price, the knock-in price (each as applicable) and any additional information required by applicable law or SIX Swiss Exchange regulations, provided that the relevant Issuer reserves the right to set forth any and all information which may be required to be disclosed in a simplified prospectus pursuant to Art. 5 of the Swiss Federal Act on Collective Investment Schemes and any implementing ordinance or other act or regulation or self-regulation in the Final Terms or a separate document (the "**Simplified Prospectus**"). Any Term Sheet prepared shall be subject to the Final Terms and Simplified Prospectus, if any, for the relevant Securities.

The Securities, the Guarantees and, in certain cases, the Entitlement (as defined herein) (if any) relating to the Securities have not been and will not be registered under the U.S. Securities Act of 1933, as amended (the “**Securities Act**”), or under any U.S. state securities laws, and the Securities may not be offered, sold, transferred, pledged, delivered, exercised or redeemed, directly or indirectly, at any time within the United States or to, or for the account or benefit of, any United States Person (as defined herein) except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act. In addition, certain issues of Securities, including all issues of Notes and Certificates, and the Entitlements (if any) relating to such Securities may not at any time be offered, sold or delivered in the United States or to, or for the account or benefit of, United States Persons, nor may any United States Persons at any time trade or maintain a position in such Securities. Neither Issuer has registered as an investment company pursuant to the United States Investment Company Act of 1940, as amended (the “**1940 Act**”) and the rules thereunder. MLICo. may offer and sell Warrants of certain issues within the United States or to, or for the account or benefit of, United States Persons, if such persons are reasonably believed by MLICo. to be qualified institutional buyers (each a “**QIB**”) as defined in Rule 144A under the Securities Act (“**Rule 144A**”) who are also each a qualified purchaser (each a “**QP**”) within the meaning of Section 3(c)(7) and as defined in Section 2(a)(51) of the 1940 Act and the rules thereunder and who have executed an Investor Representation Letter (as defined herein) prior to acquiring any interest in the Warrants, such Warrants being referred to in this Base Prospectus as “**Rule 144A Warrants**”. Each purchaser of Rule 144A Warrants being offered within the United States or to, or for the account or benefit of, a United States Person is hereby notified that the offer and sale of such Rule 144A Warrants is being made in reliance upon an exemption from the securities registration requirements of the Securities Act and the investment company registration requirements of the 1940 Act. In certain circumstances, exercise of Securities will be conditional upon certification as to non-U.S. beneficial ownership or in the case of certain Series of Warrants that the holder (and any person on whose behalf the holder is acting) is a QIB and a QP. See “Terms and Conditions of the W&C Securities” on pages 219 to 282 and “Additional Terms and Conditions for Rule 144A Warrants” on pages 470 to 477. Investors in the Securities will be deemed to have made or be required to make certain representations and warranties in connection with purchasing the Securities. See “Notice to Purchasers and Holders of Securities and Transfer Restrictions” on pages 503 to 514. Warrants sold in the United States or to, or for the account or benefit of, United States Persons who are QIBs and also QPs will be cash-settled Warrants only and will, unless otherwise specified in the applicable Final Terms, be sold through Merrill Lynch, Pierce, Fenner & Smith Incorporated or one of its affiliates, which in each case is a registered broker dealer in the United States.

Unless otherwise indicated, as used in this Base Prospectus, “**United States Person**” means a person which is a “U.S. person” as defined by Regulation S under the Securities Act or a “United States person” as defined in Section 7701(a)(30) of the United States Internal Revenue Code of 1986, as amended (the “**Code**”) and in U.S. Treasury regulations.

For a description of certain further restrictions on offers and sales of the Securities and on the distribution of this Base Prospectus, see “Offering and Sale” on pages 551 to 563.

Each issue of Securities will be issued in the form set out in “Form of the Securities” on pages 97 to 104.

**Prospective purchasers of Securities should ensure that they understand the nature of the relevant Securities and the extent of their exposure to risks and that they consider the suitability of the relevant Securities as an investment in the light of their own circumstances and financial condition. Securities involve a high degree of risk and potential investors should be prepared to sustain a total loss of the purchase price of their Securities. See “Risk Factors” on pages 33 to 90.**

**The credit ratings of BAC referred to in this Base Prospectus have been issued by Standard & Poor’s Financial Services LLC, Moody’s Investors Service, Inc., and Fitch, Inc., none of which is established in the European Union or registered under Regulation (EC) No. 1060/2009, as amended by Regulation (EU) No. 513/2011 (the “CRA Regulation”). Credit ratings and outlooks may be adjusted over time, and there is no assurance that these credit ratings will be effective after the date of this Base Prospectus.**

The rating of a certain series of Securities to be issued under the Programme may be specified in the applicable Final Terms. Whether or not each credit rating applied for in relation to the relevant series of Securities will be issued by a credit rating agency established in the European Union and registered under the CRA Regulation will be disclosed in the Final Terms. The list of credit rating agencies registered under the CRA Regulation (as updated from time to time) is published on the website of the European Securities and Market Authority ([www.esma.europa.eu](http://www.esma.europa.eu)). In general, European regulated investors are restricted from using a rating for regulatory purposes if such rating is not issued by a credit rating agency established in the European Union and registered under the CRA Regulation unless the rating is provided by a credit rating agency operating in the European Union before 7 June 2010 which has submitted an application for registration in accordance with the CRA Regulation and such registration is not refused.

**BofA MERRILL LYNCH**

## IMPORTANT NOTICES

**This Base Prospectus has been approved by the CSSF as a Base Prospectus, and constitutes two Base Prospectuses for the purposes of Article 5.4 of the Prospectus Directive. This Base Prospectus is not a prospectus for purposes of Section 12(a)(2) or any other provision of or rule under the Securities Act.**

**MLSA accepts responsibility for the information contained in this Base Prospectus, excluding the information set forth under “Merrill Lynch International & Co. C.V.” on pages 519 to 520, the information set forth under “Selected Financial Data of Merrill Lynch International & Co. C.V.” on pages 521 to 522, the information set forth under “Bank of America Corporation” on pages 523 to 526, the information set forth under “Selected Financial Data of Bank of America Corporation” on page 527 to 528, the information set forth under “Annex 11 – Additional Terms and Conditions for Rule 144A Warrants” on pages 470 to 477, the information set out under “Annex 12 – Additional Terms and Conditions for Saudi Share Linked Warrants” on pages 478 to 483, information incorporated by reference in respect of MLICo. and BAC, and statements in respect of MLICo. and BAC under “General Information” on pages 564 to 567 (together, the “MLSA Base Prospectus”), and to the best of the knowledge of MLSA (having taken all reasonable care to ensure that such is the case), the information contained in the MLSA Base Prospectus is in accordance with the facts and does not omit anything likely to affect the import of such information.**

**MLICo. accepts responsibility for the information contained in this Base Prospectus, excluding the information set forth under “Merrill Lynch S.A.” on pages 515 to 516, the information set forth under “Selected Financial Data of Merrill Lynch S.A.” on pages 517 to 518, the information set forth under “Bank of America Corporation” on pages 523 to 526, the information set forth under “Selected Financial Data of Bank of America Corporation” on pages 527 to 528, the information set forth under “Form of Final Terms of the Notes” on pages 105 to 139, the information set forth under “Terms and Conditions of the Notes” on pages 140 to 176, the information set forth under “Annex 9A – Additional Terms and Conditions for Credit Linked Notes” on pages 360 to 412, the information set forth under “Annex 10 – Additional Terms and Conditions for Physical Delivery Notes” on pages 465 to 469, information incorporated by reference in respect of MLSA and BAC, and statements in respect of MLSA and BAC under “General Information” on pages 564 to 567 (together, the “MLICo. Base Prospectus”), and to the best of the knowledge of MLICo. (having taken all reasonable care to ensure that such is the case), the information contained in the MLICo. Base Prospectus is in accordance with the facts and does not omit anything likely to affect the import of such information.**

**BAC accepts responsibility for the information contained in this Base Prospectus, excluding the information set forth under “Merrill Lynch S.A.” on pages 515 to 516, the information set forth under “Selected Financial Data of Merrill Lynch S.A.” on pages 517 to 518, the information set forth under “Merrill Lynch International & Co. C.V.” on pages 519 to 520, the information set forth under “Selected Financial Data of Merrill Lynch International & Co. C.V.” on pages 521 to 522, information incorporated by reference in respect of MLSA and MLICo. and statements in respect of MLSA and MLICo. under “General Information” on pages 564 to 567 (together, the “BAC Information”), and to the best of the knowledge of BAC (having taken all reasonable care to ensure that such is the case), the information contained in the BAC Information is in accordance with the facts and does not omit anything likely to affect the import of such information.**

**The previous three paragraphs should be read in conjunction with the third paragraph on the second page of this Base Prospectus.**

**In relation to any Securities that are listed on the SIX Swiss Exchange, MLSA confirms that the information contained in the MLSA Base Prospectus is, to the best of MLSA’s knowledge, correct, and that no material facts or circumstances have been omitted from the MLSA Base Prospectus.**

**In relation to any Securities that are listed on the SIX Swiss Exchange, MLICo. confirms that the information contained in the MLICo. Base Prospectus is, to the best of MLICo.’s knowledge, correct, and that no material facts or circumstances have been omitted from the MLICo. Base Prospectus.**

**In relation to any Securities that are listed on the SIX Swiss Exchange, BAC confirms that the BAC Information is, to the best of BAC’s knowledge, correct, and that no material facts or circumstances have been omitted from the BAC Information.**

**Subject as provided in the applicable Final Terms, the only persons authorised to use this Base Prospectus in connection with an offer of Securities are the persons named in the applicable Final Terms**



as the relevant Issuer or the relevant Dealer(s) or Manager(s) and the persons named in or identifiable following the applicable Final Terms as the Financial Intermediaries, as the case may be.

**AN INVESTOR INTENDING TO ACQUIRE OR ACQUIRING ANY SECURITIES FROM AN OFFEROR WILL DO SO, AND OFFERS AND SALES OF THE SECURITIES TO AN INVESTOR BY AN OFFEROR WILL BE MADE, IN ACCORDANCE WITH ANY TERMS AND OTHER ARRANGEMENTS IN PLACE BETWEEN SUCH OFFEROR AND SUCH INVESTOR INCLUDING AS TO PRICE, ALLOCATIONS AND SETTLEMENT ARRANGEMENTS. NEITHER THE RELEVANT ISSUER NOR BAC WILL BE A PARTY TO ANY SUCH ARRANGEMENTS WITH INVESTORS (OTHER THAN THE MANAGER(S) OR DEALER(S) (AS THE CASE MAY BE)), IN CONNECTION WITH THE OFFER OR SALE OF THE SECURITIES AND, ACCORDINGLY, THIS BASE PROSPECTUS AND ANY FINAL TERMS WILL NOT CONTAIN SUCH INFORMATION. THE INVESTOR MUST LOOK TO THE OFFEROR AT THE TIME OF SUCH OFFER FOR THE PROVISION OF SUCH INFORMATION. NEITHER THE RELEVANT ISSUER NOR BAC HAS ANY RESPONSIBILITY TO AN INVESTOR IN RESPECT OF SUCH INFORMATION.**

Information contained in this Base Prospectus which is sourced from a third party has been accurately reproduced and, as far as each Issuer and BAC is aware and is able to ascertain from information published by the relevant third party, no facts have been omitted which would render the reproduced information inaccurate or misleading. Each Issuer has also identified the source(s) of such information.

The applicable Final Terms (if applicable) will specify the nature of the responsibility taken by the relevant Issuer and BAC for the information relating to the Reference Item to which the relevant Securities relate and which is contained in such Final Terms.

## **NOTICE TO NEW HAMPSHIRE RESIDENTS**

**NEITHER THE FACT THAT A REGISTRATION STATEMENT OR AN APPLICATION FOR A LICENSE HAS BEEN FILED UNDER CHAPTER 421-B OF THE NEW HAMPSHIRE REVISED STATUTES WITH THE STATE OF NEW HAMPSHIRE NOR THE FACT THAT A SECURITY IS EFFECTIVELY REGISTERED OR A PERSON IS LICENSED IN THE STATE OF NEW HAMPSHIRE CONSTITUTES A FINDING BY THE SECRETARY OF STATE OF NEW HAMPSHIRE THAT ANY DOCUMENT FILED UNDER CHAPTER 421-B IS TRUE, COMPLETE AND NOT MISLEADING. NEITHER ANY SUCH FACT NOR THE FACT THAT AN EXEMPTION OR EXCEPTION IS AVAILABLE FOR A SECURITY OR A TRANSACTION MEANS THAT THE SECRETARY OF STATE HAS PASSED IN ANY WAY UPON THE MERITS OR QUALIFICATIONS OF, OR RECOMMENDED OR GIVEN APPROVAL TO, ANY PERSON, SECURITY OR TRANSACTION. IT IS UNLAWFUL TO MAKE, OR CAUSE TO BE MADE, TO ANY PROSPECTIVE PURCHASER, CUSTOMER OR CLIENT ANY REPRESENTATION INCONSISTENT WITH THE PROVISIONS OF THIS PARAGRAPH.**

No person is or has been authorised by MLSA, MLICo., BAC or Merrill Lynch International (“MLI”)\* to give any information or to make any representation not contained in or not consistent with this Base Prospectus or any other information supplied in connection with the Programme and, if given or made, such information or representation must not be relied upon as having been authorised by MLSA, MLICo., BAC, MLI or any other Dealer of an issue of Securities. This Base Prospectus does not constitute, and may not be used for the purposes of, an offer or solicitation by anyone in any jurisdiction in which such offer or solicitation is not authorised or to any person to whom it is unlawful to make such offer or solicitation and no action is being taken to permit an offering of the Securities or the distribution of this Base Prospectus in any jurisdiction where any such action is required.

This Base Prospectus is to be read and construed in conjunction with all documents which are deemed to be incorporated herein by reference (see “Documents Incorporated by Reference” on pages 12 to 19).

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\* The marketing name of MLI is BofA Merrill Lynch as set out on page 3.

**This Base Prospectus shall be read and construed on the basis that such documents are incorporated in and form part of this Base Prospectus.**

**The Securities of each issue may be sold by the relevant Issuer and/or any Dealer at such time and at such prices as the relevant Issuer and/or the Dealer(s) may select. There is no obligation upon the relevant Issuer or any Dealer to sell all of the Securities of any issue. The Securities of any issue may be offered or sold from time to time in one or more transactions in the over-the-counter market or otherwise at prevailing market prices or in negotiated transactions, at the discretion of the relevant Issuer.**

**Subject as provided in the “Terms and Conditions of the Notes” and the “Terms and Conditions of the W&C Securities”, as applicable, each Issuer shall have complete discretion as to what type of Securities it issues and when.**

**Apart from the Issuers and BAC, no other party has independently verified the information contained herein. Accordingly, no representation, warranty or undertaking, express or implied, is made and no responsibility or liability is accepted by any Dealer as to the accuracy or completeness of the information contained in this Base Prospectus or any other information provided by MLSA, MLICo. and/or BAC. No Dealer accepts any liability in relation to the information contained or incorporated by reference in this Base Prospectus or any other information provided by MLSA, MLICo. and/or BAC in connection with the Programme.**

**Neither this Base Prospectus nor any other information supplied in connection with the Programme or any Securities (a) is intended to provide the basis of any credit or other evaluation or (b) should be considered as a recommendation by MLSA, MLICo., BAC or any Dealer that any recipient of this Base Prospectus or any other information supplied in connection with the Programme or any Securities should purchase any Securities. Each investor contemplating purchasing any Securities should make its own independent investigation of the financial condition and affairs, and its own appraisal of the creditworthiness, of the relevant Issuer and BAC. Neither this Base Prospectus nor any other information supplied in connection with the Programme or any issue of Securities constitutes an offer or an invitation by or on behalf of MLSA, MLICo., BAC or any Dealer or any other person to subscribe for or to purchase any Securities.**

**Neither the delivery of this Base Prospectus nor the offering, sale or delivery of any Securities shall in any circumstances imply that the information contained herein concerning MLSA, MLICo. and BAC is correct at any time subsequent to the date hereof or that any other information supplied in connection with the Programme is correct as of any time subsequent to the date indicated in the document containing the same. No Dealer undertakes to review the financial condition or affairs of MLSA, MLICo. and/or BAC during the life of the Programme or to advise any investor in the Securities of any information coming to their attention.**

**This Base Prospectus does not constitute an offer to sell or the solicitation of an offer to buy any Securities in any jurisdiction to any person to whom it is unlawful to make such offer or solicitation in such jurisdiction. The distribution of this Base Prospectus and the offer or sale of Securities may be restricted by law in certain jurisdictions. None of MLSA, MLICo., BAC or any Dealer represents that this Base Prospectus may be lawfully distributed, or that any Securities may be lawfully offered, in compliance with any applicable registration or other requirements in any jurisdiction, or pursuant to an exemption available thereunder, or assumes any responsibility for facilitating any such distribution or offer. In particular, unless specifically indicated to the contrary in the applicable Final Terms, no action has been taken by MLSA, MLICo., BAC or any Dealer which is intended to permit a public offering of any Securities or distribution of this Base Prospectus in any jurisdiction where action for that purpose is required. Accordingly, no Securities may be offered or sold, directly or indirectly, and neither this Base Prospectus nor any advertisement or other offering material may be distributed or published in any jurisdiction, except under circumstances that will result in compliance with any applicable laws and regulations. Persons into whose possession this Base Prospectus or any Securities may come must inform themselves about, and observe, any such restrictions on the distribution of this Base Prospectus and the offering and sale of Securities. In particular, there are restrictions on the distribution of this Base Prospectus and the offer or sale of Securities in the United States, the European Economic Area (including Luxembourg, the United Kingdom, France, Italy and The Netherlands), Argentina, Australia, Bahrain, China, Curaçao, Hong Kong, Indonesia, Israel, Japan, Malaysia, Panama, Philippines, Russia, Singapore, Switzerland, Taiwan and Uruguay, and such other restrictions as may be required in connection with the offering and sale of a particular series of Securities (see “Offering and Sale” on pages 551 to 563). In particular, the Securities, the Guarantees and, in certain cases, the Entitlement to be**

delivered upon exercise of the Securities, have not been and will not be registered under the Securities Act.

This Base Prospectus has been prepared on the basis that, except to the extent sub-paragraph (b) below may apply, any offer of Securities in any Member State of the European Economic Area which has implemented the Prospectus Directive (each, a “Relevant Member State”) will be made pursuant to an exemption under the Prospectus Directive, as implemented in that Relevant Member State, from the requirement to publish a prospectus for offers of Securities. Accordingly any person making or intending to make an offer in that Relevant Member State of Securities which are the subject of an offering contemplated in this Base Prospectus as completed by final terms in relation to the offer of those Securities may only do so (a) in circumstances in which no obligation arises for the relevant Issuer or any Dealer to publish a prospectus pursuant to Article 3 of the Prospectus Directive or supplement a prospectus pursuant to Article 16 of the Prospectus Directive, in each case, in relation to such offer, or (b) if a prospectus for such offer has been approved by the competent authority in that Relevant Member State or, where appropriate, approved in another Relevant Member State and notified to the competent authority in that Relevant Member State, and (in either case) published, all in accordance with the Prospectus Directive, provided that, any such prospectus has subsequently been completed by final terms which specify that offers may be made other than pursuant to Article 3(2) of the Prospectus Directive in that Relevant Member State, and such offer is made in the period beginning and ending on the dates specified for such purpose in such prospectus or final terms, as applicable. Except to the extent sub-paragraph (b) above may apply, neither the relevant Issuer nor any Dealer have authorised, nor do they authorise, the making of any offer of Securities in circumstances in which an obligation arises for the relevant Issuer or any Dealer to publish or supplement a prospectus for such offer.

Securities in bearer form are subject to U.S. tax law requirements and may not be offered, sold or delivered within the United States or its possessions or to United States persons, except in certain transactions permitted by U.S. tax regulations. Unless otherwise noted, as used in this Base Prospectus, “United States” means the United States of America (including the States and District of Columbia) and its possessions. For the purposes of this paragraph, “United States person” has the meaning given to it by the Code and the U.S. Treasury regulations thereunder, including U.S. Treasury Regulation Section 1.163-5(c)(2)(i)(D).

No Securities, other than Rule 144A Warrants, or any interests therein, may at any time be offered, sold, resold, pledged, assigned, delivered, or otherwise transferred, exercised or redeemed directly or indirectly, in the United States or to, or for the account or benefit of, United States Persons and any offer, sale, resale, pledge, assignment, delivery or other transfer, exercise or redemption made, directly or indirectly, within the United States or to, or for the account or benefit of, a United States Person will not be recognised.

The Securities and the Guarantees have not been approved or disapproved by the United States Securities and Exchange Commission (the “SEC”) or any other securities commission or other regulatory authority in the United States, nor have the foregoing authorities reviewed or passed upon the accuracy or adequacy of this Base Prospectus. Any representation to the contrary is a criminal offence in the United States. None of the Securities or Guarantees have been approved by the Commodity Futures Trading Commission under the United States Commodity Exchange Act of 1936, as amended.

This Base Prospectus is being submitted on a confidential basis in the United States to a limited number of QIBs who are also QPs for informational use solely in connection with the consideration of the purchase of the Warrants. It may not be copied or reproduced in whole or in part nor may it be distributed or any of its contents disclosed to anyone other than the prospective investors to whom it is originally submitted.

Each purchaser or holder of interests in the Warrants will be deemed, by its acceptance or purchase of any such Warrants, to have made, or will be required to make, certain representations and agreements as set out in “Notice to Purchasers and Holders of Securities and Transfer Restrictions” and “Offering and Sale”.

Notwithstanding anything to the contrary contained herein, each holder and beneficial owner of the Securities (and each employee, representative, or other agent of each holder and beneficial owner of the Securities) may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the transactions described herein and all materials of any kind that are provided to the holder or beneficial owner of the Securities relating to such tax treatment and tax structure (as such terms are defined in U.S. Treasury Regulation Section 1.6011-4). This authorisation of tax disclosure is retroactively



effective to the commencement of discussions with holders or beneficial owners of the Securities regarding the transactions contemplated herein.

None of MLSA, MLICo. or BAC has investigated, and none has or may have access to information that would permit it to ascertain, whether any company which has issued equity, debt or other instruments to which any Securities relate is for U.S. tax purposes a passive foreign investment company, a controlled foreign corporation, a publicly-traded partnership or other type of pass-through entity. Prospective investors in any Securities that are U.S. taxpayers should consult their own advisers concerning U.S. tax considerations relevant to an investment in such Securities.

If Securities are linked to Reference Items that are Shares or Debt Instruments of one or more United States issuers, such Shares or Debt Instruments must be registered with the U.S. Securities and Exchange Commission. In addition, if Securities are linked to Reference Items that are (i) Shares or Debt Instruments of one or more United States issuers or (ii) indices comprised of stock, Shares, Debt Instruments or other securities of United States issuers, such United States issuers must be, at the time of the issuance of the relevant Securities, a reporting issuer under the U.S. Securities Exchange Act of 1934, as amended.

In this Base Prospectus, references to “U.S.\$”, “\$” and “U.S. dollars” are to United States Dollars, references to “euro” and “€” are to the currency introduced at the start of the third stage of European economic and monetary union pursuant to the Treaty establishing the European Community, as amended by the Treaty on European Union, as amended by the Treaty of Amsterdam (as amended from time to time) and references to “CNY” are to Chinese Renminbi, the lawful currency of the People’s Republic of China (including any lawful successor to the CNY).

In connection with the issue of any Series of Notes, the Dealer or Dealers (if any) named as the Stabilising Manager(s) (or persons acting on behalf of any Stabilising Manager(s)) in the applicable Final Terms may over-allot Notes or effect transactions with a view to supporting the market price of the Notes at a level higher than that which might otherwise prevail. However, there is no assurance that the Stabilising Manager(s) (or persons acting on behalf of a Stabilising Manager) will undertake stabilisation action. Any stabilisation action may begin on or after the date on which adequate public disclosure of the terms of the offer of the relevant Series of Notes is made and, if begun, may be ended at any time, but it must end no later than the earlier of 30 calendar days after the issue date of the relevant Series of Notes and 60 calendar days after the date of the allotment of the relevant Series of Notes. Any stabilisation action or over-allotment must be conducted by the relevant Stabilising Manager(s) (or persons acting on behalf of any Stabilising Manager(s)) in accordance with all applicable laws and rules.

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### **AVAILABLE INFORMATION**

BAC will provide, without charge, to each person to whom a copy of this Base Prospectus has been delivered, upon the oral or written request of such person, a copy of any or all of the documents relating to BAC incorporated herein by reference. Written requests for such documents should be directed to: Bank of America Corporation, 100 North Tryon Street, Charlotte, North Carolina 28255-0065, Attention: Fixed Income Investor Relations, or [fixedincomeir@bankofamerica.com](mailto:fixedincomeir@bankofamerica.com). Telephone requests may be directed to either +1-866-607-1234 (toll free) or +1-212-449-6795. BAC's filings with the SEC are available through (1) the SEC's website at [www.sec.gov](http://www.sec.gov), or the SEC's Public Reference Room, 100 F Street, N.E., Room 1580, Washington, D.C. 20549, and (2) BAC's website at [www.bankofamerica.com](http://www.bankofamerica.com). In addition, all documents incorporated herein by reference will be available for viewing on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)) or at the specified offices of the Principal Security Agent. References to web addresses in this Base Prospectus are included as inactive textual references only. Except as specifically incorporated by reference into this Base Prospectus, information on these websites is not part of this Base Prospectus.

## DOCUMENTS INCORPORATED BY REFERENCE

The following documents, which have previously been published and have been filed with the CSSF shall be deemed to be incorporated in, and to form part of, this Base Prospectus:

- (a) BAC's Annual Report on Form 10-K for the year ended 31 December 2011 (the "**BAC 2011 Annual Report**");
- (b) BAC's Quarterly Report on Form 10-Q for the period ended 31 March 2012 (the "**BAC 31 March 2012 Quarterly Report**");
- (c) BAC's Current Reports on Form 8-K filed on 19 January 2012 (the "**BAC 19 January 2012 Form 8-K**"), 10 February 2012 (the "**BAC 10 February 2012 Form 8-K**"), 16 March 2012 (the "**BAC 16 March 2012 Form 8-K**"), 19 April 2012 (the "**BAC 19 April 2012 Form 8-K**"), 4 May 2012 (the "**BAC 4 May 2012 Form 8-K**") and 9 May 2012 (the "**BAC 9 May 2012 Form 8-K**" and, together with the BAC 19 January 2012 Form 8-K, the BAC 10 February 2012 Form 8-K, the BAC 16 March 2012 Form 8-K, the BAC 19 April 2012 Form 8-K and the BAC 4 May 2012 Form 8-K, the "**BAC Forms 8-K**") (other than, with respect to these reports, information that is furnished but deemed not to have been filed under the rules of the SEC);
- (d) MLSA's audited financial statements as at and for the year ended 31 December 2010 and the auditor's report dated 19 April 2011 thereon (the "**MLSA 2010 Accounts**") and as at and for the year ended 31 December 2011 and the auditor's report dated 25 April 2012 thereon (the "**MLSA 2011 Accounts**");
- (e) MLICo.'s audited financial statements as at and for the year ended 31 December 2010 and the auditor's report dated 28 April 2011 thereon (the "**MLICo. 2010 Accounts**") and as at and for the year ended 31 December 2011 and the auditor's report dated 21 May 2012 thereon (the "**MLICo. 2011 Accounts**");
- (f) for the purpose of any issue of Notes under the Programme which are to be consolidated and form a single series with an existing tranche or series of Notes issued on or after 15 September 2009 or for the purpose of any other Series of Notes in respect of which the applicable Final Terms provides that the 2009 Note Conditions apply, the form of final terms of the Notes (the "**2009 Note Final Terms**") on pages 74 to 112 of the base prospectus of the Issuers dated 15 September 2009 (the "**2009 Base Prospectus**"), the terms and conditions of the Notes on pages 113 to 140 of the 2009 Base Prospectus (the "**2009 Note Conditions**"), the annexes on pages 227 to 347 of the 2009 Base Prospectus (the "**2009 Annexes**") and the form of guarantee on pages 348 to 349 of the 2009 Base Prospectus (the "**2009 Form of Guarantee**");
- (g) for the purpose of any issue of W&C Securities under the Programme which are to be consolidated and form a single series with an existing tranche or series of W&C Securities issued on or after 15 September 2009 or for the purpose of any other Series of W&C Securities in respect of which the applicable Final Terms provides that the 2009 W&C Conditions apply, the form of final terms of the W&C Securities on pages 142 to 179 of the 2009 Base Prospectus (the "**2009 W&C Final Terms**"), the terms and conditions of the W&C Securities on pages 180 to 225 of the 2009 Base Prospectus (the "**2009 W&C Conditions**"), the 2009 Annexes and the 2009 Form of Guarantee;
- (h) for the purpose of any issue of Notes under the Programme which are to be consolidated and form a single series with an existing tranche or series of Notes issued on or after 22 June 2010 or for the purpose of any other Series of Notes in respect of which the applicable Final Terms provides that the 2010 Note Conditions apply, the form of final terms of the Notes (the "**2010 Note Final Terms**") on pages 74 to 116 of the base prospectus of the Issuers dated 22 June 2010 (the "**2010 Base Prospectus**"), the terms and conditions of the Notes on pages 117 to 145 of the 2010 Base Prospectus (the "**2010 Note Conditions**"), the annexes on pages 238 to 367 of the 2010 Base Prospectus (the "**2010 Annexes**") and the form of guarantee on pages 376 to 378 of the 2010 Base Prospectus (the "**2010 Form of Guarantee**");
- (i) for the purpose of any issue of W&C Securities under the Programme which are to be consolidated and form a single series with an existing tranche or series of W&C Securities issued on or after 22 June 2010 or for the purpose of any other Series of W&C Securities in respect of which the applicable Final Terms provides that the 2010 W&C Conditions apply, the form of final terms of the W&C Securities (the "**2010 W&C Final Terms**") on pages 147 to 184 of the 2010 Base Prospectus, the terms and conditions of the W&C Securities on pages 185 to 236 of the 2010 Base Prospectus (the "**2010 W&C Conditions**"), the 2010 Annexes and the 2010 Form of Guarantee;

- (j) for the purpose of any issue of Share Linked Securities, FX Linked Securities, Commodity Linked Securities and Fund Linked Securities under the Programme which are to be consolidated and form a single series with an existing tranche or series of Share Linked Securities, FX Linked Securities, Commodity Linked Securities and Fund Linked Securities on or after 11 August 2010, the 2010 W&C Final Terms, the 2010 W&C Conditions, the 2010 Annexes, the 2010 Form of Guarantee and supplement no. 2 dated 11 August 2010 to the 2010 Base Prospectus (the “**11 August 2010 Supplement**”);
- (k) for the purpose of any issue of Saudi Share Linked Warrants under the Programme which are to be consolidated and form a single series with an existing tranche or series of Saudi Share Linked Warrants issued on or after 8 March 2011, the 2010 W&C Conditions, the 2010 Annexes, and supplement no. 8 dated 8 March 2011 to the 2010 Base Prospectus (the “**8 March 2011 Saudi Share Linked Warrants Supplement**”) containing the form of final terms for Saudi Share Linked Warrants;
- (l) for the purpose of any issue of Finnish Securities under the Programme which are to be consolidated and form a single series with an existing tranche or series of Finnish Securities issued on or after 23 March 2011, the 2010 W&C Final Terms, the 2010 W&C Conditions, the 2010 Annexes and supplement no. 9 dated 23 March 2011 to the 2010 Base Prospectus (the “**23 March 2011 Finnish Securities Supplement**”) containing the form of guarantee for such Finnish Securities;
- (m) for the purpose of any issue of Notes under the Programme which are to be consolidated and form a single series with an existing tranche or series of Notes issued on or after 22 June 2011 or for the purpose of any other Series of Notes in respect of which the applicable Final Terms provides that the 2011 Note Conditions apply, the form of final terms of the Notes (the “**2011 Note Final Terms**”) on pages 92 to 123 of the base prospectus of the Issuers dated 22 June 2011 (the “**2011 Base Prospectus**”), the terms and conditions of the Notes on pages 124 to 160 of the 2011 Base Prospectus (the “**2011 Note Conditions**”), the annexes on pages 261 to 457 of the 2011 Base Prospectus (the “**2011 Annexes**”) and the form of guarantee on pages 458 to 460 of the 2011 Base Prospectus (the “**2011 Form of Guarantee**”);
- (n) for the purpose of any issue of W&C Securities under the Programme which are to be consolidated and form a single series with an existing tranche or series of W&C Securities issued on or after 22 June 2011 or for the purpose of any other Series of W&C Securities in respect of which the applicable Final Terms provides that the 2011 W&C Conditions apply, the form of final terms of the W&C Securities on pages 162 to 200 of the 2011 Base Prospectus (the “**2011 W&C Final Terms**”), the terms and conditions of the W&C Securities on pages 201 to 259 of the 2011 Base Prospectus (the “**2011 W&C Conditions**”), the 2011 Annexes and the 2011 Form of Guarantee; and
- (o) the Framework Agreement for Collateral Secured Instruments (the “**Framework Agreement**”), to be dated on or about 24 May 2012, between SIX Swiss Exchange, SIS, MLICo. and Merrill Lynch Capital Markets AG, Zurich, Switzerland (the “**Collateral Provider**”) pursuant to which the Collateral Provider undertakes to secure the Current Value of the Swiss Securities for which “Collateralisation” is specified to be applicable in the applicable Final Terms.

The historical financial information of BAC on a consolidated basis for the two years ended 31 December 2011 is contained in the BAC 2011 Annual Report and the BAC 4 May 2012 Form 8-K. As disclosed in the BAC 4 May 2012 Form 8-K, effective 1 January 2012, BAC changed its basis of presentation from six business segments to report the results of its operations through five business segments: *Consumer & Business Banking*, *Consumer Real Estate Services*, *Global Banking*, *Global Markets* and *Global Wealth & Investment Management*, with the remaining operations recorded in *All Other*. All updates contained in the BAC 4 May 2012 Form 8-K relate solely to the presentation of segment specific disclosures on a basis consistent with how BAC currently evaluates the results of the segments.

To the extent that this Base Prospectus is used in connection with an issue or offering of Securities under the Programme in circumstances where the Prospectus Directive does not apply and where the Securities are not to be listed on the SIX Swiss Exchange, the following documents, which may be produced or issued from time to time after the date hereof, shall upon publication be deemed to form part of this Base Prospectus. For the avoidance of doubt, the following documents will not form part of this Base Prospectus for the purpose of Article 5.4 of the Prospectus Directive or the Listing Rules of the SIX Swiss Exchange:

- (i) BAC’s annual report on Form 10-K and proxy statements of BAC filed with the SEC after the date of this Base Prospectus; and



- (ii) any other reports filed by BAC with the SEC pursuant to Sections 13(a), 13(c), 14 or 15(d) of the United States Securities Exchange Act of 1934, as amended (the “**Exchange Act**”) and the rules and regulations thereunder subsequent to the date of the financial statements included in the BAC 2011 Annual Report including, without limitation, any quarterly report on Form 10-Q not incorporated by reference into this Base Prospectus.

**Documents Incorporated by Reference Cross-Reference List**  
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<i>Exhibit 12. Ratio of Earnings to Fixed Charges</i>	
<i>Ratio of Earnings to Fixed Charges and Preferred Dividends</i>	<i>Page 253*</i>
<i>Exhibit 99. Consent Judgment filed on March 12, 2012 in the U.S. District Court for the District of Columbia, together with its exhibits, by and among BAC, certain of its affiliates and subsidiaries, 49 state attorneys general, the U.S. Department of Justice, the U.S. Department of Housing and Urban Development and other federal agencies</i>	<i>Pages 258* to 494*</i>
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*2009 Note Conditions* *Pages 113 to 140*  
*2009 W&C Final Terms* *Pages 142 to 179*  
*2009 W&C Conditions* *Pages 180 to 225*  
*2009 Form of Guarantee* *Pages 348 to 349*  
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**2010 Base Prospectus**

*2010 Note Final Terms* *Pages 74 to 116*  
*2010 Note Conditions* *Pages 117 to 145*  
*2010 W&C Final Terms* *Pages 147 to 184*  
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\* These page numbers are references to the PDF pages included in the relevant report.

Any information not listed in the cross reference list but included in the documents incorporated by reference is given for information purposes only.

For the purposes of Article 28.4 of Commission Regulation (EU) No 809/2004, any non-incorporated parts of a document referred to herein are either deemed not relevant for an investor or are otherwise covered elsewhere in this Base Prospectus.

Following publication of this Base Prospectus a supplement may be prepared by the Issuers and BAC and approved by the CSSF in accordance with Article 16 of the Prospectus Directive. Statements contained in any such supplement (or contained in any document incorporated by reference therein) shall, to the extent applicable (whether expressly, by implication or otherwise), be deemed to modify or supersede



statements contained in this Base Prospectus or in a document which is incorporated by reference in this Base Prospectus. Any statement so modified or superseded shall not, except as so modified or superseded, constitute a part of this Base Prospectus.

Investors in the Securities shall be deemed to have notice of all information contained in the documents incorporated by reference into this Base Prospectus, as if all such information were included in this Base Prospectus. Investors who have not previously reviewed such information should do so in connection with their purchase of Securities. Copies of all such documents incorporated by reference will be available for inspection without charge at the office of the Principal Paying Agent in London.

BAC will provide, without charge, to each person to whom a copy of this Base Prospectus has been delivered, upon the oral or written request of such person, a copy of any or all of the documents listed in paragraphs (a) to (c) above. Written requests for such documents should be directed to: Bank of America Corporation, Bank of America Corporate Center, 100 North Tryon Street, Charlotte, North Carolina 28255-0065, Attention: Fixed Income Investor Relations, or [fixedincomeir@bankofamerica.com](mailto:fixedincomeir@bankofamerica.com). Telephone requests may be directed to either +1-866-607-1234 (toll free) or +1-212-449-6795. BAC's filings with the SEC are available through (1) the SEC's website at [www.sec.gov](http://www.sec.gov), or the SEC's Public Reference Room, 100 F Street, N.E., Room 1580, Washington, D.C. 20549, and (2) BAC's website at [www.bankofamerica.com](http://www.bankofamerica.com). Copies of all of the documents incorporated by reference into this Base Prospectus will be available on the Luxembourg Stock Exchange website ([www.bourse.lu](http://www.bourse.lu)). References to web addresses in this Base Prospectus are included as inactive textual references only. Except as specifically incorporated by reference into this Base Prospectus, information on these websites is not part of this Base Prospectus.

The Issuers and BAC will, in the event of any significant new factor, material mistake or inaccuracy relating to information included in this Base Prospectus which is capable of affecting the assessment of any Securities, prepare a supplement to this Base Prospectus or publish a new Base Prospectus for use in connection with any subsequent issue of Securities.

## SUMMARY OF THE PROGRAMME

**This summary must be read as an introduction to this Base Prospectus. Any decision to invest in any Securities should be based on a consideration of this Base Prospectus as a whole, including the documents incorporated by reference. Following the implementation of the relevant provisions of the Prospectus Directive in each Member State of the European Economic Area, no civil liability will attach to the Issuers or BAC in any such Member State in respect of this summary, including any translation thereof, unless it is misleading, inaccurate or inconsistent when read together with the other parts of this Base Prospectus. Where a claim relating to information contained in this Base Prospectus is brought before a court in a Member State of the European Economic Area, the plaintiff may, under the national legislation of the Member State where the claim is brought, be required to bear the costs of translating this Base Prospectus before the legal proceedings are initiated.**

*Words and expressions defined in the “Terms and Conditions of the Notes” or in the “Terms and Conditions of the W&C Securities”, as applicable, and in the remainder of this Base Prospectus shall have the same meanings in this summary. MLSA may issue Notes and Certificates and MLICo. may issue Warrants and Certificates. Notes, Certificates and Warrants are together referred to as “Securities”.*

Issuers:	Merrill Lynch S.A. (“ <b>MLSA</b> ”) Merrill Lynch International & Co. C.V. (“ <b>MLICo.</b> ”)  MLSA is a Luxembourg public limited liability company. The object of MLSA is to make loans and to grant financial assistance in any form whatsoever to companies which are part of its group.  MLICo. is a Curaçao limited partnership of unlimited duration organised under the laws of Curaçao. MLICo. engages primarily in the issuance of warrants and related financial instruments and the distribution of managed fund products.
Guarantor:	Bank of America Corporation (“ <b>BAC</b> ” or the “ <b>Guarantor</b> ”)  BAC is a Delaware corporation, a bank holding company and a financial holding company. BAC provides a diversified range of banking and non-banking financial services and products worldwide.
Description:	Note, Warrant and Certificate Programme
Guarantees:	The payment and non-cash delivery obligations under the Securities (other than Swiss COSI Securities) are unconditionally and irrevocably guaranteed by BAC upon and subject to the terms set out in the Original Guarantee. The payment obligations of MLICo., to the extent of any Shortfall under the relevant Series of Swiss COSI Securities, will be conditionally but irrevocably guaranteed by BAC upon and subject to the terms set out in the Swiss COSI Securities Guarantee.
Calculation Agent:	Merrill Lynch International or such other calculation agent specified in the applicable Final Terms.
Arranger:	Merrill Lynch International
<b>In respect of Notes:</b>	
Issuer:	MLSA
Dealers:	Merrill Lynch International Merrill Lynch Capital Markets AG Merrill Lynch (Singapore) Pte. Ltd.  Notes may also be issued to other dealers and third parties.
Maximum nominal amount of Notes which may be issued under the Programme:	MLSA may issue up to EUR 15,000,000,000 (or its equivalent in other currencies) under this Programme and its other structured products programmes
Principal Paying Agent:	Deutsche Bank AG, London Branch

Registrar:	Deutsche Bank Luxembourg S.A.
Issue Price:	Notes may be issued on a fully-paid or partly-paid basis at an issue price which is at par or a discount to, or a premium over, par. The issue price will be specified in the applicable Final Terms.
Terms of Notes:	<p>Notes may be denominated in any currency specified in the applicable Final Terms with any agreed maturity, subject to compliance with all applicable legal and/or regulatory restrictions. Bearer Notes with maturities of 183 calendar days or less will have a minimum denomination of U.S.\$500,000 (or its equivalent in other currencies).</p> <p>Notes may: (i) bear interest at a fixed or floating rate; (ii) not bear interest; (iii) have an interest amount or rate and/or a redemption amount determined or calculated by reference to one or more specified underlying assets or bases of reference such as indices (including equity, bond, commodity or inflation indices), currency exchange rates, shares (including GDRs and/or ADRs), fund shares or units, commodities or the credit of one or more underlying entities; (iv) be redeemed by physical delivery (“<b>Physical Delivery Notes</b>”) of specified asset(s) (each such underlying asset or basis of reference, a “<b>Reference Item</b>” and any Reference Item linked Notes, “<b>Reference Item Linked Securities</b>”); (v) reference any combination of the foregoing; and/or (vi) have such other terms and conditions as specified in the applicable Final Terms.</p> <p>Interest periods, interest rates and the terms of and/or amounts payable on redemption will be specified in the applicable Final Terms.</p> <p>The Final Terms will indicate either that the relevant Notes may not be redeemed prior to their stated maturity (other than in specified instalments, (if applicable), for taxation reasons, following an Event of Default and acceleration of the Notes, or (if applicable) following an Additional Disruption Event), or that such Notes will be redeemable at the option of the Issuer and/or the Noteholders.</p>
Physical Delivery Notes:	<p>In order to receive the relevant asset(s), a Noteholder must deliver an Asset Transfer Notice on or prior to a specified cut-off time and pay all taxes, duties and/or expenses arising from delivery of the relevant assets. For certain Reference Item Linked Notes, if certain disruption events occur on settlement, the relevant settlement date may be postponed and in certain circumstances the Issuer will be entitled to make payment of a cash amount in lieu of physical delivery.</p> <p>The Original Guarantee provides that, in the case of Physical Delivery Notes, BAC will have the right to elect not to make physical delivery of the Entitlement, but rather to pay the Guaranteed Cash Settlement Amount as specified in the applicable Final Terms.</p>
Negative Pledge:	None
Cross Default:	None
Events of Default:	Terms of the Notes contain, among others, events of default covering non-payment or non-delivery and relating to the insolvency of the Issuer and BAC.
Taxation:	The Issuer or BAC will, subject to certain limitations and exceptions (set forth in Condition 8 of the “Terms and Conditions of the Notes”), pay to Noteholders who are United States Aliens or a Luxembourg Non-resident (each as defined in Condition 8 of the “Terms and Conditions of the Notes”) such additional amounts as

may be necessary so that every net payment of principal or interest or other amount with respect to the Notes or the Original Guarantee after deduction or withholding for or on account of any present or future tax, assessment or other governmental charge imposed upon such Noteholders or by reason of the making of such payment, by the United States or Luxembourg or any political subdivision or taxing authority of or in the United States or Luxembourg, as the case may be, and will not be less than the amount provided for in the Notes or the Guarantee to be then due and payable, except as provided in Condition 8 of the “Terms and Conditions of the Notes”.

**In respect of W&C Securities:**

Issuers:	MLSA (in respect of Certificates only) MLICo. (in respect of Warrants and Certificates)
Dealer:	Merrill Lynch International
Principal Security Agent (for Warrants):	The Bank of New York Mellon, London Branch
Principal Security Agent (for Certificates):	BNP Paribas Securities Services S.C.A., Frankfurt Branch
Registrar (for Warrants):	The Bank of New York Mellon (Luxembourg) S.A.
Registrar (for Certificates):	Deutsche Bank Luxembourg S.A.
Issue Price:	W&C Securities may be issued at such price as shall be determined by the relevant Issuer or Manager appointed in respect of the issue. The issue price will be specified in the applicable Final Terms.
Terms of W&C Securities:	MLSA may from time to time issue Certificates and MLICo. may from time to time issue Warrants and Certificates of any kind, including but not limited to Warrants or Certificates linked to one or more underlying assets or bases of reference such as indices (including equity, bond, commodity or inflation indices), currency exchange rates, shares (including GDRs and/or ADRs), fund shares or units, commodities or the credit of one or more underlying entities (each such underlying asset or basis of reference, a “ <b>Reference Item</b> ” and any Reference Item linked W&C Securities, “ <b>Reference Item Linked Securities</b> ”) or any combination of the foregoing and on such terms as may be determined by the relevant Issuer and specified in the applicable Final Terms.  W&C Securities may or may not pay additional amounts as specified in the applicable Final Terms.
Settlement:	Settlement may be by way of cash payment (“ <b>Cash Settled</b> ”) or physical delivery (“ <b>Physical Delivery</b> ”). Warrants sold in the United States or to, or for the account or benefit of, United States Persons who are QIBs and also QPs, Swedish Securities and Finnish Securities will be Cash Settled only. For certain Physical Delivery W&C Securities, if certain disruption events occur on settlement, the relevant settlement date may be postponed and in certain circumstances the relevant Issuer will be entitled to make payment of a cash amount in lieu of physical delivery.  The Original Guarantee provides that, in the case of Physical Delivery W&C Securities, BAC will have the right to elect not to make physical delivery of the Entitlement, but rather to pay the Guaranteed Cash Settlement Amount as specified in the applicable Final Terms.

Exercise Rights:	<p>European Style Warrants are only exercisable on the Exercise Date.</p> <p>American Style Warrants are exercisable on any Exercise Business Day during the Exercise Period.</p> <p>The applicable Final Terms will specify whether or not Warrants will be automatically exercised.</p> <p>The applicable Final Terms will specify if Warrants may be automatically exercised early (as a result of an Issuer Call, a mandatory early exercise or Holder put).</p> <p>Certificates will be automatically exercised on the Exercise Date. In the case of Physical Delivery Certificates in order to receive the Entitlement in respect of a Certificate, the Holder must deliver a Collection Notice prior to a specified cut-off time and pay all taxes, duties and/or expenses arising from such delivery.</p> <p>The applicable Final Terms will specify if the Exercise Date for Certificates may be brought forward (as a result of an Issuer Call, a mandatory early exercise or a Holder put).</p>
Expenses and Taxation:	<p>A holder of a W&amp;C Security must pay all taxes, duties and/or expenses arising from the exercise and settlement of such W&amp;C Security and/or if applicable, delivery of the Entitlement. The Issuer shall not be liable for tax, duty, withholding or other payment which may arise as a result of the ownership, transfer, exercise or enforcement of any W&amp;C Security and all payments will be made subject to any such tax, duty, withholding or other payment.</p>
Swiss COSI Securities:	<p>Swiss Securities may be collateralised in accordance with the terms of the SIX Swiss Exchange “Framework Agreement for Collateral Secured Instruments” (the “<b>Framework Agreement</b>”), to be dated on or about 24 May 2012, between SIX Swiss Exchange, SIS, MLICo. and Merrill Lynch Capital Markets AG, Zurich, Switzerland (the “<b>Collateral Provider</b>”) pursuant to which the Collateral Provider undertakes to secure the Current Value of the Swiss Securities for which “Collateralisation” is specified to be applicable in the applicable Final Terms.</p>
<b>Reference Item Linked Securities</b>	
Index Linked Securities:	<p>Amounts payable in respect of Index Linked Securities will be calculated by reference to one or more Indices. The Index may reference or be comprised of reference equities, bonds, property, currency exchange rates or other assets or bases of reference.</p> <p>Index Linked Securities may be subject to early redemption or cancellation, as applicable, or adjustment if an Index is modified or cancelled and there is no successor index acceptable to the Calculation Agent, if the Index’s Sponsor fails to calculate and announce the Index, if certain market disruption events occur, or if certain events (such as illegality, disruptions or cost increases) occur with respect to the relevant Issuer’s and/or any Affiliate’s hedging arrangements.</p> <p>If certain disruption events occur with respect to valuation of an Index, such valuation will be postponed and may be made by the Calculation Agent. Payments may also be postponed.</p>
Share Linked Securities:	<p>Amounts payable in respect of Share Linked Securities will be calculated by reference to a single Share or basket of Shares. Share Linked Securities may also provide for settlement by physical delivery of a specified amount of Shares of one or more</p>



companies, subject to payment of the Exercise Price (in case of Warrants) and any other sums payable.

Share Linked Securities may, at the discretion of the relevant Issuer, be subject to early redemption or cancellation, as applicable, or adjustment (including valuation and in certain circumstances Share substitutions) if certain corporate events (such as events affecting the value of a Share (including Share divisions or consolidations, extraordinary dividends and capital calls), de-listing of a Share, insolvency, merger or nationalisation of a Share issuer, a tender offer or redenomination of a Share) occur, if certain events (such as illegality, disruptions or cost increases) occur with respect to the relevant Issuer's and/or any Affiliate's hedging arrangements, or if insolvency filings are made with respect to a Share issuer.

If certain disruption events occur with respect to valuation of a Share, such valuation will be postponed and may be made by the Calculation Agent. Payments may also be postponed.

#### Debt Linked Securities:

Amounts payable in respect of Debt Linked Securities will be calculated by reference to a single Debt Instrument or basket of Debt Instruments. Debt Linked Securities may also provide for settlement by physical delivery of a specified amount of Debt Instruments of one or more issuers, as applicable, subject to payment of the relevant Exercise Price (in the case of Warrants) and any other sums payable.

Certain disruption events affecting trading on exchanges on which the relevant Debt Instrument(s) or options contracts or futures contracts with respect to the Debt Instrument(s) are traded may occur with respect to Debt Linked Securities.

#### GDR/ADR Linked Securities:

Amounts payable in respect of GDR/ADR Linked Securities will be calculated by reference to a single global depositary receipt ("**GDR**") or American depositary receipt ("**ADR**") or a basket of GDRs and/or ADRs. GDR/ADR Linked Securities may also provide for settlement by physical delivery of a specified amount of GDRs and/or ADRs subject to payment of the relevant Exercise Price (in the case of Warrants) and any other sums payable.

GDR/ADR Linked Securities may, at the discretion of the relevant Issuer, be subject to early redemption or cancellation, as applicable, or adjustment (including valuation and in certain circumstances GDR/ADR substitutions) if certain corporate events (such as events affecting the value of a GDR and/or ADR (including GDR, ADR or underlying share divisions or consolidations, extraordinary dividends and capital calls), de-listing of a GDR, ADR or underlying share, insolvency, merger or nationalisation of an underlying share issuer, a tender offer or redenomination of a GDR, ADR and/or underlying share) occur, if certain events (such as illegality, disruptions or cost increases) occur with respect to the relevant Issuer's and/or any Affiliate's hedging arrangements, or if insolvency filings are made with respect to an underlying share issuer.

#### FX Linked Securities:

Amounts payable in respect of FX Linked Securities will be calculated by reference to the rate of exchange of a single currency or basket of currencies. FX Linked Securities may also provide for settlement by physical delivery of a specified amount of the relevant currencies, subject to payment of the relevant Exercise Price (in the case of Warrants) and any other sums payable.

If certain disruption events occur with respect to a rate of exchange of a single currency or basket of currencies, such valuation may be postponed and/or made by the Calculation Agent.

Commodity Linked Securities:	<p>Amounts payable in respect of Commodity Linked Securities will be calculated by reference to a single Commodity and/or Commodity Index or basket of Commodities and/or Commodity Indices. Commodity Linked Securities may also provide for settlement by physical delivery of a specified amount of Commodities, subject to payment of the relevant Exercise Price (in the case of Warrants) and any other sums payable.</p> <p>If certain disruption events occur with respect to valuation of a Commodity or futures or options contracts relating to such Commodity, such valuation may be postponed and/or made by the Calculation Agent. Commodity Linked Securities linked to a Commodity Index may be subject to adjustment if the Commodity Index is modified or cancelled and there is no successor acceptable to the Calculation Agent or if the Commodity Index's sponsor fails to calculate and announce the index.</p>
Fund Linked Securities:	<p>Amounts payable in respect of Fund Linked Securities will be calculated by reference to units, interests or shares in a single Fund or basket of Funds. Fund Linked Securities may also provide for settlement by physical delivery of a specified amount of units, interests or shares of one or more Funds, subject to payment of the relevant Exercise Price (in the case of Warrants) and any other sums payable.</p> <p>Fund Linked Securities may, at the discretion of the relevant Issuer, be subject to early redemption or cancellation, as applicable, or adjustment (including as to valuations and fund substitutions) if certain corporate events (such as insolvency (or an analogous event) or nationalisation of a Fund; litigation against, or regulatory events occurring with respect to, a Fund; suspensions of Fund subscriptions or redemptions; certain changes in net asset value or violations of leverage restrictions of a Fund; Fund reporting disruptions; or modifications to the investment objectives or changes in the nature or administration of a Fund) occur, if certain valuation or settlement disruption events occur with respect to a Fund, or if certain events (such as illegality, disruptions or cost increases) occur with respect to the relevant Issuer's and/or any Affiliate's hedging arrangements.</p> <p>Fund Linked Securities linked to Exchange Traded Funds may be subject to early redemption or cancellation, as applicable, or adjustment (including as to valuation) if certain corporate events (such as events affecting the value of a Fund Share including share divisions or consolidation, de-listing of a Fund Share, insolvency, merger or nationalisation of a Fund Share issuer, or a tender offer of a Fund Share) or modifications of its investment objectives occur or if certain events occur with respect to the Issuer's and/or Affiliate's hedging arrangements.</p> <p>If certain disruption events occur with respect to the valuation of a Fund Share in respect of an Exchange Traded Fund, such valuation may be postponed and may be made by the Calculation Agent. Payments may also be postponed.</p>
Inflation Linked Securities:	<p>Amounts payable in respect of Inflation Linked Securities will be calculated by reference to a single Inflation Index or basket of Inflation Indices.</p> <p>Inflation Linked Securities may be subject to early redemption or cancellation, as applicable, and/or adjustment if an Inflation Index is modified or cancelled and there is no successor index acceptable to the Calculation Agent, or if the Inflation Index Sponsor fails to calculate and announce the Index.</p>

Credit Linked Securities:	<p>Amounts payable and/or deliverable in respect of Credit Linked Securities will be calculated by reference to the credit of a specified entity or entities.</p> <p>If the Conditions to Settlement are satisfied during the Notice Delivery Period, the Credit Linked Securities will be redeemed or cancelled, as the case may be, and the relevant Issuer will: (a) where “Conditions to Settlement – Auction Settlement” is specified as being applicable in the Final Terms and subject to the occurrence of a Fallback Settlement Event, pay the Auction Settlement Amount, (b) if “Conditions to Settlement – Cash Settlement” is specified in the applicable Final Terms or a Fallback Settlement Event has occurred and the Fallback Settlement Method is Cash Settlement, pay the Credit Event Redemption Amount or (c) if “Conditions to Settlement – Physical Settlement” is specified as being applicable in the Final Terms or a Fallback Settlement Event has occurred and the Fallback Settlement Method is Physical Settlement, deliver the Deliverable Obligations comprising the Entitlement.</p>
Saudi Share Linked Warrants:	<p>Amounts payable in respect of Saudi Share Linked Warrants will be calculated by reference to the notional liquidation by a Hypothetical Dealer of a Hedge Position corresponding to a single Share or basket of Shares listed on the Saudi Stock Exchange (<i>Tadawul</i>) during the relevant Execution Period commencing on the Valuation Date.</p> <p>Saudi Share Linked Warrants may, at the discretion of MLICo., be subject to early settlement or cancellation, as applicable, or adjustment (including valuation and in certain circumstances Share substitutions) if certain corporate events (such as events affecting the value of a Share (including Share divisions or consolidations, extraordinary dividends and capital calls), de-listing of a Share, insolvency, merger or nationalisation of a Share issuer, a tender offer or redenomination of a Share) occur, if certain events (such as illegality, any disruptions, cost increases, or Saudi Arabian-specific regulatory or other events) occur with respect to MLICo.’s and/or any Affiliate’s hedging arrangements, or if insolvency filings are made with respect to a Share issuer.</p>

## General

Form and Transfer of Securities:	<p><i>Global Securities and Clearing Systems</i></p> <p>Generally each Tranche of Securities (other than Swedish Securities, Finnish Securities, Swiss Securities and CREST Securities) will at all times be represented by a global warrant, a global certificate or a global note in bearer or registered form as specified in the applicable Final Terms (in any such form, the “<b>Global Security</b>”), as applicable, deposited on the issue date specified in the applicable Final Terms with, in the case of Securities held in a Clearing System (other than the Swedish CSD, Euroclear Finland, SIS and Euroclear UK), a common depositary (which shall at all times be an entity located outside the United Kingdom) for Euroclear Bank SA/NV (“<b>Euroclear</b>”), Clearstream Banking, <i>société anonyme</i> (“<b>Clearstream, Luxembourg</b>”), and/or Euroclear France (together with Euroclear, Clearstream, Luxembourg, the Swedish CSD, Euroclear Finland, SIS and Euroclear UK, the “<b>Clearing Systems</b>” and each a “<b>Clearing System</b>”).</p> <p><i>Swedish Warrants and Swedish Certificates</i></p> <p>Swedish Warrants and Swedish Certificates (“<b>Swedish Securities</b>”) may be issued under the Programme, and will be registered in uncertificated and dematerialised electronic book-entry form with</p>
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Euroclear Sweden AB, the Swedish central securities depository (the “**Swedish CSD**”) in accordance with all applicable Swedish laws, regulations and rules. Swedish Securities will not be issued in definitive form.

#### *Swedish Notes*

Swedish Notes may be issued under the Programme and each Tranche of Swedish Notes will consist of a Tranche of Registered Notes. A link will be maintained between Euroclear and the Swedish CSD for the purpose of maintaining computerised book-entry records of the beneficial owners’ interests in the Swedish Notes pursuant to and in accordance with all applicable Swedish laws, regulations and rules. No definitive or global notes or certificates will be issued to represent such beneficial owners’ interests recorded in the register of the Swedish CSD.

#### *Finnish Warrants and Finnish Certificates*

Finnish Warrants and Finnish Certificates (“**Finnish Securities**”) may be issued under the Programme, and will be registered in uncertificated and dematerialised book-entry form with the Finnish central securities depository, Euroclear Finland Ltd. (“**Euroclear Finland**”) in accordance with all applicable Finnish laws, regulations and rules. Finnish Securities will not be issued in definitive form.

#### *Crest Securities*

Crest Warrants and Crest Certificates (“**Crest Securities**”) may be issued under the Programme, and will be issued into and cleared through accounts at Euroclear UK & Ireland Limited (“**Euroclear UK**”) in accordance with all applicable UK laws, regulations and rules. Crest Securities will not be issued in definitive form.

#### *Swiss Securities*

Swiss Securities will on issue be constituted either (i) by a Swiss Global Bearer Warrant or a Swiss Global Bearer Certificate, as the case may be, which will be deposited with SIS acting as central depository on or before the Issue Date of such Swiss Securities or (ii) as uncertificated securities, which will be entered into the main register (*Hauptregister*) of SIS and, in either case, no Holder of Swiss Securities will at any time have the right to effect or demand the conversion of either (a) the Swiss Global Bearer Warrant or Swiss Global Bearer Certificate, respectively, representing such Swiss Securities or (b) Swiss Securities in the form of uncertificated securities into, or the delivery of, Warrants or Certificates, as the case may be, in (in case of a Swiss Bearer Global Warrant or Swiss Global Bearer Certificate) uncertificated or definitive form.

#### Status of the Securities:

The Securities (other than Swiss COSI Securities) constitute direct, unsubordinated, unconditional and unsecured obligations of the relevant Issuer and rank equally among themselves and rank equally (subject to such exceptions as are from time to time provided by applicable laws) with all other present and future direct, unsubordinated, unconditional and unsecured indebtedness (in the case of Notes) or obligations (in the case of W&C Securities) of the relevant Issuer.

The Swiss COSI Securities constitute direct, unsubordinated and unconditional obligations of MLICo. and rank equally among themselves and rank equally (subject to such exceptions as are from time to time provided by applicable laws) with all other present and future direct, unsubordinated and unconditional obligations of

	MLICo. and are collateralised in accordance with the terms of the Framework Agreement.
Status of the Guarantees:	The obligations of BAC under each Guarantee, save for such exceptions as may be provided by applicable laws and regulations or judicial order, will rank <i>pari passu</i> with its other present and future unsecured and unsubordinated obligations.
Approval, listing and admission to trading:	<p>Application has been made to the CSSF to approve this Base Prospectus as a base prospectus. Application has also been made to the Luxembourg Stock Exchange for Securities issued under the Programme to be admitted to trading on the Luxembourg Stock Exchange's regulated market and to be listed on the Official List of the Luxembourg Stock Exchange. Application has also been made to the Luxembourg Stock Exchange for Securities issued under the Programme during the 12 months from the date of this Base Prospectus to be admitted to trading on the Luxembourg Stock Exchange's alternative market – Euro MTF – and to be listed on the Official List of the Luxembourg Stock Exchange.</p> <p>The W&amp;C Securities may be listed on the SIX Swiss Exchange and admitted to trading on Scoach Switzerland and/or listed or admitted to trading, as the case may be, on such other or further stock exchange(s) or market(s) as determined by the relevant Issuer. Securities which are neither listed nor admitted to trading on any market may also be issued.</p>
Governing Law:	The Securities and any non-contractual obligations arising out of or in connection with them will be governed by, and construed in accordance with, English law. Each Guarantee will be governed by, and construed in accordance with, the laws of the State of New York.
Rating:	The Programme has no rating. If any issue of Notes under the Programme is to be rated, the rating of such Notes will be specified in the applicable Final Terms. A rating is not a recommendation to buy, sell or hold securities and may be subject to suspension, reduction or withdrawal at any time by the assigning rating agency.
Selling Restrictions:	There are restrictions on the offer, sale and transfer of the Securities in the United States, the European Economic Area (including Luxembourg, the United Kingdom, France, Italy and The Netherlands), Argentina, Australia, Bahrain, China, Curaçao, Hong Kong, Indonesia, Israel, Japan, Malaysia, Panama, Philippines, Russia, Singapore, Switzerland, Taiwan and Uruguay, and such other restrictions as may be required in connection with the offering and sale of a particular series of Securities (see “ <b>Offering and Sale</b> ”).
Risk Factors:	<p>In the course of conducting their business operations, BAC and its subsidiaries (together, the “<b>Group</b>”), including MLSA and MLICo., are exposed to a variety of risks that are inherent to the financial services industry, including the risks set out below. As required by the context, references to “BAC” may refer to BAC individually, BAC and its subsidiaries or certain of BAC's subsidiaries or affiliates individually or collectively.</p> <ul style="list-style-type: none"> <li>• BAC's businesses and results of operations have been, and may continue to be, materially and adversely affected by the U.S. and international financial markets and economic conditions generally.</li> <li>• BAC has been, and expects to continue to be, required to repurchase mortgage loans and/or reimburse government sponsored enterprises (“<b>GSEs</b>”) and monoline bond insurance companies (“<b>monolines</b>”) for losses due to claims</li> </ul>



related to representations and warranties made in connection with sales of residential mortgage-backed securities (“**RMBS**”) and mortgage loans, and has received similar claims, and may receive additional claims, from whole-loan purchasers, private-label securitisation investors and private-label securitisation trustees, monolines and others. The ultimate resolution of these exposures could have a material adverse effect on BAC’s cash flows, financial condition, and results of operations.

- If final court approval is not obtained with respect to the BNY Mellon Settlement to resolve nearly all of the legacy Countrywide-issued first-lien non-GSE RMBS repurchase exposures of the 2004-2008 vintages, or if BAC and legacy Countrywide determine to withdraw from the BNY Mellon Settlement in accordance with its terms, BAC’s future representations and warranties losses could be substantially higher than existing accruals and the estimated range of possible loss over existing accruals, and consequently could have a material adverse effect on BAC’s cash flows, financial condition and results of operations.
- Further weakness in the U.S. housing market, including home prices, may adversely affect BAC’s consumer portfolios and have a significant adverse effect on its financial condition and results of operations.
- BAC temporarily suspended its foreclosure sales nationally in 2010 to conduct an assessment of its foreclosure processes. Subsequently, numerous U.S. state and federal investigations of foreclosure processes across BAC’s industry have been initiated. Those investigations and any irregularities that might be found in BAC’s foreclosure processes, along with any remedial steps taken in response to governmental investigations or to BAC’s own internal assessment, could have a material adverse effect on BAC’s financial condition and results of operations.
- BAC reached an agreement in principle with the U.S. Department of Justice, various U.S. federal agencies and 49 U.S. state attorneys general, to resolve various investigations into BAC’s foreclosure, servicing and certain mortgage origination practices. BAC also reached an agreement in principle with the FHA to resolve certain claims relating to the origination of FHA-insured mortgage loans and agreements in principle with the Federal Reserve and OCC regarding civil monetary penalties. These agreements are subject to ongoing discussions among the parties and the completion and execution of definitive documentation, as well as required regulatory and court approvals. Failure to finalise the documentation or to obtain the required approvals with respect to these agreements in principle, and failure to meet certain borrower assistance and refinancing assistance commitment goals in the agreements in principle which would trigger additional monetary payments and exposure to claims not covered by the agreements in principle, could have a material adverse effect on BAC’s financial condition or results of operations.
- Failure to satisfy BAC’s obligations as servicer in the residential mortgage securitisation process, including obligations related to residential mortgage foreclosure actions,

along with other losses BAC could incur in its capacity as servicer, could have a material adverse effect on BAC's financial condition and results of operations.

- Adverse changes to BAC's credit ratings from the major credit rating agencies could have a material adverse effect on BAC's liquidity, cash flows, competitive position, financial condition and results of operations by significantly limiting BAC's access to funding or the capital markets, increasing BAC's borrowing costs, or triggering additional collateral or funding requirements.
- BAC's liquidity, cash flows, financial condition and results of operations, and competitive position may be significantly adversely affected if BAC is unable to access the capital markets, continue to raise deposits, sell assets on favourable terms, or if there is an increase in BAC's borrowing costs.
- BAC is a holding company and as such it is dependent upon its subsidiaries for liquidity, including its ability to pay dividends to stockholders. Applicable laws and regulations, including capital and liquidity requirements, may restrict BAC's ability to transfer funds from its subsidiaries to itself or other subsidiaries.
- Increased credit risk, due to economic or market disruptions, insufficient credit loss reserves or concentration of credit risk, may necessitate increased provisions for credit losses and could have an adverse effect on BAC's financial condition and results of operations.
- BAC could suffer losses as a result of the actions of or deterioration in the commercial soundness of its counterparties and other financial services institutions.
- BAC's derivatives businesses may expose BAC to unexpected risks and potential losses.
- BAC's businesses and results of operations have been, and may continue to be, significantly adversely affected by changes in the levels of market volatility and by other financial or capital market conditions.
- Further downgrades in the U.S. government's sovereign credit rating, or in the credit ratings of instruments issued, insured or guaranteed by related institutions, agencies or instrumentalities, could result in risks to BAC and its credit ratings and general economic conditions that BAC is not able to predict.
- Uncertainty about the financial stability of several countries in the European Union ("EU"), the increasing risk that those countries may default on their sovereign debt and related stresses on financial markets, the euro and the EU could have a significant adverse effect on BAC's business, financial condition and results of operations.
- Declines in the value of certain of BAC's assets could have an adverse effect on its results of operations.
- Changes to loan prepayment speeds could reduce BAC's net interest income and earnings.

- Bank regulatory agencies may require BAC to hold higher levels of regulatory capital, increase its regulatory capital ratios or increase liquidity, which could result in the need to issue additional securities that qualify as regulatory capital or to sell company assets.
- Government measures to regulate the financial industry, including the Dodd-Frank Wall Street Reform and Consumer Protection Act, either individually, in combination or in the aggregate, have increased and will continue to increase BAC's compliance costs and could require BAC to change certain of its business practices, impose significant additional costs on BAC, limit the products that BAC offers, limit BAC's ability to pursue business opportunities in an efficient manner, require BAC to increase its regulatory capital, impact the value of assets that BAC holds, significantly reduce BAC's revenues or otherwise materially and adversely affect BAC's businesses, financial condition and results of operations.
- Changes in the structure of the GSEs and the relationship among the GSEs, the government and the private markets, or the conversion of the current conservatorship of the GSEs into receivership, could result in significant changes to the business operations of *Consumer Real Estate Services*, and adversely impact certain operations of *Global Markets (formerly Global Banking and Markets)*.
- BAC faces substantial potential legal liability and significant regulatory action, which could have material adverse effects on BAC's cash flows, financial condition and results of operations, or cause significant reputational harm to BAC.
- Changes in governmental fiscal and monetary policy could adversely affect BAC's financial condition and results of operations.
- Changes in U.S. and non-U.S. tax and other laws and regulations could adversely affect BAC's financial condition and results of operations.
- BAC faces significant and increasing competition in the financial services industry.
- Damage to BAC's reputation could significantly harm its businesses, including its competitive position and business prospects.
- BAC's ability to attract and retain qualified employees is critical to the success of BAC's businesses and failure to do so could adversely affect BAC's business prospects, including its competitive position and results of operations.
- BAC may not be able to achieve expected cost savings from cost-saving initiatives, including from Project New BAC, or in accordance with currently anticipated time frames.
- BAC's inability to adapt its products and services to evolving industry standards and consumer preferences could harm its businesses.
- BAC's risk management framework may not be effective in mitigating risk and reducing the potential for significant losses.
- A failure in or breach of BAC's operational or security systems or infrastructure, or those of third parties with which BAC does business, including as a result of cyber attacks, could disrupt

BAC's businesses, result in the disclosure or misuse of confidential or proprietary information, damage BAC's reputation, increase BAC's costs and cause losses. Any such failure also could have a material adverse effect on BAC's business, financial condition and results of operations.

- BAC is subject to numerous political, economic, market, reputational, operational, legal, regulatory and other risks in the non-U.S. jurisdictions in which it operates which could adversely impact BAC's businesses, financial condition and results of operations.
- Changes in accounting standards or inaccurate estimates or assumptions in the application of accounting policies could adversely affect BAC's financial condition and results of operations.

**POTENTIAL INVESTORS MUST REVIEW THE APPLICABLE FINAL TERMS TO ASCERTAIN WHAT THE RELEVANT REFERENCE ITEM(S) ARE AND TO SEE HOW THE CASH SETTLEMENT AMOUNT, FINAL REDEMPTION AMOUNT OR ENTITLEMENT, AS THE CASE MAY BE, PAYABLE AND/OR DELIVERABLE ON THE SECURITIES AND ANY INTEREST PAYMENTS (IN THE CASE OF NOTES) OR ANY ADDITIONAL AMOUNT PAYMENTS (IN THE CASE OF W&C SECURITIES) ARE DETERMINED AND WHEN SUCH AMOUNTS ARE PAYABLE AND/OR DELIVERABLE, AS THE CASE MAY BE, BEFORE MAKING ANY DECISION TO PURCHASE ANY SECURITIES.**

## RISK FACTORS

*Each of MLSA, MLICo. and BAC believes that the following factors may affect its ability to fulfil its obligations in respect of Securities issued under the Programme and/or are material for the purpose of assessing the market risks associated with Securities issued under the Programme. All of these factors are contingencies which may or may not occur, and none of MLSA, MLICo. or BAC is in a position to express a view on the likelihood of any such contingency occurring.*

*Each of MLSA, MLICo. and BAC believes that the factors described below represent the principal risks inherent in investing in Securities issued under the Programme, but the inability of the relevant Issuer or BAC to pay any cash amounts in connection with any cash settled securities (“**Cash Settled Securities**”) or to deliver the Entitlement in connection with any physical delivery securities (“**Physical Delivery Securities**”) may occur for other reasons, and neither the Issuers nor BAC represents that the statements below regarding the risks of holding any Securities are exhaustive. Additional risks and uncertainties not presently known to any of MLSA, MLICo. or BAC or that any of MLSA, MLICo. or BAC currently believes to be immaterial could also have a material impact on its business operations or the Securities. The Final Terms in respect of an issue of Securities may contain additional Risk Factors in respect of such Securities. Prospective investors should also read the detailed information set out elsewhere in this Base Prospectus and reach their own views prior to making any investment decision.*

*Terms used in this section and not otherwise defined shall have the meanings given to them in the “Terms and Conditions of the Notes” or the “Terms and Conditions of the W&C Securities”, as applicable (together the “**Conditions**” and references herein to “**relevant Conditions**” shall be construed accordingly).*

### **Risk factors relating to the Issuers**

#### **Factors that may affect the relevant Issuer’s ability to fulfil its obligations under Securities issued under the Programme**

The Issuers are finance vehicles whose principal purposes are to raise debt or enter into financial contracts to assist the financing activities of the relevant Issuer’s affiliates. Accordingly, the Issuers do not have any trading assets and do not generate any significant net income.

MLICo. engages primarily in the issuance of warrants and related financial instruments and the distribution of Merrill Lynch-branded managed funds world-wide (with the exception of North America) and other managed fund products.

The main markets in which MLSA sells securities are the Eurobond markets.

The Issuers’ payment and non-cash delivery obligations under Securities (other than in respect of Swiss COSI Securities) issued under the Programme are guaranteed unconditionally and irrevocably pursuant to the Original Guarantee. MLICo.’s payment obligations to the extent of any Shortfall under the relevant Series of Swiss COSI Securities issued under the Programme will be guaranteed conditionally but irrevocably pursuant to the Swiss COSI Securities Guarantee. As a result, if the Guarantor’s financial condition were to deteriorate, the Issuers and investors in the Securities may suffer direct and materially adverse consequences. Accordingly, prospective investors in Securities should review, inter alia, the factors below regarding BAC, the Group (as defined above) and the Group’s businesses and industry, which may affect BAC’s ability to fulfil its obligations under the relevant Guarantee.

### **Risk factors relating to the Guarantor and the Group and to the Group’s Businesses and Industry**

*The following risk factors refer to BAC, rather than directly to the Issuers. When used in this Base Prospectus, and as required by the context, “BAC” may refer to BAC individually, BAC and its subsidiaries, or certain of BAC’s subsidiaries or affiliates, individually or collectively.*

#### **Risk factors relating to BAC and to BAC’s Businesses and Industry**

In the course of conducting its business operations, BAC is exposed to a variety of risks, some of which are inherent in the financial services industry and others of which are more specific to BAC’s own businesses. The following discussion addresses the most significant factors that could affect BAC’s businesses, operations and financial condition. Additional factors that could affect BAC’s financial condition and operations are discussed in the BAC 2011 Annual Report. However, other factors could also adversely affect BAC’s businesses, operations and financial condition. Therefore, the risk factors below should not be considered a complete list of potential risks that BAC may face.

## General Economic and Market Conditions Risk

***BAC's businesses and results of operations have been, and may continue to be, materially and adversely affected by the U.S. and international financial markets and economic conditions generally.***

BAC's businesses and results of operations are materially affected by the financial markets and general economic conditions in the U.S. and abroad, including factors such as the level and volatility of short-term and long-term interest rates, inflation, home prices, unemployment and under-employment levels, bankruptcies, household income, consumer spending, fluctuations in both debt and equity capital markets, liquidity of the global financial markets, the availability and cost of capital and credit, investor sentiment and confidence in the financial markets, European sovereign debt risks and the strength of the U.S. economy and the non-U.S. economies in which BAC operates. The deterioration of any of these conditions can adversely affect BAC's consumer and commercial businesses and securities portfolios, BAC's level of charge-offs and provision for credit losses, the carrying value of BAC's deferred tax assets, BAC's capital levels and liquidity, and BAC's results of operations.

Although the U.S. economy continued its modest recovery in 2011, elevated unemployment, under-employment and household debt, along with continued stress in the consumer real estate market and certain commercial real estate markets, pose challenges for domestic economic performance and the financial services industry. The sustained high unemployment rate and the lengthy duration of unemployment have directly impaired consumer finances and pose risks to the financial services industry. The housing market remains weak and elevated levels of distressed and delinquent mortgages pose further risks to the housing market. In addition, the public perception of certain financial services firms and practices appeared to decline during 2011. The current environment of heightened scrutiny of financial institutions has resulted in increased public awareness of and sensitivity to banking fees and practices. Mortgage and housing market-related risks may be accentuated by attempts to forestall foreclosure proceedings, as well as U.S. state and federal investigations into foreclosure practices by mortgage servicers. Each of these factors may adversely affect BAC's fees and costs.

For additional information about economic conditions and challenges discussed above, see Executive Summary – 2011 Economic and Business Environment in the Management's Discussion and Analysis of Financial Condition and Results of Operations (the "MD&A") on page 27 of the BAC 2011 Annual Report.

## Mortgage and Housing Market-Related Risk

***BAC has been, and expects to continue to be, required to repurchase mortgage loans and/or reimburse government-sponsored enterprises, Fannie Mae ("FNMA") and Freddie Mac (collectively, the "GSEs") and monolines for losses due to claims related to representations and warranties made in connection with sales of residential mortgage-backed securities ("RMBS") and mortgage loans, and has received similar claims, and may receive additional claims, from whole-loan purchasers, private-label securitisation investors and private-label securitisation trustees, monolines and others. The ultimate resolution of these exposures could have a material adverse effect on BAC's cash flows, financial condition and results of operations.***

In connection with residential mortgage loans sold to GSEs and first-lien residential mortgage and home equity loans sold to investors other than GSEs, BAC or its subsidiaries or legacy companies make or have made various representations and warranties. Breaches of these representations and warranties may result in a requirement that BAC repurchase mortgage loans, or indemnify or provide other remedies to counterparties (collectively, "repurchases"). BAC and legacy Countrywide sold approximately \$1.1 trillion of loans originated from 2004 through 2008 to the GSEs. In addition, legacy companies and certain subsidiaries sold loans originated from 2004 through 2008 with an original principal balance of \$963 billion to investors other than GSEs.

The amount of BAC's total unresolved repurchase claims from all sources totaled approximately \$14.3 billion at December 31, 2011. The total amount of BAC's recorded liability related to representations and warranties repurchase exposure was \$15.9 billion at December 31, 2011.

BAC's estimated liability at December 31, 2011 for obligations under representations and warranties with respect to GSE exposures is necessarily dependent on, and limited by, its historical claims experience with the GSEs. It includes BAC's understanding of its agreements with the GSEs and projections of future defaults, as well as certain other assumptions and judgmental factors. The GSEs' repurchase



requests, standards for rescission of repurchase requests and resolution processes have become increasingly inconsistent with the GSEs' own past conduct and BAC's interpretation of its contractual obligations. These developments have resulted in an increase in claims outstanding from the GSEs. BAC is not able to predict changes in the behaviour of the GSEs based on BAC's past experiences. Therefore, it is not possible to reasonably estimate a possible loss or range of possible loss with respect to any such potential impact in excess of current accrued liabilities.

Beginning in February 2012, BAC is no longer delivering purchase money and non-Making Home Affordable Program (“**MHA**”) refinance first-lien residential mortgage products into FNMA mortgage-backed securities (“**MBS**”) pools because of the expiration and mutual non-renewal of certain contractual delivery commitments and variances that permit efficient delivery of such loans to FNMA. While BAC continues to have a valid agreement with FNMA permitting the delivery of purchase money and non-MHA refinance first-lien residential mortgage products without such contractual delivery commitments and variances, the delivery of such products without such contractual variances would involve time and expense to implement the necessary operational and systems changes and otherwise present practical operational issues. The non-renewal of these contractual delivery commitments and variances was influenced, in part, by BAC's ongoing differences with FNMA in other contexts, including repurchase claims. BAC continues to deliver MHA refinancing products into FNMA MBS pools, and continues to engage in dialogue to attempt to address these differences.

While BAC is seeking to resolve its differences with the GSEs concerning each party's interpretation of the requirements of the governing contracts, whether BAC will be able to achieve a resolution of these differences on acceptable terms, and timing thereof, is subject to significant uncertainty.

In addition to repurchase claims, BAC receives notices from mortgage insurance (“**MI**”) companies of claim denials, cancellations, or coverage rescission (collectively, “**MI rescission notices**”) and the amount of such notices have remained elevated. As of December 31, 2011, 74 per cent. of the MI rescission notices received had not been resolved. On June 30, 2011, FNMA issued an announcement requiring servicers to report, effective October 1, 2011, all MI rescission notices with respect to loans sold to FNMA. The announcement also confirmed FNMA's view of its position that a mortgage insurance company's issuance of a MI rescission notice constitutes a breach of the lender's representations and warranties and permits FNMA to require the lender to repurchase the mortgage loan or promptly remit a make-whole payment covering FNMA's loss even if the lender is contesting the mortgage insurer's rescission. BAC has informed FNMA that it does not believe that the new policy is valid under BAC's relevant contracts with FNMA and that BAC does not intend to repurchase loans under the terms set forth in the new policy. If BAC is required to abide by the terms of the new FNMA policy, BAC's representations and warranties liability will likely increase.

BAC's estimated liability and range of possible loss with respect to non-GSE exposures is necessarily dependent on, and limited by, BAC's historical claims and settlement experience with non-GSE counterparties and may materially change in the future based on factors beyond BAC's control. Future provisions and/or estimated ranges of possible loss for non-GSE representations and warranties may be significantly impacted if actual experiences are different from BAC's assumptions in its predictive models, including, without limitation, those regarding ultimate resolution of the Bank of New York Mellon settlement (“**BNY Mellon Settlement**”), estimated repurchase rates, economic conditions, estimated home prices, consumer and counterparty behaviour, and a variety of other judgmental factors. In addition, BAC has not recorded any representations and warranties liability for certain potential monoline exposures and certain potential whole-loan and other private-label securitisation exposures. BAC currently estimates that the range of possible loss related to non-GSE representations and warranties exposure as of December 31, 2011 could be up to \$5.0 billion over existing accruals. Reserves for certain potential monoline exposure are considered in BAC's litigation reserves. This estimated range of possible loss for non-GSE representations and warranties does not represent a probable loss, is based on currently available information, significant judgment and a number of assumptions that are subject to change, including the assumption that the conditions to the BNY Mellon Settlement are satisfied. Adverse developments with respect to one or more of the assumptions underlying the liability for non-GSE representations and warranties and the corresponding estimated range of possible loss could result in significant increases to future provisions and BAC's estimated range of possible loss.

If future representations and warranties losses occur in excess of BAC's recorded liability for GSE exposures and in excess of BAC's recorded liability and estimated range of possible loss for non-GSE exposures, including as a result of the factors set forth above, such losses could have a material adverse effect on BAC's cash flows, financial condition and results of operations. The liability for obligations

under representations and warranties with respect to GSE and non-GSE exposures and the corresponding estimated range of possible loss related to non-GSE representations and warranties exposures do not include any losses related to litigation matters disclosed in *Note 14 – Commitments and Contingencies* to the Consolidated Financial Statements of the BAC 2011 Annual Report, nor do they include any separate foreclosure costs and related costs, assessments and compensatory fees or any possible losses related to potential claims for breaches of performance of servicing obligations (except as such losses are included as potential costs of the BNY Mellon settlement), potential securities law or fraud claims or potential indemnity or other claims against BAC, including claims related to loans guaranteed by the Federal Housing Administration (“FHA”). BAC is not able to reasonably estimate the amount of any possible loss with respect to any such servicing, securities law (except to the extent reflected in the aggregate range of possible loss for litigation and regulatory matters disclosed in *Note 14 – Commitments and Contingencies* to the Consolidated Financial Statements of the BAC 2011 Annual Report), fraud or other claims against BAC; however, such loss could have a material adverse effect on BAC’s cash flows, financial condition and results of operations.

For additional information about BAC’s representations and warranties exposure, see Off-Balance Sheet Arrangements and Contractual Obligations – Representations and Warranties in the MD&A on page 56, Consumer Portfolio Credit Risk Management in the MD&A on page 81 and *Note 9 – Representations and Warranties Obligations and Corporate Guarantees* to the Consolidated Financial Statements, each of the BAC 2011 Annual Report.

***If final court approval is not obtained with respect to the BNY Mellon Settlement to resolve nearly all of the legacy Countrywide-issued first-lien non-GSE RMBS repurchase exposures of the 2004-2008 vintages, or if BAC and legacy Countrywide determine to withdraw from the BNY Mellon Settlement in accordance with its terms, BAC’s future representations and warranties losses could be substantially higher than existing accruals and the estimated range of possible loss over existing accruals, and consequently could have a material adverse effect on BAC’s cash flows, financial condition and results of operations.***

The BNY Mellon Settlement is subject to final court approval and certain other conditions. It is not currently possible to predict the timing or ultimate outcome of the court approval process, which can include appeals and could take a substantial period of time. There can be no assurance that final court approval of the settlement will be obtained, that all conditions will be satisfied (including the receipt of private letter rulings from the IRS and other tax rulings and opinions) or that, if certain conditions in the BNY Mellon Settlement permitting withdrawal are met, BAC and legacy Countrywide will not determine to withdraw from the BNY Mellon Settlement agreement.

If final court approval is not obtained with respect to the BNY Mellon Settlement or if BAC and legacy Countrywide determine to withdraw from the BNY Mellon Settlement agreement in accordance with its terms, BAC’s future representations and warranties losses with respect to non-GSEs could substantially exceed its non-GSE reserve, together with estimated reasonably possible loss related to non-GSE representations and warranties exposure of up to \$5.0 billion over existing accruals at December 31, 2011. Developments with respect to one or more of the assumptions underlying the estimated range of possible loss for non-GSE representations and warranties (including the timing and ultimate outcome of the court approval process relating to the BNY Mellon Settlement) could result in significant increases in BAC’s non-GSE reserve and/or to this estimated range of possible loss, and such increases could have a material adverse effect on BAC’s cash flows, financial condition and results of operations. For additional information regarding the BNY Mellon Settlement, see Off-Balance Sheet Arrangements and Contractual Obligations – Representations and Warranties in the MD&A on page 56 of the BAC 2011 Annual Report.

***Further weakness in the U.S. housing market, including home prices, may adversely affect BAC’s consumer portfolios and have a significant adverse effect on its financial condition and results of operations.***

Economic weakness in 2011 was accompanied by continued stress in the U.S. housing market, including declines in home prices. These declines in the housing market, with falling home prices and elevated foreclosures, have negatively impacted the demand for many of BAC’s products and the credit performance of BAC’s consumer mortgage portfolios. Additionally, BAC’s mortgage loan production volume is generally influenced by the rate of growth in residential mortgage debt outstanding and the size of the residential mortgage market, which has declined due to reduced activity in the housing market. Continued high unemployment rates in the U.S. have challenged U.S. consumers and further

compounded these stresses in the U.S. housing market as employment conditions may be compelling some consumers to delay new home purchases or miss payments on existing mortgages.

Conditions in the U.S. housing market have also resulted in significant write-downs of asset values in several asset classes, notably MBS and exposure to monolines. These conditions may negatively affect the value of real estate which could negatively affect BAC's exposure to representations and warranties. While there were continued indications throughout the past year that the U.S. economy is stabilizing, the performance of BAC's overall consumer portfolios may not significantly improve in the near future. A protracted continuation or worsening of these difficult housing market conditions may exacerbate the adverse effects outlined above and have a significant adverse effect on BAC's financial condition and results of operations.

***BAC temporarily suspended its foreclosure sales nationally in 2010 to conduct an assessment of its foreclosure processes. Subsequently, numerous U.S. state and federal investigations of foreclosure processes across BAC's industry have been initiated. Those investigations and any irregularities that might be found in BAC's foreclosure processes, along with any remedial steps taken in response to governmental investigations or to BAC's own internal assessment, could have a material adverse effect on BAC's financial condition and results of operations.***

BAC has resumed foreclosure sales in nearly all U.S. states where foreclosure does not require a court order ("**non-judicial states**"). While BAC has resumed foreclosure proceedings in nearly all U.S. states where a court order is required ("**judicial states**"), its progress on foreclosure sales in judicial states has been much slower than in non-judicial states. The pace of foreclosure sales in judicial states increased significantly by the fourth quarter of 2011. However, there continues to be a backlog of foreclosure inventory in judicial states.

The implementation of changes in procedures and controls, including loss mitigation procedures related to BAC's ability to recover on FHA insurance-related claims, and governmental, regulatory and judicial actions, may result in continuing delays in foreclosure proceedings and foreclosure sales and create obstacles to the collection of certain fees and expenses, in both judicial and non-judicial foreclosures.

BAC entered into a consent order with the Board of Governors of the Federal Reserve System (the "**Federal Reserve**") and Bank of America, N.A. ("**BANA**") entered into a consent order with the Comptroller of the Currency (the "**OCC**") on April 13, 2011. The OCC consent order required that BAC retain an independent consultant, approved by the OCC, to conduct a review of all foreclosure actions pending, or foreclosure sales that occurred, between January 1, 2009 and December 31, 2010, and submit a plan to the OCC to remediate all financial injury to borrowers caused by any deficiencies identified through the review. The review is comprised of two parts: a sample file review conducted by the independent consultant, which began in October 2011, and file reviews by the independent consultant based upon requests for review from customers with in-scope foreclosures. BAC began outreach to those customers in November 2011 and additional outreach efforts are underway. Because the review process is available to a large number of potentially eligible borrowers and involves an examination of many details and documents, each review could take several months to complete. BAC cannot yet determine how many borrowers will ultimately request a review, how many borrowers will meet the eligibility requirements or how much in compensation might ultimately be paid to eligible borrowers.

BAC continues to be subject to additional borrower and non-borrower litigation and governmental and regulatory scrutiny related to its past and current servicing and foreclosure activities, including those claims not covered by the Servicing Resolution Agreements, defined below. This scrutiny may extend beyond BAC's pending foreclosure matters to issues arising out of alleged irregularities with respect to previously completed foreclosure activities. The current environment of heightened regulatory scrutiny has the potential to subject BAC to inquiries or investigations that could significantly adversely affect its reputation. Such investigations by U.S. state and federal authorities, as well as any other governmental or regulatory scrutiny of BAC's foreclosure processes, could result in material fines, penalties, equitable remedies, additional default servicing requirements and process changes, or other enforcement actions, and could result in significant legal costs in responding to governmental investigations and additional litigation and, accordingly, could have a material adverse effect on BAC's financial condition and results of operation.

BAC expects that mortgage-related assessments and waivers costs, including compensatory fees assessed by the GSEs and other costs associated with foreclosures will remain elevated as additional loans are delayed in the foreclosure process. This will likely result in continued higher noninterest expense, including higher default servicing costs and legal expenses in BAC's *Consumer Real Estate Services*

(“**CRES**”) segment. In addition, required process changes, including those required under the consent orders with federal bank regulators, are likely to result in further increases in BAC’s default servicing costs over the longer term. Delays in foreclosure sales may result in additional costs associated with the maintenance of properties or possible home price declines, result in a greater number of nonperforming loans and increased servicing advances and may adversely impact the collectability of such advances and the value of BAC’s MSR asset, MBS and real estate owned properties. With respect to GSE MBS, the valuation of certain MBS could be negatively affected under certain scenarios due to changes in the timing of cash flows. With respect to non-GSE MBS, under certain scenarios the timing and amount of cash flows could be negatively affected. For additional information regarding the temporary suspension of BAC’s foreclosure sales, see Off-Balance Sheet Arrangements and Contractual Obligations – Other Mortgage-related Matters in the MD&A on page 63 of the BAC 2011 Annual Report.

***BAC reached an agreement in principle (“AIP”) with the U.S. Department of Justice (“DOJ”), various U.S. federal agencies and 49 U.S. state attorneys general, to resolve various investigations into BAC’s foreclosure, servicing and certain mortgage origination practices. BAC also reached an agreement in principle with the FHA to resolve certain claims relating to the origination of FHA-insured mortgage loans and agreements in principle with the Federal Reserve and OCC regarding civil monetary penalties. These agreements are subject to ongoing discussions among the parties and the completion and execution of definitive documentation, as well as required regulatory and court approvals. Failure to finalise the documentation or to obtain the required approvals with respect to these agreements in principle, and failure to meet certain borrower assistance and refinancing assistance commitment goals in the agreements in principle which would trigger additional monetary payments and exposure to claims not covered by the agreements in principle, could have a material adverse effect on BAC’s financial condition or results of operations.***

On February 9, 2012, BAC reached agreements in principle (collectively, the “**Servicing Resolution Agreements**”) with (1) the DOJ, various U.S. federal regulatory agencies and 49 attorneys general to resolve federal and state investigations into certain origination, servicing and foreclosure practices (the “**Global AIP**”), (2) the FHA to resolve certain claims relating to the origination of FHA-insured mortgage loans, primarily by Countrywide prior to and for a period following BAC’s acquisition of that lender (the “**FHA AIP**”) and (3) each of the Federal Reserve and the OCC regarding civil monetary penalties related to conduct that was the subject of consent orders entered into with the banking regulators in April 2011 (the “**Consent Order AIPs**”).

The Servicing Resolution Agreements are subject to ongoing discussions among the parties and completion and execution of definitive documentation, as well as required regulatory and court approvals. The Global AIP is subject to, among other things, Federal court approval in the United States District Court in the District of Columbia and regulatory approvals of the United States Department of the Treasury and other federal agencies. The Consent Order AIPs are subject to, among other things, the finalisation of the Global AIP. There can be no assurance as to when or whether binding settlement agreements will be reached, that they will be on terms consistent with the agreements in principle, or as to when or whether the necessary approvals will be obtained and the settlements will be finalised.

The Global AIP calls for the establishment of certain uniform servicing standards, upfront cash payments of approximately \$1.9 billion to the U.S. state and federal governments and for borrower restitution, approximately \$7.6 billion in borrower assistance in the form of, among other things, principal reduction, short sales and deeds-in-lieu of foreclosure, and approximately \$1.0 billion in refinancing assistance. BAC could be required to make additional payments if it fails to meet its borrower assistance and refinancing assistance commitments over a three-year period. In addition, BAC could be required to pay an additional \$350 million if it fails to meet certain first-lien principal reduction thresholds over a three-year period. BAC also entered into agreements with several U.S. states under which BAC committed to perform certain minimum levels of principal reduction and related activities within those states as part of the Global AIP, and under which BAC could be required to make additional payments if it fails to meet such minimum levels. BAC expects to recognise the refinancing assistance as lower interest income in future periods as qualified borrowers pay reduced interest rates on loans refinanced. BAC may also incur additional operating costs (e.g., servicing costs) to implement certain terms of the Global AIP in future periods.

The FHA AIP provides for an upfront cash payment by BAC of \$500 million. BAC would have the obligation to pay an additional \$500 million if it fails to meet certain principal reduction thresholds over a three-year period.



Pursuant to an agreement in principle, the OCC agreed to hold in abeyance the imposition of a civil monetary penalty of \$164 million. Pursuant to a separate agreement in principle, the Federal Reserve will assess a civil monetary penalty in the amount of \$176 million against BAC. Satisfying BAC's payment, borrower assistance and remediation obligations under the Global AIP will satisfy any civil monetary penalty obligations arising under these agreements in principle. If, however, BAC does not make certain required payments or undertake certain required actions under the Global AIP, the OCC will assess, and the Federal Reserve will require BAC to pay, the difference between the aggregate value of the payments and actions under these agreements in principle and the penalty amounts.

The Servicing Resolution Agreements do not cover claims arising out of securitisation (including representations made to investors respecting MBS), criminal claims, private claims by borrowers, claims by certain states for injunctive relief or actual economic damages to borrowers related to Mortgage Electronic Registration Systems, Inc. ("MERS"), and claims by the GSEs (including repurchase demands), among other items. Failure to finalise the documentation related to the Servicing Resolution Agreements, to obtain the required court and regulatory approvals, to meet BAC's borrower and refinancing commitments or other adverse developments with respect to the foregoing could have a material adverse effect on BAC's financial condition and results of operations. For additional information regarding the temporary suspension of BAC's foreclosure sales, see Off-Balance Sheet Arrangements and Contractual Obligations – Other Mortgage-related Matters in the MD&A on page 63 of the BAC 2011 Annual Report.

***Failure to satisfy BAC's obligations as servicer in the residential mortgage securitisation process, including obligations related to residential mortgage foreclosure actions, along with other losses BAC could incur in its capacity as servicer, could have a material adverse effect on BAC's financial condition and results of operations.***

BAC and its legacy companies have securitised a significant portion of the residential mortgage loans that they have originated or acquired. BAC services a large portion of the loans it or its subsidiaries have securitised and also services loans on behalf of third-party securitisation vehicles and other investors. In addition to identifying specific servicing criteria, pooling and servicing arrangements entered into in connection with a securitisation or whole loan sale typically impose standards of care on the servicer, with respect to its activities, that may include the obligation to adhere to the accepted servicing practices of prudent mortgage lenders and/or to exercise the degree of care and skill that the servicer employs when servicing loans for its own account.

Many non-GSE residential mortgage-backed securitisations and whole-loan servicing agreements also require BAC to indemnify the trustee or other investor for or against failures by BAC to perform its servicing obligations or acts or omissions that involve wilful malfeasance, bad faith or gross negligence in the performance of, or reckless disregard of, BAC's duties. Servicing agreements with the GSEs generally provide the GSEs with broader rights relative to the servicer than are found in servicing agreements with private investors. Each GSE typically claims the right to demand that BAC repurchase loans that breach the seller's representations and warranties made in connection with the initial sale of the loans, even if BAC was not the seller. The GSEs also claim that they have the contractual right to demand indemnification or loan repurchase for certain servicing breaches. The GSEs' first mortgage seller/servicer guides provide for timelines to resolve delinquent loans through workout efforts or liquidation, if necessary, and purport to require the imposition of compensatory fees if those deadlines are not satisfied except for reasons beyond BAC's control. BAC believes that the governing contracts, its course of dealing and collective past practices and understandings should inform resolution of these matters. Beginning in 2010, the GSEs increased the level of compensatory fees imposed and have recently amended those servicing guides retroactively to impose significantly new and more stringent requirements relating to default activities, which could increase BAC's exposure to claims for compensatory fees. BAC has informed the GSEs that it does not believe that the new policies, or their retroactive application, are valid under the relevant contracts, and that BAC does not agree that the newly articulated policies are the proper method for the assessment of any compensatory fees under the terms of the relevant contracts.

With regard to alleged irregularities in foreclosure process-related activities referred to above, BAC may incur costs or losses if it elects or is required to re-execute or re-file documents or take other action in connection with pending or completed foreclosures. BAC may also incur costs or losses if the validity of a foreclosure action is challenged by a borrower, or overturned by a court because of errors or deficiencies in the foreclosure process. These costs and liabilities may not be reimbursable to BAC. BAC may also incur costs or losses relating to delays or alleged deficiencies in processing documents necessary to

comply with U.S. state law governing foreclosures. BAC may be subject to deductions by insurers for MI or guarantee benefits relating to delays or alleged deficiencies. Additionally, if BAC commits a material breach of its servicing obligations that is not cured within specified timeframes, including those related to default servicing and foreclosure, BAC could be terminated as servicer under servicing agreements under certain circumstances. Any of these actions may harm BAC's reputation or increase its servicing costs.

Mortgage notes, assignments or other documents are often required to be maintained and are often necessary to enforce mortgages loans. There has been significant public commentary regarding the common industry practice of recording mortgages in the name of MERS, as nominee on behalf of the note holder, and whether securitisation trusts own the loans purported to be conveyed to them and have valid liens securing those loans. BAC currently uses the MERS system for a substantial portion of the residential mortgage loans that it originates, including loans that have been sold to investors or securitisation trusts. A component of the OCC consent order requires significant changes in the manner in which BAC services loans identifying MERS as the mortgagee. Additionally, certain U.S. local and state governments have commenced legal actions against BAC, MERS, and other MERS members, questioning the validity of the MERS model. Other challenges have also been made to the process for transferring mortgage loans to securitisation trusts, asserting that having a mortgagee of record that is different than the holder of the mortgage note could "break the chain of title" and cloud the ownership of the loan. In order to foreclose on a mortgage loan, in certain cases it may be necessary or prudent for an assignment of the mortgage to be made to the holder of the note, which in the case of a mortgage held in the name of MERS as nominee would need to be completed by a MERS signing officer. As such, BAC's practice is to obtain assignments of mortgages from MERS prior to instituting foreclosure. If certain required documents are missing or defective, or if the use of MERS is found not to be valid, BAC could be obligated to cure certain defects or in some circumstances be subject to additional costs and expenses. BAC's use of MERS as nominee for the mortgage may also create reputational and other risks for BAC.

These costs and liabilities could have a material adverse effect on BAC's cash flows, financial condition and results of operations. BAC may also face negative reputational costs from these servicing risks, which could reduce its future business opportunities in this area or cause that business to be on less favourable terms to BAC.

For additional information concerning BAC's servicing risks, see Recent Events in the MD&A on page 28 of the BAC 2011 Annual Report. For additional information regarding the temporary suspension of BAC's foreclosure sales, see Off-Balance Sheet Arrangements and Contractual Obligations – Other Mortgage-related Matters in the MD&A on page 63 of the BAC 2011 Annual Report.

## **Liquidity Risk**

**Liquidity Risk is the Potential Inability to Meet BAC's Contractual and Contingent Financial Obligations, On- or Off-balance Sheet, as they Become Due.**

*Adverse changes to BAC's credit ratings from the major credit rating agencies could have a material adverse effect on BAC's liquidity, cash flows, competitive position, financial condition and results of operations by significantly limiting BAC's access to funding or the capital markets, increasing BAC's borrowing costs, or triggering additional collateral or funding requirements.*

BAC's borrowing costs and ability to raise funds are directly impacted by BAC's credit ratings. In addition, credit ratings may be important to customers or counterparties when BAC competes in certain markets and when BAC seeks to engage in certain transactions, including over-the-counter ("OTC") derivatives. Credit ratings and outlooks are opinions on BAC's creditworthiness and that of its obligations or securities, including long-term debt, short-term borrowings, preferred stock and other securities, including asset securitisations. BAC's credit ratings are subject to ongoing review by the rating agencies which consider a number of factors, including BAC's own financial strength, performance, prospects and operations as well as factors not under BAC's control.

On December 15, 2011, Fitch Ratings ("Fitch") downgraded BAC's and BANA's long-term and short-term debt ratings as a result of Fitch's decision to lower its "support floor" for systemically important U.S. financial institutions. On November 29, 2011, Standard & Poor's Financial Services LLC ("S&P") downgraded BAC's long-term and short-term debt ratings as well as BANA's long-term debt rating as a result of S&P's implementation of revised methodologies for determining Banking Industry Country Risk Assessments and bank ratings. On September 21, 2011, Moody's Investors Service, Inc. ("Moody's") downgraded BAC's long-term and short-term debt ratings as well as BANA's long-term



debt rating as a result of Moody's lowering the amount of uplift for potential U.S. government support it incorporates into ratings. On February 15, 2012, Moody's placed BAC's long-term debt ratings and BANA's long-term and short-term debt ratings on review for possible downgrade as part of its review of financial institutions with global capital markets operations. Any adjustment to BAC's ratings will be determined based on Moody's review; however, the agency offered guidance that downgrades to BAC's ratings, if any, would likely be limited to one notch.

Currently, BAC's long-term/short-term senior debt ratings and outlooks expressed by the rating agencies are as follows: Baa1/P-2 (review for downgrade) by Moody's; A-/A-2 (negative) by S&P; and A/F1 (stable) by Fitch. The rating agencies could make further adjustments to BAC's credit ratings at any time. There can be no assurance that additional downgrades will not occur.

A further reduction in certain of BAC's credit ratings may have a material adverse effect on BAC's liquidity, access to credit markets, the related cost of funds, BAC's businesses and on certain trading revenues, particularly in those businesses where counterparty creditworthiness is critical. If the short-term credit ratings of BAC's parent company, bank or broker/dealer subsidiaries were downgraded by one or more levels, the potential loss of access to short-term funding sources such as repo financing, and the effect on BAC's incremental cost of funds and earnings could be material.

In addition, under the terms of certain OTC derivative contracts and other trading agreements, in the event of a further downgrade of BAC's credit ratings or certain subsidiaries' credit ratings, counterparties to those agreements may require BAC or certain subsidiaries to provide additional collateral, terminate these contracts or agreements, or provide other remedies. At December 31, 2011, if the rating agencies had downgraded their long-term senior debt ratings for BAC or certain subsidiaries by one incremental notch, the amount of additional collateral contractually required by derivative contracts and other trading agreements would have been approximately \$1.6 billion comprised of \$1.2 billion for BANA and \$375 million for Merrill Lynch & Co., Inc. ("**Merrill Lynch**") and certain of its subsidiaries. If the agencies had downgraded their long-term senior debt ratings for these entities by a second incremental notch, approximately \$1.1 billion in additional collateral, comprised of \$871 million for BANA and \$269 million for Merrill Lynch and certain of its subsidiaries, would have been required.

Also, if the rating agencies had downgraded their long-term senior debt ratings for BAC or certain subsidiaries by one incremental notch, the derivative liability that would be subject to unilateral termination by counterparties as of 31 December 2011 was \$2.9 billion, against which \$2.7 billion of collateral had been posted. If the rating agencies had downgraded their long-term senior debt ratings for BAC or certain subsidiaries a second incremental notch, the derivative liability that would be subject to unilateral termination by counterparties as of 31 December 2011 was an incremental \$5.6 billion, against which \$5.4 billion of collateral had been posted.

While certain potential impacts are contractual and quantifiable, the full consequences of a credit ratings downgrade to a financial institution are inherently uncertain, as they depend upon numerous dynamic, complex and inter-related factors and assumptions, including whether any downgrade of a firm's long-term credit ratings precipitates downgrades to its short-term credit ratings, and assumptions about the potential behaviours of various customers, investors and counterparties.

For additional information about BAC's credit ratings and their potential effects to BAC's liquidity, see Liquidity Risk – Credit Ratings in the MD&A on page 79 and *Note 4 – Derivatives* to the Consolidated Financial Statements, each of the BAC 2011 Annual Report.

***BAC's liquidity, cash flows, financial condition and results of operations, and competitive position may be significantly adversely affected if BAC is unable to access the capital markets, continue to raise deposits, sell assets on favourable terms, or if there is an increase in BAC's borrowing costs.***

Liquidity is essential to BAC's businesses. BAC funds its assets primarily with globally sourced deposits in its bank entities, as well as secured and unsecured liabilities transacted in the capital markets. BAC relies on certain secured funding sources, such as repo markets, which are typically short-term and credit-sensitive in nature. BAC also engages in asset securitisation transactions, including with the GSEs, to fund consumer lending activities. BAC's liquidity could be significantly adversely affected by its ability to access the capital markets; illiquidity or volatility in the capital markets; unforeseen outflows of cash, including customer deposits, funding for commitments and contingencies, including Variable Rate Demand Notes; the ability to sell assets on favourable terms; increased liquidity requirements on BAC's banking and nonbanking subsidiaries imposed by their home countries; or negative perceptions about BAC's short- or long-term business prospects, including downgrades of BAC's credit ratings. Several of

these factors may arise due to circumstances beyond BAC's control, such as a general market disruption, negative views about the financial services industry generally, changes in the regulatory environment, actions by credit rating agencies or an operational problem that affects third parties or BAC.

BAC's cost of obtaining funding is directly related to prevailing market interest rates and to BAC's credit spreads. Credit spreads are the amount in excess of the interest rate of U.S. Treasury securities, or other benchmark securities, of the same maturity that BAC needs to pay to its funding providers. Increases in interest rates and BAC's credit spreads can significantly increase the cost of BAC's funding. Changes in BAC's credit spreads are market-driven, and may be influenced by market perceptions of BAC's creditworthiness. Changes to interest rates and BAC's credit spreads occur continuously and may be unpredictable and highly volatile.

For additional information about BAC's liquidity position and other liquidity matters, including credit ratings and outlooks and the policies and procedures BAC uses to manage its liquidity risks, see Capital Management and Liquidity Risk in the MD&A on pages 71 and 76 of the BAC 2011 Annual Report.

***BAC is a holding company and as such it is dependent upon its subsidiaries for liquidity, including its ability to pay dividends to stockholders. Applicable laws and regulations, including capital and liquidity requirements, may restrict BAC's ability to transfer funds from its subsidiaries to itself or other subsidiaries.***

BAC, as the parent company, is a separate and distinct legal entity from its banking and nonbanking subsidiaries. BAC evaluates and manages liquidity on a legal entity basis. Legal entity liquidity is an important consideration as there are legal and other limitations on BAC's ability to utilise liquidity from one legal entity to satisfy the liquidity requirements of another, including the parent company. For instance, the parent company depends on dividends, distributions and other payments from its banking and nonbanking subsidiaries to fund dividend payments on its common stock and preferred stock and to fund all payments on its other obligations, including debt obligations. Many of BAC's subsidiaries, including its bank and broker/dealer subsidiaries, are subject to laws that restrict dividend payments or authorise regulatory bodies to block or reduce the flow of funds from those subsidiaries to the parent company or other subsidiaries. In addition, BAC's bank and broker/dealer subsidiaries are subject to restrictions on their ability to lend or transact with affiliates and to minimum regulatory capital and liquidity requirements, as well as restrictions on their ability to use funds deposited with them in bank or brokerage accounts to fund their businesses.

Additional restrictions on related party transactions, increased capital and liquidity requirements and additional limitations on the use of funds on deposit in bank or brokerage accounts, as well as lower earnings, can reduce the amount of funds available to meet the obligations of the parent company and even require the parent company to provide additional funding to such subsidiaries. Regulatory action of that kind could impede access to funds BAC needs to make payments on its obligations or dividend payments. In addition, BAC's right to participate in a distribution of assets upon a subsidiary's liquidation or reorganisation is subject to the prior claims of the subsidiary's creditors. For additional information regarding BAC's ability to pay dividends, see *Note 15 – Shareholders' Equity* and *Note 18 – Regulatory Requirements and Restrictions* to the Consolidated Financial Statements of the BAC 2011 Annual Report.

## **Credit Risk**

**Credit Risk is the Risk of Loss Arising from a Borrower, Obligor or Counterparty Default when a Borrower, Obligor or Counterparty does not Meet its Obligations.**

***Increased credit risk, due to economic or market disruptions, insufficient credit loss reserves or concentration of credit risk, may necessitate increased provisions for credit losses and could have an adverse effect on BAC's financial condition and results of operations.***

When BAC loans money, commits to loan money or enters into a letter of credit or other contract with a counterparty, BAC incurs credit risk, or the risk of losses if BAC's borrowers do not repay their loans or BAC's counterparties fail to perform according to the terms of their agreements. A number of BAC's products expose it to credit risk, including loans, leases and lending commitments, derivatives, trading account assets and assets held-for-sale. As one of the nation's largest lenders, the credit quality of BAC's consumer and commercial portfolios has a significant impact on its earnings.

Global and U.S. economic conditions continue to weigh on BAC's credit portfolios. Economic or market disruptions are likely to increase BAC's credit exposure to customers, obligors or other counterparties

due to the increased risk that they may default on their obligations to BAC. These potential increases in delinquencies and default rates could adversely affect BAC's consumer credit card, home equity, consumer real estate and purchased credit-impaired portfolios, through increased charge-offs and provisions for credit losses. In addition, despite improvement in the mix of BAC's commercial portfolio, increased credit risk could also adversely affect its commercial loan portfolios where BAC continues to experience elevated losses, particularly in its commercial real estate portfolios, reflecting continued stress across industries, property types and borrowers.

BAC estimates and establishes an allowance for credit losses for losses inherent in its lending activities (including unfunded lending commitments), excluding those measured at fair value, through a charge to earnings. The amount of allowance is determined based on BAC's evaluation of the potential credit losses included within its loan portfolio. The process for determining the amount of the allowance, which is critical to BAC's financial condition and results of operations, requires difficult, subjective and complex judgments, including forecasts of economic conditions and how BAC's borrowers will react to those conditions. BAC's ability to assess future economic conditions or the creditworthiness of BAC's customers, obligors or other counterparties is imperfect. The ability of BAC's borrowers to repay their loans will likely be impacted by changes in economic conditions, which in turn could impact the accuracy of BAC's forecasts.

As with any such assessments, there is also the chance that BAC will fail to identify the proper factors or that it will fail to accurately estimate the impacts of factors that it identifies. BAC may suffer unexpected losses if the models and assumptions it uses to establish reserves and make judgments in extending credit to BAC's borrowers and other counterparties become less predictive of future events. Although BAC believes that its allowance for credit losses was in compliance with applicable accounting standards at December 31, 2011, there is no guarantee that it will be sufficient to address future credit losses, particularly if economic conditions deteriorate. In such an event, BAC might need to increase the size of its allowance, which could adversely affect BAC's financial condition and results of operations.

In the ordinary course of its business, BAC also may be subject to a concentration of credit risk in a particular industry, country, counterparty, borrower or issuer. A deterioration in the financial condition or prospects of a particular industry or a failure or downgrade of, or default by, any particular entity or group of entities could have a material adverse effect on BAC's businesses, and the processes by which BAC sets limits and monitors the level of its credit exposure to individual entities, industries and countries may not function as BAC has anticipated. While BAC's activities expose it to many different industries and counterparties, BAC routinely executes a high volume of transactions with counterparties in the financial services industry, including brokers/dealers, commercial banks, investment funds and insurers. This has resulted in significant credit concentration with respect to this industry. In the ordinary course of business, BAC also enters into transactions with sovereign nations, U.S. states and U.S. municipalities. Unfavourable economic or political conditions, disruptions to capital markets, currency fluctuations, social instability and changes in government policies could impact the operating budgets or credit ratings of sovereign nations, U.S. states and U.S. municipalities and expose BAC to credit risk.

BAC also has a concentration of credit risk with respect to its consumer real estate, consumer credit card and commercial real estate portfolios, which represent a large percentage of BAC's overall credit portfolio. The economic downturn has adversely affected these portfolios and further exposed BAC to this concentration of risk. Continued economic weakness or deterioration in real estate values or household incomes could result in materially higher credit losses.

For additional information about BAC's credit risk and credit risk management policies and procedures, see Credit Risk Management in the MD&A on page 80 and *Note 1 – Summary of Significant Accounting Principles* to the Consolidated Financial Statements of the BAC 2011 Annual Report.

***BAC could suffer losses as a result of the actions of or deterioration in the commercial soundness of its counterparties and other financial services institutions.***

BAC could suffer losses and its ability to engage in routine trading and funding transactions could be adversely affected by the actions and commercial soundness of other market participants. BAC has exposure to many different industries and counterparties, and BAC routinely executes transactions with counterparties in the financial services industry, including brokers/dealers, commercial banks, investment banks, mutual and hedge funds and other institutional clients. Financial services institutions and other counterparties are inter-related because of trading, funding, clearing or other relationships. As a result, defaults by, or even rumours or questions about, one or more financial services institutions, or the financial services industry generally, have led to market-wide liquidity problems and could lead to

significant future liquidity problems, including losses or defaults by BAC or by other institutions. Many of these transactions expose BAC to credit risk in the event of default of a counterparty or client. In addition, BAC's credit risk may be impacted when the collateral held by BAC cannot be realised or is liquidated at prices not sufficient to recover the full amount of the loan or derivatives exposure due BAC. Any such losses could materially adversely affect BAC's financial condition and results of operations.

***BAC's derivatives businesses may expose BAC to unexpected risks and potential losses.***

BAC is party to a large number of derivatives transactions, including credit derivatives. BAC's derivatives businesses may expose BAC to unexpected market, credit and operational risks that could cause it to suffer unexpected losses and have an adverse effect on its financial condition and results of operations. Severe declines in asset values, unanticipated credit events or unforeseen circumstances that may cause previously uncorrelated factors to become correlated (and vice versa) may create losses resulting from risks not appropriately taken into account in the development, structuring or pricing of a derivative instrument. The terms of certain of BAC's OTC derivative contracts and other trading agreements provide that upon the occurrence of certain specified events, such as a change in BAC's credit ratings, BAC may be required to provide additional collateral or to provide other remedies, or BAC's counterparties may have the right to terminate or otherwise diminish BAC's rights under these contracts or agreements.

Many derivative instruments are individually negotiated and non-standardised, which can make exiting, transferring or settling some positions difficult. Many derivatives require that BAC deliver to the counterparty the underlying security, loan or other obligation in order to receive payment. In a number of cases, BAC does not hold, and may not be able to obtain, the underlying security, loan or other obligation.

Following the downgrade of the credit ratings of BAC, it has engaged in discussions with certain derivative and other counterparties regarding their rights under these agreements. In response to counterparties' inquiries and requests, BAC has discussed and in some cases substituted derivative contracts and other trading agreements, including naming BANA as the new counterparty. BAC's ability to substitute or make changes to these agreements to meet counterparties' requests may be subject to certain limitations, including counterparty willingness, regulatory limitations on naming BANA as the new counterparty, and the type or amount of collateral required. It is possible that such limitations on BAC's ability to substitute or make changes to these agreements, including naming BANA as the new counterparty, could adversely affect BAC's results of operations.

Derivatives contracts and other transactions entered into with third parties are not always confirmed by the counterparties or settled on a timely basis. While a transaction remains unconfirmed or during any delay in settlement, BAC is subject to heightened credit and operational risk and in the event of default may find it more difficult to enforce the contract. In addition, as new and more complex derivatives products have been created, covering a wider array of underlying credit and other instruments, disputes about the terms of the underlying contracts may arise, which could impair BAC's ability to effectively manage its risk exposures from these products and subject BAC to increased costs.

For additional information on BAC's derivatives exposure, see *Note 4 – Derivatives* to the Consolidated Financial Statements of the BAC 2011 Annual Report.

## **Market Risk**

**Market Risk is the Risk that Values of Assets and Liabilities or Revenues will be Adversely Affected by Changes in Market Conditions Such as Market Volatility. Market Risk is Inherent in the Financial Instruments Associated with BAC's Operations and Activities, Including Loans, Deposits, Securities, Short-term Borrowings, Long-term Debt, Trading Account Assets and Liabilities, and Derivatives.**

***BAC's businesses and results of operations have been, and may continue to be, significantly adversely affected by changes in the levels of market volatility and by other financial or capital market conditions.***

BAC's businesses and results of operations may be adversely affected by market risk factors such as changes in interest and currency exchange rates, equity and futures prices, the implied volatility of interest rates, credit spreads and other economic and business factors. These market risks may adversely affect, among other things, (i) the value of BAC's on- and off-balance sheet securities, trading assets other financial instruments, and MSRs, (ii) the cost of debt capital and BAC's access to credit markets, (iii) the value of assets under management, which could reduce BAC's fee income relating to those assets, (iv) customer allocation of capital among investment alternatives, (v) the volume of client activity in



BAC's trading operations, (vi) investment banking fees, and (vii) the general profitability and risk level of the transactions in which BAC engages. Any of these developments could have a significant adverse impact on BAC's financial condition and results of operations.

BAC uses various models and strategies to assess and control its market risk exposures but those are subject to inherent limitations. BAC's models, which rely on historical trends and assumptions, may not be sufficiently predictive of future results due to limited historical patterns, extreme or unanticipated market movements and illiquidity, especially during severe market downturns or stress events. The models that BAC uses to assess and control its market risk exposures also reflect assumptions about the degree of correlation or lack thereof among prices of various asset classes or other market indicators.

In times of market stress or other unforeseen circumstances, such as the market conditions experienced in 2008 and 2009, previously uncorrelated indicators may become correlated, or previously correlated indicators may move in different directions. These types of market movements have at times limited the effectiveness of BAC's hedging strategies and have caused BAC to incur significant losses, and they may do so in the future. These changes in correlation can be exacerbated where other market participants are using risk or trading models with assumptions or algorithms that are similar to BAC's. In these and other cases, it may be difficult to reduce BAC's risk positions due to the activity of other market participants or widespread market dislocations, including circumstances where asset values are declining significantly or no market exists for certain assets. To the extent that BAC owns securities that do not have an established liquid trading market or are otherwise subject to restrictions on sale or hedging, BAC may not be able to reduce its positions and therefore reduce its risk associated with such positions. In addition, challenging market conditions may also adversely affect BAC's investment banking fees.

For additional information about market risk and BAC's market risk management policies and procedures, see Market Risk Management in the MD&A on page 112 of the BAC 2011 Annual Report.

***Further downgrades in the U.S. government's sovereign credit rating, or in the credit ratings of instruments issued, insured or guaranteed by related institutions, agencies or instrumentalities, could result in risks to BAC and its credit ratings and general economic conditions that BAC is not able to predict.***

On 2 August 2011, Moody's affirmed the U.S. government's existing sovereign rating, but revised the rating outlook to negative. On August 5, 2011, S&P downgraded the U.S. government's long-term sovereign credit rating to AA+ from AAA and stated that the outlook on the long-term rating is negative. On the same day, S&P affirmed its A-1+ short-term rating on the U.S. and removed it from CreditWatch negative. On 28 November 2011, Fitch affirmed its AAA long-term rating on the U.S., but changed the outlook from stable to negative. On the same day, Fitch affirmed its F1+ short-term rating on the U.S. All three rating agencies have indicated that they will continue to assess fiscal projections and consolidation measures, as well as the medium-term economic outlook for the United States.

There continues to be the perceived risk of a sovereign credit ratings downgrade of the U.S. government, including the ratings of U.S. Treasury securities. It is foreseeable that the ratings and perceived creditworthiness of instruments issued, insured or guaranteed by institutions, agencies or instrumentalities directly linked to the U.S. government could also be correspondingly affected by any such downgrade. Instruments of this nature are key assets on the balance sheets of financial institutions, including BAC, and are widely used as collateral by financial institutions to meet their day-to-day cash flows in the short-term debt market. A downgrade of the sovereign credit ratings of the U.S. government and perceived creditworthiness of U.S. government-related obligations could impact BAC's ability to obtain funding that is collateralised by affected instruments, as well as affecting the pricing of that funding when it is available. A downgrade may also adversely affect the market value of such instruments.

BAC cannot predict if, when or how any changes to the credit ratings or perceived creditworthiness of these organisations will affect economic conditions. Such ratings actions could result in a significant adverse impact to BAC. The credit rating agencies' ratings for BAC or its subsidiaries could be directly or indirectly impacted by a downgrade of the U.S. government's sovereign rating because the credit ratings of large systemically important financial institutions, including BAC, currently incorporate a degree of uplift due to assumptions concerning government support. In addition, BAC presently delivers a material portion of the residential mortgage loans it originates into GSEs, agencies or instrumentalities (or instruments insured or guaranteed thereby). BAC cannot predict if, when or how any changes to the credit ratings of these organisations will affect their ability to finance residential mortgage loans. Such ratings actions, if any, could result in a significant change to the business operations of CRES.

A downgrade of the sovereign credit ratings of the U.S. government or the credit ratings of related institutions, agencies or instrumentalities would significantly exacerbate the other risks to which BAC is subject and any related adverse effects on its business, financial condition and results of operations, including those described under Risk Factors Relating to BAC and BAC's Businesses and Industry – Credit Risk – “BAC could suffer losses as a result of the actions of or deterioration in the commercial soundness of its counterparties and other financial services institutions,” Risk Factors Relating to BAC and BAC's Businesses and Industry – Market Risk – “BAC's businesses and results of operations have been, and may continue to be, significantly adversely affected by changes in the levels of market volatility and by other financial or capital market conditions” and Risk Factors Relating to BAC and BAC's Businesses and Industry – Liquidity Risk – “BAC's liquidity, cash flows, financial condition and results of operations, and competitive position may be significantly adversely affected if BAC is unable to access capital markets, continue to raise deposits, sell assets on favourable terms, or if there is an increase in BAC's borrowing costs.”

***Uncertainty about the financial stability of several countries in the European Union (“EU”), the increasing risk that those countries may default on their sovereign debt and related stresses on financial markets, the euro and the EU could have a significant adverse effect on BAC's business, financial condition and results of operations.***

In 2011, the financial crisis in Europe continued, triggered by high sovereign budget deficits and rising direct and contingent sovereign debt in Greece, Ireland, Italy, Portugal and Spain, which created concerns about the ability of these EU countries to continue to service their sovereign debt obligations. These conditions impacted financial markets and resulted in credit ratings downgrades for, and high and volatile bond yields on, the sovereign debt of many EU countries. Certain European countries continue to experience varying degrees of financial stress, and yields on government-issued bonds in Greece, Ireland, Italy, Portugal and Spain have risen and remain volatile. Despite assistance packages to certain of these countries, the creation of a joint EU-IMF European Financial Stability Facility and additional expanded financial assistance to Greece, uncertainty over the outcome of the EU governments' financial support programs and worries about sovereign finances and the stability of the Euro and EU persist. Market concerns over the direct and indirect exposure of certain European banks and insurers to these EU countries resulted in a widening of credit spreads and increased costs of funding for these financial institutions. While BAC has reduced its exposure to European financial institutions, the insolvency of one or more major European financial institutions could adversely impact financial markets and, consequently, BAC's results of operations.

Risks and ongoing concerns about the debt crisis in Europe could have a detrimental impact on the global economic recovery, sovereign and non-sovereign debt in these countries and the financial condition of European financial institutions and international financial institutions with exposure to the region, including BAC. Market and economic disruptions have affected, and may continue to affect, consumer confidence levels and spending, personal bankruptcy rates, levels of incurrence and default on consumer debt and residential mortgages, and housing prices among other factors. There can be no assurance that the market disruptions in Europe, including the increased cost of funding for certain governments and financial institutions, will not spread, nor can there be any assurance that future assistance packages will be available or, even if provided, will be sufficient to stabilise the affected countries and markets in Europe or elsewhere. To the extent uncertainty regarding the European economic recovery continues to negatively impact consumer confidence and consumer credit factors, or should the EU enter a deep recession, both the U.S. economy and BAC's business and results of operations could be significantly and adversely affected. Global economic uncertainty, regulatory initiatives and reform have impacted, and will likely continue to impact, non-U.S. credit and trading portfolios. BAC's Regional Risk Committee, a subcommittee of BAC's Credit Risk Committee, is seeking to address this risk but there can be no assurance BAC's efforts in this respect will be sufficient or successful. BAC's total sovereign and non-sovereign exposure to Greece, Italy, Ireland, Portugal and Spain, was \$15.3 billion at 31 December 2011 compared to \$16.6 billion at 31 December 2010. BAC's total net sovereign and non-sovereign exposure to these countries was \$10.5 billion at December 31, 2011 compared to \$12.4 billion at 31 December 2010, after taking into account net credit default protection. At 31 December 2011 and 2010, the fair value of net credit default protection purchased was \$4.9 billion and \$4.2 billion. Losses could still result because BAC's credit protection contracts only pay out under certain scenarios.

For more information on BAC's direct sovereign and non-sovereign exposures in Europe, see Executive Summary – 2011 Economic and Business Environment in the MD&A on page 27 and Non-U.S. Portfolio in the MD&A on page 104 of the BAC 2011 Annual Report.



***Declines in the value of certain of BAC's assets could have an adverse effect on its results of operations.***

BAC has a large portfolio of financial instruments, including, among others, certain corporate loans and loan commitments, loans held-for-sale, repurchase agreements, long-term deposits, trading account assets and liabilities, derivatives assets and liabilities, available-for-sale debt and marketable equity securities, consumer-related MSRs and certain other assets and liabilities that BAC measures at fair value. BAC determines the fair values of these instruments based on the fair value hierarchy under applicable accounting guidance. The fair values of these financial instruments include adjustments for market liquidity, credit quality and other transaction-specific factors, where appropriate.

Gains or losses on these instruments can have a direct and significant impact on BAC's results of operations, unless BAC has effectively hedged its exposures. Changes in loan prepayment speeds, which are influenced by interest rates, among other things, can impact the value of BAC's MSRs and can result in substantially higher or lower mortgage banking income and earnings, depending upon BAC's ability to fully hedge the performance of its MSRs. Fair values may be impacted by declining values of the underlying assets or the prices at which observable market transactions occur and the continued availability of these transactions. The financial strength of counterparties, such as monolines, with whom BAC has economically hedged some of its exposure to these assets, also will affect the fair value of these assets. Sudden declines and significant volatility in the prices of assets may substantially curtail or eliminate the trading activity for these assets, which may make it very difficult to sell, hedge or value such assets. The inability to sell or effectively hedge assets reduces BAC's ability to limit losses in such positions and the difficulty in valuing assets may increase its risk-weighted assets, which requires BAC to maintain additional capital and increases its funding costs.

Asset values also directly impact revenues in BAC's asset management businesses. BAC receives asset-based management fees based on the value of its clients' portfolios or investments in funds managed by it and, in some cases, BAC also receives incentive fees based on increases in the value of such investments. Declines in asset values can reduce the value of BAC's clients' portfolios or fund assets, which in turn can result in lower fees earned for managing such assets.

For additional information about fair value measurements, see *Note 22 – Fair Value Measurements* to the Consolidated Financial Statements of the BAC 2011 Annual Report. For additional information about BAC's asset management businesses, see *Business Segment Operations – Global Wealth & Investment Management* in the MD&A on page 52 of the BAC 2011 Annual Report.

***Changes to loan prepayment speeds could reduce BAC's net interest income and earnings.***

Government officials and regulatory authorities have advanced various proposals to assist homeowners and the housing and mortgage markets more generally. Certain of these proposals have included expanded access to residential mortgage loan refinancing options, including refinancing options for borrowers who may be current on their existing mortgage loans and for borrowers whose current mortgage principal balance may exceed the current appraised value of the mortgaged property. Expanded refinancing access may also result from BAC's implementation of the Servicing Resolution Agreements discussed above. Adoption of proposals of this nature could result in an increased number of mortgage refinancings, and accordingly, greater reductions in interest rates and principal prepayments on the mortgage loans in BAC's portfolio than BAC would otherwise expect to experience without those proposals. Reductions in interest rates and increases in mortgage prepayment speeds of this nature could adversely impact the value of BAC's MSR asset, cause a significant acceleration of purchase premium amortisation on BAC's mortgage portfolio, adversely affect BAC's net interest margin, and adversely affect BAC's net interest income and earnings.

For additional information about interest rate risk management, see *Interest Rate Risk Management for Nontrading Activities* in the MD&A on page 116 of the BAC 2011 Annual Report.

**Regulatory and Legal Risk*****Bank regulatory agencies may require BAC to hold higher levels of regulatory capital, increase its regulatory capital ratios or increase liquidity, which could result in the need to issue additional securities that qualify as regulatory capital or to sell company assets.***

BAC is subject to the risk-based capital guidelines issued by the Federal Reserve. These guidelines establish regulatory capital requirements for banking institutions to meet minimum requirements as well as to qualify as a "well-capitalized" institution. (A "well-capitalized" institution must generally maintain capital ratios 200 basis points higher than the minimum guidelines.) The risk-based capital rules have

been further supplemented by required leverage ratios, defined as Tier I (the highest grade) capital divided by quarterly average total assets, after certain adjustments. If any of BAC's insured depository institutions fails to maintain its status as "well-capitalized" under the capital rules of their primary federal regulator, the Federal Reserve will require BAC to enter into an agreement to bring the insured depository institution or institutions back into a "well-capitalized" status. For the duration of such an agreement, the Federal Reserve may impose restrictions on the activities in which BAC may engage. If BAC were to fail to enter into such an agreement, or fail to comply with the terms of such agreement, the Federal Reserve may impose more severe restrictions on the activities in which BAC may engage, including requiring BAC to cease and desist in activities permitted under the Bank Holding Act.

It is possible that increases in regulatory capital requirements, changes in how regulatory capital is calculated or increases to liquidity requirements, may cause the loss of BAC's "well-capitalized" status unless BAC increases its capital levels by issuing additional common stock, thus diluting its existing shareholders, or by selling assets. On 20 December 2011, the Federal Reserve proposed rules relating to risk-based capital and leverage requirements, liquidity requirements, stress tests, single-counterparty credit limits and early remediation requirements. These rules, when finalised, are likely to influence BAC's regulatory capital and liquidity planning process, and may impose additional operational and compliance costs on BAC. Any requirement that BAC increase its regulatory capital, regulatory capital ratios or liquidity could have a material adverse effect on its financial condition and results of operations, as BAC may need to sell certain assets, perhaps on terms unfavourable to BAC and contrary to its business plans. Such a requirement could also compel BAC to issue additional securities, which could dilute its current common stockholders. For additional information about the proposals described above and their potential effect on BAC's required levels of regulatory capital, see Capital Management – Regulatory Capital in the MD&A on page 72 of the BAC 2011 Annual Report.

***Government measures to regulate the financial industry, including the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Financial Reform Act"), either individually, in combination or in the aggregate, have increased and will continue to increase BAC's compliance costs and could require BAC to change certain of its business practices, impose significant additional costs on BAC, limit the products that BAC offers, limit BAC's ability to pursue business opportunities in an efficient manner, require BAC to increase its regulatory capital, impact the value of assets that BAC holds, significantly reduce BAC's revenues or otherwise materially and adversely affect BAC's businesses, financial condition and results of operations.***

As a financial institution, BAC is heavily regulated at the state, federal and international levels. As a result of the 2008-2009 financial crisis and related global economic downturn, BAC has faced and expects to continue to face increased public and legislative scrutiny as well as stricter and more comprehensive regulation of its businesses. These regulatory and legislative measures, either individually, in combination or in the aggregate, could require BAC to further change certain of its business practices, impose significant additional costs on BAC, limit the products that BAC offers, limit BAC's ability to pursue business opportunities in an efficient manner, require BAC to increase its regulatory capital, impact the value of assets that BAC holds, significantly reduce BAC's revenues or otherwise materially and adversely affect BAC's businesses, financial condition and results of operations.

On 11 October 2011, the Federal Reserve, the OCC, the Federal Deposit Insurance Corporation ("FDIC") and the SEC, four of the five regulatory agencies charged with promulgating regulations implementing limitations on proprietary trading as well as the sponsorship of or investment in hedge funds and private equity funds (the "Volcker Rule") established by the Financial Reform Act, released for comment proposed regulations. On 11 January 2012, the U.S. Commodities Futures Trading Commission ("CFTC"), the fifth agency, released for comment its proposed regulations under the Volcker Rule. The proposed regulations include clarifications to the definition of proprietary trading and distinctions between permitted and prohibited activities. The comment period for the first regulations proposed ended on 13 February 2012 and the comment period for the CFTC regulations ended in March 2012.

The statutory provisions of the Volcker Rule will become effective on 21 July 2012, whether or not the final regulations are adopted, and it gives certain financial institutions two years from the effective date, with opportunities for additional extensions, to bring activities and investments into compliance. The ultimate impact of the Volcker Rule on BAC remains uncertain. However, based on the contents of the proposed regulations, it is possible that the implementation of the Volcker Rule could limit or restrict BAC's remaining trading activities. Implementation of the Volcker Rule could also limit or restrict BAC's ability to sponsor and hold ownership interests in hedge funds, private equity funds and other

subsidiary operations. Additionally, implementation of the Volcker Rule could increase BAC's operational and compliance costs and reduce its trading revenues, and adversely affect its results of operations. The date by which final regulations will be issued is uncertain.

Additionally, the Financial Reform Act includes measures to broaden the scope of derivative instruments subject to regulation by requiring clearing and exchange trading of certain derivatives, imposing new capital, margin, reporting, registration and business conduct requirements for certain market participants and imposing position limits on certain OTC derivatives. The Financial Reform Act grants the CFTC and the SEC substantial new authority and requires numerous rulemakings by these agencies. The Financial Reform Act required regulators to promulgate the rulemakings necessary to implement these regulations by 16 July 2011. However, the rulemaking process was not completed as of that date, and is not expected to conclude until well into 2012. Further, the regulators granted temporary relief from certain requirements that would have taken effect on 16 July 2011 absent any rulemaking. The SEC temporary relief is effective until final rules relevant to each requirement become effective. The CFTC temporary relief is effective until the earlier of 16 July 2012 or the date on which final rules relevant to each requirement become effective. The ultimate impact of these derivatives regulations, and the time it will take to comply, continue to remain uncertain. The final regulations will impose additional operational and compliance costs on BAC and may require BAC to restructure certain businesses and negatively impact its revenues and results of operations.

In April 2011, a new regulation became effective that implements revisions to the assessment system mandated by the Financial Reform Act that increased BAC's FDIC expense. In addition, the FDIC has broad discretionary authority to increase assessments on large and highly complex institutions on a case by case basis. Any future increases in required deposit insurance premiums or other bank industry fees could have an adverse impact on BAC's financial condition and results of operations.

The Financial Reform Act provided for a new resolution authority to establish a process to resolve the failure of large systemically important financial institutions. As part of that process, BAC is required to develop and implement a resolution plan which will be subject to review by the FDIC and the Federal Reserve to determine whether BAC's plan is credible. As a result of FDIC and Federal Reserve review, BAC could be required to take certain actions over the next several years which could impose operational costs and could potentially result in the divestiture or restructuring of certain businesses and subsidiaries.

In 2011, the Federal Reserve and FDIC jointly approved a final rule that requires BAC and other bank holding companies with assets of \$50 billion or more, as well as companies designated as systemic by the Financial Stability Oversight Council, to periodically report to the FDIC and the Federal Reserve their plans for a rapid and orderly resolution in the event of material financial distress or failure. If the FDIC and the Federal Reserve determine that a company's plan is not credible and the company fails to cure the deficiencies in a timely manner, then the FDIC and the Federal Reserve may jointly impose on the company, or on any of its subsidiaries, more stringent capital, leverage or liquidity requirements or restrictions on growth, activities or operations. BAC's initial plan is required to be submitted on or before 1 July 2012, and to be updated annually. Similarly, in the U.K., the Financial Services Authority ("FSA") has issued proposed rules requiring the submission of significant information about certain U.K. incorporated subsidiaries (including information on intra-group dependencies and legal entity separation) to allow the FSA to develop resolution plans. As a result of the FSA review, BAC could be required to take certain actions over the next several years which could impose operational costs and potentially could result in the restructuring of certain businesses and subsidiaries.

Under the Financial Reform Act, when a systemically important financial institution such as BAC is in default or danger of default, the FDIC may, in certain circumstances, be appointed receiver in order to conduct an orderly liquidation of such systemically important financial institution. In such a case, the FDIC could invoke a new form of resolution authority, called the orderly liquidation authority, instead of the U.S. Bankruptcy Code, if the Secretary of the Treasury makes certain financial distress and systemic risk determinations. The orderly liquidation authority is modelled in part on the Federal Deposit Insurance Act, but also adopts certain concepts from the U.S. Bankruptcy Code. However, the orderly liquidation authority contains certain differences from the U.S. Bankruptcy Code. Macroprudential systemic protection is the primary objective of the orderly liquidation authority, subject to minimum threshold protections for creditors. Accordingly, in certain circumstances under the orderly liquidation authority, the FDIC could permit payment of obligations determined to be systemically significant (for example, short-term creditors or operating creditors) in lieu of the payment of other obligations (for example, long-term creditors) without the need to obtain creditors' consent or prior court review.

Additionally, under the orderly liquidation authority, amounts owed to the U.S. government generally enjoy a statutory payment priority.

The Financial Reform Act established the Bureau of Consumer Financial Protections (“**CFPB**”) to regulate the offering of consumer financial products or services under the federal consumer financial laws. In addition, under the Financial Reform Act, the CFPB was granted general authority to prevent covered persons or service providers from committing or engaging in unfair, deceptive or abusive acts or practices under Federal law in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service. Pursuant to the Financial Reform Act, on 21 July 2011, certain federal consumer financial protection statutes and related regulatory authority were transferred to the CFPB. As a consequence of this transfer of authority, certain Federal consumer financial laws to which BAC is subject, including, but not limited to, the Equal Credit Opportunity Act, Home Mortgage Disclosure Act, Electronic Fund Transfers Act, Fair Credit Reporting Act, Truth in Lending and Truth in Savings Acts will be enforced by the CFPB, subject to certain statutory limitations. On 4 January 2012, a Director of the CFPB was appointed, via recess appointment, and accordingly, the CFPB was vested with full authority to exercise all supervisory, enforcement and rulemaking authorities granted to the CFPB under the Financial Reform Act, including its supervisory powers over non-bank financial institutions such as pay-day lenders and other types of non-bank financial institutions.

On 20 December 2011, the Federal Reserve issued proposed rules to implement enhanced supervisory and prudential requirements and the early remediation requirements established under the Financial Reform Act. The enhanced standards include risk-based capital and leverage requirements, liquidity standards, requirements for overall risk management, single-counterparty credit limits, stress test requirements and a debt-to-equity limit for certain companies determined to pose a threat to financial stability. Comments on the proposed rules were due by 31 March 2012, and final regulations will not be adopted until after that date. The final rules are likely to influence BAC’s regulatory capital and liquidity planning process, and may impose additional operational and compliance costs on BAC.

Many of the provisions under the Financial Reform Act have begun to be phased in or will be phased in over the next several months or years and will be subject both to further rulemaking and the discretion of applicable regulatory bodies. The Financial Reform Act will continue to have a significant and negative impact on BAC’s earnings through fee reductions, higher costs and new restrictions. The Financial Reform Act may also continue to have a material adverse impact on the value of certain assets and liabilities held on BAC’s balance sheet. The ultimate impact of the Financial Reform Act on BAC’s businesses and results of operations will depend on regulatory interpretation and rulemaking, as well as the success of any of BAC’s actions to mitigate the negative earnings impact of certain provisions.

In December 2010, the Basel Committee on Banking Supervision (the “**Basel Committee**”) issued “Basel III: A global regulatory framework for more resilient banks and banking systems” and “International framework for liquidity risk measurement, standards and monitoring” (together, “**Basel III**”). If implemented by U.S. banking regulators as proposed, Basel III’s capital standards could significantly increase BAC’s capital requirements. Basel III and the Financial Reform Act propose the disqualification of trust preferred securities from Tier 1 capital, with the Financial Reform Act proposing that the disqualification be phased in from 2013 to 2015. Basel III also proposes the deduction of certain assets from capital (deferred tax assets, MSRs, investments in financial firms and pension assets, among others, within prescribed limitations), the inclusion of accumulated other comprehensive income (“**OCI**”) in capital, increased capital requirements for counterparty credit risk, and new minimum capital and buffer requirements.

Basel III also proposes two minimum liquidity measures. The Liquidity Coverage Ratio (“**LCR**”) measures the amount of a financial institution’s unencumbered, high-quality, liquid assets relative to the net cash outflows the institution could encounter under an acute 30-day stress scenario. The Net Stable Funding Ratio (“**NSFR**”) measures the amount of longer-term, stable sources of funding employed by a financial institution relative to the liquidity profiles of the assets funded and the potential for contingent calls on funding liquidity arising from off-balance sheet commitments and obligations over a one-year period.

On 19 July 2011, the Basel Committee published the consultative document, “Globally systemic important banks: Assessment methodology and the additional loss absorbency requirement,” which sets out measures for global, systemically important financial institutions including the methodology for measuring systemic importance, the additional capital required (the “**SIFI buffer**”), and the arrangements by which they will be phased in. As proposed, the SIFI buffer would be met with



additional Tier 1 common equity ranging from one percent to 2.5 percent, and in certain circumstances, 3.5 percent. This will be phased in from 2016 through 2018. U.S. banking regulators have not yet provided similar rules for U.S. implementation of a SIFI buffer.

Preparation for Basel III has influenced and, when finalised, is likely to continue to influence BAC's regulatory capital and liquidity planning process, and may impose additional operational and compliance costs on BAC. Any requirement that BAC increase its regulatory capital, regulatory capital ratios or liquidity could have a material adverse effect on BAC's financial condition and results of operations, as BAC may need to liquidate certain assets, perhaps on terms unfavourable to BAC and contrary to its business plans. Such a requirement could also compel BAC to issue additional securities, which could dilute its current common stockholders.

For additional information about the regulatory initiatives discussed above, see Regulatory Matters in the MD&A on page 66 of the BAC 2011 Annual Report.

***Changes in the structure of the GSEs and the relationship among the GSEs, the government and the private markets, or the conversion of the current conservatorship of the GSEs into receivership, could result in significant changes to the business operations of CRES, and adversely impact certain operations of Global Markets (formerly Global Banking and Markets).***

During the last ten years, BAC and its subsidiaries and legacy companies have sold over \$2.0 trillion of loans to the GSEs. Each GSE is currently in a conservatorship, with its primary regulator, the Federal Housing Finance Agency, acting as conservator. BAC cannot predict if, when or how the conservatorships will end, or any associated changes to the GSEs' business structure that could result. BAC also cannot predict whether the conservatorships will end in receivership. There are several proposed approaches to reform the GSEs which, if enacted, could change the structure of the GSEs and the relationship among the GSEs, the government and the private markets, including the trading markets for agency conforming mortgage loans and markets for mortgage-related securities in which *Global Markets* participates. BAC cannot predict the prospects for the enactment, timing or content of legislative or rulemaking proposals regarding the future status of the GSEs. Accordingly, there continues to be uncertainty regarding the future of the GSEs, including whether they will continue to exist in their current form. GSE reform, if enacted, could result in a significant change to the business operations of *CRES* and adversely impact certain operations of *Global Markets*.

***BAC faces substantial potential legal liability and significant regulatory action, which could have material adverse effects on BAC's cash flows, financial condition and results of operations, or cause significant reputational harm to BAC.***

BAC faces significant legal risks in its businesses, and the volume of claims and amount of damages and penalties claimed in litigation and regulatory proceedings against BAC and other financial institutions remain high and are increasing. Increased litigation costs, substantial legal liability or significant regulatory action against BAC could have material adverse effects on its financial condition and results of operations or cause significant reputational harm to BAC, which in turn could adversely impact its business prospects. In addition, BAC continues to face increased litigation risk and regulatory scrutiny. BAC has continued to experience increased litigation and other disputes with counterparties regarding relative rights and responsibilities. Consumers, clients and other counterparties have grown more litigious. BAC's experience with certain regulatory authorities suggests a migration towards an increasing supervisory focus on enforcement, including in connection with alleged violations of law and customer harm. The current environment of additional regulation, increased regulatory compliance burdens, and enhanced regulatory enforcement, combined with ongoing uncertainty related to the continuing evolution of the regulatory environment, has resulted in significant operational and compliance costs and may limit BAC's ability to continue providing certain products and services.

These litigation and regulatory matters and any related settlements could have a material adverse effect on BAC's cash flows, financial condition and results of operations. They could also negatively impact BAC's reputation and lead to volatility of its stock price. For a further discussion of litigation risks, see *Note 14 – Commitments and Contingencies* to the Consolidated Financial Statements of the BAC 2011 Annual Report.

***Changes in governmental fiscal and monetary policy could adversely affect BAC's financial condition and results of operations.***

BAC's businesses and earnings are affected by domestic and international fiscal and monetary policy. The Federal Reserve regulates the supply of money and credit in the U.S. and its policies determine in large part BAC's cost of funds for lending, investing and capital raising activities and the return BAC earns on those loans and investments, both of which affect BAC's net interest margin. The actions of the Federal Reserve also can materially affect the value of financial instruments and other assets, such as debt securities and MSRs, and its policies also can affect BAC's borrowers, potentially increasing the risk that they may fail to repay their loans. BAC's businesses and earnings are also affected by the fiscal or other policies that are adopted by the U.S. government, various U.S. regulatory authorities, and non-U.S. governments and regulatory authorities. Changes in domestic and international fiscal and monetary policies are beyond BAC's control and difficult to predict but could have an adverse impact on BAC's capital requirements and the costs of running BAC's businesses, in turn adversely impacting BAC's financial condition and results of operations.

***Changes in U.S. and non-U.S. tax and other laws and regulations could adversely affect BAC's financial condition and results of operations.***

The U.S. Congress and the U.S. Presidential Administration have signalled growing interest in reforming the U.S. corporate income tax. While the timing of such reform is unclear, possible approaches include lowering the 35 per cent. corporate tax rate, modifying the taxation of income earned outside of the U.S. and limiting or eliminating various other deductions, tax credits and/or other tax preferences. It is not possible at this time to quantify either the one-time impact from remeasuring deferred tax assets and liabilities that might result upon enactment of tax reform or the ongoing impact reform might have on income tax expense, but either of these impacts could adversely affect BAC's financial condition and results of operations.

In addition, the income from certain non-U.S. subsidiaries has not been subject to U.S. income tax as a result of long-standing deferral provisions applicable to income that is derived in the active conduct of a banking and financing business (active finance income). The U.S. Congress has extended the application of these deferral provisions several times, most recently in 2010. These provisions now are set to expire for taxable years beginning on or after 1 January 2012. Absent an extension of these provisions, active financing income earned by certain non-U.S. subsidiaries will generally be subject to a tax provision that considers incremental U.S. income tax. The impact of the expiration of these provisions would depend upon the amount, composition and geographic mix of BAC's future earnings.

Other countries have also proposed and, in some cases, adopted certain regulatory changes targeted at financial institutions or that otherwise affect BAC. The EU has adopted increased capital requirements and the U.K. has (i) increased liquidity requirements for local financial institutions, including regulated U.K. subsidiaries of non-U.K. bank holding companies and other financial institutions as well as branches of non-U.K. banks located in the U.K.; (ii) adopted a Bank Tax Levy which will apply to the aggregate balance sheet of branches and subsidiaries of non-U.K. banks and banking groups operating in the U.K.; and (iii) proposed the creation and production of recovery and resolution plans by U.K.-regulated entities.

On 19 July 2011, the U.K. 2011 Finance Bill was enacted which reduced the corporate income tax rate one per cent. to 26 per cent. beginning on 1 April 2011, and then to 25 per cent. effective 1 April 2012. These rate reductions will favourably affect income tax expense on future U.K. earnings but also required BAC to remeasure its U.K. net deferred tax assets using the lower tax rates. The income tax benefit for 2011 included a \$782 million charge for the remeasurement, substantially all of which was recorded in *Global Markets*. If corporate income tax rates were to be reduced to 23 per cent. by 2014 as suggested in U.K. Treasury announcements and assuming no change in the deferred tax asset balance, a charge to income tax expense of approximately \$400 million for each one per cent. reduction in the rate would result in each period of enactment (for a total of approximately \$800 million). BAC is also monitoring other international legislative proposals that could materially impact BAC, such as changes to corporate income tax laws. Currently, in the U.K., net operating loss carryforwards ("NOLs") have an indefinite life. Were the U.K. taxing authorities to introduce limitations on the future utilisation of NOLs and were BAC unable to document its continued ability to fully utilise its NOLs, BAC would be required to establish a valuation allowance by a charge to corporate income tax expense. Depending upon the nature of the limitations, such a charge could be material to BAC's results of operations in the period of enactment.



## **Risk of the Competitive Environment in which BAC Operates**

### ***BAC faces significant and increasing competition in the financial services industry.***

BAC operates in a highly competitive environment. Over time, there has been substantial consolidation among companies in the financial services industry, and this trend accelerated in recent years. This trend has also hastened the globalisation of the securities and financial services markets. BAC will continue to experience intensified competition as consolidation in and globalisation of the financial services industry may result in larger, better-capitalised and more geographically diverse companies that are capable of offering a wider array of financial products and services at more competitive prices. To the extent BAC expands into new business areas and new geographic regions, it may face competitors with more experience and more established relationships with clients, regulators and industry participants in the relevant market, which could adversely affect BAC's ability to compete. In addition, technological advances and the growth of e-commerce have made it possible for non-depository institutions to offer products and services that traditionally were banking products, and for financial institutions to compete with technology companies in providing electronic and internet-based financial solutions. Increased competition may negatively affect BAC's results of operations by creating pressure to lower prices on its products and services and reducing market share.

### ***Damage to BAC's reputation could significantly harm its businesses, including its competitive position and business prospects.***

BAC's ability to attract and retain customers, clients, investors and employees is impacted by BAC's reputation. Public perception of BAC and others in the financial services industry appeared to decline in 2011. BAC continues to face increased public and regulatory scrutiny resulting from the financial crisis and economic downturn as well as alleged irregularities in servicing, foreclosure, consumer collections, mortgage loan modifications and other practices, lending volumes, compensation practices, BAC's acquisitions of Countrywide and Merrill Lynch and the suitability or reasonableness of recommending particular trading or investment strategies.

Significant harm to BAC's reputation can also arise from other sources, including employee misconduct, unethical behaviour, litigation or regulatory outcomes, failing to deliver minimum or required standards of service and quality, compliance failures, unintended disclosure of confidential information, and the activities of BAC's clients, customers and counterparties, including vendors. Actions by the financial services industry generally or by certain members or individuals in the industry also can significantly adversely affect BAC's reputation.

BAC is subject to complex and evolving laws and regulations regarding privacy, data protections and other matters. Principles concerning the appropriate scope of consumer and commercial privacy vary considerably in different jurisdictions, and regulatory and public expectations regarding the definition and scope of consumer and commercial privacy may remain fluid into the future. It is possible that these laws may be interpreted and applied by various jurisdictions in a manner that is inconsistent with BAC's current or future practices, or that is inconsistent with one another. BAC faces regulatory, reputational and operational risks if personal, confidential or proprietary information of customers or clients in BAC's possession is mishandled or misused.

BAC could suffer significant reputational harm if it fails to properly identify and manage potential conflicts of interest. Management of potential conflicts of interests has become increasingly complex as BAC expands its business activities through more numerous transactions, obligations and interests with and among BAC's clients. The failure to adequately address, or the perceived failure to adequately address, conflicts of interest could affect the willingness of clients to deal with BAC, or give rise to litigation or enforcement actions, which could adversely affect BAC's businesses.

BAC's actual or perceived failure to address these and other issues gives rise to reputational risk that could cause significant harm to BAC and its business prospects, including failure to properly address operational risks. Failure to appropriately address any of these issues could also give rise to additional regulatory restrictions, legal risks and reputational harm, which could, among other consequences, increase the size and number of litigation claims and damages asserted or subject BAC to enforcement actions, fines and penalties and cause BAC to incur related costs and expenses.

***BAC's ability to attract and retain qualified employees is critical to the success of BAC's businesses and failure to do so could adversely affect BAC's business prospects, including its competitive position and results of operations.***

BAC's performance is heavily dependent on the talents and efforts of highly skilled individuals. Competition for qualified personnel within the financial services industry and from businesses outside the financial services industry has been, and is expected to continue to be, intense. BAC's competitors include non-U.S.-based institutions and institutions otherwise not subject to compensation and hiring regulations imposed on U.S. institutions and financial institutions in particular. The difficulty BAC faces in competing for key personnel is exacerbated in emerging markets, where BAC is often competing for qualified employees with entities that may have a significantly greater presence or more extensive experience in the region.

In order to attract and retain qualified personnel, BAC must provide market-level compensation. As a large financial and banking institution, BAC may be subject to limitations on compensation practices (which may or may not affect BAC's competitors) by the Federal Reserve, the FDIC or other regulators around the world. Any future limitations on executive compensation imposed by legislation or regulation could adversely affect BAC's ability to attract and maintain qualified employees. Furthermore, a substantial portion of BAC's annual bonus compensation paid to BAC's senior employees has in recent years taken the form of long-term equity awards. The value of long-term equity awards to senior employees generally has been negatively affected by the significant decline in the market price of BAC's common stock. If BAC is unable to continue to attract and retain qualified individuals, BAC's business prospects, including its competitive position and results of operations, could be adversely affected.

In addition, if BAC fails to retain the wealth advisors that it employs in its *Global Wealth & Investment Management* ("GWIM") segment, particularly those with significant client relationships, such failure could result in a significant loss of clients or the withdrawal of significant client assets. Any such loss or withdrawal could adversely impact GWIM's business activities and BAC's financial condition, results of operations and cash flows.

***BAC may not be able to achieve expected cost savings from cost-saving initiatives, including from Project New BAC, or in accordance with currently anticipated time frames.***

BAC is currently engaged in numerous efforts to achieve certain cost savings, including, among other things, Project New BAC.

Project New BAC is a two-phase, enterprise-wide initiative to simplify and streamline workflows and processes, align businesses and costs more closely with BAC's overall strategic plan and operating principles, and increase revenues. Phase 1 focuses on the consumer businesses, including *Consumer & Business Banking* (formerly *Deposits and Card Services*) and *CRES*, and related support, technology and operations functions. Phase 2 focuses on *Global Banking* (formerly *Global Commercial Banking*), *Global Markets* and *GWIM*, and related support, technology and operations functions not subject to evaluation in Phase 1. All aspects of Project New BAC are expected to be implemented by the end of 2014.

BAC may be unable to fully realise the cost savings and other anticipated benefits from its cost saving initiatives or in accordance with currently anticipated timeframes.

***BAC's inability to adapt its products and services to evolving industry standards and consumer preferences could harm its businesses.***

BAC's business model is based on a diversified mix of businesses that provide a broad range of financial products and services, delivered through multiple distribution channels. BAC's success depends, in part, on its ability to adapt its products and services to evolving industry standards. There is increasing pressure by competitors to provide products and services at lower prices. This can reduce BAC's net interest margin and revenues from BAC's fee-based products and services. In addition, the widespread adoption of new technologies, including internet services, could require BAC to incur substantial expenditures to modify or adapt its existing products and services. BAC might not be successful in developing or introducing new products and services, responding or adapting to changes in consumer spending and saving habits, achieving market acceptance of BAC's products and services, or sufficiently developing and maintaining loyal customers.

## Risks Related to Risk Management

***BAC's risk management framework may not be effective in mitigating risk and reducing the potential for significant losses.***

BAC's risk management framework is designed to minimise risk and loss to BAC. BAC seeks to identify, measure, monitor, report and control its exposure to the types of risk to which BAC is subject, including strategic, credit, market, liquidity, compliance, operational and reputational risks, among others. While BAC employs a broad and diversified set of risk monitoring and mitigation techniques, those techniques are inherently limited because they cannot anticipate the existence or future development of currently unanticipated or unknown risks. Recent economic conditions, heightened legislative and regulatory scrutiny of the financial services industry and increases in the overall complexity of BAC's operations, among other developments, have resulted in a heightened level of risk for BAC. Accordingly, BAC could suffer losses as a result of its failure to properly anticipate and manage these risks, including all correlations and downstream secondary or follow-on effects that occur.

For additional information about BAC's risk management policies and procedures, see Managing Risk in the MD&A on page 68 of the BAC 2011 Annual Report.

***A failure in or breach of BAC's operational or security systems or infrastructure, or those of third parties with which BAC does business, including as a result of cyber attacks, could disrupt BAC's businesses, result in the disclosure or misuse of confidential or proprietary information, damage BAC's reputation, increase BAC's costs and cause losses. Any such failure also could have a material adverse effect on BAC's business, financial condition and results of operations.***

BAC's businesses are highly dependent on its ability to process, record and monitor, on a continuous basis, a large number of transactions, many of which are highly complex, across numerous and diverse markets in many currencies. The potential for operational risk exposure exists throughout BAC's organisation, including losses resulting from unauthorised trades by any employees.

Integral to BAC's performance is the continued efficacy of its internal processes, systems, relationships with third parties and the vast array of employees and key executives in BAC's day-to-day and ongoing operations. With regard to the physical infrastructure and systems that support BAC's operations, BAC has taken measures to implement backup systems and other safeguards, but its ability to conduct business may be adversely affected by any significant and widespread disruption to BAC's infrastructure or systems. BAC's financial, accounting, data processing, backup or other operating systems and facilities may fail to operate properly or become disabled or damaged as a result of a number of factors including events that are wholly or partially beyond BAC's control and adversely affect BAC's ability to process these transactions or provide these services. There could be sudden increases in customer transaction volume; electrical or telecommunications outages; natural disasters such as earthquakes, tornadoes and hurricanes; disease pandemics; events arising from local or larger scale political or social matters, including terrorist acts; and cyber attacks. BAC continuously updates these systems to support its operations and growth. This updating entails significant costs and creates risks associated with implementing new systems and integrating them with existing ones.

Information security risks for large financial institutions such as BAC have significantly increased in recent years in part because of the proliferation of new technologies, the use of the Internet and telecommunications technologies to conduct financial transactions, and the increased sophistication and activities of organised crime, hackers, terrorists and other external parties, including foreign state actors. BAC's operations rely on the secure processing, transmission and storage of confidential, proprietary and other information in BAC's computer systems and networks. BAC's banking, brokerage, investment advisory and capital markets businesses rely on BAC's digital technologies, computer and email systems, software, and networks to conduct their operations. In addition, to access BAC's products and services, its customers may use personal smartphones, tablet PCs and other mobile devices that are beyond BAC's control systems. BAC's technologies, systems, networks and its customers' devices have been subject to, and are likely to continue to be the target of, cyber attacks, computer viruses, malicious code, phishing attacks or information security breaches that could result in the unauthorised release, gathering, monitoring, misuse, loss or destruction of BAC's or its customers' confidential, proprietary and other information, or otherwise disrupt BAC's or its customers' or other third parties' business operations. Because of its prominence, BAC believes that such attacks may continue.

Although to date BAC has not experienced any material losses relating to cyber attacks or other information security breaches, there can be no assurance that BAC will not suffer such losses in the

future. BAC's risk and exposure to these matters remains heightened because of, among other things, the evolving nature of these threats, the prominent size and scale of BAC and its role in the financial services industry, BAC's plans to continue to implement its Internet banking and mobile banking channel strategies and develop additional remote connectivity solutions to serve BAC's customers when and how they want to be served, BAC's expanded geographic footprint and international presence, the outsourcing of some of BAC's business operations, the continued uncertain global economic environment, and system and customer account conversions. As a result, cybersecurity and the continued development and enhancement of BAC's controls, processes and practices designed to protect BAC's systems, computers, software, data and networks from attack, damage or unauthorised access remain a priority for BAC. As cyber threats continue to evolve, BAC may be required to expend significant additional resources to continue to modify or enhance its protective measures or to investigate and remediate any information security vulnerabilities.

In addition, BAC also faces the risk of operational failure, termination or capacity constraints of any of the third parties with which it does business or that facilitate BAC's business activities, including clearing agents, exchanges, clearing houses or other financial intermediaries BAC uses to facilitate its securities transactions. In recent years, there has been significant consolidation among clearing agents, exchanges and clearing houses and increased interconnectivity of multiple financial institutions with central agents, exchanges and clearing houses. This consolidation and interconnectivity increases the risk of operational failure, on both individual and industry-wide bases, as disparate complex systems need to be integrated, often on an accelerated basis. Any such failure, termination or constraint could adversely affect BAC's ability to effect transactions, service BAC's clients, manage BAC's exposure to risk or expand its businesses, and could have a significant adverse impact on BAC's liquidity, financial condition and results of operations.

Disruptions or failures in the physical infrastructure or operating systems that support BAC's businesses and customers, or cyber attacks or security breaches of the networks, systems or devices that BAC's customers use to access its products and services could result in the loss of customers and business opportunities, legal liability, regulatory fines, penalties or intervention, reputational damage, reimbursement or other compensatory costs, and additional compliance costs, any of which could materially adversely affect BAC's business, financial condition and results of operations.

For more information on operational risks and BAC's operational risk management, see Operational Risk Management in the MD&A on page 119 of the BAC 2011 Annual Report.

### **Risk of Being an International Business**

***BAC is subject to numerous political, economic, market, reputational, operational, legal, regulatory and other risks in the non-U.S. jurisdictions in which it operates which could adversely impact BAC's businesses, financial condition and results of operations.***

BAC does business throughout the world, including in developing regions of the world commonly known as emerging markets. BAC's businesses and revenues derived from non-U.S. jurisdictions are subject to risk of loss from currency fluctuations, social or judicial instability, changes in governmental policies or policies of central banks, expropriation, nationalisation and/or confiscation of assets, price controls, capital controls, exchange controls, other restrictive actions, unfavourable political and diplomatic developments, and changes in legislation. These risks are especially acute in emerging markets. Many non-U.S. jurisdictions in which BAC does business have been negatively impacted by recessionary conditions. While a number of these jurisdictions are showing signs of recovery, others continue to experience increasing levels of stress. In addition, the increasing potential risk of default on sovereign debt in some non-U.S. jurisdictions could expose BAC to substantial losses. Risks in one country can affect BAC's operations in another country or countries, including BAC's operations in the U.S. As a result, any such unfavourable conditions or developments could have an adverse impact on BAC's businesses, financial condition and results of operations.

BAC's non-U.S. businesses are also subject to extensive regulation by various non-U.S. regulators, including governments, securities exchanges, central banks and other regulatory bodies, in the jurisdictions in which those businesses operate. In many countries, the laws and regulations applicable to the financial services and securities industries are uncertain and evolving, and it may be difficult for BAC to determine the exact requirements of local laws in every market or manage BAC's relationships with multiple regulators in various jurisdictions. BAC's inability to remain in compliance with local laws in a particular market and manage its relationships with regulators could have a significant and adverse effect not only on BAC's businesses in that market but also on its reputation generally.



BAC also invests or trades in the securities of corporations and governments located in non-U.S. jurisdictions, including emerging markets. Revenues from the trading of non-U.S. securities may be subject to negative fluctuations as a result of the above factors. Furthermore, the impact of these fluctuations could be magnified, because non-U.S. trading markets, particularly in emerging market countries, are generally smaller, less liquid and more volatile than U.S. trading markets.

BAC is subject to geopolitical risks, including acts or threats of terrorism, and actions taken by the U.S. or other governments in response thereto and/or military conflicts that could adversely affect business and economic conditions abroad as well as in the U.S.

For more information on BAC's non-U.S. credit and trading portfolio, see Non-U.S. Portfolio in the MD&A on page 104 of the BAC 2011 Annual Report.

### **Risk from Accounting Changes**

***Changes in accounting standards or inaccurate estimates or assumptions in the application of accounting policies could adversely affect BAC's financial condition and results of operations.***

BAC's accounting policies and methods are fundamental to how BAC records and reports its financial condition and results of operations. Some of these policies require use of estimates and assumptions that may affect the reported value of BAC's assets or liabilities and results of operations and are critical because they require management to make difficult, subjective and complex judgments about matters that are inherently uncertain. If those assumptions, estimates or judgments were incorrectly made, BAC could be required to correct and restate prior period financial statements.

Accounting standard-setters and those who interpret the accounting standards (such as the Financial Accounting Standards Board, the SEC, banking regulators and BAC's independent registered public accounting firm) may also amend or even reverse their previous interpretations or positions on how various standards should be applied. These changes can be difficult to predict and can materially impact how BAC records and reports its financial condition and results of operations. In some cases, BAC could be required to apply a new or revised standard retroactively, resulting in BAC needing to revise and republish prior period financial statements.

For more information on some of BAC's critical accounting policies and standards and recent accounting changes, see Complex Accounting Estimates in the MD&A on page 120 and *Note 1 – Summary of Significant Accounting Principles* to the Consolidated Financial Statements, each of the BAC 2011 Annual Report.

### **Risks relating to Securities generally**

***Investors risk losing all of their investment in the Securities***

**Potential investors should be aware that depending on the terms of the relevant Securities (i) they may receive no or a limited amount of interest, (ii) payments may occur at a different time than expected and (iii) except in the case of principally protected Securities, they may lose all or a substantial portion of their investment if the value of the Reference Item(s) does not move in the anticipated direction.**

**Investors in Securities which are principal protected may still be subject to loss of some or all of their investment if the relevant Issuer and BAC are subject to bankruptcy or insolvency proceedings or some other event occurs which impairs the ability of each to meet its obligations under the Securities. An investor may also lose some or all of its investment if it seeks to sell the relevant Securities prior to their scheduled maturity, and the sale price of the Securities in the secondary market is less than the initial investment or the relevant Securities are subject to certain adjustments in accordance with the terms and conditions of such Securities that may result in the scheduled amount to be paid or asset(s) to be delivered upon redemption being reduced to or being valued at an amount less than an investor's initial investment.**

***The Securities may not be a suitable investment for all investors***

Each potential investor in the Securities must determine the suitability of that investment in light of its own circumstances. In particular, each potential investor should:

- (a) have sufficient knowledge and experience to evaluate the Securities, the merits and risks of investing in the Securities and the information contained or incorporated by reference in this Base



Prospectus or any applicable supplement and all the information contained in the applicable Final Terms;

- (b) have access to, and knowledge of, appropriate analytical tools to evaluate, in the context of its particular financial situation, an investment in the Securities and the impact the Securities will have on its overall investment portfolio;
- (c) have sufficient financial resources and liquidity to bear all of the risks of an investment in the Securities, including Securities with amounts payable in one or more currencies, or where the Settlement Currency or Specified Currency of the Securities is different from the potential investor's currency;
- (d) have knowledge of and access to appropriate analytical resources to analyse quantitatively the effect (or value) of any redemption, cap, floor, or other features of the Securities, and the resulting impact upon the value of the Securities;
- (e) understand thoroughly the terms of the Securities and be familiar with any relevant indices and financial markets; and
- (f) be able to evaluate (either alone or with the help of a financial adviser) possible scenarios for economic, interest rate and other factors that may affect its investment and its ability to bear the applicable risks.

The Securities are complex financial instruments. A potential investor should not invest in Securities unless it has the expertise (either alone or with a financial adviser) to evaluate how such Securities will perform under changing conditions, the resulting effects on the value of those Securities and the impact this investment will have on the potential investor's overall investment portfolio.

In addition, an investment in Index Linked Securities, Share Linked Securities, Saudi Share Linked Warrants, Debt Linked Securities, GDR/ADR Linked Securities, FX Linked Securities, Commodity Linked Securities, Fund Linked Securities, Inflation Linked Securities, Credit Linked Securities or other Securities linked to other Reference Item(s) ("**Reference Item Linked Securities**"), may entail significant risks not associated with investments in conventional securities such as debt or equity securities, including, but not limited to, the risks set out in "Risks related to the structure of a particular issue of Securities" set out below.

***The Securities (other than Swiss COSI Securities) are unsecured obligations***

The Securities (other than Swiss COSI Securities) constitute direct, unsubordinated, unconditional and unsecured obligations of the relevant Issuer and rank equally among themselves and rank equally (subject to exceptions as are from time to time provided by applicable laws) with all other present and future direct, unsubordinated, unconditional and unsecured indebtedness or obligations, as applicable, of the relevant Issuer.

*The Swiss COSI Securities constitute direct, unsubordinated and unconditional obligations of the Issuer and rank equally among themselves and rank equally (subject to such exceptions as are from time to time provided by applicable laws) with all other present and future direct, unsubordinated and unconditional obligations of MLICo. and are collateralised in accordance with the terms of the Framework Agreement.*

The obligations of BAC under each Guarantee, save for such exceptions as may be provided by applicable laws and regulations or judicial order, will rank *pari passu* with its other present and future unsecured and unsubordinated obligations.

Since BAC is a holding company, the right of BAC, and hence the right of creditors of BAC (including the Holders), to participate in any distribution of the assets of any subsidiary (including each Issuer) upon its liquidation or reorganisation or otherwise is necessarily subject to the prior claims of creditors of the subsidiary, except to the extent that claims of BAC itself as a creditor of the subsidiary may be recognised. In addition, dividends, loans and advances from certain subsidiaries to BAC are restricted by net capital requirements under the Exchange Act and under the rules of certain exchanges and other regulatory bodies.

***The yield on the Securities may be less than the yield on a conventional debt security of comparable maturity***

Any yield that an investor may receive on the Securities, which could be negative, may be less than the return an investor would earn if the investor purchased a conventional debt security with the same

maturity date. As a result, an investment in the Securities may not reflect the full opportunity cost to an investor when factors that affect the time value of money are considered.

***Movements in the level or price of a Reference Item will affect the performance of the Securities***

The level or price of the Reference Item may be subject to significant fluctuations that may not correlate with changes in interest rates, currencies or other indices and the timing of changes in the relevant level or price of the Reference Item. This may affect the actual yield to investors, even if the average level or price of the Reference Item during the life of the Securities is consistent with investors' expectations. In general, the earlier the change in the level or price of the Reference Item, the greater the effect on the yield of the Securities.

***Leverage will magnify the effect of changes in the Reference Item***

If the formula used to determine any amount payable and/or non-cash consideration deliverable contains a multiplier or leverage factor, then the percentage change in the value of the Security will be greater than any positive and/or negative performance of the Reference Item(s). Any Securities which include such multiplier or leverage factor represent a very speculative and risky form of investment since any change in the value of the Reference Item(s) carries the risk of a correspondingly higher change in the value of the Securities.

For Tranching Portfolio CLNs, the Implicit Portfolio Size of the Reference Portfolio is likely to be significantly larger than the nominal amount of the Notes. Accordingly, the credit risk of investors in the Notes in relation to the Reference Portfolio is leveraged. The value of the Notes may be more volatile, and credit losses in respect of the Notes may be greater than would be the case in the absence of such leverage. The value of the Notes may also be adversely affected by changes in the relative value of different tranches of credit risk on the Reference Portfolio. Such relative value changes may occur as a result of, for example, changes in assumptions used by market participants to model the credit risk of the Reference Portfolio, as well as changes in the supply of and demand for credit protection in relation to each such tranche.

***A postponement of valuation or determination due to a Market Disruption Event and Disrupted Day may have an adverse effect on the value of the Securities***

If the Securities include provisions dealing with the occurrence of a Market Disruption Event or a failure of an exchange or related exchange to open on a Valuation Date, an Averaging Date or a Pricing Date and the Calculation Agent determines that a Market Disruption Event or such failure has occurred or exists on any relevant date, any consequential postponement of the relevant date or any alternative provisions for valuation provided in the Securities may have an adverse effect on the value of the Securities or of any amounts payable under the Securities.

***The occurrence of a Payment Disruption Event may lead to a delayed and/or reduced payment***

If a Payment Disruption Event is applicable to a Security, as specified in the applicable Final Terms, then, in the event that the Calculation Agent determines, in its sole discretion, that an event that (i) prevents, restricts or delays the relevant Issuer from converting or delivering relevant currencies, (ii) imposes capital controls, or (iii) implements changes to laws relating to foreign investments (a "**Payment Disruption Event**") has occurred or is likely to occur, then either (a) the relevant exercise or payment date (as applicable) in respect of the Securities or (b) the relevant Issuer's obligation to make a payment in respect of such exercise or payment date may be postponed to a date falling five Business Days (or such other date as may be determined by the Calculation Agent and notified to Holders) after the date on which the Payment Disruption Event is no longer occurring. No accrued interest will be payable in respect of any such postponement and no Event of Default in respect of the Securities will result from such postponement. Partial payments or physical delivery of Shares in lieu of cash settlement of Share Linked Securities may, in the relevant Issuer's sole discretion, be made during such period (after deduction for any expenses). In the event that a Payment Disruption Event is still continuing on the date which is one year after the last date on which amounts are due under the Securities (or in the case of Saudi Share Linked Warrants, the earlier of (x) one year after the last date on which amounts are due under the Securities and (y) four years after the Trade Date) (the "**Payment Event Cut-off Date**"), then (1) such final payment date shall be extended to the Payment Event Cut-off Date and (2) the remaining amounts payable under the Securities shall be deemed to be zero and the relevant Issuer shall have no obligations whatsoever under the Securities. Therefore, in a case where Payment Disruption Event is

relevant as specified in the applicable Final Terms, the Holder could lose all or part of its investment in the Securities.

In the event that the relevant Issuer satisfies its obligation to make a cash payment by the delivery of Shares following the occurrence of a Payment Disruption Event, Holders may be unable to sell such Shares, or may be unable to sell them at a price equal to the cash payment that would have been payable but for the occurrence of the Payment Disruption Event.

***The occurrence of a CNY Payment Disruption Event may lead to a delayed and/or reduced payment or payment in another currency***

If a CNY Payment Disruption Event is applicable to a Security, as specified in the applicable Final Terms, then, in the event that the Calculation Agent determines, in its sole discretion, that any of the following events has occurred or is likely to occur: (i) an event that makes it impossible or impractical for the Issuer to convert any amounts in CNY due in respect of the Securities in the general CNY foreign exchange market in the relevant CNY Settlement Centre(s), (ii) an event that makes it impossible or impractical for the Issuer to deliver CNY between accounts inside the relevant CNY Settlement Centre(s) or from an account inside the relevant CNY Settlement Centre(s) to an account outside the relevant CNY Settlement Centre(s), or (iii) the general CNY foreign exchange market in the relevant CNY Settlement Centre becomes illiquid as a result of which the Issuer cannot obtain sufficient CNY in order to satisfy its payment obligations (in whole or in part) under the Securities (each, a “**CNY Payment Disruption Event**”), then either (a) the relevant exercise or payment date (as applicable) in respect of the Securities, or (b) the relevant Issuer’s obligation to make a payment in respect of such exercise or payment date, may be postponed to a date falling five Business Days (or such other date as may be determined by the Calculation Agent and notified to Holders) after the date on which the CNY Payment Disruption Event is no longer occurring. No accrued interest will be payable in respect of any such postponement and no Event of Default in respect of the Securities will result from such postponement. In the event that a CNY Payment Disruption Event is still continuing on the Payment Event Cut-off Date, then (1) such final payment date shall be extended to the Payment Event Cut-off Date and (2) the remaining amounts payable under the Securities shall be deemed to be zero and the relevant Issuer shall have no obligations whatsoever under the Securities. Therefore, in a case where a CNY Payment Disruption Event is relevant as specified in the applicable Final Terms, the Holder could lose all or part of its investment in the Securities. If “Payment of Equivalent Amount” is applicable to a Security, as specified in the applicable Final Terms, the relevant Issuer may make payment of the equivalent amount of the relevant Interest Amount, Fixed Coupon Amount, Final Redemption Amount, Additional Amount, Cash Settlement Amount or other amount payable under the Securities in another currency as specified in the applicable Final Terms.

***Risks relating to Securities denominated in CNY***

All payments in CNY under the Securities will be made solely by credit or transfer to a CNY account maintained by the payee with a bank in the CNY Settlement Centre in accordance with the prevailing rules and regulations and in accordance with the terms and conditions of the Securities. The relevant Issuer shall not be required to make payment by any other means (including in bank notes or by transfer to a bank account in the People’s Republic of China or anywhere else other than the CNY Settlement Centre).

There is only limited availability of CNY outside the People’s Republic of China, which may affect the liquidity of the Securities and the relevant Issuer’s ability to source CNY outside the People’s Republic of China to fulfil its payment obligations under the Securities.

CNY is not freely convertible at present. The government of the People’s Republic of China continues to regulate conversion between CNY and foreign currencies despite the significant reduction over the years by such government of its control over routine foreign exchange transactions under current accounts. The People’s Bank of China (“**PBOC**”) has established a clearing and settlement system pursuant to the Settlement Agreement on the Clearing of CNY Business between PBOC and Bank of China (Hong Kong) Limited. However, the current size of CNY and CNY denominated financial assets in the Hong Kong Special Administrative Region is limited, and its growth is subject to many constraints imposed by the laws and regulations of the People’s Republic of China on foreign exchange. There can be no assurance that access to CNY funds for the purposes of making payments under the Securities or generally may remain or will not become restricted.

The value of CNY against foreign currencies fluctuates and is affected by changes in the People's Republic of China and international political and economic conditions and by many other factors. As a result, foreign exchange fluctuations between a purchaser's home currency and CNY may affect purchasers who intend to convert gains or losses from the sale or redemption of the Securities into their home currency. The government of the People's Republic of China has gradually liberalised the regulation of interest rates in recent years. Further liberalisation may increase interest rate volatility.

***The relevant Issuer may make certain modifications to the Securities without the consent of the Holders***

The Conditions provide that the relevant Agent and the relevant Issuer may, without the consent of Holders, agree to (i) any modification (subject to certain specific exceptions) of the Securities or the Agency Agreement which is not prejudicial to the interests of the Holders or (ii) any modification of the Securities or the Agency Agreement which is of a formal, minor or technical nature or is made to correct a manifest error or proven error or to comply with mandatory provisions of law.

***At meetings of Holders, the decision of the majority will bind all Holders***

The Conditions contain provisions for calling meetings of Holders to consider matters affecting their interests generally. These provisions permit defined majorities to bind all Holders, including Holders who did not attend and vote at the relevant meeting and Holders who voted in a manner contrary to the majority.

***There may be conflicts of interest between the relevant Issuer, BAC and/or their respective Affiliates and the Holders***

The relevant Issuer, BAC and/or any of their respective Affiliates or agents may engage in activities that may result in conflicts of interests between their and their respective Affiliates' or agents' financial interests on the one hand and the interests of the Holders on the other hand. The relevant Issuer, BAC and/or any of their respective Affiliates or agents may also engage in trading activities (including hedging activities) related to the Reference Item(s) underlying any Securities and other instruments or derivative products based on or related to the Reference Item(s) underlying any Securities for their proprietary accounts or for other accounts under their management. The relevant Issuer, BAC and/or any of BAC's Affiliates or agents may also issue other derivative instruments in respect of the Reference Item(s) underlying Securities. The relevant Issuer, BAC and/or any of BAC's Affiliates or agents may also act as underwriter in connection with future offerings of Shares or other securities related to an issue of Securities or may act as financial adviser to certain companies whose Shares or other securities are included in a basket of Shares or other securities or which are reference entities, or in a commercial banking capacity for any such companies. Such activities could present certain conflicts of interest, could influence the prices of such shares or other securities and could adversely affect the value of such Securities. The relevant Issuer also may enter into arrangements with Affiliates or agents to hedge market risks associated with its obligations under the Securities. Any such Affiliate or agent would expect to make a profit in connection with such arrangements. The relevant Issuer would not seek competitive bids for such arrangements from unaffiliated parties.

Where the Securities are offered to the public, as the Dealer(s) and any distributors act pursuant to a mandate granted by the relevant Issuer and they receive fees on the basis of the services performed and the outcome of the placement of the Securities, potential conflicts of interest could arise.

Any additional risk factors relating to additional conflicts of interest with respect to a specific series of Securities will be specified in the applicable Final Terms.

In addition, unless otherwise specified in the applicable Final Terms, the Calculation Agent is an Affiliate of the relevant Issuer and BAC and in such capacity may make certain determinations and calculate amounts payable or deliverable to Holders. Under certain circumstances, the Calculation Agent, as an Affiliate of the relevant Issuer and BAC, and its responsibilities as calculation agent for the Securities could give rise to potential conflicts of interest between the Calculation Agent and the Holders. As BAC controls the Calculation Agent, potential conflicts of interest could arise.

In addition, a Merrill Lynch proprietary index will generally be developed, owned, calculated and maintained by a Merrill Lynch Affiliate, which would be responsible for the composition, calculation and maintenance of such index. In such circumstances, Merrill Lynch, as the index sponsor, would be under no obligation to take into account the interests of the Holders of any Securities referenced by such index. In such capacity as index sponsor, Merrill Lynch will have the authority to make determinations that could materially and adversely affect the value of the Security.



***The secondary market price of the Securities may be less than the Issue Price and/or the Offer Price***

Investors should note that, in certain circumstances immediately following the issue of the Securities, the secondary market price of the Securities may be less than the Issue Price and/or the Offer Price in the event that the Issue Price and/or the Offer Price included the fees to be paid to distributor(s).

***A Holder may not receive the Entitlement relating to a Physical Delivery Security if it fails to deliver the required notice and pay Expenses relating to such Physical Delivery Security***

In order to receive the Entitlement in respect of a Physical Delivery Note, the holder of such Note must (i) duly deliver to the Clearing System and/or Paying Agents, as specified in the Final Terms, a duly completed Asset Transfer Notice on or prior to the relevant time on the Cut-Off Date and (ii) pay the relevant Expenses. As used in the Conditions, “Expenses” includes any applicable depositary charges, transaction or exercise charges, stamp duty reserve tax, issue, registration, securities transfer and/or other taxes arising from the redemption, exercise and settlement (as applicable) of such Securities and/or the delivery of the Entitlement.

In order to receive the Entitlement in respect of a Physical Delivery W&C Security, the holder of such W&C Security must (i) deliver or send to the Clearing System and/or Paying Agents, as specified in the Final Terms, (a) a duly completed Exercise Notice on or prior to the relevant time on the Expiration Date (in the case of a Warrant) or (b) a duly completed Collection Notice on or prior to the relevant time on the Cut-off Date (in the case of a Certificate) and (ii) pay the relevant Expenses.

Failure by a Holder properly to complete and deliver an Asset Transfer Notice, Exercise Notice or Collection Notice, as the case may be, or to procure that its agent does so on its behalf, may result in such notice being treated as null and void. This may result in a delay in delivery of the Entitlement, or the relevant Issuer being unable to deliver the Entitlement. Failure to pay the Expenses will have the same consequences to a Holder.

***In the case of Physical Delivery Securities, settlement may be delayed or made in cash if certain events arise***

In the case of Physical Delivery Securities (other than Credit Linked Securities), if a Settlement Disruption Event occurs or exists on the Maturity Delivery Date (in the case of Notes) or Settlement Date (in the case of W&C Securities), settlement will be postponed until the next date on which no Settlement Disruption Event occurs. The relevant Issuer in these circumstances has the right to pay the Disruption Cash Settlement Price in lieu of delivering the Entitlement. Such a determination may have an adverse effect on the value of the relevant Securities. In addition, if “Failure to Deliver due to Illiquidity” is specified as applying in the applicable Final Terms, and in the opinion of the Calculation Agent it is impossible or impracticable to deliver some or all of the Relevant Assets comprising the Entitlement when due as a result of illiquidity in the market for the Relevant Assets, the relevant Issuer has the right to pay the Failure to Deliver Settlement Price in lieu of delivering those Relevant Assets. Any Disrupted Cash Settlement Price or Failure to Deliver Settlement Price may be significantly less than Holders expected to receive prior to such Settlement Disruption Event or Calculation Agent determination.

***Holders have no claim against any Reference Item(s), and the return on a Reference Item Linked Security, if any, may be less than the return on an investment directly in the Reference Item(s).***

A Security will not represent a claim against any Reference Item(s) and, in the event of any loss, a Holder will not have recourse under a Security to any Reference Item(s). The investment return on the Securities, if any, may be less than a comparable investment directly in the Reference Item(s), or the components included in any Reference Item(s). In contrast to an investment in the Securities, a direct investment in the Reference Item(s) or the components of the Reference Item(s) would allow an investor to receive the full benefit of any appreciation or depreciation, as the case may be, in the value of these components.

***BAC has the option to vary settlement under the Original Guarantee***

In relation to Physical Delivery Securities, under the Original Guarantee, BAC has the right at all times to elect not to deliver or procure delivery of the Entitlement to the holders of Physical Delivery Securities, but in lieu thereof to pay an amount in cash equal to the Guaranteed Cash Settlement Amount specified in the applicable Final Terms or Securities Note. Such cash payment will constitute a complete discharge of BAC’s obligations in relation to such Physical Delivery Securities.



***The relevant Issuer may have the right to vary settlement***

If so indicated in the applicable Final Terms, the relevant Issuer has an option to vary settlement in respect of the Securities. If exercised by the relevant Issuer, Physical Delivery Securities may be cash settled or Cash Settled Securities may be physically settled. Exercise of such option may affect the value of the Securities.

***If the relevant Issuer determines that the performance of either its obligations under the Securities or the obligations of BAC under the relevant Guarantee has or will become illegal in whole or in part for any reason, the relevant Issuer may redeem or cancel the Securities, as applicable***

If the relevant Issuer determines that the performance of either its obligations under the Securities or the obligations of BAC under the relevant Guarantee has or will become illegal in whole or in part for any reason, the relevant Issuer may redeem or cancel the Securities, as applicable.

If, in the case of illegality and to the extent permitted by applicable law, the relevant Issuer redeems or cancels the Securities, then the relevant Issuer will, in the case of Notes, redeem each Note at the Early Redemption Amount together (if appropriate) with interest accrued to (but excluding) the date of redemption, or in the case of W&C Securities, pay an amount to each Holder determined by reference to the fair market value of each Security less hedging costs, which may be less than the purchase price of the Securities and may in certain circumstances be zero.

***United States federal tax legislation may impose a withholding tax on payments made by an Issuer with respect to the Securities to certain holders***

United States federal tax legislation was enacted on 18 March 2010 that will, effective for certain payments made after 31 December 2013 impose a 30 per cent. United States withholding tax on certain payments made by a foreign financial institution that enters into an agreement with the U.S. Department of the Treasury (the “**U.S. Treasury**”) to collect and provide to the U.S. Treasury substantial information regarding United States account holders, including certain account holders that are foreign entities with United States owners, with such institution.

Pursuant to the recently published U.S. Treasury proposed regulations, if enacted in their current form, the 30 per cent. United States withholding tax may be imposed on payments made by an Issuer with respect to the Securities after 31 December 2016 to “recalcitrant holders”, which are generally holders that do not comply with the Issuer’s request for information to enable it to comply with the tax legislation, and to non-compliant foreign financial institutions.

***United States federal tax legislation may impose a withholding tax on certain payments made to an Issuer in which case the Issuer may be entitled to redeem or cancel the Securities prior to maturity***

United States federal tax legislation was enacted on 18 March 2010 that will, effective for certain payments made after 31 December 2013 impose a 30 per cent. United States withholding tax on certain United States source payments made to a foreign financial institution, unless such institution enters into an agreement with the U.S. Treasury to collect and provide to the U.S. Treasury substantial information regarding United States account holders, including certain account holders that are foreign entities with United States owners, with such institution. A Security may constitute an account for these purposes.

If an Issuer determines in good faith that it has, or there is a substantial likelihood that it will, become subject to withholding imposed on a payment made to it on account of the Issuer’s inability to comply with the newly enacted legislation’s reporting requirements (provided that such inability to comply with the reporting requirements is attributable to non-compliance by any Holder of such Securities (or a foreign withholding agent (if any) in the chain of custody of payments made to the Holders) with the Issuer’s requests for certifications or identifying information), it may redeem or cancel the Securities held by non-compliant and compliant Holders at their Early Redemption Amount (in the case of Notes) or at their Early Settlement Amount (in the case of W&C Securities).

***United States federal tax may be withheld from payments with respect to Securities that are treated as “dividend equivalents”. In addition, if any payment with respect to Securities would be treated as a “dividend equivalent”, the relevant Issuer would be entitled to redeem or cancel the Securities at any time prior to maturity, settlement, expiration or exercise***

A “dividend equivalent” payment is treated as a dividend from sources within the United States and such payments generally would be subject to a 30 per cent. United States withholding tax if paid to a United States Alien holder. Under proposed U.S. Treasury regulations, certain payments that are contingent

upon or determined by reference to U.S. source dividends, including payments reflecting adjustments for (extraordinary) dividends, with respect to equity-linked instruments, including certain Securities, may be treated as “dividend equivalents”. If adopted in their current form, the regulations would impose a withholding tax on payments made on certain Securities on or after 1 January 2013 that are treated as “dividend equivalents”. In that case, the relevant Issuer would be entitled to withhold taxes without being required to pay any additional amounts with respect to amounts so withheld. As a result, actual payments on the Securities may be substantially less than the amounts specified in their terms.

In addition, if any payment with respect to the Securities would be treated as a dividend equivalent, the relevant Issuer would be entitled to redeem or cancel the Securities, in whole, but not in part, at any time prior to maturity, settlement, expiration or exercise at their Early Redemption Amount (in the case of Notes) or Early Settlement Amount (in the case of W&C Securities), as determined by the Calculation Agent in its discretion. These amounts could be significantly less than the holder’s initial investment, and could be as low as zero.

### **Risks relating to Notes**

#### ***Failure by a Holder to pay instalments in respect of Partly Paid Notes may result in the Holder losing all of his investment***

MLSA may issue Notes where the issue price is payable in more than one instalment. Failure to pay MLSA any subsequent instalment could result in a Holder losing all of his investment.

#### ***Notes may be subject to optional redemption by MLSA, which may limit their market value***

An optional redemption feature of Notes is likely to limit their market value. During any period when MLSA may elect to redeem Notes, the market value of those Notes generally will not rise substantially above the price at which they can be redeemed. This also may be true prior to any redemption period.

MLSA may be expected to redeem Notes when its cost of borrowing is lower than the interest rate on the Notes. At those times, a Holder generally would not be able to reinvest the redemption proceeds at an effective interest rate as high as the interest rate on the Notes being redeemed and may only be able to do so at a significantly lower rate. Potential investors should consider reinvestment risk in light of other investments available at that time.

### **Risks relating to W&C Securities**

#### ***Certain Factors Affecting the Value and Trading Price of W&C Securities***

Either (1) in the case of Cash Settled W&C Securities, the Cash Settlement Amount or (2) in the case of Physical Delivery W&C Securities, the value of the Entitlement less (in the case of Warrants) the Exercise Price (the “**Physical Settlement Value**”) at any time prior to expiration (in the case of a Warrant) or exercise (in the case of a Certificate) is typically expected to be less than the trading price of such W&C Securities at that time. The difference between the trading price and the Cash Settlement Amount or the Physical Settlement Value, as the case may be, will reflect, among other things, the “time value” of the W&C Securities. The “time value” of the W&C Securities will depend partly upon the length of the period remaining to expiration (in the case of a Warrant) or exercise (in the case of a Certificate) and expectations concerning the price or level of the Reference Item(s). W&C Securities offer hedging and investment diversification opportunities but also pose some additional risks with regard to interim value. The interim value of the W&C Securities varies with the price or level of the Reference Item(s), as well as by a number of other interrelated factors, including those specified herein.

Before exercising W&C Securities, Holders should carefully consider, among other things, (i) the trading price of the W&C Securities, (ii) the price or level and volatility of the Reference Item(s), (iii) the time remaining to expiration (in the case of a Warrant) or exercise (in the case of a Certificate), (iv) in the case of Cash Settled W&C Securities, the probable range of Cash Settlement Amounts, (v) any change(s) in interim interest rates and dividend yields if applicable, (vi) any change(s) in currency exchange rates and (vii) any related transaction costs.

An optional exercise or mandatory early exercise feature in W&C Securities is likely to limit their market value. In the case of an optional exercise feature, during any period when the relevant Issuer may elect to exercise W&C Securities, the market value of those W&C Securities generally will not rise substantially above the price at which they can be exercised. This also may be true prior to any exercise period. In the case of a mandatory exercise feature, if the relevant Mandatory Early Exercise Event occurs the W&C

Securities will be exercised prior to their originally designated exercise or expiration date. Potential investors should be aware that in certain circumstances, an optional exercise or mandatory early exercise of the W&C Securities by the relevant Issuer may result in a loss of all or a substantial portion of their investment.

***There are no Events of Default in relation to W&C Securities***

The Conditions of the W&C Securities do not provide for any events of default. If the Issuer defaults on any obligation under the W&C Securities prior to the Settlement Date, Holders will be able to claim against the Guarantor under the relevant Guarantee, but will have no right to declare all of the remaining obligations of the Issuer to be immediately due and payable.

**Risks relating to Warrants**

***There will be a time lag between the time a Holder gives instructions to exercise and the time the applicable Cash Settlement Amount relating to such exercise is determined, and such time lag could decrease the Cash Settlement Amount***

In the case of any exercise of Warrants, there will be a time lag between the time a Holder gives instructions to exercise and the time the applicable Cash Settlement Amount (in the case of Cash Settled Warrants) relating to such exercise is determined. Any such delay between the time of exercise and the determination of the Cash Settlement Amount will be specified in the Conditions of the W&C Securities. However, such delay could be significantly longer, particularly in the case of a delay in exercise of Warrants arising from any daily maximum exercise limitation (in the case of American Style Warrants), the occurrence of a Market Disruption Event or failure of an exchange or related exchange to open (if applicable) or following the imposition of any exchange controls or other similar regulations affecting the ability to obtain or exchange any relevant currency (or basket of currencies) in the case of FX Linked Warrants. The applicable Cash Settlement Amount may change significantly during any such period between exercise and determination of the Cash Settlement Amount, and such movement or movements could decrease the Cash Settlement Amount of the Warrants being exercised and may result in such Cash Settlement Amount being zero.

***Holders may have to tender a specified number of Warrants at any one time in order to exercise***

If so indicated in the applicable Final Terms, a Holder must tender or hold a specified number of Warrants at any one time in order to exercise. Thus, Holders with fewer than the specified minimum number of Warrants will either have to sell their Warrants or purchase additional Warrants, incurring transaction costs in each case, in order to realise their investment. Furthermore, holders of such Warrants incur the risk that there may be differences between the trading price of such Warrants and the Cash Settlement Amount (in the case of Cash Settled Warrants) or the Physical Settlement Value (in the case of Physical Delivery Warrants) of such Warrants. Therefore it may cost an investor more to purchase additional Warrants than the value of the increase in the Cash Settlement Amount or Physical Settlement Value, as the case may be, attributable to such additional Warrants.

***The number of American Style Warrants exercisable on any date other than the Expiration Date may be limited to a maximum number***

In the case of American Style Warrants, if so indicated in the applicable Final Terms, MLICo. will have the option to limit the number of American Style Warrants exercisable on any date (other than the Expiration Date) to the maximum number specified in the applicable Final Terms and, in conjunction with such limitation, to limit the number of American Style Warrants exercisable by any person or group of persons (whether or not acting in concert) on such date. In the event that the total number of American Style Warrants being exercised on any date (other than the Expiration Date) exceeds such maximum number and MLICo. elects to limit the number of American Style Warrants exercisable on such date, a Holder may not be able to exercise on such date all American Style Warrants that such Holder desires to exercise. In any such case, the number of American Style Warrants to be exercised will be reduced until the total number of American Style Warrants exercised on that date no longer exceeds the maximum, such American Style Warrants being selected at the discretion of MLICo. or in any other manner specified in the applicable Final Terms. Unless otherwise specified in the applicable Final Terms, the American Style Warrants tendered for exercise but not exercised on such date will be automatically exercised on the next date on which American Style Warrants may be exercised, subject to the same daily maximum limitation and delayed exercise provisions.

***Transfers of Rule 144A Warrants are restricted***

Issue and transfers of Warrants to purchasers that intend to hold their Warrants through a Rule 144A Global Warrant may be made only to or through MLICo. to purchasers (i) with respect to Rule 144A Warrants held through DTC that have executed and delivered to MLICo. an Investor Representation Letter pursuant to which such purchaser must certify, among other things, that such purchaser is a QIB who is also a QP and (ii) that will hold their Warrants through DTC direct participants that have executed and delivered to MLICo. a Custodian Letter and that have thereby become “**Authorised Custodians**” with respect to the Warrants. A transfer or attempted transfer of any Rule 144A Warrant which does not comply with the applicable transfer restrictions shall be absolutely null and void *ab initio* and shall vest no rights in the purported transferee.

**Risks relating to Swiss COSI Securities*****Risks relating to collateralisation***

Collateralisation eliminates the issuer default risk only to the extent that the proceeds from the liquidation of collateral upon occurrence of a Liquidation Event (less the costs of liquidation and payout) are able to meet the investors’ claims. The investor bears the following risks, among others: (i) the Collateral Provider is unable to supply the additionally required collateral if the value of the Swiss COSI Securities rises or the value of the collateral decreases; (ii) in a Liquidation Event, the collateral cannot be liquidated immediately by SIX Swiss Exchange because of factual hindrances or because the collateral must be handed over to the executory authorities for liquidation; (iii) the market risk associated with the collateral results in insufficient liquidation proceeds or, in extreme circumstances, the collateral might lose its value entirely before the liquidation can take place; (iv) the settlement of Swiss COSI Securities in a foreign currency according to the Framework Agreement may result in losses for the investor because the Current Value (determinant for the investor’s claim against the Issuer) is set in the foreign currency, while payment of the pro-rata share of net liquidation proceeds (determinant for the extent to which the investor’s claim against the Issuer is satisfied) is made in Swiss francs; (v) the collateralisation is challenged according to the laws governing debt enforcement and bankruptcy, so that the collateral cannot be liquidated according to the terms of the Framework Agreement for the benefit of the investors in Swiss COSI Securities.

***Additional information***

The costs for the service provided by SIX Swiss Exchange with respect to the collateralisation of Swiss COSI Securities may be taken into account for the pricing of Swiss COSI Securities and may therefore be borne by the investors, as the case may be. With regard to the payment of the pro-rata share of the net liquidation proceeds the investor shall bear the solvency risks of SIX Swiss Exchange and the financial intermediaries along the payout chain. The payment to the investors may be delayed for factual or legal reasons. To the extent the calculation of the Current Value of Swiss COSI Securities proves to be incorrect, the collateralisation of the Swiss COSI Securities may be insufficient.

**Risks relating to the market generally**

Set out below is a brief description of the principal market risks, including liquidity risk, exchange rate risk, interest rate risk and credit risk that may have an impact on an investment in the Securities.

***Many factors will determine the price of the Securities in the secondary market and such market may be illiquid***

It is not possible to predict the price at which Securities will trade in the secondary market or whether such market will be liquid or illiquid. Each Issuer may, but is not obliged to, list or admit to trading Securities on a stock exchange or market. If the Securities are not listed or admitted to trading on any stock exchange or market, pricing information for the Securities may be more difficult to obtain and the liquidity of the Securities may be adversely affected. If the relevant Issuer does list or admit to trading an issue of Securities, there can be no assurance that at a later date, the Securities will not be delisted or that trading on such stock exchange or market will not be suspended. In the event of a de-listing or suspension of listing or trading on a stock exchange or market, the relevant Issuer will use its reasonable efforts to list or admit to trading the Securities on another stock exchange or market, unless it concludes it would be unduly burdensome to do so. Also, in the case of American Style Warrants to the extent Warrants of a particular issue are exercised, the number of Warrants of such issue outstanding will decrease, resulting in a diminished liquidity for the remaining Warrants of such issue. A decrease in the liquidity of an issue of



Warrants may cause, in turn, an increase in the volatility associated with the price of such issue of Warrants.

The relevant Issuer cannot assure holders of the Securities that a trading market for their Securities will ever develop or be maintained. Many factors independent of the creditworthiness of the relevant Issuer or BAC affect the trading market of the Securities. These factors include:

- (a) the complexity and volatility of the Reference Item(s) or formula or other basis of reference applicable to the Securities;
- (b) the method of calculating amounts payable, including any dividend rates or yield or other securities or financial instruments applicable to the securities payable and/or deliverable, or other consideration, if any, in respect of the Securities;
- (c) the time remaining to the expiration (in the case of Warrants), exercise (in the case of Certificates) or redemption (in the case of Notes) of the Securities;
- (d) the number of Securities outstanding;
- (e) the aggregate amount of settlement features of the Securities;
- (f) the value of other securities linked to the Reference Item(s) or formula or other basis of reference applicable to the Securities;
- (g) the level, direction and volatility of market interest rates generally;
- (h) the general economic conditions of the capital markets, as well as geopolitical conditions and other financial, political, regulatory and judicial events that affect the financial markets generally, may affect the value of the Reference Item(s) and the Securities; and
- (i) the possibility that investors may be unable to hedge their exposure to risks relating to their Securities.

In addition, certain Securities may be designed for specific investment objectives or strategies and, therefore, may have a more limited secondary market and experience more price volatility. Holders may not be able to sell such Securities readily or at prices that will enable them to realise their anticipated yield. No investor should purchase Securities unless such investor understands and is able to bear the risk that such Securities may not be readily saleable, that the value of such Securities will fluctuate over time, that such fluctuations may be significant and that such investor may lose all or a substantial portion of the purchase price of the Securities.

The relevant Issuer, BAC, or any of BAC's Affiliates may, but is not obliged to, at any time purchase Securities at any price in the open market or by tender or private treaty for their own account for business reasons or in connection with their hedging arrangements. Any Securities so purchased may be held or resold or surrendered for cancellation. The relevant Issuer, BAC, or any of BAC's Affiliates may, but is not obliged to, be a market-maker for an issue of Securities. Even if the relevant Issuer or such other entity is a market-maker for an issue of Securities, the secondary market for such Securities may be limited. These activities may affect the price of such obligations or securities in a manner that would be adverse to a Holder's investment in the Securities. The relevant Issuer and BAC and its Affiliates have not considered, and are not required to consider, the interest of investors as Holders in connection with entering into any of the above mentioned transactions.

There may be less liquidity in the market for Securities if the Securities are exclusively offered to retail investors without any offer to institutional investors. To the extent that an issue of Securities becomes illiquid, an investor may have to exercise such Securities (in the case of American Style Warrants) or wait until the Exercise Date (in the case of European Style Warrants or Certificates) or the Maturity Date (in the case of Notes) of such Securities to realise value.

If the Certificates are Italian Listed Certificates, the relevant Issuer (or an entity on behalf of the relevant Issuer) will display continuous "bid" and "offer" prices for the Certificates, in accordance with the rules of the SeDeX.

***Investors may be subject to foreign exchange exposure and the Securities may become subject to exchange controls***

In the case of Cash Settled Securities, the relevant Issuer will pay the Cash Settlement Amount (in the case of W&C Securities) or Final Redemption Amount (in the case of the Notes) in respect of the



Securities in the Settlement Currency specified in the applicable Final Terms. This presents certain risks relating to currency conversions if an investor's financial activities are denominated principally in a currency or currency unit (the “**Investor's Currency**”) other than the Settlement Currency or Specified Currency, as applicable (the “**Settled Currency**”). These include the risk that exchange rates may significantly change (including changes due to devaluation of the Settled Currency or revaluation of the Investor's Currency) and the risk that authorities with jurisdiction over the Investor's Currency may impose or modify exchange controls. An appreciation in the value of the Investor's Currency relative to the Settled Currency would decrease (i) the Investor's Currency-equivalent yield on the Securities, (ii) the Investor's Currency equivalent value of the Cash Settlement Amount or Final Redemption Amount (as applicable) in respect of the Securities and (iii) the Investor's Currency equivalent market value of the Securities.

Government and monetary authorities may impose exchange controls (as some have done in the past) that could adversely affect an applicable exchange rate. As a result, the Cash Settlement Amount (in the case of Cash Settled W&C Securities) or the Final Redemption Amount (in the case of Notes) that investors may receive may be less than expected or zero.

***In certain circumstances the relevant Issuer will not be obliged to maintain the listing of Securities which are specified as being listed in the applicable Final Terms***

When the relevant Issuer specifies in the applicable Final Terms that a Series of Securities is to be admitted to trading on the Luxembourg Stock Exchange's regulated market and admitted to listing on the Official List of the Luxembourg Stock Exchange and/or listed on or admitted to trading by any other relevant stock exchange or market within the European Union (“**EU**”), which qualifies as a regulated market within the meaning of Article 4(14) of the Markets in Financial Instruments Directive (Directive 2004/39/EC) (each an “**EU Exchange**”), the relevant Issuer expects, but is not obliged, to maintain such listing of the Securities on such EU Exchange(s). Changed circumstances, including changes in listing requirements, could result in a suspension or removal of any such listing, or cause the relevant Issuer to conclude that continued listing of the Securities on such EU Exchange(s) is unduly burdensome.

***Legal investment considerations may restrict certain investments***

The investment activities of certain investors are subject to legal investment laws and regulations, or review or regulation by certain authorities. Each potential investor should consult its legal advisers to determine whether and to what extent (i) Securities are legal investments for it, (ii) Securities can be used as collateral for various types of borrowing and (iii) other restrictions apply to its purchase or pledge of any Securities. Financial institutions should consult their legal advisers or the appropriate regulators to determine the appropriate treatment of Securities under any applicable risk-based capital or similar rules.

***Payments on the Securities are subject to the credit risk of the relevant Issuer and BAC, and the value of the Securities will be affected by a credit rating reduction of BAC***

The amount payable or deliverable on the Securities at maturity, expiration or exercise is dependent upon the ability of the relevant Issuer and BAC to repay their respective obligations on the applicable maturity date, expiration date or exercise date. This will be the case even if the value of the Reference Item increases (or decreases, as the case may be) after the pricing date. No assurance can be given as to what the relevant Issuer's or BAC's financial condition will be on the applicable maturity date, redemption date, expiration date or exercise date. The value of the Securities is expected to be affected, in part, by investors' general appraisal of BAC's creditworthiness and actual or anticipated changes in BAC's credit ratings prior to the maturity date, expiration date or exercise date may affect the value of the Securities. Such perceptions are generally influenced by the ratings accorded to BAC's outstanding securities by standard statistical rating services. A reduction (or anticipated reduction) in the rating, if any, accorded to outstanding debt securities of BAC by one of these rating agencies could result in a reduction in the trading value of the Securities. As the return on the Securities depends upon factors in addition to the relevant Issuer's or BAC's ability to pay its respective obligations, an improvement in these credit ratings will not reduce the other investment risks related to the Securities. A credit rating is not a recommendation to buy, sell, or hold any of the Securities and may be subject to suspension, change, or withdrawal at any time by the assigning rating agency.

### **Risks related to the structure of a particular issue of Securities**

A wide range of Securities may be issued under the Programme. A number of these Securities may have features which contain particular risks for potential investors. Set out below is a description of the most common features.

#### **General risks relating to Reference Item Linked Securities**

Reference Item Linked Securities will represent an investment linked to the economic performance of the relevant Reference Item(s) and potential investors should note that the return (if any) on their investment in such Securities will depend upon the performance of such Reference Item(s). Potential investors should also note that whilst the market value of such Securities is linked to such Reference Item(s) and will be influenced (positively or negatively) by such Reference Item(s), any change in the market value of such Securities may not be comparable to changes in the market value of the Reference Item(s). It is impossible to predict how the market value of the relevant Reference Item(s) will vary over time. In addition, in contrast to a direct investment in the relevant Reference Item(s), such Securities represent the right to receive payment or delivery, as the case may be, of the Cash Settlement Amount(s), the Final Redemption Amount(s) or the Entitlement, as the case may be, as well as periodic payments of interest or additional amounts (if specified in the applicable Final Terms), all or some of which and the value of which will be determined by reference to the performance of the relevant Reference Item(s) but which are likely to differ from and may be less than the return on a direct investment in the same Reference Items(s).

As the amounts payable and/or non-cash consideration deliverable in respect of Reference Item Linked Securities are linked to the performance of the relevant Reference Item(s), a purchaser of such a Security must generally be correct about the direction, timing and magnitude of an anticipated change in the value of the relevant Reference Item(s). Assuming all other factors are held constant, the lower the value of such a Security and the shorter the remaining term to expiration (in the case of a Warrant), exercise (in the case of a Certificate) or redemption (in the case of a Note), the greater the risk that purchasers of such Security will lose all or part of their investment.

Reference Item Linked Securities may be principal protected or non-principal protected. Investors in Reference Item Linked Securities that are non-principal protected may risk losing their entire investment if the value of the relevant Reference Item(s) does not move in the anticipated direction. Whether or not a Security is principal protected, all payments on such Security are subject to the relevant Issuer's and BAC's credit risk and their respective ability to pay their relevant obligations on the applicable payment dates.

**POTENTIAL INVESTORS MUST REVIEW THE APPLICABLE FINAL TERMS TO ASCERTAIN WHAT THE RELEVANT REFERENCE ITEM(S) ARE AND TO SEE HOW THE CASH SETTLEMENT AMOUNT, FINAL REDEMPTION AMOUNT OR THE ENTITLEMENT, AS THE CASE MAY BE, AND ANY INTEREST PAYMENTS (IN THE CASE OF NOTES) OR ANY ADDITIONAL AMOUNT PAYMENTS (IN THE CASE OF W&C SECURITIES) ARE DETERMINED AND WHEN SUCH AMOUNTS ARE PAYABLE AND/OR DELIVERABLE, AS THE CASE MAY BE, BEFORE MAKING ANY DECISION TO PURCHASE ANY SECURITIES.**

#### ***Risks relating to Securities which are linked to emerging market Reference Item(s)***

Where the terms and conditions of the Securities reference one or more emerging market Reference Item(s), investors in such Securities should be aware that the political and economic situation in countries with emerging economies or stock markets may be undergoing significant evolution and rapid development, and such countries may lack the social, political and economic stability characteristics of more developed countries, including a significant risk of currency value fluctuation. Such instability may result from, among other things, authoritarian governments, or military involvement in political and economic decision-making, including changes or attempted changes in governments through extra-constitutional means; popular unrest associated with demands for improved political, economic or social conditions; internal insurgencies; hostile relations with neighbouring countries; and ethnic, religious and racial disaffections or conflict. Certain of such countries may have in the past failed to recognise private property rights and have at times nationalised or expropriated the assets of private companies. As a result, the risks from investing in those countries, including the risks of nationalisation or expropriation of assets, may be heightened. In addition, unanticipated political or social developments may affect the values of a Reference Item investment in those countries. The small size and inexperience of the securities markets in certain countries and the limited volume of trading in securities may make the

emerging market Reference Item(s) illiquid and more volatile than investments in more established markets. There may be little financial or accounting information available with respect to local issuers, and as a result it may be difficult to assess the value or prospects of the Reference Item(s).

### **Risks associated with baskets comprised of various components as Reference Items**

#### ***Exposure to performance of basket and its components***

Where the Securities are linked to or reference a basket of assets, the investors in such Securities are exposed to the performance of such basket. The investors will bear the risk of the performance of each of the basket components. See, as applicable, the risk factors set out in the sections entitled “Index Linked Securities”, “Share Linked Securities”, “Saudi Share Linked Warrants”, “Debt Linked Securities”, “GDR/ADR Linked Securities”, FX Linked Securities”, “Commodity Linked Securities”, “Fund Linked Securities” and “Credit Linked Notes”.

#### ***A high correlation of basket components may have a significant effect on amounts payable***

Some Securities are linked to baskets of Reference Items where the performance of such Reference Items tends to move in the same direction, or correlate, as a result of changes in market conditions, such as a change in interest rates. Correlation of basket components indicates the level of interdependence among the individual basket components with respect to their performance. If, for example, all of the basket components originate from the same sector and the same country, a high positive correlation may generally be assumed. Past rates of correlation may not be determinative of future rates of correlation: investors should be aware that, though basket components may not appear to be correlated based on past performance, it may be that they suffer the same adverse performance following a general downturn or other economic or political event. Where the basket components are subject to high correlation, any move in the performance of the basket components will exaggerate the performance of the Securities.

#### ***The negative performance of a single basket component may outweigh a positive performance of one or more other basket components***

Investors in Securities must be aware that even in the case of a positive performance of one or more basket components, the performance of the basket as a whole may be negative if the performance of the other basket components is negative to a greater extent, subject to the terms and conditions of the relevant Securities.

#### ***A small basket, or an unequally weighted basket, will generally leave the basket more vulnerable to changes in the value of any particular Reference Item***

The performance of a basket that includes a smaller number of Reference Items will generally, subject to the terms and conditions of the relevant Securities, be more affected by changes in the value of any particular Reference Item included therein than a basket that includes a greater number of Reference Items.

The performance of a basket that gives greater weight to some Reference Items will generally, subject to the terms and conditions of the relevant Securities, be more affected by changes in the value of any such particular Reference Item included therein than a basket that gives relatively equal weight to each Reference Item.

#### ***A change in composition of a basket may have an adverse effect on basket performance***

Where the Securities grant the Calculation Agent the right, in certain circumstances, to adjust the composition of the basket, investors should be aware that any replacement basket component may perform differently from the original basket component, which may have an adverse effect on the performance of the basket which will in turn have an adverse effect on the value of the Securities.

### **Risks relating to Securities linked to certain References Item(s)**

#### **Index Linked Securities**

#### ***Factors affecting the performance of Indices may adversely affect the value of the Securities***

Indices are comprised of a synthetic portfolio of shares, bonds, currency exchange rates, commodities, property or other assets, and as such, the performance of an Index is dependent upon the performance of components of such Index, which may include interest rates, currency developments, political factors, market factors such as the general trends in capital markets or broad based indices and (in the case of

shares) company-specific factors such as earnings position, market position, risk situation, shareholder structure and distribution policy. If an Index does not perform as expected, this will materially and adversely affect the value of Index Linked Securities.

***Returns on the Securities do not reflect a direct investment in underlying shares or other assets comprising the Index***

The return payable on Securities that reference Indices may not reflect the return a potential investor would realise if it actually owned the relevant assets comprising the components of the Index or owned a different form of interest in the relevant Index. For example, if the components of the Indices are shares, Holders will not receive any dividends paid or distributions made on those shares and will not participate in the return on those dividends or distributions unless the relevant Index takes such dividends into account for purposes of calculating the relevant level. Similarly, Holders will not have any voting rights in the underlying shares or any other assets which may comprise the components of the relevant Index. Accordingly, Holders of Securities that reference Indices as Reference Items may receive a lower payment upon redemption/settlement of such Securities than such Holder would have received if it had invested in the components of the Index directly or other comparable instruments linked to the Index.

***A change in the composition or discontinuance of an Index could adversely affect the market value of the Securities***

The sponsor of any Index can add, delete or substitute the components of such Index or make other methodological changes that could change the level of one or more components. The changing of components of any Index may affect the level of such Index as a newly added component may perform significantly worse or better than the component it replaces, which in turn may affect the payments made by the relevant Issuer to the Holders of the Index Linked Securities. The sponsor of any such Index may also alter, discontinue or suspend calculation or dissemination of such Index. The sponsor of an Index will have no involvement in the offer and sale of the Index Linked Securities and will have no obligation to any Holder of such Securities. Accordingly, the sponsor of an Index may take any actions in respect of such Index without regard to the interests of the Holder of the Securities, and any of these actions could adversely affect the market value of the Index Linked Securities.

***The substitution of an Index with a Successor Index could adversely affect the market value of the Securities.***

Upon notification by the relevant Issuer to the Calculation Agent that any payment (or deemed payment as determined for United States tax purposes) may be treated as a dividend or “dividend equivalent” for United States tax purposes (a “**U.S. Withholding Tax Event**”), the relevant Issuer may, at its option, upon notification to the Calculation Agent that it wishes to substitute a Successor Index for the relevant Index (an “**Index Substitution Event**”), effect such Index Substitution Event and, in the case of Notes, not redeem the Notes early pursuant to Note Condition 6 or, in the case of W&C Securities, not cancel the W&C Securities pursuant to W&C Securities Condition 7. With respect to a relevant Index, a “**Successor Index**” includes an index that uses, in the determination of the Calculation Agent, the same or a substantially similar formula for and method of calculation as used in the calculation of that Index. Such a substitution could adversely affect the market value and the performance of the Index Linked Securities.

***Exposure to Index Modification, Index Cancellation, Index Disruption and correction of Index levels***

The Calculation Agent has broad discretion to make certain determinations and adjustments, to replace the original Reference Item with another and/or to cause early redemption/settlement of the Securities, any of which may be adverse to Holders in connection with Index Modification, Index Cancellation, and Index Disruption. The Calculation Agent may determine that the consequence of any such event is to make adjustments to the Securities, or to replace such Index with another or to cause early redemption/settlement of the Securities. The Calculation Agent may (subject to the terms and conditions of the relevant Securities) also amend the relevant Index level due to corrections in the level reported by the Index Sponsor. The consequences of such amendments could adversely affect the market value of the Index Linked Securities.

***There are additional risks in relation to “Proprietary Indices” or “Strategies”***

See “There may be conflicts of interest between the relevant Issuer, its Affiliates and the Holders” above.

***There are additional risks in relation to Commodity Indices***

See “Additional risks in relation to the “rolling” of commodity futures contracts (including commodity futures contracts which are Components of a Commodity Index)” below.

***Specific Risks relating to Index Linked Securities in respect of which the applicable Final Terms specifies that the “LEPW Conditions” shall be applicable***

Holders of Index Linked Securities in respect of which the applicable Final Terms specifies that the “LEPW Conditions” shall be applicable should note that all payments made by MLICo. will be made subject to deductions to account for any costs and taxes which a hypothetical broker dealer, directly or indirectly, could incur in connection with any hedging arrangements which such hypothetical broker dealer could make in order to hedge such Index Linked Securities.

**Share Linked Securities*****No issuer of the relevant Share(s) will have participated in the preparation of the applicable Final Terms or in establishing the terms of the Share Linked Securities***

No Share Company or Companies will have participated in the preparation of the applicable Final Terms or in establishing the terms of the Share Linked Securities and none of the relevant Issuer, BAC or any Dealer will make any investigation or enquiry in connection with such offering with respect to any information concerning any such Share Company or Companies contained in such Final Terms or in the documents from which such information was extracted. Neither the relevant Issuer nor BAC controls any Share Company or Companies and are not responsible for any disclosure made by any Share Company or Companies. Consequently, there can be no assurance that all events occurring prior to the relevant issue date (including events that would affect the adequacy, accuracy or completeness of the publicly available information described in this paragraph or in any applicable Final Terms) that would affect the trading price of the relevant Share(s) will have been publicly disclosed. Subsequent disclosure of any such events or the disclosure of or failure to disclose material future events concerning such Share Company or Companies could affect the trading price of the Share(s) and therefore the trading price of the Securities.

***Factors affecting the performance of Shares may adversely affect the value of the Share Linked Securities***

The performance of Shares is dependent upon macroeconomic factors, such as interest and price levels on the capital markets, currency developments, political factors and company-specific factors such as earnings position, market position, risk situation, shareholder structure and distribution policy. These factors are not within the relevant Issuer’s or BAC’s control and may result in a decline in the value of the Securities.

***Holders have no claim against the Share Company or Companies or recourse to the Shares***

Share Linked Securities do not represent a claim against or an investment in any Share Company or Companies and investors will not have any right of recourse under the Share Linked Securities to any such company or the Shares. Share Linked Securities are not in any way sponsored, endorsed or promoted by any Share Company or Companies and such companies have no obligation to take into account the consequences of their actions for any Holders. Accordingly, the Share Company or Companies may take any actions in respect of such Share without regard to the interests of the investors in the Share Linked Securities, and any of these actions could adversely affect the market value of the Share Linked Securities.

***Determinations made by the Calculation Agent in respect of Potential Adjustment Events, Merger Events, Tender Offers, De-listing, Nationalisations, Insolvencies and Additional Disruption Events may have an adverse effect on the value of the Share Linked Securities***

Upon determining that a Potential Adjustment Event, Merger Event, Tender Offer, De-listing, Nationalisation, Insolvency or Additional Disruption Event has occurred in relation to an underlying Share or Share Company, the Calculation Agent has broad discretion to make certain determinations to account for such event including to (i) make adjustments to the terms of the Share Linked Securities and/or (ii) (in the case of a Merger Event, Tender Offer, De-listing, Nationalisation, Insolvency or an Additional Disruption Event) cause early redemption/settlement of the Share Linked Securities, any of which determinations may have an adverse effect on the value of the Share Linked Securities. In particular, in the event that the Share Linked Securities are early settled/redeemed, the amount payable to Holders may be significantly less than the investor’s initial investment, and may be as low as zero.



Potential Adjustment Events include (a) a sub-division, consolidation or re-classification of the Shares, (b) an extraordinary dividend, (c) a call of the Shares that are not fully paid, (d) a repurchase by the Share Company, or an affiliate thereof, of the Shares, (e) a separation of rights from the Shares or (f) any event having a dilutive or concentrative effect on the value of the Shares. Additional Disruption Events include (1) a change in applicable law since the Trade Date that makes it illegal to hold, acquire or dispose of the Shares or more expensive for the relevant Issuer to hedge its obligations under the relevant Share Linked Securities, (2) an insolvency filing by or on behalf of any issuer of the relevant Share(s), (3) Increased Cost of Hedging and (4) Hedging Disruption.

***Holders may receive physical delivery of Shares in lieu of payment of cash amounts***

Where the Share Linked Securities include the right of the relevant Issuer, subject to the fulfilment of a particular condition, to redeem the Share Linked Securities at their maturity by delivering Shares to the investor, the investors will receive such Shares rather than a monetary amount upon maturity. Holders will, therefore, be exposed to the Share Company or Companies and the risks associated with such Shares. The investor should not assume that he or she will be able to sell such Shares for a specific price after the redemption/settlement of the Securities, and in particular not for the purchase price of the Share Linked Securities. Under certain circumstances the Shares may only have a very low value or may, in fact, be worthless, in which case see “Investors risk losing all of their investment in the Securities” above. Holders may also be subject to certain documentary or stamp taxes in relation to the delivery and/or disposal of such Shares.

***Holders will have no voting rights or may have no right to receive dividends or distributions in respect of the relevant Shares***

Except as provided in the relevant Conditions in relation to Physical Delivery Securities, Holders of Share Linked Securities will not have voting rights or any other rights with respect to the relevant Shares to which such Share Linked Securities relate.

Unless the “Dividend Amount Provisions” are applicable for Share Linked Securities, Holders of Share Linked Securities will not have rights to receive dividends or distributions. As a result, the return on the Share Linked Securities may not reflect the return an investor would realise if the investor actually owned those relevant Shares and received the dividends paid or other distributions made in connection with them.

***Specific Risks relating to Share Linked Securities in respect of which the applicable Final Terms specifies that the “LEPW Conditions” shall be applicable.***

Share Linked Securities in respect of which the applicable Final Terms specifies that the “LEPW Conditions” shall be applicable are linked to the value of specified Shares during a specified period. If cash dividends are declared and paid on such Shares during such specified period, Holders of such Share Linked Securities shall receive such amounts, less deductions for local taxes (including withholding taxes). Holders of such Share Linked Securities should note that they will not acquire any interest in or right to acquire the relevant Shares, and will not in any way have any rights with respect to the relevant Shares (including voting rights). There is no obligation on MLICo. or any of its Affiliates to purchase, sell, hold, deliver, pledge or transfer any such Shares. In addition, the Additional Amount(s) and/or Settlement Amount (if any) due to Holders of such Share Linked Securities will generally be payable in a currency other than the currency in which the relevant Shares are denominated; as a result, the returns to Holders will be subject to exchange rate risk as well.

Holders of such Share Linked Securities should note that following the occurrence of any Potential Adjustment Event, the Calculation Agent may make certain determinations in respect of such Share Linked Securities, such as the issue of additional Share Linked Securities to Holders or the issue to Holders of new Share Linked Securities linked to the share capital or other securities of another company created as a result of a spin-off or other similar transaction relating to the relevant Share Company or the distribution of a cash amount to Holders or the adjustment of the terms and conditions of such Share Linked Securities, in each case, to account for the diluting or concentrative effect of such Potential Adjustment Event. Holders of such Share Linked Securities should note that none of the Issuer, the Guarantor or any of their respective affiliates are in a position to advise or give assurance to the Holders as to the impact to the economic, legal or tax position of such Holders as a result of such determinations or actions to the Holders. Holders of such Share Linked Securities should consult their own business, accounting, regulatory, legal, tax and other professional advisers with respect to any consequences or

considerations (whether relating to tax or otherwise) which may be relevant to or which may result from any such determinations or actions.

Holders of such Share Linked Securities should also note that all payments made by MLICo. (other than Additional Amounts) will be made subject to deductions to account for any costs and taxes which a hypothetical broker dealer, directly or indirectly, could incur in connection with any hedging arrangements which such hypothetical broker dealer could make in order to hedge such Share Linked Securities.

#### **General risks relating to Debt Linked Securities**

An investment in Debt Linked Securities will entail significant risks not associated with a conventional fixed rate or floating rate debt security. An investment in a Debt Linked Security may not provide the same level of return as a direct investment in the underlying debt securities.

#### **GDR/ADR Linked Securities**

##### ***Exposure to risk that redemption amounts do not reflect direct investment in the shares underlying the Depositary Receipts***

There are important differences between the rights of holders of ADRs or GDRs (ADRs and GDRs, together, “**Depositary Receipts**”) and the rights of holders of the stock of the issuer of underlying shares represented by such Depositary Receipts. A Depositary Receipt is a security that represents capital stock of the relevant underlying share issuer. The relevant Deposit Agreement for the Depositary Receipt sets out the rights and responsibilities of the Depositary (being the issuer of the Depositary Receipt), the underlying share issuer and holders of the Depositary Receipt which may be different from the rights of holders of the underlying shares. For example, the underlying share issuer may make distributions in respect of its underlying shares that are not passed on to the holders of its Depositary Receipts. Any such differences between the rights of holders of the Depositary Receipts and holders of the underlying shares of the underlying share issuer may be significant and may materially and adversely affect the value of the relevant GDR/ADR Linked Securities.

##### ***Exposure to the risk of non-recognition of beneficial ownership of the underlying shares represented by Depositary Receipts and therefore generally do not include dividends***

The legal owner of the underlying shares represented by Depositary Receipts is the custodian bank which at the same time is the issuing agent of the Depositary Receipts. Depending on the jurisdiction under which the Depositary Receipts have been issued and the jurisdiction to which the custodian agreement is subject, it is possible that the corresponding jurisdiction would not recognise the purchaser of the Depositary Receipts as the actual beneficial owner of the underlying shares. Particularly in the event that the custodian becomes insolvent or that enforcement measures are taken against the custodian, it is possible that an order restricting free disposition could be issued with respect to the underlying shares represented by Depositary Receipts or that such shares are realised within the framework of an enforcement measure against the custodian. If this is the case, the holder of the Depositary Receipt loses the rights under the underlying shares and the GDR/ADR Linked Securities would become worthless. See “Investors risk losing all of their investment in the Securities” above.

##### ***Potential exposure to risks of emerging markets***

Depositary Receipts often represent shares of underlying share issuers based in emerging market jurisdictions. In such case, there are risks relating to GDR/ADR Linked Securities linked to Depositary Receipts which represent such underlying shares, see “Risks relating to Securities which are linked to emerging market Reference Item(s)” above.

##### ***Distributions on the underlying shares may not be passed on to the Depositary Receipts***

The issuer of the underlying shares represented by Depositary Receipts may make distributions in respect of such shares that are not passed on to the purchasers of its Depositary Receipts which may materially and adversely affect the value of the GDR/ADR Linked Securities.

***Adjustment to the terms and conditions or replacement of the Reference Item following certain corporate events in relation to the underlying shares represented by Depositary Receipts may materially and adversely affect the value of the Securities***

Following certain corporate events specified in the terms and conditions of the relevant GDR/ADR Linked Securities relating to the underlying shares represented by Depositary Receipts or the relevant issuer of such underlying shares, such as a merger where the relevant company is not the surviving entity, the amount Holders of GDR/ADR Linked Securities will receive, if any, at maturity of such Securities may be adjusted by the Calculation Agent or the affected underlying shares and Depositary Receipts may be replaced by another Reference Item. The occurrence of such corporate events and the consequential adjustments may materially and adversely affect the value of the GDR/ADR Linked Securities.

***Exposure to changes in the rate of exchange between the currency of the Depositary Receipt and the underlying share***

Where the currency of the Depositary Receipt is different from that of the underlying share, represented by a Depositary Receipt, Holders of Securities linked to such Depositary Receipt may be exposed not only to the performance of the Depositary Receipt but also to the performance of the relevant foreign currency of the underlying share, which cannot be predicted. See “Factors affecting the performance of the relevant foreign exchange rate may adversely affect the value of the Securities” below.

**FX Linked Securities**

***Factors affecting the performance of the relevant foreign exchange rate may adversely affect the value of the Securities***

The foreign exchange rate(s) to which the Securities are linked will affect the nature and value of the investment return on the FX Linked Securities (or any other Securities which expose the investor to foreign exchange risks). The performance of foreign exchange rates is dependent upon the supply and demand for currencies in the international foreign exchange markets, which are subject to international and domestic political factors, economic factors (including inflation rates in the countries concerned, interest rate differences between the respective countries), economic forecasts, currency convertibility and safety of making financial investments in the currency concerned, speculation and measures taken by governments and central banks. Measures taken by governments and central banks include, without limitation, imposition of regulatory controls or taxes, issuance of a new currency to replace an existing currency, alteration of the exchange rate or exchange characteristics by devaluation or revaluation of a currency or imposition of exchange controls with respect to the exchange or transfer of a Specified Currency that would affect exchange rates and the availability of a Specified Currency which would affect return on the FX Linked Security or ability of the relevant Issuer to make delivery in the Specified Currency.

***BAC is a major foreign exchange dealer and is subject to conflicts of interest***

Investors should note that BAC and its Affiliates (including Merrill Lynch International) are regular participants in the foreign exchange markets and in the ordinary course of their business may effect transactions for their own account or for the account of their customers and hold long and short positions in currencies and related derivatives, including in the currencies of the relevant foreign exchange rate(s). Such transactions may affect the relevant foreign exchange rate(s), the market price, liquidity or value of the Securities and could be adverse to the interests of Holders. Neither BAC nor any of its Affiliates has any duty to enter into such transactions in a manner which is favourable to Holders.

***Currencies of emerging markets jurisdictions pose particular risks***

FX Linked Securities linked to emerging market currencies may experience greater volatility and less certainty as to the future levels of such emerging market currencies or their rate of exchange as against other currencies. See “Risks relating to Securities which are linked to emerging market Reference Item(s)” above.

**Commodity Linked Securities**

An investment in Commodity Linked Securities entails significant risks in addition to those associated with investments in a conventional debt security.

***Ownership of the Commodity Linked Securities will not entitle an investor to any rights with respect to any futures contracts or Commodities included in or tracked by the Reference Item(s)***

An investor will not own or have any beneficial or other legal interest in, and will not be entitled to any rights with respect to, any of the Commodities or commodity futures included in such Reference Item(s). Neither the relevant Issuer nor BAC will invest in any of the Commodities or commodity futures contracts included in such Reference Item(s) on behalf or for the benefit of the Holders.

***Factors affecting the performance of Commodities may adversely affect the value of the Commodity Linked Securities; Commodity prices may be more volatile than other asset classes***

The prices of Commodities may be volatile and may fluctuate substantially if, for example, natural disasters or catastrophes, such as hurricanes, fires, or earthquakes, affect the supply or production of such Commodities. Commodity prices also fluctuate due to general macro-economic forces and general market movements. The price of Commodities may also fluctuate substantially if conflict or war affects the supply or production of such Commodities. If any amount payable in respect of a Security is linked to the price of a Commodity, any change in the price of such Commodity may result in the reduction of the amount of such payment in respect of a Security. The reduction in the amount payable on the redemption/settlement of the Security may result, in some cases, in a Holder receiving a smaller sum on redemption/settlement of the Security than the amount originally invested in such Commodity Linked Security.

***Commodities may reference physical commodities or commodity contracts, and certain commodity contracts may be traded on unregulated or “under-regulated” exchanges***

Commodities comprise both (i) “physical” commodities, which need to be stored and transported, and which are generally traded at a “spot” price, and (ii) commodity contracts, which are agreements either to (a) buy or sell a set amount of an underlying physical commodity at a predetermined price and delivery period (which may be referred to as a delivery month), or to (b) make and receive a cash payment based on changes in the price of the underlying physical commodity.

Commodity contracts may be traded on regulated specialised futures exchanges (such as futures contracts). Commodity contracts may also be traded directly between market participants “over-the-counter” on trading facilities that are subject to lesser degrees of regulation or, in some cases, no substantive regulation. Accordingly, trading in such “over-the-counter” contracts may not be subject to the same provisions as, and the protections afforded to, contracts traded on regulated specialised futures exchanges, and there may therefore be additional risks related to the liquidity and price histories of the relevant contracts and any Securities which reference any such commodity contracts may have reduced liquidity or greater price volatility or be subject to more extensive market disruptions.

***Commodity Linked Securities which are linked to commodity futures contracts may provide a different return from Commodity Linked Securities linked to the relevant physical commodity and will have certain other risks***

The price of a futures contract on a commodity will generally be at a premium or at a discount to the spot price of the underlying commodity. This discrepancy is due to such factors as (i) the need to adjust the spot price due to related expenses (e.g., warehousing, transport and insurance costs) and (ii) different methods being used to evaluate general factors affecting the spot and the futures markets. In addition, and depending on the commodity, there can be significant differences in the liquidity of the spot and the futures markets. Accordingly, Commodity Linked Securities which are linked to commodity futures contracts may provide a different return from Commodity Linked Securities linked to the relevant physical commodity.

Investments in futures contracts involve certain other risks, including potential illiquidity. A holder of a futures position may find that such position becomes illiquid because certain commodity exchanges limit fluctuations in such futures contract prices pursuant to “daily limits”. Once the price of a particular futures contract has increased or decreased by an amount equal to the daily limit, positions in the contract can neither be taken nor liquidated unless holders are willing to effect trades at or within the limit. This could prevent a holder from promptly liquidating unfavourable positions and subject it to substantial losses. Futures contract prices in various commodities occasionally have exceeded the daily limit for several consecutive days with little or no trading. Any such losses in such circumstances could have a negative adverse effect on the return of any Commodity Linked Securities the Reference Item of which is the affected futures contract. There can be no assurance that any such disruption or any other force majeure (such as an act of God, fire, flood, severe weather conditions, act of governmental authority or a



labour dispute or shortage) will not have an adverse effect on the value of or trading in the Reference Item(s), or the manner in which it is calculated, and therefore, the value of the Securities.

In the case of a direct investment in commodity futures contracts, the invested capital may be applied in whole or in part by way of collateral in respect of the future claims of the respective counterparties under the commodity futures contracts. Such capital will generally bear interest, and the interest yield will increase the return of the investor making such direct investment. However, Holders of Securities linked to the price of commodity futures contracts do not participate in such interest yields from the hypothetical fully collateralised investment in commodity futures contracts.

***Additional risks in relation to the “rolling” of commodity futures contracts (including commodity futures contracts which are Components of a Commodity Index)***

Commodity contracts have a predetermined expiration date, which is the date on which trading of the commodity contract ceases. Holding a commodity contract until expiration will result in delivery of the underlying physical commodity or the requirement to make or receive a cash settlement. Alternatively, “rolling” the commodity contracts means that the commodity contracts that are nearing expiration (the “**near-dated commodity contracts**”) are sold before they expire and commodity contracts that have an expiration date further in the future (the “**longer-dated commodity contracts**”) are purchased. Investments in commodities apply “rolling” of the component commodity contracts in order to maintain an ongoing exposure to such commodities.

“Rolling” can affect the value of an investment in commodities in a number of ways, including:

- (i) The investment in commodity contracts may be increased or decreased through “rolling”: Where the price of a near-dated commodity contract is greater than the price of the longer-dated commodity contract (the commodity is said to be in “backwardation”), then “rolling” from the former to the latter will result in exposure to a greater number of the longer-dated commodity contract being taken. Therefore, any loss or gain on the new positions for a given movement in the prices of the commodity contract will be greater than if one had synthetically held the same number of commodity contracts as before the “roll”. Conversely, where the price of the near-dated commodity contract is lower than the price of the longer-dated commodity contract (the commodity is said to be in “contango”), then “rolling” will result in exposure to a smaller number of the longer-dated commodity contract being taken. Therefore, any gain or loss on the new positions for a given movement in the prices of the commodity contract will be less than if one had synthetically held the same number of commodity contracts as before the “roll”.
- (ii) Where a commodity contract is in contango (or, alternatively, backwardation) such may be expected to (though it may not) have a negative (or, alternatively, positive) effect over time: Where a commodity contract is in “contango”, then the price of the longer-dated commodity contract will generally be expected to (but may not) decrease over time as it nears expiry. In such event, rolling is generally expected to have a negative effect on an investment in the commodity contract. Where a commodity contract is in “backwardation”, then the price of the longer-dated commodity contract will generally be expected to (but may not) increase over time as it nears expiry. In such event, the investment in the relevant commodity contract can generally be expected to be positively affected.

Commodity indices are indices which track the performance of a basket of commodity contracts on certain commodities, depending on the particular index. The weighting of the respective commodities included in a commodity index will depend on the particular index, and is generally described in the relevant index rules of the index. Commodity indices apply “rolling” of the component commodity contracts in order to maintain an ongoing exposure to such commodities. Specifically, as a commodity contract is required to be rolled pursuant to the relevant index rules, the commodity index is calculated as if exposure to the commodity contract was liquidated and exposure was taken to another (generally longer-dated) commodity contract for an equivalent exposure. Accordingly, the same effects as described above with regard to “rolling” on the value of a Commodity Reference Item also apply with regard to the index level of a Commodity index.

***Legal and regulatory changes relating to the Commodities may lead to an early redemption***

Commodities are subject to legal and regulatory regimes that may change in ways that could affect the ability of the relevant Issuer and/or any entities acting on behalf of the relevant Issuer engaged in any underlying or hedging transactions in respect of the relevant Issuer’s obligations in relation to the Commodity Linked Securities to hedge the relevant Issuer’s obligations under the Commodity Linked Securities, and/or could lead to the early redemption/settlement of the Commodity Linked Securities.



Commodities are subject to legal and regulatory regimes in the United States and, in some cases, in other countries that may change in ways that could negatively affect the value of the Securities. The rules and regulations of those regulators, including the CFTC, could have an unpredictable impact on the value of any Commodity Linked Securities. In addition, if the Commodities are traded on a non-U.S. exchange, those foreign markets may be more susceptible to disruption than U.S. exchanges due to the lack of a government-regulated clearinghouse system and may be subject to exchange controls, expropriation, burdensome or confiscatory taxation, or moratoriums and political or diplomatic events.

### **Risks relating to Fund Linked Securities**

#### ***A Fund may be subject to Fund Events which may adversely impact the value of Fund Linked Securities***

If certain events specified as Fund Events occur, the Calculation Agent may replace the Fund by other Funds and thereafter the amount payable in respect of the Fund Linked Securities will depend on and be calculated by reference to the performance of an alternate asset. This may have a considerable impact on the value of the Fund Linked Securities and the amount payable in respect of the Fund Linked Securities. Alternatively, any determination dates and payment dates may be changed by the Calculation Agent, or the amount paid per Fund Linked Security may be based on the only cash amounts that an investor in the fund actually received, which might be as low as zero.

#### ***Risk from composition and changes to a fund***

The management company of a Fund can, without regard to the interests of the investors in the Fund Linked Securities, add, delete or substitute any Funds by reference to which the value of a Fund is calculated or make other methodological changes that could change the investment profile of a Fund. The management company may also determine to discontinue a Fund. If a Fund is discontinued, it may be replaced by other assets and/or the Fund Linked Securities may be redeemed or exercised early.

In the event that a Fund is materially modified or permanently cancelled or the management company fails to calculate or announce the net asset value of a Fund, the Calculation Agent will either make such adjustments to any variable, calculation methodology, valuation, settlement, payment terms or any other terms and conditions of the Fund Linked Securities as the Calculation Agent determines appropriate to account for the effect on the Fund Linked Securities of such events, or may redeem or exercise the Fund Linked Securities early. Any of these decisions or determinations may adversely impact the value of the Fund Linked Securities. In the event that the Fund Linked Securities are early settled/redeemed, that amount payable to an investor may be less than the investor's initial investment, and may be as low as zero.

#### ***Funds may be subject to transfer restrictions and illiquidity***

Funds and the assets thereof may be subject to transfer restrictions arising by way of applicable securities laws or otherwise. Such restrictions may mean that purchasers of the Fund Linked Securities are not entitled to acquire interests in the Funds directly. Holders of units or shares in a Fund may have the right to transfer or withdraw their investment in the Funds only at certain times and upon completion of certain documentary formalities and such rights may be subject to suspension or alteration. These circumstances may affect the net asset value of the Funds in question. Potential investors should familiarise themselves with the features of the Funds in this regard.

#### ***Events which affect the value of a Fund will affect the value of Fund Linked Securities***

The occurrence of any of the following events could materially and adversely affect the value of shares or units in a Fund, and have a consequent material and adverse effect on the value of Fund Linked Securities:

- **Valuation:** The valuation of Funds is generally controlled by the management company of the Fund. Valuations are performed in accordance the terms and conditions governing the Fund. Such valuations may be based upon the unaudited financial records of the Fund and any accounts pertaining thereto. Such valuations may be preliminary calculations of the net asset values of the Fund and accounts. The Fund may hold a significant number of investments which are illiquid or otherwise not actively traded and in respect of which reliable net asset values may be difficult to obtain. In consequence, the management company may vary certain quotations for such investments held by the Fund in order to reflect its judgement as to the fair value thereof. Therefore, valuations may be subject to subsequent adjustment upward or downward. Uncertainties

as to the valuation of Fund assets and/or accounts may have an adverse effect on the net asset value of the Fund where such judgements regarding valuations prove to be incorrect.

- *Trading charges:* The performance of a Fund will be affected by the charges incurred thereby relating to the investments of such Fund. The Fund may engage in short-term trading which may result in increased turnover and associated higher than normal brokerage commissions and other expenses.
- *Legal and regulatory changes:* Future changes to applicable law or regulation may be adverse to a Fund.
- *Investment risk:* All investments risk the loss of capital and/or the diminution of investment returns. A Fund may utilise (*inter alia*) strategies such as short-selling, leverage, securities lending and borrowing, investment in sub-investment grade or non-readily realisable investments, uncovered options transactions, options and futures transactions and foreign exchange transactions and the use of concentrated portfolios, each of which could, in certain circumstances, magnify adverse market developments and losses.
- *Illiquidity:* A Fund may make investments in markets that are volatile and/or illiquid and it may be difficult or costly for positions therein to be opened or liquidated.
- *Performance risk:* No assurance can be given relating to the present or future performance of a Fund. The performance of a Fund is dependent on the performance of the management company thereof. Certain management companies may utilise analytical models upon which investment decisions are based. No assurance can be given that these persons will succeed in meeting the investment objectives of the Fund, that any analytical model used thereby will prove to be correct or that any assessments of the short-term or long-term prospects, volatility and correlation of the types of investments in which the Funds have invested or will invest will prove accurate.
- *Effect of exchange rates and exchange controls:* The net asset value of a Fund could be adversely affected not only by hedging costs and changes in exchange rates, but also by local exchange control regulations and other limitations, including currency exchange limitations and political and economic developments in the relevant countries.
- *Market risks:* The markets in which a Fund invests may prove to be highly volatile from time to time as a result of, for example, sudden changes in government policies on taxation and currency repatriation or changes in legislation relating to the value of foreign ownership in companies, and this may affect the net asset value at which a Fund may liquidate positions to meet repurchase requests or other funding requirements.
- *Hedging risks:* A Fund may in certain cases employ various hedging techniques to reduce the risk of investment positions. A substantial risk remains, nonetheless, that such techniques will not always be available and when available, will not always be effective in limiting losses. A Fund may take substantial unhedged positions.
- *Interest rate risks:* The values of securities held by a Fund (or by any underlying Fund) tend to be sensitive to interest rate fluctuations and unexpected fluctuations in interest rates could cause the corresponding net asset values of a Fund's positions to move in directions which were not initially anticipated. To the extent that interest rate assumptions underlie the hedge ratios implemented in hedging a particular position, fluctuations in interest rates could invalidate those underlying assumptions and expose a Fund to losses.
- *Absence of regulation:* A Fund will generally not be regulated under the laws of any country or jurisdiction. As a result, certain protections of such laws (which, among other things, may require investment companies to have disinterested directors, require securities to be held in custody and segregated, regulate the relationship between the investment company and its adviser and mandate investor approval before fundamental investment policies may be changed) do not apply to a Fund. This absence of regulation may adversely affect the performance of a Fund.
- *Suspension of trading:* A securities exchange typically has the right to suspend or limit trading in any instrument traded on that exchange. A suspension could render it impossible for a Fund to liquidate positions and thereby expose a Fund to losses.
- *Dependence on key individuals:* The success of a Fund is dependent on the expertise of its managers. The loss of one or more individuals could have a material adverse effect on the ability of a Fund manager to direct a fund's portfolio, resulting in losses for a Fund and a decline in the value of a

Fund. Indeed, certain fund managers may have only one principal, without whom the relevant Fund manager could not continue to operate.

- *Experience of Fund managers:* Certain Funds may be managed by investment managers who have managed hedge funds for a relatively short period of time. The previous experience of such investment managers is typically in trading proprietary accounts of financial institutions or managing unhedged accounts of institutional asset managers or other investment firms. As such investment managers do not have direct experience in managing Funds or hedge funds, including experience with financial, legal or regulatory considerations unique to Fund management, and there is generally less information available on which to base an opinion of such managers' investment and management expertise, investments with such investment managers may be subject to greater risk and uncertainty than investments with more experienced Fund managers.
- *Risk of fraud:* There is a risk that a Fund manager could divert or abscond with the assets, fail to follow agreed-upon investment strategies, provide false reports of operations or engage in other misconduct.
- *Performance compensation payable to Fund managers:* The performance-based compensation paid to a Fund manager is typically calculated on a basis that includes unrealised appreciation and may consequently be greater than if such compensation were based solely on realised gains. Each Fund generally calculates its own performance compensation based on its individual performance, irrespective of increases in the overall value of the Fund. Furthermore, when the Fund is rebalanced and an unprofitable underlying asset is removed, the loss carried forward by such Fund's trading is eliminated for purposes of calculating subsequent performance compensation due to the Fund manager of any replacement underlying asset. Thus, there may be substantial incentive compensation due to the relevant Fund manager even during a period when the portfolio of assets is incurring significant losses.
- *Concentration risk:* As many hedge funds have the authority to concentrate their investments in securities of a single issuer or industry, the overall adverse impact on one or more components of the fund, and correspondingly on the value of the Fund, of adverse movements in the value of such securities could be considerably greater than if the Fund were not permitted to concentrate their investments. Moreover, a number of hedge funds included as components in a Fund might accumulate substantial positions in the same or related instruments at the same time. As information regarding the actual investments made by such funds is not generally available, the management company will be unable to identify any such accumulations, which could expose the relevant Fund to the risk of sudden and severe declines.
- *Risks of leverage:* A Fund may borrow without limitation and typically utilise various lines of credit and other forms of leverage. In addition, certain of a Fund's investment strategies (primarily those utilising derivative instruments) may involve indirect forms of leverage. While leverage presents opportunities for increasing a Fund's total return, it increases the potential risk of loss as well. Any event which adversely affects the value of an investment by a Fund is magnified to the extent that such investment is leveraged. Leverage can have a similar effect on issuers in which a Fund invests. The use of leverage by a Fund could result in substantial losses which would be greater than if leverage had not been used. A Fund's assets may be further leveraged or hedged by the use of derivatives. In addition, investments of a fund may include investments in partnerships and other pooled investment vehicles, which themselves employ leverage to a significant extent. Such investments are subject to the same leverage risks as described above and a Fund could lose its entire investment. As a general matter, the banks and dealers that provide financing to a fund can apply essentially discretionary margin, haircut, financing and security and collateral valuation policies. Changes by banks and dealers in these policies may result in large margin calls, loss of financing and forced liquidations of positions at disadvantageous net asset values.
- *Non-deductible taxes:* As Funds may be resident in so-called off-shore jurisdictions, which have not entered into any double taxation conventions with other countries, any income of such Fund may be subject to taxation in the countries of origin. As such withholding taxes are non-deductible due to the fact that such Funds are not subject to income taxation in their countries of residence, the Fund's net income may be reduced which may have a negative impact on the performance of such Fund.

- *Investment criteria:* It may be difficult to specify precisely or comprehensively the strategies of a Fund. As a result, it may not sometimes be clear whether or not a Fund fulfils the investment criteria set out in its offering document.
- *Risks of equity investments:* The investment orientation of a Fund may be based to a significant extent on equity investments. Investment in equity securities to aggressively seek capital appreciation is speculative and is generally perceived to encompass greater risks than those involved in connection with an investment in debt securities of comparable issuers.
- *Risks of fixed income investments:* A Fund may invest in fixed income securities and, therefore, may be exposed to the risk of default by the issuers of such securities. Such default may result in delays in payment, or non-payment of interest or principal when due. Furthermore, the net asset value of fixed income securities may also fluctuate with changes in prevailing interest rates and/or in the creditworthiness of the issuer, and these fluctuations may result in a loss of capital by a Fund.
- *Risks of collective investment schemes:* Some Funds may invest in other collective investment schemes. Investment in schemes of this type may afford the investor less transparency in respect of the ultimate assets of the scheme.
- *Large transactions:* Large subscriptions and redemptions may result in the liquidation or dilution of fund assets that may affect the net asset value of such Fund.
- *Emerging markets:* A Fund may invest in securities of governments of, or companies domiciled in, less-developed or emerging markets. See “Risks relating to Securities which are linked to emerging market Reference Item(s)” above. Custody arrangements in such countries may also present enhanced risk.
- *Risks of repos:* A Fund may use repurchase agreements. Under a repurchase agreement, a security is sold to a buyer and at the same time the seller of the security agrees to buy back the security at a later date at a higher net asset value. In the event of a bankruptcy or other default of the transferor of securities in a repurchase agreement, a Fund could experience delays in liquidating the underlying securities and losses, including possible declines in the value of the collateral during the period while it seeks to enforce its rights thereto; possible subnormal levels of income and lack of access to income during this period and the expenses of enforcing its rights. In the case of a default by the transferee of securities in a repurchase agreement, the management company bears the risk that the transferee may not deliver the securities when required.
- *Risks of currency speculation:* A Fund may engage in exchange rate speculation. Foreign exchange rates have been highly volatile in recent years. The combination of volatility and leverage gives rise to the possibility of large profit but also carries a high risk of loss. In addition, there is counterparty credit risk since foreign exchange trading is done on a principal to principal basis.
- *Risks of commodity futures:* Commodity futures prices can be highly volatile. As a result of the low margin deposits normally required in futures trading, an extremely high degree of leverage is typical of a futures trading account. As a result, a relatively small price movement in a futures contract may result in substantial losses to the investor. Like other leveraged investments, a futures transaction may result in losses in excess of the amount invested.
- *Risks of derivative instruments:* A Fund may use derivative instruments, such as collateralised debt obligations, stripped mortgage-backed securities, options and swaps. There are uncertainties as to how the derivatives market will perform during periods of unusual price volatility or instability, market illiquidity or credit distress. Substantial risks are also involved in borrowing and lending against such instruments. The prices of these instruments are volatile, market movements are difficult to predict and financing sources and related interest rates are subject to rapid change. One or more markets may move against the positions held by a Fund, thereby causing substantial losses. Most of these instruments are not traded on exchanges but rather through an informal network of banks and dealers. These banks and dealers have no obligation to make markets in these instruments and may apply essentially discretionary margin and credit requirements (and thus, in effect, force a Fund to close out its relevant positions). In addition, such instruments carry the additional risk of failure to perform by the counterparty to the transaction. Government policies, especially those of the Federal Reserve and non-U.S. central banks, have profound effects on interest and exchange rates which, in turn, affect prices of derivative instruments. Many other unforeseeable events, including actions by various government agencies and domestic and international political events, may cause sharp market fluctuations.



- *Risks of short selling:* A Fund may sell securities short. Short selling exposes a Fund to theoretically unlimited risk due to the lack of an upper limit on the price to which a security may rise. Short selling involves the sale of borrowed stock. If a stock loan is called, the short seller may be forced to repurchase the stock at a loss. In addition, some traders may attempt to profit by forcing short sellers to incur a loss. Traders may make large purchases of a stock that has been sold short. The large purchases are intended to drive up the stock price, and cause the short sellers to incur losses. By doing this, the traders hope the short sellers will limit their losses by repurchasing the stock and force the stock price even higher.
- *Risks of arbitrage:* The use of arbitrage strategies by a Fund in no respect should be taken to imply that such strategies are without risk. Substantial losses may be incurred on “hedge” or “arbitrage” positions, and illiquidity and default on one side of a position may effectively result in the position being transformed into an outright speculation. Every arbitrage strategy involves exposure to some second order risk of the market, such as the implied volatility in convertible bonds or warrants, the yield spread between similar term government bonds or the net asset value spread between different classes of stock for the same underlying firm. Further, there are few examples of “pure” arbitrage Funds. Most Funds also employ limited directional strategies which expose them to market risk.
- *Credit risk:* Many of the markets in which a Fund effects its transactions are “over-the-counter” or “inter-dealer” markets. The participants in these markets are typically not subject to credit evaluation and regulatory oversight as are members of “exchange based” markets. To the extent that a Fund invests in swaps, derivatives or synthetic instruments, or other over-the-counter transactions in these markets, such Fund may take a credit risk with regard to parties with which it trades and also may bear the risk of settlement default. These risks may differ materially from those involved in exchange-traded transactions, which generally are characterised by clearing organisation guarantees, daily marking-to-market and settlement, and segregation and minimum capital requirements applicable to intermediaries. Transactions entered into directly between two counterparties generally do not benefit from these protections, which in turn may subject a Fund to the risk that a counterparty will not settle a transaction in accordance with its terms and conditions because of a dispute over the terms of the contract or because of a credit or liquidity problem. Such “counterparty risk” is increased for contracts with longer maturities when events may intervene to prevent settlement. The ability of a Fund to transact business with any one or any number of counterparties, the lack of any independent evaluation of the counterparties or their financial capabilities, and the absence of a regulated market to facilitate settlement, may increase the potential for losses.
- *Risks relating to controlling stakes:* A Fund may take controlling stakes in companies. The exercise of control over a company imposes additional risks of liability for environmental damage, product defects, failure to supervise and other types of related liability.
- *Price volatility:* The market price of Fund Linked Securities may be volatile and may depend on the time remaining to the redemption date or settlement date (as applicable) and the volatility of the price of Fund share(s) or unit(s). The price of Fund share(s) or unit(s) may be affected by the economic, financial and political events in one or more jurisdictions, including factors affecting the exchange(s) or quotation system(s) on which any units in the Fund or Funds may be traded.

***As the shares of certain Funds may only be redeemable on certain dates, there is a risk of delays or defaults in payment***

The shares of a Fund may only be redeemable on certain redemption dates, subject to the prescribed notice period in respect of such Fund. This gives rise to a time delay between the execution of an order for redemption and payment of the proceeds on such redemption. If the Fund becomes insolvent following the date on which a redemption order would have to be notionally placed or the Calculation Agent determines that the relevant Fund would fail to pay to any shareholder in cash the full redemption proceeds owing to them if they redeemed their shares on the relevant date, an adjustment may be made by the Calculation Agent when calculating the return on the Securities to the net asset value per share of the relevant Fund, thereby reducing the return on the Securities.

In the case of Fund Linked Securities linked to Exchange Traded Funds (“ETFs”), if the Calculation Agent determines that an event giving rise to a Disrupted Day has occurred at any relevant time, any such determination may have an effect on the timing of valuation and consequently the value of the Securities and/or may delay settlement in respect of the Fund Linked Securities. Potential investors



should review the relevant Conditions and the applicable Final Terms to ascertain whether and how such provisions apply to the Fund Linked Securities.

In the case of Fund Linked Securities linked to ETFs following the declaration by the ETF of the occurrence of any Potential Adjustment Event, the Calculation Agent will, in its sole and absolute discretion, determine whether such Potential Adjustment Event has a diluting or concentrative effect on the theoretical relevant Fund Shares and, if so, will (i) make the corresponding adjustment, if any, to any of the terms of the relevant Conditions and/or the applicable Final Terms as the Calculation Agent in its sole and absolute discretion determines appropriate to account for that diluting or concentrative effect and (ii) determine the effective date of that adjustment. Such adjustment may have an adverse effect on the value and liquidity of the affected Fund Linked Securities.

In addition, in the case of Fund Linked Securities linked to ETFs, if a Merger Event, Tender Offer, De-Listing, Material Underlying Event, Nationalisation or Insolvency occurs in relation to any Fund Share, the relevant Issuer in its sole and absolute discretion may take the action described in (i) or (ii) below:

- (i) require the Calculation Agent to determine in its sole and absolute discretion the appropriate adjustment, if any, to be made to any of the relevant Conditions and/or the applicable Final Terms to account for the Merger Event, Tender Offer, De-Listing, Material Underlying Event, Nationalisation or Insolvency and determine the effective date of that adjustment. Such adjustment may have an adverse effect on the value and liquidity of the affected Fund Linked Securities; or
- (ii) redeem or cancel, as applicable, all of the Fund Linked Securities. In the event of such redemption or cancellation the amount payable to an investor may be less than the investor's initial investment, and may be as low as zero.

### **Risks relating to Inflation Linked Securities**

A relevant consumer price index or other formula linked to a measure of inflation to which the Securities are linked may be subject to significant fluctuations that may not correlate with other indices. Any movement in the level of the index may result in a reduction of the interest payable on the Securities, and in the case of Securities with a settlement/redemption amount linked to inflation, in a reduction of the amount payable on settlement/redemption which in some cases could be less than the amount originally invested.

The timing of changes in the relevant consumer price index or other formula linked to the measure of inflation comprising the relevant index or indices may affect the actual yield to investors on the Inflation Linked Securities, even if the average level is consistent with their expectations.

An index to which interest payments on an Inflation Linked Security and/or the redemption amount of an Inflation Linked Security are linked is only one measure of inflation for the relevant jurisdiction, and such index may not correlate perfectly with the rate of inflation experienced by Holders in such jurisdiction.

### **Credit Linked Securities**

#### ***General risks relating to Credit Linked Securities***

The relevant Issuer may issue Credit Linked Securities where the amount payable is dependent upon whether certain events ("**Credit Events**") have occurred in respect of one or more Reference Entity/Entities and, if so, on the value of certain specified assets of such Reference Entity/Entities or where, if one or more Credit Events have occurred, on redemption the relevant Issuer's obligation is to deliver certain specified assets.

Holders of any such Credit Linked Securities should be aware that depending on the terms of the Credit Linked Securities (i) they may receive no or a limited amount of interest or additional amounts, (ii) the payment of the redemption amount, interest or additional amounts or delivery of any specified assets may occur at a different time than expected and (iii) they may lose all or a substantial portion of their investment.

The market price of Credit Linked Securities may be volatile and will be affected by, amongst other things, the time remaining to the redemption date or settlement date, as applicable, prevailing credit spreads and the creditworthiness of the Reference Entity/Entities which in turn may be affected by the economic, financial and political events in one or more jurisdictions. Risks relating to Credit Linked

Securities may be correlated or compounded and such correlation and/or compounding may result in increased volatility in the value of such Securities and/or in increased losses for holders of such Securities.

Actions of Reference Entities (for example, merger or demerger or the repayment or transfer of indebtedness) may adversely affect the value of any Credit Linked Securities. The views of market participants and/or legal counsel may differ as to how the terms of market standard credit default swaps, and the corresponding terms of any Credit Linked Securities, should be interpreted in the context of such actions, or such terms may operate in a manner contrary to the expectations of market participants and/or adversely to the interests of holders of any Credit Linked Securities. Holders of any Credit Linked Securities should be aware that the Reference Entities to which the value of such Securities are exposed, and the terms of such exposure, may change over the term of such Securities. Reference Entities may not be subject to regular reporting requirements under Luxembourg securities laws and may report information in accordance with different disclosure and accounting standards. Consequently, the information available for such Reference Entities may be different from, and in some cases less than, the information available for entities that are subject to the reporting requirements under the Luxembourg securities laws. None of the Issuers, BAC, the Calculation Agent nor any of their respective affiliates make any representation as to the accuracy or completeness of any information available with respect to the Reference Entities.

***Holders may be affected by Credit Events that occur before the Issue Date***

Holders of Credit Linked Securities may suffer a loss of some or all of their investment if one or more Credit Events occur on or after the Credit Event Backstop Date (which may fall prior to the Issue Date). None of the Calculation Agent, the relevant Issuer, BAC nor any of their respective affiliates has any responsibility to avoid or mitigate the effects of a Credit Event that has taken place prior to the Issue Date.

***There may be increased risks associated with Nth-to-Default Securities***

Where the Credit Linked Securities are Nth-to-Default Securities, the relevant Credit Linked Securities will be subject to redemption in full as described above upon the occurrence of a Credit Event and the satisfaction of the relevant conditions to settlement in relation to the nth Reference Entity in relation to which the Conditions to Settlement have been satisfied. With Nth-to-Default Securities, the credit risk to holders of the Securities may be increased as a result of, amongst other things, the concentration of Reference Entities in a particular industry sector or geographic area, or the exposure of the Reference Entities to similar financial or other risks.

***There may be increased risks associated with Tranching Portfolio CLNs***

If a Credit Event occurs in respect of a Reference Entity that results in an Incurred Loss Amount, the Outstanding Principal Amount of the Credit Linked Notes shall be reduced by the sum of the lesser of: (a) the Outstanding Principal Amount; and (b) the relevant Settlement Amount, which amount may be at a considerable discount to par and could be zero and interest will cease to accrue from the immediately preceding Interest Payment Date with respect to an amount equal to the relevant Settlement Amount with respect to such Reference Entity and Credit Event.

If following the occurrence of a Credit Event, the Outstanding Principal Amount of the Credit Linked Notes is reduced to zero, the Credit Linked Notes will be redeemed early. An investor therefore risks losing all of its principal and interest.

Further, if on an Interest Determination Date, the Calculation Agent determines that a potential Credit Event has occurred or a Credit Event has occurred which, in either case, could result in the determination of an Incurred Loss Amount, then interest shall be deferred in an amount which would have accrued on the Reference Entity Notional Amount of the relevant affected Reference Entity until the actual Settlement Amount can be determined and, in such cases, any interest which would have been paid had the relevant potential Credit Event or Credit Event been determined in the same Interest Period shall be paid on a deferred basis on the Interest Payment Date following the date on which the relevant Settlement Amount has been determined.

Since payment under the Credit Linked Notes is linked to the credit of the Reference Portfolio, Holders will be exposed to the credit risk of the Reference Entity to the full extent of the principal amount of their Credit Linked Notes. Holders will have no right to vote or exercise any other right or remedy with respect to any Reference Entity or any of its obligations.

***The relevant Issuer, BAC, the Dealer(s) and the Calculation Agent have no duty to disclose use of non-public information with respect to any Reference Entity***

The relevant Issuer, BAC, the Dealer(s), the Calculation Agent or any of their respective Affiliates may have acquired, or during the term of the Credit Linked Securities may acquire, non-public information with respect to the Reference Entity/Entities that they may not disclose. Potential investors must therefore make an investment decision based upon their own due diligence and purchase the Credit Linked Securities in the knowledge that non-public information which the relevant Issuer, BAC, the Dealer(s), the Calculation Agent or any of their respective Affiliates may have will not be disclosed to investors. None of the relevant Issuer, BAC, the Dealer(s), the Calculation Agent or any of their respective Affiliates is under any obligation (i) to review on the Holders' behalf, the business, financial conditions, prospects, creditworthiness, status or affairs of the Reference Entity/Entities or conduct any investigation or due diligence into the Reference Entity/Entities or (ii) other than as may be required by applicable rules and regulations relating to the Credit Linked Securities, to make available (a) any information relating to the Securities or (b) any non-public information they may possess in respect of the Reference Entity/Entities.

***A Credit Event may occur even if the relevant Issuer does not suffer any loss***

The relevant Issuer's obligations in respect of Credit Linked Securities are irrespective of the existence or amount of the relevant Issuer's and/or any Affiliates' credit exposure to a Reference Entity and the relevant Issuer and/or any Affiliate need not suffer any loss nor provide evidence of any loss as a result of the occurrence of a Credit Event.

***Risks relating to Physical Settlement***

Where the Credit Linked Securities provide that the applicable Settlement Method is "Physical Settlement", or a Fallback Settlement Event has occurred and the Fallback Settlement Method is "Physical Settlement", the relevant Issuer may determine that the specified assets to be delivered are either (a) assets which (i) for any reason (including, without limitation, failure of the relevant clearing system or due to any law, regulation, court order or market conditions or the non-receipt of any requisite consents with respect to the Delivery of assets which are loans) it is impossible or illegal to deliver on the specified settlement date or (ii) it is impracticable to Deliver on the specified settlement date because (1) the relevant holder(s) has not taken any action that is deemed necessary by the Calculation Agent to enable such Delivery or (2) the holder(s) has failed to provide know-your-customer information sign and deliver relevant transfer documentation and/or confidentiality agreement, pay a fee to the agent to effect the transfer and/or provide any other information or documentation or make any other payment (including taxes) specified under the terms of the relevant specified asset or as is customary to provide in respect of such specified asset or (b) assets which the relevant Issuer and/or any Affiliate and/or agent has not received under the terms of any transaction and/or trading position entered into by the relevant Issuer and/or such Affiliate and/or agent to hedge the relevant Issuer's obligations in respect of the Credit Linked Securities.

Any such determination may delay settlement in respect of the Credit Linked Securities and/or cause the obligation to deliver such specified assets to be replaced by an obligation to pay a cash amount which, in either case, may affect the value of the Credit Linked Securities and, in the case of payment of a cash amount, will affect the timing of the valuation of such Credit Linked Securities and as a result, the amount payable on redemption. Potential investors should review the relevant Conditions and the applicable Final Terms to ascertain whether and how such provisions should apply to the Credit Linked Securities.

In the case of Physical Settlement, where the Reference Obligation is a loan, in order for the Delivery of the loan (or an interest in the loan) to be effected, the Reference Obligation must be capable of being transferred to the Holder in accordance with its terms and the Holders must have the capacity to hold such loan (or loan interest).

***Risks relating to Cash Settlement***

If the applicable Settlement Method is "Cash Settlement", or a Fallback Settlement Event has occurred and the Fallback Settlement Method is "Cash Settlement", then, following the occurrence of a Credit Event, the Calculation Agent will be required to seek quotations in respect of selected obligations of the affected Reference Entity. Such quotations may not be available, or the level of such quotations may be substantially reduced as a result of illiquidity in the relevant markets or as a result of factors other than the credit risk of the affected Reference Entity (for example, liquidity constraints affecting market

dealers). Accordingly, any quotations so obtained may be significantly lower than the value of the relevant obligation which would be determined by reference to (for example) the present value of related cashflows. Quotations may be deemed to be zero in the event that no such quotations are available. This could result in a lower or zero recovery rate for investors in such Securities.

If the relevant Issuer has discretion to choose the portfolio of obligations to be valued or delivered following a Credit Event in respect of a Reference Entity, it is likely that the portfolio of obligations selected will be obligations of the Reference Entity with the lowest market value that are permitted to be selected pursuant to the terms of any relevant Credit Linked Securities. This could result in a lower recovery value and hence greater losses for investors in such Securities.

#### ***Risks relating to Auction Settlement***

If in relation to any Credit Linked Securities “Auction Settlement” is applicable, and a Credit Derivatives Determinations Committee publishes auction settlement terms in respect of a Reference Entity (and the relevant seniority of the Reference Obligation), then the Calculation Agent will determine the Auction Settlement Amount in accordance with such auction settlement terms. The losses determined pursuant to a market auction process may be greater than the losses which would have been determined in the absence of the auction. In particular, the auction process may be affected by technical factors or operational errors which would not otherwise apply or may be the subject of actual or attempted manipulation. Auctions may be conducted by ISDA or by a relevant third party. Neither the Calculation Agent, the relevant Issuer(s), BAC nor any of their respective affiliates has any responsibility for verifying that any auction price is reflective of current market values for establishing any auction methodology or for verifying that any auction has been conducted in accordance with its rules. If the Dealer, BAC, the Calculation Agent, the relevant Issuer or any of their respective Affiliates participates in any auction for the purposes of such an auction, then it will do so without regard to the interests of the holders of the Credit Linked Securities. Such participation may have a material effect on the outcome of the relevant auction. Where the terms of any Credit Linked Securities state “Restructuring Maturity Limitation Date and Fully Transferable Obligation Applicable” or “Modified Restructuring Maturity Limitation Date and Conditionally Transferable Obligation Applicable” and the relevant Credit Event is a Restructuring, several concurrent but separate Auctions may occur with respect to such Reference Entity and such Credit Event. In certain circumstances, the relevant Issuer may apply specific Parallel Auction Settlement Terms notifying Holders of the relevant Securities. The Auction Final Price may be based on one or more obligations of the Reference Entity having a final maturity date different from the Restructured Bond or Loan and this may affect the Auction Settlement Amount determined in respect of the Credit Linked Securities.

#### ***Unwind costs may be deducted from the amounts payable to Holders of Credit Linked Securities***

Investors should note that amounts paid or delivered in respect of any Credit Linked Securities may take into account Unwind Costs which are determined by the Calculation Agent to be equal to all costs, expenses, taxes and duties, incurred by the relevant Issuer and/or any of its Affiliates and/or agents in connection with the redemption or cancellation of the Credit Linked Securities and the related termination, settlement or re-establishment of any hedge or related trading position.

#### ***The determinations of the Calculation Agent are binding on holders***

The determination by the Calculation Agent of any amount or of any state of affairs, circumstance, event or other matter, or the formation of any opinion or the exercise of any discretion required or permitted to be determined, formed or exercised by the Calculation Agent shall (in the absence of manifest error) be final and binding on the relevant Issuer, BAC and the holders. In performing its duties pursuant to the Credit Linked Securities, the Calculation Agent shall act in its sole and absolute discretion. In making any determinations expressed to be made by it, for example as to substitute Reference Obligations or Successors, the Calculation Agent is under no obligation to consider the interests of the relevant Issuer, BAC or the Holders. If the Final Terms specifies that “Calculation Agent Determination” is applicable, the relevant Issuer and the Calculation Agent may, but will not be required to apply any DC Resolution to any Credit Linked Securities unless the Calculation Agent notifies the relevant Issuer that any DC Resolution shall apply to such Credit Linked Securities.

Holders should note that the Calculation Agent may modify the terms of any Credit Linked Securities without the consent of the Holders of such Securities to the extent necessary (as determined by the Calculation Agent and the relevant Issuer acting in a commercially reasonable manner) to incorporate and/or reflect further or alternative documents or to reflect market standard terms or market trading

conventions for credit derivatives, transactions and/or where applicable, to account for any DC Resolution.

***Risks relating to the Credit Derivatives Determinations Committees***

The institutions represented on the Credit Derivatives Determinations Committee owe no duty to the holders of Credit Linked Securities and have the ability to make determinations that may materially affect the holders of Credit Linked Securities. The Credit Derivatives Determinations Committee will be able to make determinations without action or knowledge of the holders of Credit Linked Securities. Holders of Credit Linked Securities will have no role in the composition of the Credit Derivatives Determinations Committee. Separate criteria apply with respect to the selection of dealer and non-dealer institutions to serve on the Credit Derivatives Determinations Committee and the holders of Credit Linked Securities will have no role in establishing such criteria. In addition, the composition of the Credit Derivatives Determinations Committee will change from time to time in accordance with the Rules, as the term of an institution may expire or an institution may be required to be replaced. To the extent applicable, the Credit Linked Securities will be subject to the determinations made by such selected institutions in accordance with the Rules.

Holders of Credit Linked Securities will have no recourse against either the institutions serving on the Credit Derivatives Determinations Committee or any external reviewers. Institutions serving on the Credit Derivatives Determinations Committee and the external reviewers, among others, disclaim any duty of care or liability arising in connection with the performance of duties or the provision of advice under the Rules, except in the case of gross negligence, fraud or wilful misconduct. Furthermore, the institutions on the Credit Derivatives Determinations Committee do not owe any duty to the holders of Credit Linked Securities and the holders of Credit Linked Securities will be prevented from pursuing claims with respect to actions taken by such institutions under the Rules.

Holders of Credit Linked Securities should also be aware that institutions serving on the Credit Derivatives Determinations Committee have no duty to research or verify the veracity of information on which a specific determination is based. In addition, the Credit Derivatives Determinations Committee is not obligated to follow previous determinations and, therefore, could reach a conflicting determination on a similar set of facts. If the relevant Issuer, BAC or the Calculation Agent or any of their respective Affiliates serve as a member of the Credit Derivatives Determinations Committee at any time, then they will act without regard to the interests of the holders of Credit Linked Securities.

Holders of Credit Linked Securities are responsible for obtaining information relating to deliberations of the Credit Derivatives Determinations Committee. Notices of questions referred to the Credit Derivatives Determinations Committee, meetings held to deliberate such questions and the results of binding votes will be published on the ISDA website and neither of the relevant Issuer, the Calculation Agent nor any of their respective affiliates shall be obliged to inform the holders of Credit Linked Securities of such information (other than as expressly provided in respect of such Securities).

Holders of Credit Linked Securities should also be aware that following the occurrence of a Credit Event Resolution Request Date in respect of a Reference Entity, any obligation of the relevant Issuer to redeem or cancel or otherwise settle any such Securities or pay any amount in respect thereof may be suspended until the occurrence of a DC Credit Event Announcement or a DC No Credit Event Announcement or the relevant Credit Derivatives Determinations Committee has resolved to dismiss the relevant DC Question.

***Risks relating to the Physical Settlement Matrix***

Holders of Credit Linked Securities should be aware that the terms applicable to each Reference Entity incorporate the terms of the Physical Settlement Matrix for the Transaction Type specified in respect of such Reference Entity.

***Risk relating to Short Credit Linked W&C Securities***

Holders of Short Credit Linked W&C Securities should be aware that under the terms of such Credit Linked Securities the Holders are purchasing credit protection on the relevant Reference Entity/Entities and consequently they may only receive a payout where such Short Credit Linked W&C Securities are exercised following the occurrence of a Credit Event. If no Credit Event occurs during the life of the Short Credit Linked W&C Securities then such Short Credit Linked W&C Securities shall expire worthless unless otherwise provided in the terms of such Short Credit Linked W&C Securities. In certain circumstances where a Restructuring Credit Event has occurred, Holders may be entitled to deliver a



Credit Event Notice to the Issuer. Neither of the relevant Issuer, the Calculation Agent nor any of their respective affiliates shall have any obligation to inform the Holders at any time when they may be entitled to deliver such Credit Event Notice.

### **Saudi Share Linked Warrants**

#### ***No issuer of the relevant Share(s) will have participated in the preparation of the applicable Final Terms or in establishing the terms of the Saudi Share Linked Warrants***

No issuer of the relevant Share(s) will have participated in the preparation of the applicable Final Terms or in establishing the terms of the Saudi Share Linked Warrants and none of MLICo., BAC or any Dealer will make any investigation or enquiry in connection with such offering with respect to any information concerning any such issuer of Shares contained in such Final Terms or in the documents from which such information was extracted. Neither MLICo. nor BAC controls any issuer of the relevant Share(s) and are not responsible for any disclosure made by any issuer of the relevant Share(s). Consequently, there can be no assurance that all events occurring prior to the relevant issue date (including events that would affect the adequacy, accuracy or completeness of the publicly available information described in this paragraph or in any applicable Final Terms) that would affect the trading price of the relevant Share(s) will have been publicly disclosed. Subsequent disclosure of any such events or the disclosure of or failure to disclose material future events concerning such an issuer of relevant Share(s) could affect the trading price of the Share(s) and therefore the trading price of the Saudi Share Linked Warrants.

#### ***Exposure to value of Shares and notional liquidation of the Shares over a valuation period***

Saudi Share Linked Warrants are issued at a price linked to the value of the underlying Shares on particular trading days during a fixing period. On settlement a Holder will not receive the principal amount of its investment but instead will receive an amount calculated as the weighted average sale price of the Shares over a valuation period commencing on the Valuation Date (or such other price as may be specified in the applicable Final Terms) less deductions for local taxes (if any) and other costs which would have been incurred had the Shares been held by a Saudi resident investor directly and less deductions for any other taxes and costs associated with MLICo.'s hedging position. The valuation period will be the number of days commencing on/and including the valuation date that would have been required for a holder of the Shares to complete the sale of the equivalent position on the stock exchange on which such Shares are primarily traded. Depending on the performance of the Shares, the value of the Shares at settlement may be substantially lower than when the Saudi Share Linked Warrants were initially purchased. There is no assurance that the Cash Settlement Amount on settlement will be equal to or more than the purchase price of the Saudi Share Linked Warrants. In the worst case, the Saudi Share Linked Warrants may settle at zero, exposing investors to the full loss of their initial investment. If investors have any doubt on the risk level implied, they should consult a professional investment adviser. Further, generally returns to investors in Saudi Share Linked Warrants will be payable in U.S. Dollars or another currency other than the currency in which the Shares are denominated. Changes in the rate of exchange between the currency in which the underlying Shares are denominated and that in which returns are payable to Holders will affect the return to investors. See "Exposure to changes in the rate of exchange between the currency of the Shares and Settlement Currency" below.

#### ***Factors affecting the performance of Shares may adversely affect the value of the Saudi Share Linked Warrants***

The performance of Shares is dependent upon macroeconomic factors, such as interest and price levels on the capital markets, currency developments, political factors and company-specific factors such as earnings position, market position, risk situation, shareholder structure and distribution policy. These factors are not within MLICo.'s or BAC's control and may result in a decline in the value of the Saudi Share Linked Warrants. Neither MLICo. nor BAC makes any representation or warranty about, or guarantee of, the performance of the Shares. Past performance of the Shares cannot be considered to be either a guarantee of, or necessarily a guide to, future performance. The value of the Shares may go down as well as up during the term of the Saudi Share Linked Warrants. Saudi Share Linked Warrants are linked to Shares listed in an emerging market which may make the Shares less liquid and more volatile than investments in more established markets. See "Risks relating to Securities which are linked to emerging market Reference Item(s)" above.

***Exposure to changes in the rate of exchange between the currency of the Shares and Settlement Currency***

Where the currency of the Shares is different from that of the Settlement Currency, Holders of Saudi Share Linked Warrants linked to such Shares may be exposed not only to the performance of the Shares but also to the performance of the relevant foreign currency of the Shares, which cannot be predicted. Saudi Share Linked Warrants may be linked to the Saudi Arabian Riyal which may experience volatility and uncertainty as to its future levels or its rate of exchange as against other currencies (including the Settlement Currency). See “Risks relating to Securities which are linked to emerging market Reference Item(s)” and “Factors affecting the performance of the relevant foreign exchange rate may adversely affect the value of the Securities” above.

***Holders have no claim against the issuer of the relevant Share(s) or recourse to the Shares or the Hedge Positions***

Saudi Share Linked Warrants do not represent a claim against or an investment in any issuer of the relevant Share(s) and investors will not have any right of recourse under the Saudi Share Linked Warrants to any such company or the Shares or MLICo.’s Hedge Positions. Saudi Share Linked Warrants are not in any way sponsored, endorsed or promoted by any issuer of the relevant Share(s) and such companies have no obligation to take into account the consequences of their actions for any Holders. Accordingly, the issuer of a Share may take any actions in respect of such Share without regard to the interests of the investors in the Saudi Share Linked Warrants, and any of these actions could adversely affect the market value of the Saudi Share Linked Warrants.

***Determinations made by the Calculation Agent in respect of Potential Adjustment Events, Merger Events, Tender Offers, De-listing, Nationalisations, Insolvencies and Additional Disruption Events may have an adverse effect on the value of the Saudi Share Linked Warrants***

Upon determining that a Potential Adjustment Event, Merger Event, Tender Offer, De-listing, Nationalisation, Insolvency or Additional Disruption Event has occurred in relation to an underlying Share or Share Company, the Calculation Agent has broad discretion to make certain determinations to account for such event including to (i) make adjustments to the terms of the Saudi Share Linked Warrants, (ii) distribute additional Securities or cash payments to Holders and/or (iii) (in the case of a Merger Event, Tender Offer, De-listing, Nationalisation, Insolvency or an Additional Disruption Event) cause early settlement of the Saudi Share Linked Warrants, any of which determinations may have an adverse effect on the value of the Saudi Share Linked Warrants.

Potential Adjustment Events include (a) a sub-division, consolidation or re-classification of the Shares, (b) an extraordinary dividend, (c) a call of the Shares that are not fully paid, (d) a repurchase by the issuer, or an affiliate thereof, of the Shares, (e) a separation of rights from the Shares or (f) any event having a dilutive or concentrative effect on the value of the Shares. Additional Disruption Events include (a) (i) a requirement of the Capital Market Authority of the Kingdom of Saudi Arabia to terminate or otherwise modify any hedge position relating to the Saudi Share Linked Warrants or the imposition by the Capital Market Authority of any qualitative or quantitative limitation or any other requirements in relation to any Hedge Positions and (ii) a trading failure and (b) if specified to be applicable in the applicable Final Terms, (i) a change in applicable law since the Trade Date that makes it (A) illegal to hold, acquire or dispose of the Shares or (B) more expensive for MLICo. to hedge its obligations under the relevant Saudi Share Linked Warrants, (ii) an insolvency filing by or on behalf of any issuer of the relevant Share(s) and/or (iii) a disruption or increased cost of hedging.

***Holders will have no voting rights in respect of the relevant Shares***

Holders of Saudi Share Linked Warrants will not have voting rights or any other rights with respect to the relevant Shares to which such Saudi Share Linked Warrants relate.

***Consequences of CMA Resolution: including potential identification of Holders, unilateral amendments and/or early termination and transfer restrictions***

The Capital Market Authority regulates share dealing and associated activities in the Kingdom of Saudi Arabia. Pursuant to Capital Market Authority Board of Commissioners resolution number 3-10-2010 as issued by the Capital Market Authority in the “Circular from the CMA regarding its approval for Authorized Persons to Enter into Swap Agreements” which amends resolution number 2-28-2008 of the Capital Market Authority Board of Commissioners (the “**CMA Resolution**”), “Authorized Persons” may enter into derivative transactions with non-resident foreign investors, whether institutions or individuals, to transfer certain economic benefits of Saudi companies’ shares listed on the Saudi Stock

Exchange (*Tadawul*), while the shares are registered in the name of the relevant Authorised Person, all on the terms and conditions set forth in the CMA Resolution. A copy of the CMA Resolution may be obtained on request from the Dealer.

In respect of any Saudi Share Linked Warrants, MLICo. may (but shall be under no obligation under the Saudi Share Linked Warrants to) establish Hedge Positions in respect of its obligations under such Saudi Share Linked Warrants including the appointment of an “Authorised Person” as Hedging Entity which may register the relevant Shares in its name. Any such Hedge Positions would be subject to the terms and conditions of the CMA Resolution. In order to ensure compliance with the CMA Resolution, the relevant “Authorised Person” must enter into a swap agreement in a form consistent with the terms of the CMA Resolution with a term not exceeding four years and each purchaser of Saudi Share Linked Warrants will be required to make the additional disclosures and the authorisations, representations, confirmations and undertakings in the “Form of the Investor Representation Letter in respect of Saudi Share Linked Warrants” (substantially in the form set out in Schedule 27 to the Agency Agreement) to MLICo., BAC and the party specified as the “Authorised Person” including (amongst others):

- (i) representing that the purchaser is a “non-resident foreign investor” for the purposes of the CMA Resolution and is the ultimate beneficial owner of such Warrants;
- (ii) authorising the relevant “Authorised Person” to disclose such purchaser’s name, country of origin (being its nationality or country of incorporation (as applicable)), details of Warrant holdings (including the quantity of Shares linked to such Warrants) and any other information requested by the Capital Market Authority to the Capital Market Authority; and
- (iii) acknowledging that the Calculation Agent under the Saudi Share Linked Warrants may in its sole and absolute discretion adjust the terms and conditions of the Saudi Share Linked Warrants and/or cause the cancellation of the Saudi Share Linked Warrants (in each case, without the consent of Holders), as applicable, in order to ensure compliance with any limitations or other requirements that the Capital Market Authority may impose from time to time.

Any adjustment and/or early termination of Saudi Share Linked Warrants (as described in (iii) above) may result in the loss of some or all of a purchaser’s investment.

The requirement for all purchasers to provide a letter in the “Form of the Investor Representation Letter in respect of Saudi Share Linked Warrants” may adversely affect the ability of an investor to transfer any Saudi Share Linked Warrant.

## COMMONLY ASKED QUESTIONS ABOUT THE PROGRAMME

*This description is intended to give you an overview of the Issuers and the Guarantor and the types of Securities that may be issued under the Programme. Any decision to invest in any Securities should only be made after you have carefully read and understood all of the information set out or incorporated by reference in this Base Prospectus and the applicable Final Terms or the Registration Document and applicable Securities Note and Summary (if any). Words defined in the “Terms and Conditions of the Notes” or in the “Terms and Conditions of the W&C Securities” or elsewhere in this Base Prospectus shall have the same meanings when used in this section.*

### **What are Merrill Lynch S.A. (“MLSA”) and Merrill Lynch International & Co. C.V. (“MLICo.”)?**

MLSA is a Luxembourg public limited liability company. MLSA was incorporated on 18 December 1991 as a société anonyme for an unlimited period.

MLICo. is a Curaçao limited partnership of unlimited duration which commenced operation on 1 August 1975 under registered number 11705 in the Commercial Registry of the Chamber of Commerce and Industry in Curaçao.

### **What do the Issuers do?**

Each Issuer is a finance vehicle whose principal purpose is to raise debt or enter into financial contracts to assist the financing activities of the relevant Issuer’s affiliates.

### **What types of product will be issued under the Programme?**

MLSA may issue Notes and Certificates, and MLICo. may issue Certificates and Warrants (together with the Notes, the “**Securities**”). The payment and non-cash delivery obligations of the Issuers under the Securities (other than the Swiss COSI Securities) are unconditionally and irrevocably guaranteed by Bank of America Corporation (“**BAC**”) upon and subject to the terms set forth in the Original Guarantee. The payment obligations of MLICo. to the extent of any Shortfall under the relevant Series of Swiss COSI Securities issued under the Programme will be conditionally but irrevocably guaranteed by BAC on and subject to the terms set forth in the Swiss COSI Securities Guarantee. The Issuers may issue conventional debt securities including fixed or floating rate notes (in the case of MLSA) as well as Securities with returns linked to one or more underlying assets or bases of reference (“**Linked Securities**”). The returns on Securities may be received by investors in interest (in the case of Notes) or additional amounts (in the case of W&C Securities) and/or on redemption (in the case of Notes) or exercise (in the case of Warrants or Certificates).

The return on Linked Securities may be linked to the performance of one or a combination of a wide range of reference bases which may include, but will not be limited to, a specified index or a basket of indices, a specified share or a basket of shares, a specified debt instrument or a basket of debt instruments, a specified global depositary receipt (“**GDR**”) or American depositary receipt (“**ADR**”) or basket of GDRs and/or ADRs, a specified currency or a basket of currencies, a specified commodity or commodity index or a basket of commodities and/or commodity indices, a specified fund or basket of funds, a specified inflation index or a basket of inflation indices or the credit of a specified entity or entities or any combination of the foregoing. The composition of the relevant reference basis or bases may be designed to change over time in accordance with the relevant terms and conditions.

The relevant terms and conditions of a particular issue of Securities will specify the applicable returns, when such returns are payable or deliverable (see below) and the terms on which they are payable (including whether capital is at risk) or deliverable (see below). Any return will normally be paid by the relevant Issuer at maturity (in the case of Notes) or settlement (in the case of Warrants and Certificates) as part of the applicable Final Redemption Amount (in the case of Notes) or the Cash Settlement Amount (in the case of Warrants and Certificates). Any interest or additional amounts, as the case may be, will normally be paid by the relevant Issuer on specified dates. In certain circumstances the return on redemption or settlement of Securities may be the physical delivery of certain specified assets (the “**Entitlement**”) after payment by the investor of certain cash sums to the Issuer such as Expenses or, in the case of Warrants, the relevant Exercise Price.

The relevant terms and conditions of a particular issue of Securities will be the terms and conditions for the Securities set out in this Base Prospectus as completed, amended and supplemented in the applicable Final Terms or applicable Securities Note.

***How much of my investment is at risk?***

Some of the Notes will guarantee a minimum Final Redemption Amount on the Maturity Date for such Notes. Other Securities will put the investor's investment at risk in whole or in part so that an investor may receive an amount or assets with a value less than their original investment or lose their entire investment. The product terms and conditions will make it clear whether, and in what circumstances, an investor's investment is at risk. If the terms and conditions of a particular product provide that an investor's entire investment could be lost, an investor should only invest in the Securities if they are willing to accept that risk. Investors should note, however, that even if a Security guarantees a minimum Final Redemption Amount, investors will still bear the risk of losing their entire investment in the event of the insolvency of the relevant Issuer and the Guarantor.

Each potential investor should also note that any return received on the Securities could be lower than the interest that the investor could have earned by investing in a simple fixed rate product (like a bank or building society account) paying the prevailing market rate.

Therefore some Securities may not be suitable for a potential investor who would prefer a lower risk investment.

***What should I read before investing?***

You should carefully read and understand this Base Prospectus and the applicable Final Terms or applicable Securities Note and Summary (if any) prior to investing in any Securities.

This Base Prospectus contains information about the Issuers and Guarantor, the general terms and conditions of Securities and general information about the offer and issue of Securities. The applicable Final Terms or applicable Securities Note will contain the specific terms and conditions of such Securities together with information about how investors can purchase them (if applicable), product specific risk factors and other product specific information.

It is important that you obtain, carefully read and understand the applicable Final Terms or applicable Securities Note and Summary (if any) for Securities in which you are considering to invest.

***What is Bank of America Corporation ("BAC")?***

BAC is a Delaware corporation, a U.S. bank holding company and a financial holding company. BAC, together with its subsidiaries, provides a diversified range of banking and non-banking financial services and products in all 50 U.S. states, the District of Columbia, and more than 40 non-U.S. countries. BAC provides these services and products through five business segments: (1) *Consumer & Business Banking*, (2) *Consumer Real Estate Services*, (3) *Global Banking*, (4) *Global Markets* and (5) *Global Wealth & Investment Management*. A more detailed description of BAC is set out on pages 523 to 526 of this Base Prospectus.

***What will the Issuers do with my money?***

MLSA intends to use the net proceeds from the sale of the Notes for general corporate purposes, including making loans to its affiliates. The Group intends to use the proceeds of such loans for general corporate purposes. Such general corporate purposes may include the funding of investments in, or extensions of credit to, subsidiaries, the funding of assets of the Group, the lengthening of the average maturity of the Group's borrowings, and the financing of acquisitions.

Each Issuer intends to use the net proceeds from each issue of W&C Securities issued by it for its general corporate purposes. A substantial portion of the proceeds from the issue of W&C Securities may be used to hedge market risk with respect to such W&C Securities. The applicable Final Terms will state if there is any particular identified use of proceeds in respect of any particular issue of W&C Securities.

***What are the risks of investing in any Securities?***

Before making an investment in any Securities, you should carefully consider all of the information set out in this Base Prospectus relating to the relevant Securities as well as your own personal circumstances. You should have particular regard to, among other matters, the considerations described under the heading "Risk Factors" on pages 33 to 90 of this Base Prospectus and in the applicable Final Terms or applicable Securities Note.



In order to offer the possibility of higher returns, some Securities will carry higher risks. The applicable Final Terms or applicable Securities Note for a series of Securities will state whether your investment is designed to be at risk and set out the terms on which your investment will be repaid.

***What fees and expenses are payable in connection with my Securities?***

The Issuers have incurred and will continue to incur fees and expenses which do not directly relate to one or more specific series of Securities. These expenses include (without limitation) fees and expenses incurred or to be incurred by or on behalf of the Issuers in connection with the preparation of this Base Prospectus, the preparation and publication of financial statements and reports, and the general administration of the Issuers. Certain of these expenses will be reimbursed or paid on behalf of the Issuers by MLI.

The fees and expenses which relate to a particular series of Securities will be described and funded as set out in the applicable Final Terms or applicable Securities Note.

***What tax will I have to pay?***

General information relating to United States, Luxembourg, Curaçao, France, Switzerland, Sweden, Finland and United Kingdom taxation, is set out under the heading “Taxation” on pages 531 to 550 of this Base Prospectus. If you are unsure of the tax implications of making an investment in any Securities, you should obtain professional tax advice.

***Will my Securities be listed on a stock exchange?***

Application has been made to the Luxembourg Stock Exchange for Securities issued under the Programme to be admitted to trading on the Luxembourg Stock Exchange’s regulated market and listed on the Official List of the Luxembourg Stock Exchange and/or for W&C Securities issued under the Programme to be admitted to trading on Scoach Switzerland and listed on the SIX Swiss Exchange. Application has also been made to the Luxembourg Stock Exchange for Securities issued under the Programme to be admitted to trading on the Luxembourg Stock Exchange’s alternative market – Euro MTF – and to be listed on the Official List of the Luxembourg Stock Exchange. The relevant Issuer may seek a listing for such Securities in respect of the regulated market of the Luxembourg Stock Exchange, the Euro MTF, Scoach Switzerland or other securities exchanges, as applicable. In the case of W&C Securities which are held in uncertificated form in Euroclear UK & Ireland, application may be made by the relevant Issuer for such W&C Securities to be admitted to the official list of the UK Listing Authority and admitted to trading on the regulated market of the London Stock Exchange. The Issuers may also issue Securities which are not listed. It will be disclosed in the applicable Final Terms or applicable Securities Note whether the relevant Securities are intended to be listed and, if so, on which stock exchange.

***What are the terms on which Securities will be offered?***

If applicable, details of the offer, including details of the Offer Period, Issue Price, minimum or maximum subscription amounts, settlement arrangements and any other conditions applicable, in relation to an offer of a particular series of Securities and the relevant Issuer will be set out in the applicable Final Terms or applicable Securities Note.

***How can I hold my Securities?***

The Issuers intend that the Securities will at all times be represented by a Global Note or a Global W&C Security (a “**Global Security**”), except in the case of Swedish Securities or Finnish Securities, which will be in dematerialised form and CREST Securities or certain Swiss Securities, which will be in uncertificated form. In relation to Securities represented by a Global Security or dematerialised or uncertificated securities, Securities will normally be held by investors through custodial arrangements with their bank or broker. Banks and brokers will themselves hold such Securities through a Clearing System such as Euroclear, Clearstream Luxembourg, Clearstream, Frankfurt, Euroclear France, Euroclear Sweden, Euroclear Finland, SIS or Euroclear UK. In most of these circumstances the investors will have no direct rights against the relevant Issuer and will only receive any Final Redemption Amount (in the case of Notes) or Cash Settlement Amount (in the case of Warrants and Certificates) and/or interest (in the case of Notes) or additional amounts (in the case of W&C Securities), if applicable, attributable to such Securities on the basis of the arrangements entered into with their banks or brokers. Furthermore, the Clearing System register will only show, and, in most of the circumstances described above, the relevant Issuer will only recognise, the nominee of such Clearing System as a Holder in respect

of such Securities. In certain limited circumstances a Global Security or dematerialised securities may be exchangeable for definitive Securities. If this happens Holders will be notified.

For Securities not held through a Clearing System, the investor shown on the Register (in the case of Securities in registered form) or the investor who physically holds the Security (in the case of Securities in bearer form) will be the Holder of such Security. To receive payments of principal and/or interest, the investor will need to contact the Registrar (in the case of Securities in registered form) or the relevant Paying Agent or Security Agent (in the case of Securities in bearer form) and present evidence of its holding of the Security (in the case of securities in registered form) or the Security (in the case of securities in bearer form). The relevant Issuer will not make payments to the investors directly but will do so through the Registrar, the relevant Paying Agent or Security Agent, as applicable.

***Will I be able to sell my Securities?***

MLI or one of its affiliates may use its reasonable endeavours in normal market conditions to provide indicative bid and offer prices for the sale and purchase of Securities unless otherwise stated in the applicable Final Terms or Securities Note. However, it is not obliged to do so and may cease such activities at any time.

***What do I have to do to exercise my rights in respect of the Securities?***

Investors' rights relating to the Securities represented by a Global Security are governed by the procedures of the relevant Clearing Systems and the terms and conditions of the Securities, as completed, amended and supplemented in the applicable Final Terms. Investors should note that rights pertaining to certain Securities may expire if the Securities are not duly exercised prior to the specified cut-off date. An investor wanting rights in respect of Securities to be exercised on their behalf should contact their bank or broker.

It is important that you obtain, carefully read and understand the general terms and conditions and applicable Final Terms or applicable Securities Note for the Securities in which you are considering to invest.

***Is there a limit on the amount of Securities the relevant Issuer will issue for each series?***

MLSA may issue Notes up to a total aggregate nominal value of EUR15,000,000,000 (or its equivalent in other currencies) under this Programme and its other structured products programmes. There is no limit on the number or total amount of Warrants and Certificates the Issuers can issue under the Programme. In respect of an issue of Securities, subject to the first sentence of this paragraph, there is no limit to the amount or number of Securities that the Issuer may issue. The Issuers can issue a series of Securities at any time without giving investors notice or obtaining their consent. Any additional Securities issued by the relevant Issuer will rank equally with all existing Securities issued by the relevant Issuer.

***How are payments made?***

In the case of Securities represented by a Global Security or Securities in dematerialised or uncertificated form, the relevant Issuer will make payments by paying the total amount payable to the applicable Clearing System(s) in accordance with the rules and policies of the applicable Clearing System(s) or in the case of Warrants to the account specified by the Holder in the relevant Exercise Notice.

The applicable Clearing System will credit the appropriate amount to the account of each Holder (which may include intermediaries such as banks or brokers) in accordance with its rules or policies.

Neither the relevant Issuers nor BAC has an obligation to make payments directly to investors in the Securities. Each investor in the Securities must look to the applicable Clearing System or its bank or broker for payments on such investor's Securities.

If the date specified for payment is not a Business Day, the relevant Issuer will make the relevant payment on the first following day that is a Business Day, unless a different business day convention is specified in the applicable Final Terms or Securities Note. On these occasions, the payment will be treated as if it were made on the original specified date for payment and will not be considered a late payment. Accordingly, the relevant Issuer will not be obliged to compensate the investor for the postponement. The term "Business Day" is defined within the terms and conditions of the Securities.

In the case of Physical Delivery Securities, delivery of the Entitlement will be made directly to the Holder in accordance with the delivery method specified in the terms and conditions.

## GENERAL DESCRIPTION OF THE PROGRAMME

Issuers:	Merrill Lynch S.A.  Merrill Lynch International & Co. C.V.
Guarantor:	Bank of America Corporation
Description:	Note, Warrant and Certificate Programme
Guarantees:	The payment and non-cash delivery obligations of the relevant Issuer under the Securities (other than Swiss COSI Securities) are unconditionally and irrevocably guaranteed by BAC upon and subject to the terms set out in the Original Guarantee. The payment obligations of MLICo., to the extent of any Shortfall under the relevant Series of Swiss COSI Securities will be conditionally but irrevocably guaranteed by BAC upon and subject to the terms set out in the Swiss COSI Securities Guarantee.
Calculation Agent:	Merrill Lynch International or such other calculation agent specified in the applicable Final Terms.
Arranger:	Merrill Lynch International
Securities:	Securities of any kind may be issued, including, but not limited to Index Linked Securities, Share Linked Securities, Saudi Share Linked Warrants, Debt Linked Securities, GDR/ADR Linked Securities, FX Linked Securities, Commodity Linked Securities, Fund Linked Securities, Inflation Linked Securities and Credit Linked Securities.
Status of the Securities:	Securities (other than Swiss COSI Securities) constitute direct, unsubordinated, unconditional and unsecured obligations of the relevant Issuer and will rank equally among themselves and rank equally (subject to such exceptions as are from time to time provided by applicable laws) with all other present and future direct, unsubordinated, unconditional and unsecured indebtedness (in the case of Notes) or obligations (in the case of W&C Securities) of the relevant Issuer.  The Swiss COSI Securities constitute direct, unsubordinated and unconditional obligations of MLICo. and rank equally among themselves and will rank equally (subject to such exceptions as are from time to time provided by applicable laws) with all other present and future direct, unsubordinated and unconditional obligations of MLICo. and are collateralised in accordance with the terms of the Framework Agreement.
Status of the Guarantees:	The obligations of BAC under each Guarantee, save for such exceptions as may be provided by applicable laws and regulations or judicial order, will rank <i>pari passu</i> with its other present and future unsecured and unsubordinated contractual obligations.
Approval, listing and admission to trading:	Application has been made to the CSSF to approve this Base Prospectus as a base prospectus. Application has also been made to the Luxembourg Stock Exchange for Securities issued under the Programme to be admitted to trading on the Luxembourg Stock Exchange's regulated market and listed on the Official List of the Luxembourg Stock Exchange. Application has also been made to the Luxembourg Stock Exchange for Securities issued under the Programme during the 12 months from the date of this Base Prospectus to be admitted to trading on the Luxembourg Stock Exchange's alternative market – Euro MTF – and to be listed on the Official List of the Luxembourg Stock Exchange.

W&C Securities may be listed on the SIX Swiss Exchange and admitted to trading on Scoach Switzerland and/or listed or admitted to trading, as the case may be, on such other or further stock exchange(s) or market(s) as determined by the relevant Issuer. Securities which are neither listed nor admitted to trading on any market may also be issued.

Governing law:

The Securities and any non-contractual obligations arising out of or in connection with them will be governed by, and construed in accordance with, English law. Each Guarantee will be governed by, and construed in accordance with, the laws of the State of New York.

## FORM OF THE SECURITIES

*Words and expressions defined in the “Terms and Conditions of the Notes” or “Terms and Conditions of the W&C Securities”, as applicable, shall have the same meanings in this Form of the Securities.*

### Form of the Notes

#### **Bearer Notes**

Each Tranche of Notes in bearer form (“**Bearer Notes**”) will be initially issued in the form of a temporary global note (a “**Temporary Global Note**”) without receipts, interest coupons or talons or, if so specified in the applicable Final Terms, a permanent global note (a “**Permanent Global Note**” and, together with the Temporary Global Note, the “**Global Bearer Notes**” and each a “**Global Bearer Note**”) without receipts, interest coupons or talons which, in either case, will:

- (a) if the Global Bearer Notes are intended to be issued in new global note (“**NGN**”) form, as stated in the applicable Final Terms, be delivered on or prior to the original issue date of the Tranche to a common safekeeper (the “**Common Safekeeper**”) for Euroclear Bank SA/NV (“**Euroclear**”) and Clearstream Banking, *société anonyme* (“**Clearstream, Luxembourg**”); and
- (b) if the Global Bearer Notes are not intended to be issued in NGN Form, be delivered on or prior to the original issue date of the Tranche to a common depositary (the “**Common Depositary**”) for Euroclear and Clearstream, Luxembourg.

Whilst any Note is represented by a Temporary Global Note, payments of principal, interest (if any) and any other amount payable in respect of the Notes due prior to the Exchange Date (as defined in the Agency Agreement) will be made (against presentation of the Temporary Global Note if the Temporary Global Note is not intended to be issued in NGN form) only to the extent that certification (in a form to be provided) to the effect that the beneficial owners of interests in such Note are not United States Persons (as defined below) or persons who have purchased for resale to any United States Person, as required by U.S. Treasury regulations, has been received by Euroclear and/or Clearstream, Luxembourg and Euroclear and/or Clearstream, Luxembourg, as applicable, has given a like certification (based on the certifications it has received) to the Principal Paying Agent.

On and after the Exchange Date, which is generally 40 calendar days after a Temporary Global Note is issued, interests in such Temporary Global Note will be exchangeable (free of charge) upon a request as described therein either for (a) interests in a Permanent Global Note of the same Series or (b) Notes in definitive form (“**Definitive Bearer Notes**”) of the same Series with, where applicable, receipts, interest coupons and talons attached (as indicated in the applicable Final Terms and subject, in the case of Definitive Bearer Notes, to such notice period as is specified in the applicable Final Terms), in each case against certification of beneficial ownership as described above unless such certification has already been given. The holder of a Temporary Global Note will not be entitled to collect any payment of interest, principal or other amount due on or after the Exchange Date unless, upon due certification, exchange of the Temporary Global Note for an interest in a Permanent Global Note or for Definitive Bearer Notes is improperly withheld or refused.

Payments of principal, interest (if any) or any other amounts on a Permanent Global Note will be made outside the United States through Euroclear and/or Clearstream, Luxembourg (against presentation or surrender (as the case may be) of the Permanent Global Note if the Permanent Global Note is not intended to be issued in NGN form) without any requirement for certification.

A Permanent Global Note will be exchangeable (free of charge), in whole but not in part, for Definitive Bearer Notes with, where applicable, receipts, interest coupons and talons attached upon either (a) not less than 60 calendar days’ written notice expiring at least 30 calendar days after the Exchange Date from Euroclear and/or Clearstream, Luxembourg (acting on the instructions of any holder of an interest in such Permanent Global Note) to the Principal Paying Agent as described therein or (b) if MLSA has been notified that both Euroclear and Clearstream, Luxembourg, as applicable, have been closed for business for a continuous period of 14 calendar days (other than by reason of holiday, statutory or otherwise) or have announced an intention permanently to cease business or have in fact done so and no successor clearing system is available (an “**Exchange Event**”). MLSA will promptly give notice to Noteholders in accordance with Note Condition 14 if an Exchange Event occurs. In the event of the occurrence of an Exchange Event, Euroclear and/or Clearstream, Luxembourg (acting on the instructions of any holder of an interest in such Permanent Global Note) may give notice to the Principal Paying



Agent requesting exchange. Any such exchange shall occur not later than 45 calendar days after the date of receipt of the first relevant notice by the Principal Paying Agent.

No Definitive Bearer Note delivered in exchange for a Temporary Global Note or a Permanent Global Note, as the case may be, will, in connection with its sale during the restricted period (as such term is defined in U.S. Treasury Regulation Section 1.163-5(c)(2)(i)(D)(7)), be mailed or otherwise delivered to any location in the United States.

The following legend will appear on all Global Bearer Notes, Definitive Bearer Notes, Receipts, Talons and Coupons for Notes having an original maturity of more than 183 calendar days and on all receipts and interest coupons relating to such Notes:

“ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS, INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE INTERNAL REVENUE CODE.”

The sections of the U.S. Internal Revenue Code of 1986, as amended (the “**Code**”) referred to provide that United States holders, with certain exceptions, will not be entitled to deduct any loss on Notes, Receipts, Talons or Coupons and will not be entitled to capital gains treatment of any gain on any sale, disposition or payment of principal with respect to Notes, Receipts, Talons or Coupons.

Notes with maturities of 183 calendar days or less are required to be issued in minimum denominations of U.S.\$500,000 (or its equivalent in other currencies).

The following legend will appear on all Global Bearer Notes, Definitive Bearer Notes, Receipts, Talons and Coupons for Notes having maturities of 183 calendar days or less:

“BY ACCEPTING THIS OBLIGATION, THE HOLDER REPRESENTS AND WARRANTS THAT IT IS NOT A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER) AND THAT IT IS NOT ACTING FOR OR ON BEHALF OF A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER).”

### ***Swedish Notes***

If the applicable Final Terms indicates that the Notes (“**Swedish Notes**”) are to be issued into and cleared through the Swedish CSD, such Series of Notes will be issued as Registered Notes in global registered form. A link will be maintained between Euroclear and the Swedish CSD for the purpose of maintaining computerised book-entry records of the beneficial owners’ interests in the Swedish Notes. The beneficial owners’ interests will be recorded in the register of the Swedish CSD in dematerialised and uncertificated book-entry form in accordance with the Swedish Financial Instruments Accounts Act (in Swedish: *lag (1998:1479) om kontoföring av finansiella instrument*).

### ***Registered Notes***

Each Tranche of Notes issued in registered form (“**Registered Notes**”) will initially be represented by a global registered note (a “**Global Registered Note**”). Each Global Registered Note will be deposited on or around the relevant issue date with, and registered in the name of a nominee for, a depository or the Common Depositary and/or any other relevant clearing system and will be exchangeable for Registered Notes in definitive form (“**Definitive Registered Notes**”) represented by individual note certificates (“**Individual Note Certificates**”), if MLSA has been notified that Euroclear or Clearstream, Luxembourg or any other relevant clearing system is closed for business for a continuous period of 14 calendar days (other than by reason of legal holidays) or announces an intention permanently to cease business.

Whenever the Global Registered Note is to be exchanged for Individual Note Certificates, MLSA shall procure that Individual Note Certificates will be issued in an aggregate principal amount equal to the principal amount of the Global Registered Note within five Business Days of the delivery by or on behalf of the registered holder of the Global Registered Note to the Registrar of such information as is required to complete and deliver such Individual Note Certificates (including, without limitation, the names and addresses of the persons in whose names the Individual Note Certificates are to be registered and the principal amount of each such person’s holding) against the surrender of the Global Registered Note at the specified office of the Registrar.

Such exchange will be effected in accordance with the provisions of the Agency Agreement and the regulations concerning the transfer and registration of Notes scheduled thereto and, in particular, shall be effected without charge to any holder, but against such indemnity as the Registrar may require in respect of any tax or other duty of whatsoever nature which may be levied or imposed in connection with such exchange.

If:

- (a) Individual Note Certificates have not been delivered by 5.00 p.m. (London time) on the thirtieth calendar day after they are due to be issued and delivered in accordance with the terms of the Global Registered Note; or
- (b) any of the Notes represented by a Global Registered Note (or any part of it) has become due and payable in accordance with the Terms and Conditions of the Notes or the date for final redemption of the Notes has occurred and, in either case, payment in full of the amount of principal falling due with all accrued interest thereon has not been made to the holder of the Global Registered Note in accordance with the terms of the Global Registered Note on the due date for payment,

then the Global Registered Note (including the obligation to deliver Individual Note Certificates) will become void at 5.00 p.m. (London time) on such thirtieth calendar day (in the case of (a) immediately above) or at 5.00 p.m. (London time) on such due date (in the case of (b) immediately above) and the holder of the Global Registered Note will have no further rights thereunder (but without prejudice to the rights which the holder of the Global Registered Note or others may have under the Notes Deed of Covenant). Under the Notes Deed of Covenant, persons shown in the records of Euroclear and/or Clearstream, Luxembourg and/or any other relevant clearing system as being entitled to an interest in a Global Registered Note will acquire directly against MLSA all those rights to which they would have been entitled if, immediately before the Global Registered Note became void, they had been the holders of Individual Note Certificates in an aggregate principal amount equal to the principal amount of Notes they were shown as holding in the records of Euroclear and/or Clearstream, Luxembourg and/or any other relevant clearing system.

### Form of Warrants

If the applicable Final Terms specifies that Warrants are eligible for sale exclusively in the United States or to, or for the account or benefit of, United States Persons (as defined below) pursuant to an exemption from the registration requirements of the U.S. Securities Act of 1933, as amended (the “**Securities Act**”), the Warrants sold (a) in the United States to qualified institutional buyers within the meaning of Rule 144A (“**Rule 144A**”) under the Securities Act (“**QIBs**”) who are also each a qualified purchaser (each a “**QP**”) within the meaning of Section 3(c)(7) and as defined in Section 2(a)(51) of the U.S. Investment Company Act of 1940, as amended (the “**1940 Act**”) and the rules thereunder or (b) to, or for the account or benefit of, United States Persons who are QIBs and also QPs will be represented by a Rule 144A Global Warrant (the “**Rule 144A Global Warrant**”) which will be in registered form and either (i) deposited with the U.S. Warrant Agent as a custodian for, and registered in the name of a nominee of, DTC (subject to the execution by the relevant investor’s DTC direct participant of a Custodian Letter in the form set out in the Agency Agreement); or (ii) deposited with, and registered in the name of a nominee for, the Common Depositary.

Unless otherwise indicated, as used in this Base Prospectus, “**United States Person**” means a person which is a “U.S. person” as defined by Regulation S under the Securities Act or a “United States person” as defined in Section 7701(a)(30) of the Internal Revenue Code of 1986, as amended and in U.S. Treasury regulations. Warrants which may be sold as described above to United States Persons who are QIBs and also QPs in reliance on Rule 144A are referred to in this Base Prospectus as “**Rule 144A Warrants**”, which term shall also include, where the context requires, Rule 144A Warrants sold as described in the succeeding paragraph that are represented by a Regulation S/Rule 144A Global Warrant.

If specified in the applicable Final Terms, the Warrants may be sold (a) in the United States to QIBs who are also QPs or (b) to, or for the account or benefit of, United States Persons who are QIBs and also QPs and, in either case, concurrently outside the United States to non-United States Persons and will be represented by a Regulation S/Rule 144A Global Warrant (the “**Regulation S/Rule 144A Global Warrant**”) which will be in registered form and deposited with, and registered in the name of a nominee for, the Common Depositary.

If the applicable Final Terms indicates that the Warrants are not eligible for sale in the United States or to, or for the account or benefit of, United States Persons and are to be issued into and transferred

through accounts at Euroclear and Clearstream, Luxembourg, such Series of Warrants will on issue be constituted by either (if the applicable Final Terms indicates that the Warrants are to be issued in bearer form) a global warrant in bearer form, which will be deposited with the Common Depositary, or (if the applicable Final Terms indicates that the Warrants are to be issued in registered form) a global warrant in registered form, which will be deposited with, and registered in the name of the nominee of, the Common Depositary.

If the applicable Final Terms indicates that the Warrants are not eligible for sale in the United States or to, or for the account or benefit of, United States Persons and are to be issued into and transferred through accounts at Clearstream Banking AG, Frankfurt am Main (“**Clearstream, Frankfurt**”), such Series of Warrants will on issue be constituted by a global warrant in bearer form, provided, however, that the Warrants will be treated as in registered form for United States federal income tax purposes. The global warrants will be delivered on or prior to the issue date of the relevant series of Warrants to Clearstream, Frankfurt.

If the applicable Final Terms indicates that such Warrants are not eligible for sale in the United States or to, or for the account or benefit of, United States Persons and are to be issued into and transferred through accounts at Euroclear France S.A. (“**Euroclear France**”), such Series of Warrants will on issue be constituted by a global warrant in bearer form which will be deposited with the Common Depositary.

If the applicable Final Terms indicates that such Warrants are not eligible for sale in the United States or to, or for the account or benefit of, United States Persons and are to be issued into and cleared through the Swedish CSD, such Series of Warrants will be issued in dematerialised and uncertificated book-entry form in accordance with the Swedish Financial Instruments Accounts Act (in Swedish: *lag (1998: 1479) om kontoföring av finansiella instrument*).

If the applicable Final Terms indicates that such Warrants are not eligible for sale in the United States or to, or for the account or benefit of, United States Persons and are to be issued into and cleared through Euroclear Finland, such Series of Warrants will be issued in dematerialised and uncertificated book-entry form in accordance with the Finnish Act on the Book-Entry System (in Finnish: *laki arvo-osuusjärjestelmästä (826/1991)*) and the Finnish Act on Book-Entry Accounts (in Finnish: *laki arvo-osuustileistä (827/1991)*).

If the applicable Final Terms indicates that such Warrants (the “**CREST Warrants**”) are not eligible for sale in the United States or to, or for the account or benefit of, United States Persons and are to be issued into and cleared through accounts at Euroclear UK & Ireland Limited (formerly CrestCo. Limited) (“**Euroclear UK**”), such Series of Warrants will be issued in uncertificated form in accordance with the United Kingdom Uncertificated Securities Regulations 2001, including any modification or re-enactment thereof for the time being in force (the “**Uncertificated Securities Regulations**”). The Warrants are participating securities for the purposes of the Uncertificated Securities Regulations.

If the applicable Final Terms indicates that the Warrants are to be listed on the SIX Swiss Exchange and/or issued into and transferred through accounts at SIS (“**Swiss Warrants**”) and (a) specify the form of the Warrants to be Swiss Global Bearer Warrants, each Tranche of such Swiss Warrants will on issue be constituted by a permanent global warrant in bearer form (a “**Swiss Global Bearer Warrant**”), which will be deposited with SIS acting as central depositary on or before the Issue Date of such Tranche or (b) specify the form of the Warrants to be uncertificated, each Tranche of such Swiss Warrants will on issue be constituted as uncertificated securities which come into effect once registered in the “uncertificated securities book” as provided for in the Agency Agreement and which will be entered into the main register (*Hauptregister*) of SIS on the Issue Date of such Tranche.

In the case of Swiss Warrants which are Swiss COSI Securities, such Swiss Warrants will on issue be constituted as uncertificated securities which come into effect once registered in accordance with the applicable rules and regulations of SIS in the “uncertificated securities book” maintained in electronic form in the systems of SIS and which will be entered in the main register (*Hauptregister*) of SIS on the Issue Date.

As a matter of Swiss law, once (i) a Swiss Global Bearer Warrant is deposited with SIS or (ii) Swiss Warrants issued in the form of uncertificated securities are entered into the main register (*Hauptregister*) of SIS and, in either case, are entered into the accounts of one or more participants of SIS, the Swiss Warrants will constitute intermediated securities (*Bucheffekten*) within the meaning of the Swiss Federal Intermediated Securities Act (*Bucheffektengesetz*). No Holder of Swiss Warrants will at any time have the right to effect or demand the conversion of (i) the Swiss Global Bearer Warrant or (ii) the uncertificated securities representing such Swiss Warrants into, or the delivery of, Warrants in (in the case

of a Swiss Global Bearer Warrant) uncertificated form or definitive form. However, Swiss Global Bearer Warrants will be exchangeable for definitive Warrants in bearer form (“**Swiss Definitive Bearer Warrants**”) and Swiss Warrants issued in uncertificated form will be exchangeable for individual certificates (“**Swiss Individual Warrant Certificates**”) representing definitive Warrants in registered form (“**Swiss Definitive Registered Warrants**”) in the limited circumstances described in the relevant W&C Securities Conditions.

Whenever a Swiss Warrant in uncertificated form is to be exchanged for Swiss Individual Warrant Certificates, MLICo. shall procure that the number or nominal amount of Swiss Individual Warrant Certificates issued will be equal to the number or nominal amount represented by the Swiss Warrants in uncertificated form within five Business Days of the delivery, by or on behalf of the registered holder of the Swiss Warrants in uncertificated form to the Swiss Programme Agent of such information as is required to complete and deliver such Swiss Individual Warrant Certificates (including, without limitation, the names and addresses of the persons in whose names the Swiss Individual Warrant Certificates are to be registered and the number or nominal amount of each such person’s holding).

Such exchange will be effected in accordance with the provisions of the Agency Agreement and, in particular, shall be effected without charge to any holder, but against such indemnity as the Swiss Programme Agent may require in respect of any tax or other duty of whatsoever nature which may be levied or imposed in connection with such exchange.

Except in limited circumstances specified above or in the W&C Securities Conditions and under the rules of the DTC book-entry clearing system, definitive Warrants will not be issued and Holders do not have the right to require the printing and delivery of definitive Warrants.

## **Form of Certificates**

### ***Bearer Certificates***

If the applicable Final Terms indicates that the Certificates are to be issued in bearer form (“**Bearer Certificates**”) into and transferred through accounts at Euroclear and Clearstream, Luxembourg, such Series of Certificates will on issue be constituted by either a temporary global certificate in bearer form or a permanent global certificate in bearer form as indicated in the applicable Final Terms which, in either case will be deposited with the Common Depositary.

If the applicable Final Terms indicates that the Certificates are to be issued into and transferred through accounts at Clearstream, Frankfurt (“**CBF Certificates**”), such Series of Certificates will on issue be constituted by a permanent global certificate in bearer form provided, however, that the Certificates will be treated as in registered form for United States federal income tax purposes. The permanent global certificate will be delivered on or prior to the issue date of the relevant series of Certificates to Clearstream, Frankfurt.

If the applicable Final Terms indicates that the Certificates are to be issued into and transferred through accounts at Euroclear France, such Series of Certificates will on issue be constituted by either a temporary global certificate in bearer form or a permanent global certificate in bearer form as indicated in the applicable Final Terms which, in either case, will be deposited with Euroclear France.

Definitive Certificates will only be issued in the circumstances specified below and in the W&C Securities Conditions.

Whilst any certificate is represented by a temporary global certificate, payments of principal, additional amounts (if any) and any other amount payable in respect of the Certificates due prior to the Exchange Date will be made (against presentation of the temporary global certificate) only to the extent that certification (in a form to be provided) to the effect that the beneficial owners of interests in such Certificate are not United States Persons or persons who have purchased for resale to any United States Person, as required by U.S. Treasury regulations, has been received by Euroclear, Clearstream, Luxembourg or Euroclear France, as applicable, and Euroclear, Clearstream, Luxembourg or Euroclear France, as applicable, has given a like certification (based on the certifications it has received) to the Principal Certificate Agent.

Except in the case of CBF Certificates, on and after the Exchange Date, which generally is 40 calendar days after a temporary global certificate is issued, interests in such temporary global certificate will be exchangeable (free of charge) upon a request as described herein either for (a) interests in a permanent global certificate of the same Series or (b) definitive Certificates in bearer form (“**Definitive Bearer Certificates**” and each a “**Definitive Bearer Certificate**”), of the same Series (as indicated in the



applicable Final Terms and subject, in the case of Definitive Bearer Certificates, to such notice period as is specified in the applicable Final Terms), in each case against certification of beneficial ownership as described above unless such certification has already been given. The holder of a temporary global certificate will not be entitled to collect any payment of additional amounts, principal or other amounts due on or after the Exchange Date unless, upon certification, exchange of the temporary global certificate for an interest in a permanent global certificate or for Definitive Bearer Certificates is improperly withheld or refused.

Payments of principal, additional amounts (if any) or any other amounts on a permanent global certificate will be made through Euroclear, Clearstream, Luxembourg, Clearstream, Frankfurt, or Euroclear France, as applicable, outside the United States (against presentation or surrender (as the case may be) of the permanent global certificate) without any requirement for certification.

Except in the case of CBF Certificates and Swiss Certificates (as defined below), a permanent global certificate will be exchangeable (free of charge), in whole but not in part, for Definitive Bearer Certificates upon not less than 60 calendar days' notice from Euroclear, Clearstream, Luxembourg or Euroclear France, as applicable (acting on the instructions of any holder of an interest in such permanent global certificate). No Definitive Bearer Certificate delivered in exchange for a temporary global certificate or a permanent global certificate, as the case may be, will, in connection with its sale during the restricted period (as such term is defined in U.S. Treasury Regulation Section 1.163-5(c)(2)(i)(D)(7)), be mailed or otherwise delivered to any location in the United States.

The following legend will appear on all Certificates in bearer form:

“ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS, INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE UNITED STATES INTERNAL REVENUE CODE”.

The sections of the Code referred to provide that United States holders, with certain exceptions, will not be entitled to deduct any loss on Certificates and will not be entitled to capital gains treatment of any gain on any sale, disposition or payment of principal with respect to Certificates.

Certificates with maturities of 183 calendar days or less are required to be issued in minimum denominations of U.S.\$500,000 (or its equivalent in other currencies).

The following legend will appear on all Certificates which have maturities of 183 calendar days or less:

“BY ACCEPTING THIS OBLIGATION, THE HOLDER REPRESENTS AND WARRANTS THAT IT IS NOT A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER) AND THAT IT IS NOT ACTING FOR OR ON BEHALF OF A UNITED STATES PERSON (OTHER THAN AN EXEMPT RECIPIENT DESCRIBED IN SECTION 6049(b)(4) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER).”

### ***Swedish Certificates and Finnish Certificates***

If the applicable Final Terms indicates that the Certificates (“**Swedish Certificates**”) are to be issued into and cleared through the Swedish CSD, such Series of Certificates will be issued in dematerialised and uncertificated book-entry form in accordance with the Swedish Financial Instruments Accounts Act (in Swedish: *lag (1998:1479) om kontoföring av finansiella instrument*).

If the applicable Final Terms indicates that the Certificates (“**Finnish Certificates**”) are to be issued into and cleared through Euroclear Finland, such Series of Certificates will be issued in dematerialised and uncertificated book-entry form in accordance with the Finnish Act on the Book-Entry System (in Finnish: *laki arvo-osuusjärjestelmästä (826/1991)*) and the Finnish Act on Book-Entry Accounts (in Finnish: *laki arvo-osuustileistä (827/1991)*).

### ***CREST Certificates***

If the applicable Final Terms indicates that such Certificates (the “**CREST Certificates**” and together with the CREST Warrants, the “**CREST Securities**”) are not eligible for sale in the United States or to, or for the account or benefit of, United States Persons and are to be issued into and cleared through accounts at Euroclear UK, such Series of CREST Certificates will be issued in uncertificated form in



accordance with the Uncertificated Securities Regulations. The CREST Certificates are participating securities for the purposes of the Uncertificated Securities Regulations.

### **Swiss Certificates**

If the applicable Final Terms indicates that the Certificates are to be listed on the SIX Swiss Exchange and/or issued into and transferred through accounts at SIS (“**Swiss Certificates**”) and (a) specify the form of the Certificates to be Swiss Global Bearer Certificates, each Tranche of such Certificates will on issue be constituted by a permanent global certificate in bearer form (a “**Swiss Global Bearer Certificate**”), which will be deposited with SIS acting as central depository on or before the Issue Date of such Tranche or (b) specify the form of the Certificates to be uncertificated, each Tranche of such Certificates will on issue be constituted as uncertificated securities which come into effect once registered in the “uncertificated securities book” as provided for in the Agency Agreement and which will be entered into the main register (*Hauptregister*) of SIS on the Issue Date of such Tranche.

In case of Swiss Certificates which are Swiss COSI Securities, such Swiss Certificates will on issue be constituted as uncertificated securities which come into effect once they are registered in accordance with the applicable rules and regulations of SIS in the “uncertificated securities book” maintained in electronic form in the systems of SIS and which will be entered into the main register (*Hauptregister*) of SIS on the Issue Date.

As a matter of Swiss law, once (i) a Swiss Global Bearer Certificate is deposited with SIS or (ii) Swiss Certificates issued in the form of uncertificated securities are entered into the main register (*Hauptregister*) of SIS and, in either case, entered into the accounts of one or more participants of SIS, the Swiss Certificates represented thereby will constitute intermediated securities (*Bucheffekten*) within the meaning of the Swiss Federal Intermediated Securities Act (*Bucheffektengesetz*). No Holder of Swiss Certificates will at any time have the right to effect or demand the conversion of (i) the Swiss Global Bearer Certificate or (ii) the uncertificated securities representing such Swiss Certificates into, or the delivery of, Certificates in (in the case of a Swiss Global Bearer Certificate) uncertificated or definitive form. However, Swiss Global Bearer Certificates will be exchangeable for definitive Certificates in bearer form (“**Swiss Definitive Bearer Certificates**”) and Swiss Certificates issued in uncertificated form will be exchangeable for individual certificates (“**Swiss Individual Certificates**”) representing definitive Certificates in registered form (“**Swiss Definitive Registered Certificates**”) in the limited circumstances described in the relevant W&C Securities Conditions.

Whenever a Swiss Certificate in uncertificated form is to be exchanged for Swiss Individual Certificates, the Issuer shall procure that the number or nominal amount of Swiss Individual Certificates issued will be equal to the number or nominal amount represented by the Swiss Certificates in uncertificated form within five Business Days of the delivery, by or on behalf of the registered holder of the Swiss Certificates in uncertificated form to the Swiss Programme Agent of such information as is required to complete and deliver such Swiss Individual Certificates (including, without limitation, the names and addresses of the persons in whose names the Swiss Individual Certificates are to be registered and the number or nominal amount of each such person’s holding).

Such exchange will be effected in accordance with the provisions of the Agency Agreement and, in particular, shall be effected without charge to any holder, but against such indemnity as the Swiss Programme Agent may require in respect of any tax or other duty of whatsoever nature which may be levied or imposed in connection with such exchange.

### **Registered Certificates**

If the applicable Final Terms indicates that the Certificates are to be issued in registered form (“**Registered Certificates**”) such Registered Certificates will be issued in global registered form (“**Global Registered Certificates**”), as specified in the applicable Final Terms. Each Global Registered Certificate will be deposited on or around the relevant Issue Date with, and registered in the name of the nominee for, the Common Depositary.

Each Global Registered Certificate will be exchangeable in whole, but not in part, for individual certificates (“**individual certificates**”), representing Certificates in definitive form (“**Definitive Registered Certificates**”), if the relevant Issuer has been notified that Euroclear or Clearstream, Luxembourg or any other relevant clearing system is closed for business for a continuous period of 14 calendar days (other than by reason of legal holidays) or announces an intention permanently to cease business.

Whenever the Global Registered Certificate is to be exchanged for individual certificates, the relevant Issuer shall procure that the number or nominal amount of individual certificates issued will be equal to the number or nominal amount of the Global Registered Certificates then outstanding within five Business Days of the delivery, by or on behalf of the registered holder of the Global Registered Certificate to the Registrar of such information as is required to complete and deliver such individual certificates (including, without limitation, the names and addresses of the persons in whose names the individual certificates are to be registered and the number or nominal amount of each such person's holding) against the surrender of the Global Registered Certificate at the specified office of the Registrar.

Such exchange will be effected in accordance with the provisions of the Agency Agreement and the regulations concerning the transfer and registration of Certificates scheduled thereto and, in particular, shall be effected without charge to any holder, but against such indemnity as the Registrar may require in respect of any tax or other duty of whatsoever nature which may be levied or imposed in connection with such exchange.

If:

- (a) individual certificates have not been delivered by 5.00 p.m. (London time) on the thirtieth calendar day after they are due to be issued and delivered in accordance with the terms of the Global Registered Certificate; or
- (b) any of the Certificates represented by a Global Registered Certificate (or any part of it) has become due and payable in accordance with the Terms and Conditions of the Certificates or the date for final settlement of the Certificates has occurred and, in either case, payment in full of the amount of principal falling due with all accrued interest thereon has not been made to the holder of the Global Registered Certificate in accordance with the terms of the Global Registered Certificate on the due date for payment,

then the Global Registered Certificate (including the obligation to deliver individual certificates) will become void at 5.00 p.m. (London time) on such thirtieth calendar day (in the case of (a) immediately above) or at 5.00 p.m. (London time) on such due date (in the case of (b) immediately above) and the holder of the Global Registered Certificate will have no further rights thereunder (but without prejudice to the rights which the holder of the Global Registered Certificate or others may have under the W&C Securities Deed of Covenant). Under the W&C Securities Deed of Covenant, persons shown in the records of Euroclear and/or Clearstream, Luxembourg and/or any other relevant clearing system as being entitled to an interest in a Global Registered Certificate will acquire directly against the Issuer all those rights to which they would have been entitled if, immediately before the Global Registered Certificate became void, they had been the holders of individual certificates in a number equal to the number of Certificates they were shown as holding in the records of Euroclear and/or Clearstream, Luxembourg and/or any other relevant clearing system.

**FORM OF FINAL TERMS OF THE NOTES**

[Date]

**MERRILL LYNCH S.A.**

**Issue of [Aggregate Nominal Amount of Tranche] [Title of Notes]  
under the Merrill Lynch S.A. and Merrill Lynch International & Co. C.V.  
Note, Warrant and Certificate Programme  
unconditionally and irrevocably guaranteed as to payment and delivery obligations  
by Bank of America Corporation**

*[Include the following warning for all Notes where capital is at risk:*

**INVESTING IN THE NOTES PUTS YOUR CAPITAL AT RISK. YOU MAY LOSE SOME  
[OR ALL] OF YOUR INVESTMENT.]**

[The Base Prospectus referred to below (as completed by these Final Terms) has been prepared on the basis that, except as provided in sub-paragraph (ii) below, any offer of Notes in any Member State of the European Economic Area which has implemented the Prospectus Directive (Directive 2003/71/EC) (as amended by Directive 2010/73/EU, the “**Prospectus Directive**”). (each, a “**Relevant Member State**”) will be made pursuant to an exemption under the Prospectus Directive, as implemented in that Relevant Member State, from the requirement to publish a prospectus for offers of the Notes. Accordingly any person making or intending to make an offer of the Notes may only do so:

- (i) in circumstances in which no obligation arises for the Issuer or any Dealer to publish a prospectus pursuant to Article 3 of the Prospectus Directive or supplement a prospectus pursuant to Article 16 of the Prospectus Directive, in each case, in relation to such offer; or
- (ii) in those Public Offer Jurisdictions mentioned in Paragraph 54 of Part A below, provided such person is one of the persons mentioned in Paragraph 54 of Part A below and that such offer is made during the Offer Period specified for such purpose therein.

Neither the Issuer nor any Dealer has authorised, nor do they authorise, the making of any offer of Notes in any other circumstances]<sup>1</sup>.

The Notes, the Guarantee and, in certain cases, the Entitlement have not been and will not be registered under the U.S. Securities Act of 1933, as amended (the “**Securities Act**”) or under any state securities laws and the Notes may not be offered, sold, transferred, pledged, delivered or redeemed, directly or indirectly, at any time within the United States or to, or for the account or benefit of, any United States Person (as defined herein). For the purposes hereof, “**United States Person**” means a person which is a “U.S. person” as defined by Regulation S under the Securities Act or a “United States person” as defined in Section 7701(a)(30) of the Internal Revenue Code of 1986, as amended and in U.S. Treasury regulations. See “*Offering and Sale*” in the accompanying Base Prospectus.

[The Base Prospectus referred to below (as completed by these Final Terms) has been prepared on the basis that any offer of Notes in any Member State of the European Economic Area which has implemented the Prospectus Directive (Directive 2003/71/EC) (as amended by Directive 2010/73/EU, the “**Prospectus Directive**”) (each, a “**Relevant Member State**”) will be made pursuant to an exemption under the Prospectus Directive, as implemented in that Relevant Member State, from the requirement to publish a prospectus for offers of the Notes. Accordingly any person making or intending to make an offer in that Relevant Member State of the Notes may only do so in circumstances in which no obligation arises for the Issuer or any Dealer to publish a prospectus pursuant to Article 3 of the Prospectus Directive or supplement a prospectus pursuant to Article 16 of the Prospectus Directive, in each case, in relation to such offer. Neither the Issuer nor any Dealer has authorised, nor do they authorise, the making of any offer of Notes in any other circumstances].<sup>2</sup>

The Notes will not be offered to the public in or from Switzerland and neither these Final Terms nor any other document relating to the Notes may be publicly distributed in Switzerland in connection with any

<sup>1</sup> Consider including this legend where a non-exempt offer of Notes is anticipated (N.B. Not relevant for an issue of a Tranche of Notes with a denomination equal to or greater than EUR 100,000 (or its equivalent in another currency)).

<sup>2</sup> Consider including this legend where only an exempt offer of Notes is anticipated (N.B. Not relevant for an issue of a Tranche of Notes with a denomination less than EUR 100,000 (or its equivalent in another currency)).

such offering or distribution. The Notes may be offered in Switzerland without any public promotion or advertisement only to selected qualified investors in accordance with the Swiss Federal Act on Collective Investment Schemes.

*[The purchase of Notes involves substantial risks and is suitable only for investors who have the knowledge and experience in financial and business matters necessary to enable them to evaluate the risks and the merits of an investment in the Notes. Before making an investment decision, prospective purchasers of Notes should ensure that they understand the nature of the Notes and the extent of their exposure to risks and that they consider carefully, in the light of their own financial circumstances, financial condition and investment objectives, all the information set forth in the Base Prospectus (including “Risk Factors” on pages 33 to 90 thereof) and these Final Terms.]*

*[Insert any specific additional risk factors (relating only to the tranche of Notes documented by these Final Terms)].*

## PART A – CONTRACTUAL TERMS

Terms used herein shall be deemed to be defined as such for the purposes of the Terms and Conditions set forth in the base prospectus dated 24 May 2012 (the “**Base Prospectus**”) [and the supplement[s] to the Base Prospectus listed in the Annex hereto] which [together] constitute[s] a base prospectus for the purposes of the Prospectus Directive. This document constitutes the Final Terms of the Notes described herein for the purposes of Article 5.4 of the Prospectus Directive and must be read in conjunction with the Base Prospectus [as supplemented]. Full information on the Issuer, the Guarantor and the offer of the Notes is only available on the basis of the combination of these Final Terms and the Base Prospectus [as supplemented]. The Base Prospectus [and the supplement[s] to the Base Prospectus] [is] [are] available for viewing during normal business hours at the registered office of the Issuer and at the specified office of the Paying Agents for the time being in London and Luxembourg and copies may be obtained from 2 King Edward Street, London, EC1A 1HQ.

*[The following alternative language applies if the first tranche of an issue which is being increased was issued under a Base Prospectus with an earlier date.]*

Terms used herein shall be deemed to be defined as such for the purposes of the Terms and Conditions (the “**Conditions**”) set forth in the Base Prospectus dated [15 September 2009] [22 June 2010] [22 June 2011] (the “**Original Base Prospectus**”). This document constitutes the Final Terms of the Notes described herein for the purposes of Article 5.4 of the Prospectus Directive and must be read in conjunction with the Base Prospectus dated 24 May 2012 [and the supplement[s] to the Base Prospectus listed in the Annex hereto] ([as so supplemented,] the “**Updated Base Prospectus**”), which constitutes a base prospectus for the purposes of the Prospectus Directive, save in respect of the Conditions which are extracted from the Original Base Prospectus and which are incorporated by reference into the Updated Base Prospectus. Full information on the Issuer, the Guarantor and the offer of the Notes is only available on the basis of the combination of these Final Terms and the Updated Base Prospectus (including those sections of the Original Base Prospectus incorporated by reference therein). The Original Base Prospectus and the Updated Base Prospectus are available for viewing during normal business hours at the registered office of the Issuer and at the specified office of the Paying Agents for the time being in London, Luxembourg and Stockholm and copies may be obtained from 2 King Edward Street, London, EC1A 1HQ and in electronic form on the Luxembourg Stock Exchange’s website ([www.bourse.lu](http://www.bourse.lu)).]

References herein to numbered Conditions are to the “Terms and Conditions of the Notes” and words and expressions defined in such terms and conditions shall bear the same meaning in these Final Terms, save as where otherwise expressly provided.

Prospective investors should note that the “Terms and Conditions of the Notes” set out in the Base Prospectus are governed by, and construed in accordance with, English law, and the Guarantee is governed by, and construed in accordance with, the laws of the State of New York.

*No person has been authorised to give any information or make any representation not contained in or not consistent with these Final Terms, or any other information supplied in connection with the Notes and, if given or made, such information or representation must not be relied upon as having been authorised by the Issuer, the Guarantor or any Dealer.*

*By investing in the Notes each investor represents that:*

- (a) *Non-Reliance.* It is acting for its own account, and it has made its own independent decisions to invest in the Notes and as to whether the investment in the Notes is appropriate or proper for it based upon its own judgement and upon advice from such advisers as it has deemed necessary. It is not relying on any communication (written or oral) of the Issuer, the Guarantor or any Dealer as investment advice or as a recommendation to invest in the Notes, it being understood that information and explanations related to the “Terms and Conditions of the Notes” shall not be considered to be investment advice or a recommendation to invest in the Notes. No communication (written or oral) received from the Issuer, the Guarantor or any Dealer shall be deemed to be an assurance or guarantee as to the expected results of the investment in the Notes.
- (b) *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 and conditions and the risks of the investment in the Notes. It is also capable of assuming, and assumes, the risks of the investment in the Notes.
- (c) *Status of Parties.* None of the Issuer, the Guarantor and any Dealer is acting as fiduciary for or adviser to it in respect of the investment in the Notes.

[Include whichever of the following apply or specify as “Not Applicable” or delete relevant provision]

[When adding any other final terms or information consideration should be given as to whether such terms or information constitute “significant new factors” and consequently trigger the need for a supplement to the Base Prospectus under Article 16 of the Prospectus Directive or the use of a Securities Note or “unitary” Prospectus.]

- |                                      |   |
|--------------------------------------|---|
| 1. Issuer:                           | Merrill Lynch S.A.  |
| 2. Guarantor:                        | Bank of America Corporation   |
| 3. (a) Series Number:                | [●]   |
| (b) Tranche Number:                  | [●]   |
|                                      | (If fungible with an existing Series, include details of that Series, including the date on which the Notes become fungible)  |
| 4. Specified Currency or Currencies: | [●]   |
| 5. Aggregate Nominal Amount:         |   |
| (a) [Series:]                        | [●]   |
| (b) [Tranche:]                       | [●]   |
| 6. Issue Price:                      | [●] per cent. of the Aggregate Nominal Amount [plus accrued interest from [insert date] (in the case of fungible issues only, if applicable)]   |
| 7. (a) Specified Denominations:      | [●]   |
|                                      | (Notes (including Notes denominated in Sterling) in respect of which the [issue proceeds] are to be accepted by the Issuer in the United Kingdom, or whose issue otherwise constitutes a contravention of section 19 FSMA and which have a maturity of less than one year must have a [redemption value] of £100,000 (or its equivalent in other Specified Currencies)) |
|                                      | (If the Notes have a maturity of 183 calendar days or less from their date of issue, the minimum denomination must be at least U.S.\$500,000 or its equivalent in any other currency)   |
| (b) Calculation Amount:              | [●]   |
|                                      | (If only one Specified Denomination, insert the Specified Denomination.   |



*If more than one Specified Denomination, insert the highest common factor. Note: There must be a common factor in the case of two or more Specified Denominations.)*

8. Trade Date: ☐
9. Strike Date: ☐
10. [(a)] Issue Date [and Interest Commencement Date]: ☐  
 [(b)] Interest Commencement Date (if different from the Issue Date): ☐
11. Maturity Date: ☐ [Fixed Rate Note - specify date/Floating Rate Note – Interest Payment Date falling on or nearest to [specify month]] [the “**Scheduled Maturity Date**”, subject as provided in the Credit Linked Note Conditions and paragraph(s) [24] and [34] below.]  
*[For Swedish Notes only, add: Settlement of the Final Redemption Amount to the beneficial owners of Swedish Notes duly recorded in the records of the Swedish CSD is expected to occur on ☐.]*
12. Interest Basis: ☐ per cent. Fixed Rate]  
 [[LIBOR] EURIBOR] +/- ☐ per cent. Floating Rate]  
 [Zero Coupon]  
 [Index Linked]  
 [Share Linked]  
 [Debt Linked]  
 [GDR/ADR Linked]  
 [FX Linked]  
 [Commodity Linked]  
 [Fund Linked]  
 [Inflation Linked]  
 [Non-Interest bearing]  
 [Specify other]  
 [(further particulars specified below)]
13. Redemption/Payment Basis: [Redemption at par]  
 [Index Linked]  
 [Share Linked]  
 [Debt Linked]  
 [GDR/ADR Linked]  
 [FX Linked]  
 [Commodity Linked]  
 [Fund Linked]  
 [Inflation Linked]  
 [Credit Linked]  
 [Partly Paid]  
 [Instalment]  
 [Specify other]  
 [(further particulars specified below)]  
*(N.B. If the Final Redemption Amount is other than 100 per cent. of the nominal value, the Notes will be derivative securities for the purposes of the Prospectus Directive and the requirements of*

*Annex XII to the Prospectus Directive Regulation will apply.)*

14. Change of Interest Basis or Redemption/ Payment Basis: [Applicable] [Not Applicable]  
*(Specify details of any provision for change of Notes into another Interest Basis or Redemption/ Payment Basis)*
15. Put/Call Options: [Investor Put (further particulars specified below)]  
 [Issuer Call (further particulars specified below)]  
 [Not Applicable]
16. (a) Status of the Notes: Senior  
 (b) Status of the Guarantee: Senior

# **PROVISIONS RELATING TO INTEREST (IF ANY) PAYABLE**

17. Fixed Rate Notes: [Applicable] [Not Applicable]
- (a) Rate(s) of Interest: [●] per cent. per annum [payable [annually] [semi-annually] [quarterly] in arrear]  
*(If payable other than annually, consider amending Condition 4)*  
*(Not applicable in the case of a Fixed Coupon Amount; in which case consider disapplying interest accrual provisions in relation to any Early Redemption Amount.)*
- (b) Interest Payment Date(s): [[●] in each year up to and including the Maturity Date] [specify other]  
 [Subject to the Credit Linked Note Conditions] *(Include if Tranching Portfolio CLNs)*  
*(NB: This will need to be amended in the case of long or short coupons)*  
 The Fixed Interest Period[s] will not be adjusted.
- (c) Fixed Coupon Amount(s): [●] per Calculation Amount
- (d) Broken Amount(s): [[●] per Calculation Amount payable on the Interest Payment Date falling on [●]] [Not Applicable]  
*(Insert particulars of any initial or final broken interest amounts which do not correspond with the Fixed Coupon Amount(s))*
- (e) Day Count Fraction: [Actual/Actual (ICMA)]  
 [Actual/Actual (ISDA)]  
 [Actual/365 (Fixed)]  
 [Actual/365 (Sterling)]  
 [Actual/360]  
 [30/360 (ICMA)]  
 [30/360]  
 [30E/360]  
 [30E/360 (ISDA)]  
 [Specify other]  
*(NB: Actual/Actual (ICMA) is normally only appropriate for Fixed Rate Notes denominated in euros)*
- (f) Determination Date(s): [[●] in each year] [Not Applicable]

*(Insert regular interest payment dates, ignoring issue date or maturity date in the case of a long or short first or last coupon (NB: This will need to be amended in the case of regular interest payment dates which are not of equal duration))*

*(NB: Only relevant where Day Count Fraction is Actual/Actual (ICMA))*

- (g) Other terms relating to the method of calculating interest for Fixed Rate Notes: [None] [Give details]
18. Floating Rate Notes: [Applicable] [Not Applicable]
- (a) Specified Period(s)/Specified Interest Payment Dates: ☐ The Interest Period[s] will [not] be adjusted.  
*(If the Interest Period(s) are adjusted, specify the relevant Business Day Convention at paragraph 18(b) below. If Interest Period(s) are not adjusted, no Business Day Convention should be specified)*
- (b) Business Day Convention: [Floating Rate Convention] [Following Business Day Convention] [Modified Following Business Day Convention] [Preceding Business Day Convention] [specify other]
- (c) Additional Business Centre(s): ☐
- (d) Manner in which the Rate of Interest and Interest Amount is to be determined: [Screen Rate Determination] [ISDA Determination] [Range Accrual] [specify other]  
*[If Range Accrual insert following language:*  
The Rate of Interest for each Interest Period shall be determined by the Calculation Agent in accordance with the following formula:  
$$\text{Coupon} \times (n/N)$$
*Where:*  
“**Coupon**” means ☐.  
“**n**” means the total number of calendar days in the relevant Interest Period on which the Reference Rate (as defined below) is within the Range.  
“**N**” means the actual number of calendar days in the relevant Interest Period.  
“**Range**” means for each Interest Period in the period [from (and including) ☐ to (but excluding) ☐, equal to or greater than zero but less than or equal to ☐ per cent.  
“**Reference Rate**” means, in respect of a calendar day, the rate for deposits in ☐ for a period of ☐ months which appears on [insert page reference] (or such successor page or service as may in the determination of the [Calculation Agent] replace such page or service) (the “**Screen Page**”) as of [insert time] on such calendar day or if the Screen Page is not available or the relevant rate is not quoted and it is impossible or otherwise impracticable to obtain the relevant rate, the rate determined by the Calculation Agent in its

- sole discretion from such source(s) and at such time as it may select,
- provided that if a calendar day is not a Business Day the Reference Rate for such calendar day shall be the Reference Rate for the immediately preceding Business Day,
- provided further that for each calendar day in an Interest Period falling after the seventh Business Day prior to the [end of such Interest Period], the Reference Rate shall be the Reference Rate on such seventh Business Day.]
- (e) Party responsible for calculating the Rate of Interest and Interest Amount (if not the Principal Paying Agent): ☐
- (f) Screen Rate Determination: ☐ [Applicable] ☐ [Not Applicable]
- Reference Rate: ☐
- (Either LIBOR, EURIBOR or other, although additional information is required if other – including fallback provisions in the Agency Agreement)*
- Interest Determination Date(s): ☐
- (Second London Business Day prior to the start of each Interest Period if LIBOR (other than Sterling or euro LIBOR), first day of each Interest Period if Sterling LIBOR and the second day on which the TARGET2 System is open prior to the start of each Interest Period if EURIBOR or euro LIBOR)*
- Relevant Screen Page: ☐
- (In the case of EURIBOR, if not Reuters EURIBOR01 ensure it is a page which shows a composite rate or amend the fallback provisions appropriately)*
- Rate Multiplier: ☐ [Applicable] ☐ [Not Applicable]
- (Specify formula)*
- (g) ISDA Determination:
- Floating Rate Option: ☐
- Designated Maturity: ☐
- Reset Date: ☐
- (h) Margin(s): ☐ +/- ☐ per cent. per annum
- (i) Minimum Rate of Interest: ☐ per cent. per annum
- (j) Maximum Rate of Interest: ☐ per cent. per annum
- (k) Day Count Fraction: ☐ [Actual/Actual (ICMA)]  
☐ [30/360]  
☐ [Actual/Actual (ISDA)]  
☐ [Actual/365 (Fixed)]  
☐ [Actual/365 (Sterling)]  
☐ [Actual/360]  
☐ [30/360 (ICMA)]  
☐ [30/360]

- [30E/360]  
 [30E/360 (ISDA)]  
 [Specify other]  
 (See Condition 5 for alternatives)
- (l) Fall back provisions, rounding provisions and any other terms relating to the method of calculating interest on Floating Rate Notes, if different from those set out in the Terms and Conditions: [Not Applicable] [Give details]
19. Zero Coupon Notes: [Applicable] [Not Applicable]
- (a) Accrual Yield: [●] per cent. per annum
- (b) Reference Price: [●]
- (c) Any other formula/basis of determining amount payable: [●]
- (d) Day Count Fraction in relation to Early Redemption Amounts and late payment: [Conditions 7(G)(c) and 7(N) apply] [specify other] (Consider applicable day count fraction if not U.S.\$ denominated)
20. Interest Linked to one or more Reference Item(s) provisions: [Applicable] [Not Applicable]
- (a) Reference Item(s): [As specified in paragraph[s] [26] [27] [28] [29] [30] [31] [32] [33]] [specify other]
- (b) Provisions for determining Rate of Interest or Interest Amount where calculated by reference to an Index and/or a Share and/or a Debt Instrument and/or a GDR/ADR and/or Currency Price and/or a Commodity and/or a Commodity Index and/or a Fund and/or an Inflation Index: [●]
- (c) Provisions for determining Rate of Interest or Interest Amount where calculated by reference to an Index and/or a Share and/or a Debt Instrument and/or a GDR/ADR and/or a Currency Price and/or Commodity and/or a Commodity Index and/or a Fund and/or an Inflation Index is impossible or impracticable or otherwise disrupted: As specified in paragraph[s] [26] [27] [28] [29] [30] [31] [32] [33]] [specify other]
- (d) Specified Period(s)/ Specified Interest Payment Dates: [●]  
 The Interest Period[s] will [not] be adjusted.  
 (If the Interest Period(s) are adjusted, specify the relevant Business Day Convention at paragraph 20(e) below. If Interest Period(s) are not adjusted, no Business Day Convention should be specified)
- (e) Business Day Convention: [Floating Rate Convention] [Following Business Day Convention] [Modified Following Business Day Convention] [Preceding Business Day Convention] [specify other]
- (f) Additional Business Centre(s): [●]
- (g) Minimum Rate of Interest: [●] per cent. per annum
- (h) Maximum Rate of Interest: [●] per cent. per annum



(i) Day Count Fraction: ☐

# **PROVISIONS RELATING TO REDEMPTION**

21. Issuer Call: ☐ [Applicable] ☐ [Not Applicable]

(a) Optional Redemption Date(s): ☐

(b) Optional Redemption Amount(s) of ☐ per Calculation Amount of each Note and method, if any, of calculation of such amount(s):

(c) If redeemable in part:

(i) Minimum Redemption Amount: ☐

(ii) Maximum Redemption Amount: ☐

(d) Notice period (if other than as set out in the Conditions): ☐

22. Investor Put: ☐ [Applicable] ☐ [Not Applicable]

(a) Optional Redemption Date(s): ☐

(b) Optional Redemption Amount(s) of ☐ per Calculation Amount of each Note and method, if any, of calculation of such amount(s):

(c) Notice period (if other than as set out in the Conditions): ☐

23. Automatic Early Redemption: ☐ [Applicable] ☐ [Not Applicable]

(a) Automatic Early Redemption Event: ☐

(b) Automatic Early Redemption Amount: ☐ per Calculation Amount

(c) Automatic Early Redemption Date: ☐

24. Final Redemption Amount of each Note: ☐ per Calculation Amount

[As specified in paragraph 24(b) below] (*N.B. If the Final Redemption Amount is other than 100 per cent. of the nominal value, the Notes will be derivative securities for the purposes of the Prospectus Directive and the requirements of Annex XII to the Prospectus Directive Regulation will apply.*)

In cases where the Final Redemption Amount is Index Linked, Share Linked, Debt Linked, GDR/ADR Linked, FX Linked, Commodity Linked, Fund Linked, Inflation Linked, Credit Linked or other variable linked:

[As specified at ☐33(w)] (*Include if Tranche Portfolio CLNs*)

(a) Reference Item(s): [As specified in paragraph[s] [26] [27] [28] [29] [30] [31] [32] [33] below] [*specify other*]

- (b) Provisions for determining Final Redemption Amount where calculated by reference to an Index and/or a Share and/or a Debt Instrument and/or a GDR/ADR and/or a Currency Price and/or a Commodity and/or a Commodity Index and/or a Fund and/or an Inflation Index and/or a Reference Entity and/or any other variable: [Specify provisions for calculation of Final Redemption Amount]  
[As specified in paragraph 19 of the Credit Linked Note Conditions] *(Include if Tranche Portfolio CLNs)*
- (c) Provisions for determining Final Redemption Amount where calculated by reference to an Index and/or a Share and/or a Debt Instrument and/or a GDR/ADR and/or a Currency Price and/or a Commodity and/or a Commodity Index and/or a Fund and/or an Inflation Index and/or a Reference Entity and/or other variable is impossible or impracticable or otherwise disrupted: [See paragraph[s] [26] [27] [28] [29] [30] [31] [32] [33] below] *[specify other]*
25. Early Redemption Amount(s) of each Note payable on redemption for taxation reasons or on an event of default or on an illegality (or otherwise in accordance with the terms and conditions of the Notes, and/or the method of calculating the same (if required or if different from that set out in Condition 7(G))): [Market Value less Associated Costs] [●] per Calculation Amount  
*(N.B. In the case of Index Linked, Share Linked, Debt Linked, GDR/ADR Linked, FX Linked, Commodity Linked, Fund Linked, Inflation Linked and Credit Linked Notes, consider deducting the cost to the Issuer and/or its affiliates of unwinding or adjusting any underlying or related funding and/or hedging arrangements in respect of the Notes)*

## PROVISIONS RELATING TO TYPE OF NOTES

26. Index Linked Conditions: [Applicable] [Not Applicable]
- (a) Index/Basket of Indices: [The index] [Each of the indices] set out under the heading “Index” in “Specific Information relating to the Reference Item(s)” below ([the “**Index**”] [each, an “**Index**” and together the “**Indices**” or “**Basket of Indices**”])

## SPECIFIC INFORMATION RELATING TO THE REFERENCE ITEM(S)

The terms “**Index**”, “**Bloomberg Code**”, “**Index Sponsor**”, “**Type of Index**”, “**Exchange**”, “**Related Exchange**”, “**Index Currency**”, [“**Weighting**”] and [“**Initial Level**”] *(insert additional columns as applicable)* applicable to [an] [the] Index shall have the corresponding meanings set forth against such Index in the table below.

Index	Bloomberg Code	Index Sponsor	Type of Index	Exchange	Related Exchange	Index Currency	[Weighting] <sup>3</sup>	[Initial Level]
[●]	[●]	[●]	[●]	[●]	[●]	[●]	[●]	[●]
[●]	[●]	[●]	[●]	[●]	[●]	[●]	[●]	[●]

- (b) Index Performance: [●] [As specified in the Index Linked Conditions]
- (c) Barrier Event (intraday): [Applicable] [Not Applicable]
- Barrier Event Determination Day: [As specified in the Index Linked Conditions]

<sup>3</sup> May only be applicable in relation to Index Linked Notes relating to a Basket of Indices.

(d) Barrier Event (closing)	[Applicable] [Not Applicable]
Barrier Event Determination Day:	[Valuation Date]
	[In respect of [the] [each] Index, each Scheduled Trading Day for such Index during [the] [each] Observation Period that is not a Disrupted Day for such Index]
	[Each Common Scheduled Trading Day that is not a Disrupted Day for any Index in the Basket of Indices during [the] [each] Observation Period]
(e) Barrier Level:	[●] [Not Applicable]
(f) Averaging:	[Applicable] [Not Applicable]
(i) Averaging Date(s):	[●]
(ii) Omission:	[Applicable] [Not Applicable]
(iii) Postponement:	[Applicable] [Not Applicable]
(iv) Modified Postponement:	[Applicable] [Not Applicable]
(g) Valuation Date(s):	[●]
(h) Valuation Time:	[As specified in the Index Linked Conditions] [specify other]
(i) Observation Date(s):	[●]
(j) Observation Period:	[Applicable: [Extension] [No Extension]] [Not Applicable]
(i) Observation Period Start Date:	[[●] ([Including] [Excluding])] [Not Applicable]
(ii) Observation Period End Date:	[[●] ([Including] [Excluding])] [Not Applicable]
(k) Common Scheduled Trading Days:	[Applicable. [Common] [Individual] Disrupted Days will apply] (N.B. If Common Scheduled Trading Days are applicable, either Common or Individual Disrupted Days must be specified.) [Not Applicable]
	(N.B. May only be applicable in relation to Index Linked Notes relating to a Basket)
(l) Disrupted Day:	[If the Valuation Date, an Averaging Date or an Observation Date, as the case may be, is a Disrupted Day, the relevant level or price will be calculated [insert calculation method]  [As specified in the Index Linked Conditions]
(m) Additional Disruption Events:	The following Additional Disruption Events apply to the Notes: [Change in Law] [Hedging Disruption] [Increased Cost of Hedging]
(n) Other terms or special conditions:	[●]
27. Share Linked Conditions:	[Applicable] [Not Applicable]
(a) Share(s)/Basket of Shares:	[The] [Each of the] [ordinary shares] [depository receipts] of the relevant Share Company set out under the heading “ <b>Share Company</b> ” in “ <b>Specific Information relating to the Reference Item(s)</b> ” below (each a “ <b>Share</b> ” and together, the “ <b>Shares</b> ” [or the “ <b>Basket of Shares</b> ”])

**SPECIFIC INFORMATION RELATING TO THE REFERENCE ITEM(S)**

The terms “**Share Company**”, “**ISIN of Share**”, “**Bloomberg Code**”, “**Exchange**”, “**Related Exchange**”, “**Local Jurisdiction**” [, “**Weighting**”] and [“**Initial Price**”] (*insert additional columns as appropriate*) applicable to a Share shall have the corresponding meanings set forth against the relevant Share Company in the table below.

Share Company	ISIN of Share	Bloomberg Code	Exchange	Related Exchange	Local Jurisdiction	[Weighting] <sup>4</sup>	[Initial Price]
[●]	[●]	[●]	[●]	[●]	[●]	[●]	[●]
[●]	[●]	[●]	[●]	[●]	[●]	[●]	[●]

- (b) Share Performance: [●] [As specified in the Share Linked Conditions]
- (c) Barrier Event (intraday): [Applicable] [Not Applicable]  
 Barrier Event Determination Day: [As specified in the Share Linked Conditions]
- (d) Barrier Event (closing): [Applicable] [Not Applicable]  
 Barrier Event Determination Day: [Valuation Date]  
 [In respect of [the] [each] Share, each Scheduled Trading Day for such Share during each Observation Period that is not a Disrupted Day for such Share]  
 [Each Common Scheduled Trading Day that is not a Disrupted Day for any Share in the Basket of Shares during [the] [each] Observation Period]
- (e) Barrier Level: [●] [Not Applicable]
- (f) Averaging: [Applicable] [Not Applicable]  
 (i) Averaging Dates: [●]  
 (ii) Omission: [Applicable] [Not Applicable]  
 (iii) Postponement: [Applicable] [Not Applicable]  
 (iv) Modified Postponement: [Applicable] [Not Applicable]
- (g) Valuation Date(s): [●]
- (h) Valuation Time: [As specified in the Share Linked Conditions]  
*[specify other]*
- (i) Observation Date(s): [●]
- (j) Observation Period: [Applicable: [Extension] [No Extension]] [Not Applicable]  
 (i) Observation Period Start Date: [[●] ([Including] [Excluding])] [Not Applicable]  
 (ii) Observation Period End Date: [[●] ([Including] [Excluding])] [Not Applicable]
- (k) Common Scheduled Trading Days: [Applicable. [Common] [Individual] Disrupted Days will apply (*N.B. If Common Scheduled Trading Days are applicable, either Common or Individual Disrupted Days must be specified*)] [Not Applicable]  
*(N.B. May only be applicable in relation to Share Linked Notes relating to a Basket)*
- (l) Disrupted Day: [If the Valuation Date, an Averaging Date or an Observation Date, as the case may be, is a

<sup>4</sup> May only be applicable in relation to Share Linked Notes relating to a Basket.

	Disrupted Day, the relevant price will be calculated [ <i>insert calculation method</i> ]] [As specified in the Share Linked Conditions]]
(m) Tender Offer:	[Applicable] [Not Applicable]
(n) Share Substitution:	[Applicable. Share Substitution Criteria are [ <i>insert details</i> ] [as specified in the Share Linked Conditions]] [Not Applicable]
(o) Local Tax Adjustment:	[Not Applicable] [Applicable. Local Jurisdiction is set out in “Specific Information relating to the Reference Item(s)” above. [Where Local Jurisdiction is specified to be “United States” then this shall mean the United States of America’s federal and/or state and/or local taxes and/or any political subdivision thereof]]
(p) Additional Disruption Events:	The following Additional Disruption Events apply to the Notes: [Change in Law] [Hedging Disruption] [Increased Cost of Hedging] [Increased Cost of Stock Borrow] [Initial Stock Loan Rate: [●]] [Insolvency Filing] [Loss of Stock Borrow] [Maximum Stock Loan Rate: [●]]
(q) Other terms or special conditions:	[●]
28. Debt Linked Conditions:	[Applicable] [Not Applicable]
(a) Debt Instruments/ Basket of Debt Instruments:	[●]
(b) Debt Instrument Price:	[As specified in the Debt Linked Conditions] [specify other]
(c) Averaging:	[Applicable. The Averaging Dates are [●]] [Not Applicable]
(d) Valuation Date(s):	[●]
(e) Valuation Time:	[●]
(f) Observation Period:	[●]
(g) Weighting:	[Not Applicable] [Weighting to be applied to each item comprising the Basket to ascertain the Debt Instrument Price is [●]] ( <i>N.B. Only applicable in relation to Debt Linked Notes relating to a Basket</i> )
(h) Exchange:	[●]
(i) Scheduled Trading Day:	[●]
(j) Relevant Screen Page:	[●]
(k) Redemption of Debt Instruments:	Where one or more of the relevant Debt Instruments is redeemed (or otherwise ceases to exist) before the expiration of the Notes, [ <i>insert appropriate fallback provisions</i> ]
(l) Other terms or special conditions:	[●]



29. GDR/ADR Linked Conditions: [Applicable] [Not Applicable]  
*(For GDR/ADR Linked Notes complete sections for Share Linked Notes (paragraph 27 above) (completed and amended as appropriate) and this Section)*
- (a) Partial Lookthrough: [Applicable] [Not Applicable]  
 (b) Full Lookthrough: [Applicable] [Not Applicable]
30. FX Linked Conditions: [Applicable] [Not Applicable]
- (a) Base Currency/Subject Currency: [●]  
 (b) Currency Price: [As specified in the FX Linked Conditions] *[specify other]*  
 (c) FX Market Disruption Event(s): *(N.B. Only complete if Inconvertibility Event/ Price Materiality Event/Non-Transferability Event and/or other disruption events should be included as FX Market Disruption Events)*  
 (i) Inconvertibility Event: [Applicable] [Not Applicable]  
 (ii) Price Materiality Event: [Applicable. Price Materiality Percentage: [●]] [Not Applicable]  
 (iii) Non-Transferability Event: [Applicable] [Not Applicable]  
 (iv) Other: [●]  
 (d) Disruption Fallbacks: (Specify the applicable Disruption Fallbacks in the order that they will apply)  
 [Calculation Agent Determination]  
 [Currency-Reference Dealers]  
 Reference Dealers: [four] *[specify other]*  
 [EM Fallback Valuation Postponement]  
 [EM Valuation Postponement]  
 [Fallback Reference Price]  
 Fallback Reference Price: [●]  
 [Other Published Sources]  
 [Postponement]  
 Maximum Days of Postponement: [●]  
 [Other]  
 (e) FX Price Source(s): [●]  
 (f) Specified Financial Centre(s): [●]  
 (g) Averaging: [Applicable. The Averaging Dates are [●]] [Not Applicable]  
 (h) Valuation Date(s): [●]  
 (i) Valuation Time: [●]  
 (j) Weighting: [Not Applicable] [The weighting to be applied to each item comprising the Basket to ascertain the Currency Price is [●]] *(N.B. Only applicable in relation to FX Linked Notes relating to a Basket)*  
 (k) EM Currency Provisions: [Applicable] [Not Applicable]  
 (i) Unscheduled Holiday: [Applicable. Maximum Days of Deferral: [●]] [Not Applicable]

- (ii) EM Valuation Postponement: [Applicable. Maximum Days of EM Valuation Postponement: [●]]  
[Not Applicable]
- (iii) EM Fallback Valuation Postponement: [Applicable. Fallback Maximum Period of Postponement: [As specified in the FX Linked Conditions] [*specify other*] [Not Applicable]]
- (iv) Cumulative Events: [Applicable. Maximum Days of Cumulative Postponement: [As specified in the FX Linked Conditions] [*specify other*] [Not Applicable]]
- (l) Successor Currency: [Applicable] [Not Applicable]  
[Issue Date/other]
- (m) Rebasing: [Applicable] [Not Applicable]
- (n) Additional Disruption Events: [Not Applicable]  
[The following Additional Disruption Events apply to the Notes:  
[Change in Law]  
[Hedging Disruption]  
[Increased Cost of Hedging]]
- (o) Other terms or special conditions: [●]
31. Commodity Linked Conditions: [Applicable] [Not Applicable]
- (a) Commodity/Basket of Commodities/Commodity Index/Basket of Commodity Indices: [●]
- (b) Commodity Reference Price: [●]
- (c) Price Source: [●]
- (d) Exchange: [●]
- (e) Delivery Date: [●]
- (f) Pricing Date: [●]
- (g) Common Pricing (Commodity Linked Condition 3(a): [Applicable] [Not Applicable] (*N.B. Only applicable in relation to Commodity Linked Notes relating to a Basket of Commodities or a Basket of Commodity Indices*)
- (h) Additional Commodity Market Disruption Events: [*Specify any additional Commodity Market Disruption Events*]
- (i) Disruption Fallback(s): [As specified in the Commodity Linked Conditions]/[*specify other*]  
[Fallback Reference Price: alternate Commodity Reference Price – [●]]  
[Commodity Cut-Off Date: [●]]  
[Commodity Index Cut-Off Date: [●]]
- (j) Additional Disruption Events in respect of a Commodity Index: [Not Applicable]  
[The following Additional Disruption Events apply to the Notes in respect of a Commodity Index:  
[Change in Law]  
[Hedging Disruption]  
[Increased Cost of Hedging]]

- (k) Commodity Business Day: ☐ *[If the Commodity Index linked, the Commodity Business Day should mirror the definition of Business Day as used in the Commodity Index]*
- (l) Weighting: ☐ [Not Applicable] [The weighting to be applied to each item comprising the Basket is ☐] *(N.B. Only applicable in relation to Commodity Linked Notes relating to a Basket)*
- (m) Specified Price: ☐ [high price]  
☐ [low price]  
☐ [average of the high price and the low price]  
☐ [closing price]  
☐ [opening price]  
☐ [bid price]  
☐ [asked price]  
☐ [average of the bid price and the asked price]  
☐ [settlement price]  
☐ [official settlement price]  
☐ [official price]  
☐ [morning fixing]  
☐ [afternoon fixing]  
☐ [spot price]  
☐ *[specify other]*
- (n) Other terms or special conditions: ☐
32. Fund Linked Conditions: ☐ [Applicable] ☐ [Not Applicable]
- (a) Fund/Basket of Funds: ☐  
☐ [[The ☐ Fund is an ETF]  
☐ [Exchange for each Fund Share: ☐
☐ [Related Exchange for each Fund Share: ☐ [All Exchanges]]  
☐ [Underlying Index: ☐
*(N.B. Include for Exchange Traded Funds (ETFs))*
- (b) Fund Interest(s): ☐
- (c) Fund Performance: ☐ [As specified in the Fund Linked Conditions]
- (d) Weighting: ☐ [Not Applicable] [The weighting to be applied to each Fund comprising the Basket of Funds is ☐
*(N.B. only applicable in relation to Fund Linked Notes relating to a Basket of Funds)*
- (e) Barrier Event (intraday): ☐ [Applicable] ☐ [Not Applicable]  
Barrier Event Determination Day: ☐ [As specified in the Fund Linked Conditions]
- (f) Barrier Event (closing): ☐ [Applicable] ☐ [Not Applicable]  
Barrier Event Determination Day: ☐ [Valuation Date]  
☐ [In respect of [the] [each] Fund Share, each Scheduled Trading Day for such Fund Share during an Observation Period that is not a Disrupted Day for such Fund Share]  
☐ [Each Common Scheduled Trading Day that is not a Disrupted Day for any Fund in the Basket of Funds during [the] [each] Observation Period]

- (g) Barrier Level: ☐ [Not Applicable]
- (h) Averaging: ☐ [Applicable] ☐ [Not Applicable]
- (i) Averaging Dates: ☐ [insert dates]
- (ii) Omission: ☐ [Applicable] ☐ [Not Applicable] *(N.B. May only be applicable in relation to Exchange Traded Funds (ETFs))*
- (iii) Postponement: ☐ [Applicable] ☐ [Not Applicable] *(N.B. May only be applicable in relation to Exchange Traded Funds (ETFs))*
- (iv) Modified Postponement: ☐ [Applicable] ☐ [Not Applicable] *(N.B. May only be applicable in relation to Exchange Traded Funds (ETFs))*
- (i) Valuation Date(s): ☐ [●]
- (j) Valuation Time: ☐ [As specified in the Fund Linked Conditions] ☐ [specify other] *(N.B. May only be applicable in relation to Exchange Traded Funds (ETFs))*
- (k) Observation Date(s): ☐ [●]
- (l) Observation Period: ☐ [Applicable: [Extension] [No Extension]] ☐ [Not Applicable]
- (i) Observation Period Start Date: ☐ [[●] ([Including] [Excluding])] ☐ [Not Applicable]
- (ii) Observation Period End Date: ☐ [[●] ([Including] [Excluding])] ☐ [Not Applicable]
- (m) Common Scheduled Trading Days: ☐ [Applicable. [Common] [Individual] Disrupted Days will apply] *(N.B. If Common Scheduled Trading Days are applicable, either Common or Individual Disrupted Days must be specified)* ☐ [Not Applicable]
- (N.B. May only be applicable in relation to Fund Linked Notes relating to a Basket)*
- (n) Additional Disruption Events: ☐ [Not Applicable]
- ☐ [The following Additional Disruption Events apply to the Notes:
- ☐ [Change in Law]
- ☐ [Hedging Disruption]
- ☐ [Increased Cost of Hedging]]
- (o) Other terms or special conditions: ☐ [Merger Event: Merger Date on or before [the Valuation Date] [other]]
33. Inflation Linked Conditions: ☐ [Applicable] ☐ [Not Applicable]
- (a) Inflation Index/Basket of Inflation Indices/Inflation Index Sponsor(s): ☐ [●]
- Inflation Index Sponsor: ☐ [●]
- (b) Related Bond: ☐ [Applicable] ☐ [Not Applicable]
- The Related Bond is: ☐ [●] [Fallback Bond]
- ☐ [Fallback Bond: [Applicable] [Not Applicable]]
- The End Date is: ☐ [●]
- (c) Determination Date(s): ☐ [●]

- (d) Cut-Off Date: ☐
- (e) Other terms or special conditions: ☐
34. Credit Linked Notes: ☐ ☐ [Applicable] [Not Applicable]
- [The provisions of Annex 9A – *Additional Terms and Conditions for Credit Linked Notes* shall apply]
- Type of Credit Linked Notes: ☐ [Single Name CLNs] ☐ [Nth to Default CLNs] ☐ [Linear Basket CLNs] ☐ [Tranched Portfolio CLNs]
- (a) Trade Date: ☐
- (b) Credit Observation Start Date: ☐
- (c) Scheduled Maturity Notice Date: ☐
- (d) CLN Maturity Date: ☐ [15 Business Days] ☐ [other]
- (e) Succession Event Backstop Date: ☐ [Not] subject to adjustment for non-Business Days in accordance with the Business Day Convention
- (f) Accrual of Interest upon Credit Event: ☐ ☐ [Applicable] [Not Applicable]
- ☐ [Not Applicable – paragraph 19 of the Credit Linked Note Conditions will apply] (*Include if Tranched Portfolio CLNs*)
- (g) Calculation Agent responsible for making calculations and determinations in respect of the Notes: ☐
- (h) Reference Entity(ies): ☐
- Transaction Type: ☐
- ☐ [Each Reference Entity contained in the Index and listed in the Relevant Annex (for which see below)] (*Include if the reference index is iTraxx®*)
- ☐ [As set out in the Relevant Annex (for which see below)] (*include if Tranched Portfolio CLNs or Linear Basket CLNs which are not referencing iTraxx®*)
- (i) Reference Obligation(s): ☐
- ☐ [As specified in the Relevant Annex] (*include if Tranched Portfolio CLNs*)
- [The obligation[s] identified as follows: ☐
- Primary Obligor: ☐
- Guarantor: ☐
- Maturity: ☐
- Coupon: ☐
- CUSIP/ISIN: ☐
- (j) Calculation Agent Determination: ☐ ☐ [Applicable] [Not Applicable]



- (k) Credit Event Backstop Date: [Not] [Subject to adjustment for non-Business Days in accordance with Business Day Convention]
- (l) All Guarantees: [As set forth in the Physical Settlement Matrix for the Transaction Type]/[Applicable] [Not Applicable]
- [In respect of each Reference Entity, as set out in the Physical Settlement Matrix for the relevant Transaction Type] *(include if Tranche Portfolio CLNs)*
- (m) Credit Events: [As set forth in the Physical Settlement Matrix for the Transaction Type]/[Bankruptcy]
- [Failure to Pay]
- Payment Requirement: [●]
- [Grace Period Extension [Applicable] [Not Applicable]]
- [If Applicable:
- Grace Period: [●]
- [Obligation Default]
- [Obligation Acceleration]
- [Repudiation/Moratorium]
- [Repudiation/Moratorium Extension Condition – delivery of Notice of Publicly Available Information] [Applicable] [Not Applicable]
- [Restructuring]
- Default Requirement: [●]
- Provisions relating to Credit Event Notice after Restructuring Credit Event: Credit Linked Condition 11 [Applicable] [Not Applicable]
  - Provisions relating to Multiple Holder Obligation: Credit Linked Condition 12 [Applicable] [Not Applicable]
  - [Restructuring Maturity Limitation and Fully Transferable Obligation [Applicable] [Not Applicable]]
  - [Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation [Applicable] [Not Applicable]]
- [In respect of each Reference Entity, as set out in the Physical Settlement Matrix for the relevant Transaction Type] *(include if Tranche Portfolio CLNs)*
- [other]
- (n) Conditions to Settlement: Notice of Publicly Available Information [Applicable] [Not Applicable]
- [If Applicable:
- Public Source(s): [●]]

Specified Number: [●]

[Officer's Certificate Applicable] [Not Applicable]

Notice Delivery Period: [[●] Business Days

Credit Cut-Off Date: [●]

(o) Obligation(s):

Obligation Category:

[select one only]:

[As set out in the Physical Settlement Matrix for the Transaction Type] [Payment]

[Payment]

[Borrowed Money]

[Reference Obligations Only]

[Bond]

[Loan]

[Bond or Loan]

[In respect of each Reference Entity, as set out in the Physical Settlement Matrix for the relevant Transaction Type] *(include if Trunched Portfolio CLNs)*

Obligation Characteristics:

[select all of which apply]:

[As set out in the Physical Settlement Matrix for the Transaction Type]

[Not Subordinated]

[Credit Linked Specified Currency:

*[specify currency]* [Standard Specified Currencies]

[Not Sovereign Lender]

[Not Domestic Currency:]

[Domestic Currency means: *[specify currency]*]

[Not Domestic Law]

[Domestic Law means *[specify law]*]

[Listed]

[Not Domestic Issuance]

[In respect of each Reference Entity, as set out in the Physical Settlement Matrix for the relevant Transaction Type] *(include if Trunched Portfolio CLNs)*

Additional Obligation(s):

[●]

(p) Excluded Obligation(s):

[●]

(q) Redemption following a Merger Event:

Credit Linked Note Condition 10 [Applicable] [Not Applicable]

*(If Applicable)*

[Merger Event Redemption Amount: [●]

[Merger Event Redemption Date: [●]]

(r) Unwind Costs:

[Standard Unwind Costs/other/Not Applicable]

- (s) Provisions relating to Monoline Insurer as Reference Entity: Credit Linked Note Condition 14 [Applicable] [Not Applicable]
- (t) Provisions relating to LPN Reference Entities: Credit Linked Note Condition 15 [Applicable] [Not Applicable]
- (u) Settlement Method: [Cash Settlement/Physical Settlement/Auction Settlement]
- (v) Fallback Settlement Method: [Cash Settlement/Physical Settlement]  
*Terms relating to Cash Settlement* (N.B. include if Cash Settlement is the Settlement Method or Fallback Settlement Method)
- (w) Credit Event Redemption Amount: [[●] per Calculation Amount] [As set forth in the Credit Linked Note Conditions]  
 [Not Applicable] (include if Tranche Portfolio CLNs)
- (x) Credit Event Redemption Date: [●] Business Days  
 [Not Applicable] (include if Tranche Portfolio CLNs)
- (y) Valuation Date: [Single Valuation Date:  
 [●] Business Days]  
 [Multiple Valuation Dates:  
 [●] Business Days; and each [●] Business Days thereafter  
 Number of Valuation Dates: [●]]  
 [Single Valuation Date, provided that the “Valuation Date” in respect of any Reference Obligation of a Reference Entity, shall be any Business Day falling on or before the 365th calendar day after the Event Determination Date or (following any Auction Cancellation Date or No Auction Announcement Date) after such Auction Cancellation Date or No Auction Announcement Date (as selected by the Calculation Agent in its sole discretion)] (include if Tranche Portfolio CLNs)
- (z) Valuation Time: [●]/[As per the Credit Linked Note Conditions]
- (aa) Quotation Method: [Bid/Offer/Mid-market]/[As per the Credit Linked Note Conditions]
- (bb) Quotation Amount: [[●]/Representative Amount]  
 [In respect of each obligation, an amount determined by the Calculation Agent in its sole and absolute discretion] (include if Tranche Portfolio CLNs)
- (cc) Minimum Quotation Amount: [●]/[As per the Credit Linked Note conditions]
- (dd) Quotation Dealers: [●]/[As per the Credit Linked Note conditions]
- (ee) Quotations: [Include Accrued Interest] [Exclude Accrued Interest]
- (ff) Valuation Method: [Market] [Highest]  
 [Average Market] [Highest] [Average Highest]

	[Blended Market] [Blended Highest]
	[Average Blended Market] [Average Blended Highest]
(gg) Provisions relating to Deliverable Obligations Portfolio Valuation:	Credit Linked Note Condition 16 [Applicable] [Not Applicable] [If Applicable:  Benchmark Obligation: [Reference Obligation] [Other]  <i>(N.B. Deliverable Obligation Category and Deliverable Obligation Characteristics should also be completed if Credit Linked Condition 16 applies)]</i>
<i>Terms relating to Auction Settlement</i>	
(hh) Auction Settlement Amount:	[●]
(ii) Auction Settlement Date:	[Five Business Days/other]
(jj) Other terms or special conditions:	[●]
<i>Terms relating to Physical Settlement</i>	
(kk) Physical Settlement Period:	[●] Business Days
(ll) Accrued Interest on Entitlement:	[Include Accrued Interest] [Exclude Accrued Interest]
(mm) Settlement Currency:	[●]
(nn) Deliverable Obligations:	
Deliverable Obligation Category	[As set out in the Physical Settlement Matrix for the Transaction Type] [Payment]
[select one only]:	[Borrowed Money] [Reference Obligations Only] [Bond] [Loan] [Bond or Loan]  [In respect of each Reference Entity, as set out in the Physical Settlement Matrix for the relevant Transaction Type] <i>(include if Trunched Portfolio CLNs)</i>
Deliverable Obligation Characteristics	[As set out in the Physical Settlement Matrix for the Transaction Type]
[select all of which apply]:	[Credit Linked Specified Currency: <i>[specify currency]</i> ]  [Standard Specified Currencies] [Not Sovereign Lender] [Not Domestic Currency]  Domestic Currency means: <i>[specify currency]</i>  [Not Domestic Law]  Domestic Law means: <i>[specify law]</i>

	[Listed]
	[Not Contingent]
	[Not Domestic Issuance]
	[Assignable Loan]
	[Consent Required Loan]
	[Direct Loan Participation]
	[Qualifying Participation Seller: Applicable] [Not Applicable <i>[insert requirements]</i> ]
	[Transferable]
	[Maximum Maturity: <input type="radio"/>
	[Accelerated or Matured]
	[Not Bearer]
	[In respect of each Reference Entity, as set out in the Physical Settlement Matrix for the relevant Transaction Type] <i>(include if Tranche Portfolio CLNs)</i>
Additional Deliverable Obligation(s):	<input type="radio"/>
(oo) Excluded Deliverable Obligation(s):	<input type="radio"/>
(pp) Indicative Quotations:	[Applicable] [Not Applicable]
(qq) Credit Cut-Off Date:	<input type="radio"/>
(rr) Guaranteed Cash Settlement Amount:	[As specified in Credit Linked Note Condition 5/ <input type="radio"/>
(ss) Delivery provisions for Entitlement if different from Physical Delivery Note Conditions:	<input type="radio"/>
(tt) Additional Disruption Events:	Change in Law: [Applicable] [Not Applicable]  Hedging Disruption: [Applicable] [Not Applicable]  Increased Cost of Hedging: [Applicable] [Not Applicable]
(uu) Nth-to-Default CLNs:	[Applicable] [Not Applicable]
N:	<input type="radio"/>
Substitution:	[Applicable] [Not Applicable]
Credit Spread Requirement:	<input type="radio"/> <i>(N.B. if Substitution applicable)</i>
(vv) Tranche Portfolio CLNs	[Applicable – paragraph 19 of the Credit Linked Note Conditions shall apply] [Not Applicable]  Attachment Point: <input type="radio"/>  Exhaustion Point: <input type="radio"/>  Interest Calculation Method: [Not Applicable][Weighted] <i>(Specify Weighted if the Interest Calculation Amount is the aggregate of the Outstanding Principal Amount with respect to each day during the Interest Period divided by the number of days in that Interest Period)</i>



“Final Redemption Amount” means a *pro rata* amount per Calculation Amount, of the Outstanding Principal Amount on the Final Redemption Date (which may be zero).

[Relevant Annex]:

[As set out at Part [●] below] (*include where bespoke portfolio of Reference Entities is required*)

[The list for the Index specified below with the Annex Date [●], as published by the Index Publisher (which can currently be accessed at <http://www.markit.com>)] (*include where the reference index is iTraxx®*)

[Additional requirements where Relevant Annex references iTraxx®:]

[Not Applicable][Applicable] (*if applicable, complete and include the items below*)

[Index: iTraxx Europe [●]]

Index Sponsor: International Index Company Ltd. or any successor thereto

Index Publisher: Markit Group Limited or any replacement therefore appointed by the Index Sponsor for the purposes of officially publishing the Relevant Index]

(ww) Linear Basket CLNs

[Applicable] [Not Applicable]

[Reference Entity Notional Amount: [●]] (*include if this is not Aggregate Nominal Amount divided by the number of Reference Entities*)

[Relevant Annex]:

[As set out at Part [●] below] (*include where bespoke portfolio of Reference Entities is required*)

[The list for the Index specified below with the Annex Date [●], as published by the Index Publisher (which can currently be accessed at <http://www.markit.com>)] (*include where the reference index is iTraxx®*)

[Additional requirements where Relevant Annex references iTraxx®:]

[Not Applicable][Applicable] (*if applicable, complete and include the items below*)

[Index: iTraxx Europe [●]]

Index Sponsor: International Index Company Ltd. or any successor thereto

Index Publisher: Markit Group Limited or any replacement therefore appointed by the Index Sponsor for the purposes of officially publishing the Relevant Index]

(xx) Other terms or special conditions:

[●]

## 35. Physical Delivery Notes:

[Applicable] [Not Applicable]

*(N.B. Not applicable to Credit Linked Notes or Swedish Notes)*[Cash Settlement] [Physical Delivery] [Cash Settlement and/or Physical Delivery] *(If Cash Settlement and/or Physical Delivery specified, specify details for determining in what circumstances Cash Settlement or Physical Delivery will apply)*[The provisions of Annex 10 of the Terms and Conditions - *Additional Terms and Conditions for Physical Delivery Notes* shall apply.]

(a) Relevant Asset(s):

[●]

(b) Entitlement:

[●]

(c) Cut-Off Date:

[●]

(d) Guaranteed Cash Settlement Amount:

[As specified in Note Condition 3][●]

(e) Failure to Deliver due to Illiquidity:

[Applicable] [Not Applicable]

(f) Delivery provisions for Entitlement if different from Physical Delivery Note Conditions:

[●]

(g) Settlement Business Day:

[●]

(h) Issuer's option to vary Settlement:

[Applicable] [Not Applicable]

(i) Other terms or special conditions:

[●]

**GENERAL PROVISIONS APPLICABLE TO THE NOTES**

## 36. Form of Notes:

[Temporary Global Note exchangeable for a Permanent Global Note which is exchangeable for Definitive Bearer Notes [on 60 calendar days' notice expiring at least 30 calendar days after the Exchange Date or upon an Exchange Event]]

[Temporary Global Note exchangeable for Definitive Bearer Notes on and after the Exchange Date]

[Permanent Global Note exchangeable for Definitive Bearer Notes [on 60 calendar days' notice expiring at least 30 calendar days after the Exchange Date or upon an Exchange Event]]

[Global Registered Note exchangeable for Definitive Registered Notes in the limited circumstances described in the Global Registered Note]

*(Ensure that this is consistent with the wording in the "Form of the Securities" section in the Base Prospectus and the Notes themselves.)***OR**

[Swedish Notes.

The Swedish Notes will be issued as Registered Notes in global registered form for the purpose of enabling issuance and clearing through the Swedish CSD via a link maintained between

- Euroclear and Euroclear Sweden. The beneficial owners' interests will be recorded in the registers of the Swedish CSD in dematerialised and uncertificated book-entry form in accordance with the Swedish Financial Instruments Accounts Act (in Swedish: *lag (1998:1479) om kontoföring av finansiella instrument*).]
37. New Global Note: [Yes] [No]
38. Payment Day: [Following] [Modified Following]
39. Additional Financial Centre(s) or other special provisions relating to Payment Days: [Not Applicable] [give details]
- (Note that this item relates to the place of payment and not Interest Period end dates to which items 17(c) and 19(f) relate)
40. Talons for future Coupons or Receipts to be attached to Definitive Bearer Notes (and dates on which such Talons mature): [Yes] [No] [If yes, give details]
41. Details relating to Partly Paid Notes: amount of each payment comprising the Issue Price and date on which each payment is to be made and consequences of failure to pay, including any right of the Issuer to forfeit the Notes and interest due on late payment: [Not Applicable] [give details]
- (NB: a new form of Temporary Global Note and/or Permanent Global Note may be required for Partly Paid issues)
42. Details relating to Instalment Notes:
- (a) Instalment Amount(s): [Not Applicable] [give details]
- (b) Instalment Date(s): [Not Applicable] [give details]
43. Redenomination: Redenomination [Applicable] [Not Applicable]
- [If Redenomination is applicable, specify the terms of Redenomination in the Final Terms]
44. Payment Disruption (Condition 6(I)): [Payment Disruption Event is applicable] [CNY Payment Disruption Event is applicable] [Not Applicable] [specify other]
- [If CNY Payment Disruption Event is applicable, include the following:]
- Where "CNY Settlement Centre" means [the Hong Kong Special Administrative Region] [●]
- (a) Base Currency/Subject Currency: [As specified under paragraph 30] [insert if FX Linked Provisions are not specified to be applicable]
- (b) Payment of Equivalent Amount: [Applicable] [Not Applicable]
- [If Payment of Equivalent Amount is applicable, include the following:]
- Equivalent Amount Settlement Rate: [As specified in Condition 6(I)] [specify other]
45. Exchange Rate: [Applicable] [Not Applicable] [Insert details]
46. Other final terms: [Not Applicable] [give details]
- (When adding any other final terms consideration should be given as to whether such amendments would be acceptable as Final Terms or whether

*such terms constitute “significant new factors” and consequently trigger the need for a supplement to the Base Prospectus under Article 16 of the Prospectus Directive or the use of a Securities Note or “unitary” Prospectus) (Consider including a term providing for tax certification if required to enable interest to be paid gross by issuers.)*

## DISTRIBUTION

47. Method of distribution: [Syndicated] [Non-syndicated]
48. (a) If syndicated, [names and addresses]\*\*\* of Managers [and underwriting commitments] \*\*\*: [Not Applicable] [give names, [and addresses and underwriting commitments]\*\*\*]  
*(Including names and addresses of entities agreeing to underwrite the issue on a firm commitment basis and names and addresses of the entities agreeing to place the issue without a firm commitment or on a “best efforts” basis if such entities are not the same as the Managers)\*\*\**
- (b) Date of Subscription Agreement\*\*\*: [●]
- (c) Stabilising Manager(s) (if any): [Not Applicable] [give name]
49. If non-syndicated, name [and address]\*\*\* of relevant Dealer: [Not Applicable] [give name [and address]\*\*\*]
50. Calculation Agent: [Merrill Lynch International] [specify other]
51. Total commission and concession:\*\* [●] per cent. of the Aggregate Nominal Amount\*\*
52. U.S. Selling Restrictions: [Regulation S Compliance Category [●]; TEFRA D] [TEFRA D not applicable]
53. Additional U.S. Tax considerations [Not Applicable] [give details]
54. Non exempt Offer:\*\* [Not Applicable] [An offer of the Notes may be made by the Managers [and [specify names [and addresses] of other financial intermediaries making non-exempt offers, to the extent known OR consider a generic description of other parties involved in non-exempt offers (e.g. “other parties authorised by the Managers”) or (if relevant) note that other parties may make non-exempt offers in the Public Offer Jurisdictions during the Offer Period, if not known]] (together with the Managers, the “**Financial Intermediaries**”) other than pursuant to Article 3(2) of the Prospectus Directive in [specify relevant Member State(s) – which must be jurisdictions where the Base Prospectus and any supplements have been passported (in addition to the jurisdiction where approved and published)] (“**Public Offer Jurisdictions**”) during the period from [specify date] until [specify date or a formula such as “the Issue Date” or “the date which falls [●] Business Days thereafter”] (“**Offer Period**”). See further Paragraph 9 of Part B below.
- (N.B. Consider any local regulatory requirements necessary to be fulfilled so as to be able to make a non-exempt offer in the relevant jurisdictions. No*

*such offer should be made in any relevant jurisdiction until those requirements have been met. Non-exempt offers may only be made into jurisdictions in which the base prospectus (and any supplement) has been notified/passported.)*

55. Additional selling restrictions:

[Not Applicable] *[give details]*

#### **PURPOSE OF FINAL TERMS**

These Final Terms comprise the final terms required for issue [and] [public offer in the Public Offer Jurisdictions] [and] [admission to the Official List and [trading on the regulated market of the Luxembourg Stock Exchange] [trading on the Luxembourg Stock Exchange's alternative market - Euro MTF]] of the Notes described herein pursuant to the Note, Warrant and Certificate Programme of Merrill Lynch S.A. and Merrill Lynch International & Co. C.V.

#### **RESPONSIBILITY**

[[Subject as provided below,] the Issuer accepts responsibility for the information contained in these Final Terms.] [The information relating to [●] [and [●]] contained herein has been accurately extracted from *[insert information source(s)]*. The Issuer accepts responsibility for the accuracy of such extraction but accepts no further or other responsibility in respect of such information.]

Signed on behalf of the Issuer:

By: .....

*Duly authorised*



## PART B – OTHER INFORMATION

### 1. LISTING AND ADMISSION TO TRADING

(i) Listing and Admission to trading:

[Application [has been]/[will be] made by the Issuer (or on its behalf) for the Notes to be admitted to trading on [the regulated market of/ the alternative market of], and listed on the Official List of, the Luxembourg Stock Exchange/ London Stock Exchange plc/Eurolist by Euronext Paris S.A./Euronext Amsterdam by NYSE Euronext [with effect from [●]].] [Application is expected to be made by the Issuer (or on its behalf) for the Notes to be admitted to trading on [the regulated market of/ the alternative market of,] and listed on the Official List of, the Luxembourg Stock Exchange/ London Stock Exchange plc/Eurolist by Euronext Paris S.A./ Euronext Amsterdam by NYSE Euronext with effect from [●]].] [Not Applicable.]

*(N.B. Notes issued by MLSA with over 364 days between Issue Date and Maturity Date must be listed on a “recognised stock exchange”).*

*(Where documenting a fungible issue need to indicate that original securities are already admitted to trading)*

(ii) Estimate of total expenses related to admission to trading:\*/\*\*\*\* [●]

### 2. RATINGS

Ratings:

[The Notes have not been rated.]

*(The above disclosure should be included in the event that the Notes have not been rated)*

[The Notes to be issued have been rated:

[S&P: [●]]

[Moody's: [●]]

[[Other: [●]]

*[Need to include a brief explanation of the meaning of the ratings if this has previously been published by the rating provider.]<sup>5</sup>*

[[Insert credit rating agency] is established in the European Union and has applied for registration under Regulation (EU) No. 1060/2009, as amended by Regulation (EU) No. 513/2011, although notification of the corresponding registration decision has not yet been provided by the relevant competent authority.] [[Insert credit rating agency] is established in the European Union and registered under Regulation (EU) No. 1060/2009, as amended by Regulation (EU) No. 513/2011.] [[Insert credit rating agency] is not established in the European Union and has not applied for registration under Regulation (EU) No. 1060/2009, as amended by Regulation (EU) No. 513/2011.] [[Insert credit

<sup>5</sup> Relevant only in regard to Notes with a denomination of less than €100,000 (or its equivalent in other countries).

*rating agency]* is not established in the European Union but *[insert endorsing credit rating agency]*, which is registered under Regulation (EU) No. 1060/2009, as amended by Regulation (EU) No. 513/2011, has indicated that it intends to endorse the ratings of *[insert credit rating agency]* where possible.]

In general, European regulated investors are restricted from using a rating for regulatory purposes if such rating is not issued by a credit rating agency established in the European Union and registered under Regulation (EU) No. 1060/2009 (as amended by Regulation (EU) No. 513/2011 the “**CRA Regulation**”) unless the rating is provided by a credit rating agency operating in the European Union before 7 June 2010 which has submitted an application for registration in accordance with the CRA Regulation and such registration is not refused.

*(The Programme is not currently rated, and therefore the above disclosure should only be included where the issue has been specifically rated)]*

[A rating is not a recommendation to buy, sell or hold the Notes and may be subject to suspension, change or withdrawal at any time by the assigning rating agency.]

### 3. **INTERESTS OF NATURAL AND LEGAL PERSONS INVOLVED IN THE ISSUE**

[Save for any fees payable to the [Managers] [Dealers], so far as the Issuer is aware, no person involved in the issue of the Notes has an interest material to the offer – *amend as appropriate if there are other interests*]

*[(When adding any other description, consideration should be given as to whether such matters described constitute “significant new factors” and consequently trigger the need for a supplement to the Base Prospectus under Article 16 of the Prospectus Directive or the use of a Securities Note or “unitary” prospectus.)]*

### 4. **REASONS FOR THE OFFER, ESTIMATED NET PROCEEDS AND TOTAL EXPENSES\*\*\***

(i) [Reasons for offer:

[●]]

*(See “Use of Proceeds of the Notes” wording in Base Prospectus – if reasons for offer different from making profit and/or hedging certain risks will need to include those reasons here)*

(ii) Estimated net proceeds:

[●]

*(If proceeds are intended for more than one use will need to split out and present in order or priority. If proceeds insufficient to fund all proposed uses state amount and sources of other funding)*

(iii) Estimated total expenses:

[●] *(Expenses are required to be broken down into each principal intended to “use” and presented in order of priority of such “uses”)*

*(N.B.: If the Notes are derivative securities to which Annex XII of the Prospectus Directive Regulation applies (i) above is required where the*

*reasons for the offer are different from making profit and/or hedging certain risks regardless of the minimum denomination of the securities and where this is the case disclosure of net proceeds and total expenses at (ii) and (iii) above are also required.)*

5. **YIELD** (*Fixed Rate Notes only*)\*\*\*\*

Indication of yield:

[●]

[Calculated as *[include details of method of calculation in summary form]* on the Issue Date.] \*\*

The yield is calculated at the Issue Date on the basis of the Issue Price. It is not an indication of future yield.

6. **HISTORIC INTEREST RATES** (*Floating Rate Notes only*)\*\*

Details of historic [EURIBOR] [LIBOR] [other] rates can be obtained from [Reuters].

7. **PERFORMANCE OF THE REFERENCE ITEM(S), EXPLANATION OF EFFECT ON VALUE OF INVESTMENT AND ASSOCIATED RISKS AND OTHER INFORMATION CONCERNING THE REFERENCE ITEM(S)**

*[Need to include details of where past and future performance and volatility of [the] [each] Reference Item can be obtained, the relevant weighting of each Reference Item within a basket of Reference Items and where pricing information is available]. [Need to include a clear and comprehensive explanation of how the value of the investment is affected by the underlying and the circumstances when the risks are most evident.]\*\*\**

*[Where the Reference Item is an index need to include the name of [the] [each] index, the name of [the] [each] index sponsor and a description if composed by the Issuer and if the index is not composed by the Issuer need to include details of where the information about [the] [each] index can be obtained.]\*\*\**

8. **OPERATIONAL INFORMATION**

(i) ISIN:

[●]

(ii) Common Code:

[●]

(iii) Any clearing system(s) other than Euroclear Bank SA/NV, Clearstream Banking, *société anonyme*, and the relevant identification number(s):

[Not Applicable] *[give name(s) and number(s)]*

(iv) Delivery:

Delivery [against] [free of] payment

(v) Names and addresses of initial Paying Agents:

(vi) Registrar:

[●]

(vii) Names and addresses of additional Paying Agent(s) (if any):

[●]

(viii) Intended to be held in a manner which would allow Eurosystem eligibility.

[Yes] [No]

[Note that the designation “yes” simply means that the Notes are intended upon issue to be deposited with one of the ICSDs as common safekeeper and does not necessarily mean that the Notes will be recognised as eligible collateral for Eurosystem monetary policy and intra-day

credit operations by the Eurosystem either upon issue or at any or all times during their life. Such recognition will depend upon satisfaction of the Eurosystem eligibility criteria.] *[include this text if “yes” selected in which case the Notes must be issued in NGN form]*

9. **TERMS AND CONDITIONS OF THE OFFER (*Public Offer only*)\*\***

Offer Price: [Issue Price] [Not Applicable] *[specify]*

[Conditions to which the offer is subject:] [Not Applicable] *[give details]*

[Description of the application process:] [Not Applicable] *[give details]*

[Details of the minimum and/or maximum amount of application:] [Not Applicable] *[give details]*

[Description of possibility to reduce subscriptions and manner for refunding excess amount paid by applicants:] [Not Applicable] *[give details]*

[Details of the method and time limits for paying up and delivering the Notes:] [Not Applicable] *[give details]*

[Manner and date in which results of the offer are to be made public:] [Not Applicable] *[give details]*

[Procedure for exercise of any right of pre-emption, negotiability of subscription rights and treatment of subscription rights not exercised:] [Not Applicable] *[give details]*

[Categories of potential investors to which the Notes are offered and whether tranche(s) have been reserved for certain countries:] [Not Applicable] *[give details]*

[Process for notification to applicants of the amount allotted and indication whether dealing may begin before notification is made:] [Not Applicable] *[give details]*

[Amount of any expenses and taxes specifically charged to the subscriber or purchaser:] [Not Applicable] *[give details]*

[Name(s) and address(es), to the extent known to the Issuer, of the placers in the various countries where the offer takes place.] [None] *[give details]*

\* *Delete if minimum denomination is less than €100,000 (or its equivalent in the relevant currency as at the date of issue)*

\*\* *Delete if minimum denomination is €100,000 (or its equivalent in the relevant currency as at the date of issue)*

\*\*\* *Delete if minimum denomination is €100,000 (or its equivalent in the relevant currency as at the date of issue) or if the securities are not Derivative Securities*

\*\*\*\* *Delete if the securities are Derivative Securities*

**[Schedule Index Disclaimer]** *(include if iTraxx is referenced)*

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**ANNEX**

*[This Annex shall be included after publication of any supplement to the Base Prospectus dated 24 May 2012.]*

The Base Prospectus dated 24 May 2012 has been supplemented by the following supplement(s):

<b>Supplement</b>	<b>Description</b>	<b>Date</b>
Supplement No. [●]	In respect of <i>[insert short description of content]</i>	[●]

**[ANNEX – REFERENCE PORTFOLIO]** *(include if (i) reference is not made to a Relevant Annex or (ii) if preferred for the purposes of disclosure)*

Reference Entity	Reference Obligation Primary Obligor (Issuer)	Reference Obligation Guarantor (if any)	Reference Obligation ISIN	Reference Obligation Maturity	Reference Obligation Coupon (%)	Transaction Type	Reference Entity Weighting (%)
[●]	[●]	[●]	[●]	[●]	[●]	[●]	[●]

## TERMS AND CONDITIONS OF THE NOTES

*The following are the “Terms and Conditions of the Notes” which will be incorporated by reference into each Global Note (as defined below), each Bearer Note (as defined below) in definitive form (a “Definitive Bearer Note”) and each individual note certificate (an “Individual Note Certificate”) representing a Registered Note (as defined below) in definitive form (a “Definitive Registered Note”), and in the case of Definitive Bearer Notes or Individual Note Certificates only if permitted by the relevant stock exchange or other relevant authority (if any) and agreed by MLSA and the relevant Dealer at the time of issue but, if not so permitted and agreed, such Definitive Bearer Note or Individual Note Certificate will have endorsed thereon or attached thereto such Terms and Conditions. The Terms and Conditions will also apply to, and be incorporated by reference into, Swedish Notes (as defined below). The applicable Final Terms (as defined below) in relation to any Tranche (as defined below) of Notes may specify other terms and conditions (including the Additional Terms and Conditions described below) which shall, to the extent so specified or to the extent inconsistent with the following Terms and Conditions, replace or modify the following Terms and Conditions for the purpose of such Notes. The Registration Document (the “Registration Document”) relating to the Programme and applicable Summary (if applicable) and Securities Note (the “Securities Note”) relating to a particular series of Notes may also be used in connection with the issue of Notes under the Programme and such applicable Securities Note may specify other terms and conditions which shall, to the extent so specified or to the extent inconsistent with the following Terms and Conditions, replace or modify the following Terms and Conditions for the purpose of such Notes. To the extent that Notes are issued pursuant to a Securities Note, references in the following Terms and Conditions to the “Final Terms” shall be read as references to the “Securities Note” in respect of such series of Notes, and all such references shall be construed accordingly. The applicable Final Terms (or the relevant provisions thereof) will be endorsed upon, or attached to, each Global Note, Definitive Bearer Note and Individual Note Certificate and will constitute a part of the Conditions of the Swedish Notes. Reference should be made to “Form of the Notes” for a description of the content of Final Terms which will specify which of such terms are to apply in relation to the relevant Notes.*

*The Additional Terms and Conditions (the “Additional Terms and Conditions”) contained in Annex 1 in the case of Index Linked Notes, Annex 2 in the case of Share Linked Notes, Annex 3 in the case of Debt Linked Notes, Annex 4 in the case of GDR/ADR Linked Notes, Annex 5 in the case of FX Linked Notes, Annex 6 in the case of Commodity Linked Notes, Annex 7 in the case of Fund Linked Notes, Annex 8 in the case of Inflation Linked Notes, Annex 9A in the case of Credit Linked Notes and Annex 10 in the case of Physical Delivery Notes (each as defined below) will apply to the Notes if specified in the applicable Final Terms.*

This Note is one of a Series (as defined below) of notes (the “**Notes**”) issued by Merrill Lynch S.A. (“**MLSA**” or the “**Issuer**”).

References herein to the “Notes” shall be references to the Notes of a Series and shall mean:

- (a) in relation to any Bearer Note or Registered Note represented by a global Note (a “**Global Note**”), units of each Specified Denomination in the Specified Currency;
- (b) any Global Note;
- (c) any Definitive Bearer Notes or Definitive Registered Notes issued in exchange for a Global Note; and
- (d) any Swedish Note.

The Notes, the Receipts (as defined below) and the Coupons (as defined below) have the benefit of an Amended and Restated Agency Agreement dated 24 May 2012 (such agency agreement as amended and/or supplemented and/or restated from time to time, the “**Agency Agreement**”) and made among MLSA, Merrill Lynch International & Co. C.V., Bank of America Corporation (“**BAC**” or the “**Guarantor**”), Deutsche Bank AG, London Branch as principal paying agent (the “**Principal Paying Agent**”) and if so specified in the applicable Final Terms, as calculation agent (the “**Calculation Agent**”), Deutsche Bank Luxembourg, S.A., Skandinaviska Enskilda Banken AB (publ) as Swedish paying agent (the “**Swedish Paying Agent**”) (together with the Principal Paying Agent, the “**Paying Agents**” which expression shall include any additional or successor paying agents), Deutsche Bank, Luxembourg S.A. as registrar (the “**Registrar**”) and the other agents named therein. References herein to the “**Agents**” are to the Registrar, the Paying Agents and any reference to an “**Agent**” is to any one of them.

Interest bearing Definitive Bearer Notes have interest coupons (“**Coupons**”) and, if indicated in the applicable Final Terms, talons for further Coupons (“**Talons**”) attached on issue. Any reference herein to Coupons or coupons shall, unless the context otherwise requires, be deemed to include a reference to Talons or talons. Definitive Bearer Notes repayable in instalments have receipts (“**Receipts**”) for the payment of the instalments of principal (other than the final instalment) attached on issue. Global Notes do not have Receipts, Coupons or Talons attached.

The applicable Final Terms (the “**Final Terms**”) for the Notes (or the relevant provisions thereof) are set out in Part A of the Final Terms attached to, endorsed on or constituting a part of the Note which supplement these Terms and Conditions (the “**Terms and Conditions**”, or the “**Conditions**”) and may specify other terms and conditions which shall, to the extent so specified or to the extent inconsistent with these Terms and Conditions, replace or modify these Terms and Conditions for the purposes of the Note. References to the “applicable Final Terms” are to Part A of the Final Terms (or the relevant provisions thereof) attached to, endorsed on or constituting a part of the Note.

The Additional Terms and Conditions will apply to the Notes to the extent specified in the applicable Final Terms, and such Additional Terms and Conditions, as applicable, shall form part of the Terms and Conditions.

The payment of principal, interest and all other amounts payable and/or delivery of non-cash consideration deliverable in respect of the Notes are unconditionally and irrevocably guaranteed by BAC pursuant to a guarantee (the “**Guarantee**”) dated 24 May 2012 executed by BAC. The original of the Guarantee is held by the Principal Paying Agent on behalf of the Noteholders, the Receiptholders and the Couponholders at its specified office.

Any reference to “**Noteholders**” or “**Holders**” in relation to any Bearer Notes shall mean the bearers of the Notes and, in relation to any Registered Notes, shall mean the person in whose name a Registered Note is registered and in relation to any Notes represented by a Global Note, shall be construed as provided below. Any reference herein to “**Receiptholders**” shall mean the holders of the Receipts and any reference herein to “**Couponholders**” shall mean the holders of the Coupons and shall, unless the context otherwise requires, include the holders of the Talons.

As used herein, “**Tranche**” means Notes which are identical in all respects (including as to listing and admission to trading) and “**Series**” means a Tranche of Notes together with any further Tranche or Tranches of Notes which are (i) expressed to be consolidated and form a single series and (ii) identical in all respects (including as to listing and admission to trading) except for their respective Issue Dates, Interest Commencement Dates and/or Issue Prices (each as defined below).

The Noteholders, the Receiptholders and the Couponholders are entitled to the benefit of the Notes Deed of Covenant (the “**Notes Deed of Covenant**”) dated 24 May 2012 and made by the Issuer. The original of the Notes Deed of Covenant is held by a common depositary for Euroclear and Clearstream, Luxembourg (each as defined below) (the “**Common Depositary**”).

Copies of the Agency Agreement, the Guarantee and the Notes Deed of Covenant are available for inspection during normal business hours at the specified office of each of the Paying Agents and the Registrar. Copies of the applicable Final Terms are available for viewing at the specified office of the Issuer, the Paying Agents or the Registrar (as applicable) and copies may be obtained from those specified offices save that, if the Note is neither admitted to trading on a regulated market in the European Economic Area nor offered in the European Economic Area in circumstances where a prospectus is required to be published under the Prospectus Directive, the applicable Final Terms will only be obtainable by a Noteholder holding one or more Notes and such Noteholder must produce evidence satisfactory to the Issuer, the relevant Paying Agent or the Registrar (as applicable) as to its holding of such Notes and identity. The Base Prospectus and, in the case of Notes admitted to trading on the regulated market of the Luxembourg Stock Exchange, the applicable Final Terms will also be published on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)). The Noteholders, the Receiptholders and the Couponholders are deemed to have notice of, and are entitled to the benefit of, all the provisions of the Agency Agreement, the Guarantee, the Notes Deed of Covenant and the applicable Final Terms which are applicable to them. The statements in these Terms and Conditions include summaries of, and are subject to, the detailed provisions of the Agency Agreement.

Words and expressions defined in the Agency Agreement or used in the applicable Final Terms shall have the same meanings where used in these Terms and Conditions unless the context otherwise requires or unless otherwise stated and provided that, in the event of inconsistency between the Agency Agreement and the applicable Final Terms, the applicable Final Terms will prevail.

1. **Form, Denomination and Title**

The Notes are issued in bearer form (“**Bearer Notes**”) or registered form (“**Registered Notes**”) and, in the case of Definitive Bearer Notes and Individual Note Certificates, serially numbered, in the Specified Currency and the Specified Denomination(s). Notes of one Specified Denomination may not be exchanged for Notes of another Specified Denomination. Bearer Notes with maturities of 183 calendar days or less will have a minimum denomination of U.S.\$500,000 (or its equivalent in other currencies). Unless otherwise specified in the applicable Final Terms, the Notes will be issued in Classic Global Note (“**CGN**”) form.

The Notes may be Fixed Rate Notes, Floating Rate Notes, Zero Coupon Notes, Index Linked Interest Notes, Share Linked Interest Notes, Debt Linked Interest Notes, GDR/ADR Linked Interest Notes, FX Linked Interest Notes, Commodity Linked Interest Notes, Fund Linked Interest Notes, Inflation Linked Interest Notes, interest bearing Credit Linked Notes or a combination of any of the foregoing depending on the Interest Basis specified in the applicable Final Terms.

The Notes may be Instalment Notes, Partly Paid Notes, Index Linked Redemption Notes (together with Index Linked Interest Notes, “**Index Linked Notes**”), Share Linked Redemption Notes (together with Share Linked Interest Notes, “**Share Linked Notes**”), Debt Linked Redemption Notes (together with Debt Linked Interest Notes, “**Debt Linked Notes**”), GDR/ADR Linked Redemption Notes (together with GDR/ADR Linked Interest Notes, “**GDR/ADR Linked Notes**”), FX Linked Redemption Notes (together with FX Linked Interest Notes, “**FX Linked Notes**”), Commodity Linked Redemption Notes (together with Commodity Linked Interest Notes, “**Commodity Linked Notes**”), Fund Linked Redemption Notes (together with Fund Linked Interest Notes, “**Fund Linked Notes**”), Inflation Linked Redemption Notes (together with Inflation Linked Interest Notes, “**Inflation Linked Notes**”), Credit Linked Notes, or a combination of any of the foregoing, depending upon the Redemption/Payment Basis specified in the applicable Final Terms.

Definitive Bearer Notes are issued with Coupons attached, unless they are Zero Coupon Notes in which case references to Coupons and Couponholders in these Terms and Conditions are not applicable.

If the applicable Final Terms specifies that the Note is a Physical Delivery Note, being a Note to be redeemed by delivery of the Entitlement, Annex 10 to the Terms and Conditions – “*Additional Terms and Conditions for Physical Delivery Notes*” shall apply.

Subject as set out below:

- (a) title to the Bearer Notes, Receipts and Coupons will pass by delivery. The Issuer, the Guarantor and the Paying Agents will (except as otherwise required by law) deem and treat the bearer of any Bearer Note, Receipt or Coupon as the absolute owner thereof (whether or not overdue and notwithstanding any notice of ownership or writing thereon or notice of any previous loss or theft thereof) for all purposes except in the case of any Global Note, as provided below;
- (b) title to Registered Notes shall, subject to mandatory rules of law, pass by registration in the Register that MLSA shall procure to be kept by the Registrar in accordance with the provisions of the Agency Agreement.

For so long as any of the Notes is represented by a Global Note held on behalf of Euroclear Bank SA/NV. (“**Euroclear**”) and/or Clearstream Banking, *société anonyme* (“**Clearstream, Luxembourg**”) and/or Euroclear France S.A. (“**Euroclear France**”), each person (other than Euroclear, Clearstream, Luxembourg or Euroclear France) who is for the time being shown in the records of Euroclear, Clearstream, Luxembourg or Euroclear France as the holder of a particular nominal amount of such Notes (in which regard any certificate or other document issued by Euroclear, Clearstream, Luxembourg or Euroclear France as to the nominal amount of such Notes standing to the account of any person shall be conclusive and binding for all purposes save in the case of manifest or proven error) shall be treated by the Issuer, the Guarantor, the Registrar and the Paying Agents, as applicable, as the holder of such nominal amount of such Notes for all purposes other than with respect to the payment of principal or interest on such nominal amount of such Notes, for which purpose the bearer of the relevant Global Bearer Note or the registered holder of the relevant Global Registered Note shall be treated by the Issuer, the Guarantor, the Registrar and any Paying Agent, as applicable, as the holder of such nominal amount of such Notes in accordance



with and subject to the terms of the relevant Global Note (and the expression “**Holder**” and related expressions shall be construed accordingly).

Any reference herein to Euroclear and/or Clearstream, Luxembourg and/or Euroclear France shall, whenever the context so permits, be deemed to include a reference to any additional or alternative clearing system approved by the Issuer and the Registrar or the Principal Paying Agent, as applicable, from time to time and notified to the Noteholders in accordance with Condition 14.

*Swedish Note(s)*

If the applicable Final Terms indicates that the Notes are to be issued into and cleared through the Swedish CSD, such Series of Notes (“**Swedish Notes**”) will be issued as Registered Notes in global registered form. A link will be maintained between Euroclear and the Swedish CSD for the purpose of maintaining computerised book-entry records of the beneficial owners’ interests in the Swedish Notes. The beneficial owners’ interests will be recorded in the register of the Swedish CSD in dematerialised and uncertificated book-entry form in accordance with the Swedish CSD Rules.

For so long as any of the Swedish Notes is represented by a Global Registered Note held on behalf of Euroclear, each person who is for the time being shown in the records of the Swedish CSD as the holder of a particular nominal amount of such Notes (in which regard any electronic records, record statement, certificate or other information issued by the Swedish CSD as to the nominal amount of such Notes standing to the account of any person (including but not limited to any person duly authorised to act as a nominee (in Swedish: *förvaltare*) or otherwise entitled in respect of such Notes) shall be conclusive and binding for all purposes save in the case of manifest or proven error) shall be treated by the Issuer, the Guarantor, the Registrar and the Paying Agents, as applicable, as the holder of such nominal amount of such Notes for all purposes other than with respect to the payment of principal or interest on such nominal amount of such Notes, for which purpose the registered holder of the relevant Global Registered Note shall be treated by the Issuer, the Guarantor, the Registrar and any Paying Agent, as applicable, as the holder of such nominal amount of such Notes in accordance with and subject to the terms of the relevant Global Registered Note (and the expression “**Holder**” and related expressions shall be construed accordingly). Unless explicitly allowed under the Swedish CSD Rules, no beneficial owner is entitled to transfer its beneficial interests in any Swedish Note directly to the records of Euroclear and thereby removing such beneficial interests from the Swedish Register.

All Swedish Notes of the same Series shall have the same denomination. For so long as it is a requirement under the Swedish CSD Rules, the specified currency for Swedish Notes may only be SEK or EUR, as specified in the relevant Final Terms.

The Issuer shall be entitled to obtain information from the Swedish Register in accordance with the Swedish CSD Rules.

If Notes are Swedish Notes, they will be Cash Settled Notes.

As used in the Terms and Conditions, the following expressions have the following meanings:

“**Register**” means the register held by the Registrar in respect of Registered Notes.

“**Swedish CSD**” means the Swedish central securities depository (*central värdepappersförvarare*) which is expected to be Euroclear Sweden AB.

“**Swedish CSD Rules**” means the Swedish Financial Instruments Accounts Act (in Swedish: *lag (1998:1479) om kontoföring av finansiella instrument*) and any regulations, rules and operating procedures applicable to and issued by the Swedish CSD from time to time.

“**Swedish Register**” means the book-entry register maintained by the Swedish CSD on behalf of the Issuer in respect of Swedish Notes in accordance with Swedish CSD Rules.

For the purposes of this Condition 1:

“**Commodity Linked Interest Notes**” means any Notes in respect of which the “Interest Linked to one or more Reference Item(s) provisions” are specified to be applicable and the “Interest Basis” is specified to be “Commodity Linked” in the applicable Final Terms.

“**Commodity Linked Redemption Notes**” means any Notes in respect of which the “Redemption/ Payment Basis” is specified to be “Commodity Linked” in the applicable Final Terms.

**“Credit Linked Notes”** means any Notes in respect of which the Additional Terms and Conditions set forth in “Annex 9A – Credit Linked Notes Conditions” are specified as being applicable in the applicable Final Terms.

**“Debt Linked Interest Notes”** means any Notes in respect of which the “Interest Linked to one or more Reference Item(s) provisions” are specified to be applicable and the “Interest Basis” is specified to be “Debt Linked” in the applicable Final Terms.

**“Debt Linked Redemption Notes”** means any Notes in respect of which the “Redemption/Payment Basis” is specified to be “Debt Linked” in the applicable Final Terms.

**“Fund Linked Interest Notes”** means any Notes in respect of which the “Interest Linked to one or more Reference Item(s) provisions” are specified to be applicable and the “Interest Basis” is specified to be “Fund Linked” in the applicable Final Terms.

**“Fund Linked Redemption Notes”** means any Notes in respect of which the “Redemption/Payment Basis” is specified to be “Fund Linked” in the applicable Final Terms.

**“FX Linked Interest Notes”** means any Notes in respect of which the “Interest Linked to one or more Reference Item(s) provisions” are specified to be applicable and the “Interest Basis” is specified to be “FX Linked” in the applicable Final Terms.

**“FX Linked Redemption Notes”** means any Notes in respect of which the “Redemption/Payment Basis” is specified to be “FX Linked” in the applicable Final Terms.

**“GDR/ADR Linked Interest Notes”** means any Notes in respect of which the “Interest Linked to one or more Reference Item(s) provisions” are specified to be applicable and the “Interest Basis” is specified to be “GDR/ADR Linked” in the applicable Final Terms.

**“GDR/ADR Linked Redemption Notes”** means any Notes in respect of which the “Redemption/Payment Basis” is specified to be “GDR/ADR Linked” in the applicable Final Terms.

**“Index Linked Interest Notes”** means any Notes in respect of which the “Interest Linked to one or more Reference Item(s) provisions” are specified to be applicable and the “Interest Basis” is specified to be “Index Linked” in the applicable Final Terms.

**“Index Linked Redemption Notes”** means any Notes in respect of which the “Redemption/Payment Basis” is specified to be “Index Linked” in the applicable Final Terms.

**“Inflation Linked Interest Notes”** means any Notes in respect of which the “Interest Linked to one or more Reference Item(s) provisions” are specified to be applicable and the “Interest Basis” is specified to be “Inflation Linked” in the applicable Final Terms.

**“Inflation Linked Redemption Notes”** means any Notes in respect of which the “Redemption/Payment Basis” is specified to be “Inflation Linked” in the applicable Final Terms.

**“Share Linked Interest Notes”** means any Notes in respect of which the “Interest Linked to one or more Reference Item(s) provisions” are specified to be applicable and the “Interest Basis” is specified to be “Share Linked” in the applicable Final Terms.

**“Share Linked Redemption Notes”** means any Notes in respect of which the “Redemption/Payment Basis” is specified to be “Share Linked” in the applicable Final Terms.

## 2. Exchange and Transfer of Notes

### (A) *Exchange of Notes*

Registered Notes may not be exchanged for Bearer Notes and Bearer Notes may not be exchanged for Registered Notes.

### (B) *Transfer of Notes*

#### (a) *Notes held in Euroclear, the Swedish CSD, Clearstream, Luxembourg and Euroclear France*

Notes which are represented by a Global Note will be transferable only in accordance with the rules and procedures for the time being of Euroclear, Clearstream, Luxembourg and Euroclear France, as the case may be.

Transfers of beneficial interests in Swedish Notes are effected upon entry in the book-entry system maintained by the Swedish CSD of an account transfer from a Holder's book-entry securities account to another securities book-entry account (except where beneficial interests in the Swedish Notes are nominee-registered and are transferred from one account to another account with the same nominee) in accordance with the Swedish CSD Rules. No Holder may require the transfer of beneficial interests in a Swedish Note to be registered during a closed period pursuant to the Swedish CSD Rules or as stipulated in these Terms and Conditions.

(b) *Transfer of Definitive Registered Notes*

Transfers of Definitive Registered Notes are effected upon (i) the surrender (at the specified office of the Registrar) of the Individual Note Certificate representing such Definitive Registered Notes to be transferred together with the form of transfer (which shall be available at the specified office of the Registrar) endorsed on such Individual Note Certificate (or another form of transfer substantially in the same form and containing the same representations and certifications (if any), unless otherwise agreed by the Issuer), duly completed and executed and any other evidence as the Registrar may reasonably require, (ii) the recording of such transfer in the Register and (iii) issuance of a new Individual Note Certificate to the transferee.

(c) *Partial Transfer of Definitive Registered Notes*

In the case of a transfer of part only of a holding of Definitive Registered Notes represented by one Individual Note Certificate, a new Individual Note Certificate shall be issued to the transferee in respect of the part transferred and a further new Individual Note Certificate in respect of the balance of the holding not transferred shall be issued to the transferor.

(d) *Delivery of New Individual Note Certificates*

Each new Individual Note Certificate to be issued pursuant to this Condition 2(B) shall be available for delivery within three Business Days of receipt of the form of transfer and surrender of the Individual Note Certificate for exchange. Delivery of the new Individual Note Certificate(s) shall be made at the specified office of the Registrar to whom delivery or surrender of such request for exchange, form of transfer, or Individual Note Certificate shall have been made or, at the option of the Holder making such delivery or surrender as aforesaid and as specified in the relevant request for exchange, form of transfer or otherwise in writing, be mailed by uninsured post at the risk of the Holder entitled to the new Individual Note Certificate (as applicable) to such address as may be so specified, unless such Holder requests otherwise and pays in advance to the Registrar the costs of such other method of delivery and/or such insurance as it may specify.

(e) *Closed Periods in respect of Definitive Registered Notes*

No Holder may require the transfer of a Definitive Registered Note to be registered:

- (i) during the period of 15 calendar days ending on the due date for redemption of, or payment of any Instalment Amount in respect of, that Note;
- (ii) during the period of 15 calendar days before any date on which Notes may be called for redemption by the Issuer at its option pursuant to Condition 7(D) (*Redemption at the Option of the Issuer (Issuer Call)*);
- (iii) after any such Note has been called for redemption; or
- (iv) during the period of seven days ending on (and including) any Record Date.

(f) *Exchange or Transfer Free of Charge*

Exchange and transfer of Notes on registration, transfer, partial redemption, settlement or exercise of an option (as applicable) shall be effected without charge by or on behalf of the Issuer, or the Registrar, but upon payment of any tax or other governmental charges that may be imposed in relation to it (or the giving of such indemnity as the Registrar may require).

### 3. Status of the Notes and the Guarantee

#### (A) Status of the Notes and Guarantee

The Notes constitute direct, unsubordinated, unconditional and unsecured obligations of the Issuer and rank equally among themselves and rank equally (subject to exceptions as are from time to time provided by applicable laws and regulations) with all other present and future direct, unsubordinated, unconditional and unsecured obligations of the Issuer.

The obligations of the Guarantor under the Guarantee, save for such exceptions as may be provided by applicable laws and regulations or judicial order, will rank *pari passu* with its other present and future unsecured and unsubordinated obligations.

#### (B) Terms of the Guarantee

Under the Guarantee, the Guarantor has unconditionally and irrevocably guaranteed to the Noteholders, (i) the due and punctual payment of any and all amounts payable by the Issuer as obligor in respect of the Notes and (ii) subject as provided below, the due and punctual delivery of non-cash consideration deliverable by the Issuer in respect of the Notes, if applicable, when and as the same shall become due and payable or when the same shall become due for delivery pursuant to the Conditions and to the extent provided in the Guarantee. As more fully set forth in the Guarantee, the Guarantor shall at all times have the right, at its sole and unfettered discretion, to elect not to deliver or procure delivery of the Entitlement to the holders of such Physical Delivery Notes when the same shall become due and deliverable, but in lieu thereof to pay an amount in cash equal to the Guaranteed Cash Settlement Amount. The “**Guaranteed Cash Settlement Amount**” in respect of each Note means an amount calculated pursuant to the terms of, or as specified in, the applicable Final Terms or Securities Note (or, in respect of each Credit Linked Note, as set out in Condition 5 (*Conditions to Settlement – Physical Settlement*) of Annex 9A – *Additional Terms and Conditions for Credit Linked Notes*) or, if not specified in the applicable Final Terms or Securities Note, an amount equal to the fair market value of the Entitlement in respect of such Note on any date notified as such by the Guarantor to the Issuer and the Calculation Agent, less the cost to the Issuer and/or its Affiliates or agents of unwinding or adjusting any underlying or related hedging arrangements (including the cost of funding in respect of such hedging arrangements), all as determined by the Guarantor in its sole and absolute discretion. Any payment of the Guaranteed Cash Settlement Amount in lieu of the Entitlement shall constitute a complete discharge of the Guarantor’s obligations in respect of such Physical Delivery Notes.

### 4. Redenomination

#### (A) Redenomination

Where redenomination is specified in the applicable Final Terms as being applicable, the Issuer may, without the consent of the Noteholders, the Receiptholders and the Couponholders on giving prior notice to the Principal Paying Agent, Registrar, Euroclear and Clearstream, Luxembourg and at least 30 calendar days’ prior notice to the Noteholders in accordance with Condition 14, elect that, with effect from the Redenomination Date specified in the notice, the Notes shall be redenominated in euro. Notwithstanding the foregoing, Bearer Notes will not be redenominated at the election of the Issuer pursuant to this Condition 4 unless the Issuer receives an opinion of United States tax counsel recognised as an expert in such matters addressing the consequences of such redenomination under U.S. Treasury Regulation section 1.163-5(c)(2)(i)(D).

The election will have effect as follows:

- (a) the Notes and the Receipts shall be deemed to be redenominated in euro in the denomination of €0.01 with a nominal amount for each Note and Receipt equal to the nominal amount of that Note or Receipt in the Specified Currency, converted into euro at the Established Rate, provided that, if the Issuer determines, with the agreement of the Principal Paying Agent or Registrar, as applicable, that the then market practice in respect of the redenomination in euro of internationally offered securities is different from the provisions specified above, such provisions shall be deemed to be amended so as to comply with such market practice and the Issuer shall promptly notify the Noteholders, the stock exchange (if any) on which the Notes may be listed, the Registrar and the Paying Agents of such deemed amendments;
- (b) save to the extent that an Exchange Notice has been given in accordance with paragraph (d) below, the amount of interest due in respect of the Notes will be calculated by reference to the

aggregate nominal amount of Notes presented (or, as the case may be, in respect of which Coupons are presented) for payment by the relevant holder and the amount of such payment shall be rounded down to the nearest €0.01;

- (c) if Definitive Bearer Notes or Definitive Registered Notes are required to be issued after the Redenomination Date, they shall be issued at the expense of the Issuer (i) in the case of Relevant Notes in the denomination of €100,000 and/or such higher amounts as the Agent or Registrar, as applicable, may determine and notify to the Noteholders and any remaining amounts less than €100,000 shall be redeemed by the Issuer and paid to the Noteholders in euro in accordance with Condition 6; and (ii) in the case of Notes which are not Relevant Notes, in the denominations of €1,000, €10,000, €100,000 and (but only to the extent of any remaining amounts less than €1,000 or such smaller denominations as the Principal Paying Agent or Registrar, as applicable, may approve) 0.01 and such other denominations as the Principal Paying Agent or Registrar, as applicable, shall determine and notify to the Noteholders;
- (d) if issued prior to the Redenomination Date, all unmatured Coupons denominated in the Specified Currency (whether or not attached to the Notes) will become void with effect from the date on which the Issuer gives notice (the “**Exchange Notice**”) that replacement euro-denominated Notes, Receipts and Coupons are available for exchange (provided that such securities are so available) and no payments will be made in respect of them. The payment obligations contained in any Notes and Receipts so issued will also become void on that date although those Notes and Receipts will continue to constitute valid exchange obligations of the Issuer. New euro- denominated Notes, Receipts and Coupons will be issued in exchange for Notes, Receipts and Coupons denominated in the Specified Currency in such manner as the Principal Paying Agent or Registrar, as applicable, may specify and as shall be notified to the Noteholders in the Exchange Notice. No Exchange Notice may be given less than 15 calendar days prior to any date for payment of principal or interest on the Notes;
- (e) after the Redenomination Date, all payments in respect of the Notes, the Receipts and the Coupons, other than payments of interest in respect of periods commencing before the Redenomination Date, will be made solely in euro as though references in the Notes to the Specified Currency were to euro. Payments will be made in euro by credit or transfer to a euro account (or any other account to which euro may be credited or transferred) specified by the payee or, at the option of the payee, by a euro cheque;
- (f) if the Notes are Fixed Rate Notes and interest for any period ending on or after the Redenomination Date is required to be calculated for a period ending other than on an Interest Payment Date, it will be calculated:
  - (i) in the case of the Notes represented by a Global Note, by applying the Rate of Interest to the aggregate outstanding nominal amount of the Notes represented by such Global Note; and
  - (ii) in the case of Definitive Bearer Notes and Definitive Registered Notes, by applying the Rate of Interest to the Calculation Amount,

and, in each case, multiplying such sum by the applicable Day Count Fraction, and rounding the resultant figure to the nearest sub-unit of the relevant Specified Currency, half of any such sub-unit being rounded upwards or otherwise in accordance with applicable market convention. Where the Specified Denomination of a Fixed Rate Note in definitive form is a multiple of the Calculation Amount, the amount of interest payable in respect of such Fixed Rate Note shall be the product of the amount (determined in the manner provided above) for the Calculation Amount and the amount by which the Calculation Amount is multiplied to reach the Specified Denomination, without any further rounding;
- (g) if the Notes are Floating Rate Notes, the applicable Final Terms will specify any relevant changes to the provisions relating to interest; and
- (h) such other changes shall be made to this Condition as the Issuer may decide, after consultation with the Paying Agents and, in the case of Registered Notes, the Registrar and as may be specified in the notice, to conform it to conventions applicable to instruments denominated in euro.



(B) *Definitions*

In the Terms and Conditions, the following expressions have the following meanings:

“**Established Rate**” means the rate for the conversion of the Specified Currency (including compliance with rules relating to roundings in accordance with applicable European Community regulations) into euro established by the Council of the European Union pursuant to Article 123 of the Treaty.

“**euro**” means the currency introduced at the start of the third stage of European economic and monetary union pursuant to the Treaty.

“**Redenomination Date**” means (in the case of interest bearing Notes) any date for payment of interest under the Notes or (in the case of Zero Coupon Notes) any date, in each case specified by the Issuer in the notice given to the Noteholders pursuant to Condition 4(A) above and which falls on or after the date on which the country of the Specified Currency first participates in the third stage of European economic and monetary union.

“**Relevant Notes**” means all Notes where the applicable Final Terms provides for a minimum Specified Denomination in the Specified Currency which is equivalent to at least €100,000 and which are admitted to trading on a regulated market in the European Economic Area.

“**Treaty**” means the Treaty establishing the European Community, as amended.

5. **Interest**

(A) *Day Count Fraction*

“**Day Count Fraction**” means, in respect of the calculation of an amount of interest in accordance with this Condition 5:

- (a) if “**Actual/Actual (ICMA)**” is specified in the applicable Final Terms:
  - (i) in the case of Notes where the number of days in the relevant period from (and including) the most recent Interest Payment Date (or, if none, the Interest Commencement Date) to (but excluding) the relevant payment date (the “**Accrual Period**”) is equal to or shorter than the Determination Period during which the Accrual Period ends, the number of days in such Accrual Period divided by the product of (1) the number of days in such Determination Period and (2) the number of Determination Dates (as specified in the applicable Final Terms) that would occur in one calendar year; or
  - (ii) in the case of Notes where the Accrual Period is longer than the Determination Period during which the Accrual Period ends, the sum of:
    - (A) the number of days in such Accrual Period falling in the Determination Period in which the Accrual Period begins divided by the product of (x) the number of days in such Determination Period and (y) the number of Determination Dates that would occur in one calendar year; and
    - (B) the number of days in such Accrual Period falling in the next Determination Period divided by the product of (x) the number of days in such Determination Period and (y) the number of Determination Dates that would occur in one calendar year;
- (b) if “**Actual/Actual (ISDA)**” or “**Actual/Actual**” is specified in the applicable Final Terms, the actual number of days in the Interest Period divided by 365 (or, if any portion of that Interest Period falls in a leap year, the sum of (1) the actual number of days in that portion of the Interest Period falling in a leap year divided by 366 and (2) the actual number of days in that portion of the Interest Period falling in a non-leap year divided by 365);
- (c) if “**Actual/365 (Fixed)**” is specified in the applicable Final Terms, the actual number of days in the Interest Period divided by 365;
- (d) if “**Actual/365 (Sterling)**” is specified in the applicable Final Terms, the actual number of days in the Interest Period divided by 365 or, in the case of an Interest Payment Date falling in a leap year, 366;

- (e) if “**Actual/360**” is specified in the applicable Final Terms, the actual number of days in the Interest Period divided by 360;
- (f) if “**30/360 (ICMA)**” is specified in the applicable Final Terms, the number of days in the period from (and including) the most recent Interest Payment Date (or, if none, the Interest Commencement Date) to (but excluding) the relevant payment date (such number of days being calculated on the basis of a year of 360 days with 12 30-day months) divided by 360;
- (g) if “**30/360**”, “**360/360**” or “**Bond Basis**” is specified in the applicable Final Terms, the number of days in the Interest Period divided by 360, calculated on a formula basis as follows:

$$\text{Day Count Fraction} = \frac{[360 \times (Y_2 - Y_1) + [30 \times (M_2 - M_1)] + (D_2 - D_1)]}{360}$$

where:

“Y<sub>1</sub>” is the year, expressed as a number, in which the first day of the Interest Period falls;

“Y<sub>2</sub>” is the year, expressed as a number, in which the day immediately following the last day of the Interest Period falls;

“M<sub>1</sub>” is the calendar month, expressed as a number, in which the first day of the Interest Period falls;

“M<sub>2</sub>” is the calendar month, expressed as a number, in which the day immediately following the last day of the Interest Period falls;

“D<sub>1</sub>” is the first calendar day, expressed as a number, of the Interest Period, unless such number is 31, in which case D1 will be 30; and

“D<sub>2</sub>” is the calendar day, expressed as a number, immediately following the last day included in the Interest Period, unless such number would be 31 and D1 is greater than 29, in which case D2 will be 30;

- (h) if “**30E/360**” or “**Eurobond Basis**” is specified in the applicable Final Terms, the number of days in the Interest Period divided by 360, calculated on a formula basis as follows:

$$\text{Day Count Fraction} = \frac{[360 \times (Y_2 - Y_1) + [30 \times (M_2 - M_1)] + (D_2 - D_1)]}{360}$$

where:

“Y<sub>1</sub>” is the year, expressed as a number, in which the first day of the Interest Period falls;

“Y<sub>2</sub>” is the year, expressed as a number, in which the day immediately following the last day of the Interest Period falls;

“M<sub>1</sub>” is the calendar month, expressed as a number, in which the first day of the Interest Period falls;

“M<sub>2</sub>” is the calendar month, expressed as a number, in which the day immediately following the last day of the Interest Period falls;

“D<sub>1</sub>” is the first calendar day, expressed as a number, of the Interest Period, unless such number would be 31, in which case D1 will be 30; and

“D<sub>2</sub>” is the calendar day, expressed as a number, immediately following the last day included in the Interest Period, unless such number would be 31, in which case D2 will be 30; or

- (i) if “**30E/360 (ISDA)**” is specified in the applicable Final Terms, the number of days in the Interest Period divided by 360, calculated on a formula basis as follows:

$$\text{Day Count Fraction} = \frac{[360 \times (Y_2 - Y_1) + [30 \times (M_2 - M_1)] + (D_2 - D_1)]}{360}$$

where:

“Y<sub>1</sub>” is the year, expressed as a number, in which the first day of the Interest Period falls;

“Y<sub>2</sub>” is the year, expressed as a number, in which the day immediately following the last day of the Interest Period falls;

“M<sub>1</sub>” is the calendar month, expressed as a number, in which the first day of the Interest Period falls;

“M<sub>2</sub>” is the calendar month, expressed as a number, in which the day immediately following the last day of the Interest Period falls;

“D<sub>1</sub>” is the first calendar day, expressed as a number, of the Interest Period, unless (i) that day is the last day of February or (ii) such number would be 31, in which case D<sub>1</sub> will be 30; and

“D<sub>2</sub>” is the calendar day, expressed as a number, immediately following the last day included in the Interest Period, unless (i) that day is the last day of February but not the Maturity Date or (ii) such number would be 31, in which case D<sub>2</sub> will be 30.

In these Terms and Conditions:

“**Determination Period**” means each period from (and including) a Determination Date to (but excluding) the next Determination Date (including, where either the Interest Commencement Date or the final Interest Payment Date is not a Determination Date, the period commencing on the first Determination Date prior to, and ending on the first Determination Date falling after, such date); and

“**sub-unit**” means, with respect to any currency other than euro, the lowest amount of such currency that is available as legal tender in the country of such currency and, with respect to euro, one cent.

(B) *Interest on Fixed Rate Notes*

Each Fixed Rate Note bears interest from (and including) the Interest Commencement Date at the rate(s) per annum equal to the Rate(s) of Interest. Interest will be payable in arrear on the Interest Payment Date(s) in each year up to (and including) the Maturity Date.

Except as provided in the applicable Final Terms, the amount of interest payable in respect of each Note on each Interest Payment Date in respect of the Fixed Interest Period ending on (but excluding) such date will amount to the Fixed Coupon Amount. Payments of interest on any Interest Payment Date will, if so specified in the applicable Final Terms, amount to the Broken Amount so specified.

As used in these Terms and Conditions, “**Fixed Interest Period**” means the period from (and including) an Interest Payment Date (or the Interest Commencement Date) to (but excluding) the next (or first) Interest Payment Date.

Except in the case of Notes where an applicable Fixed Coupon Amount or Broken Amount is specified in the applicable Final Terms, interest shall be calculated in respect of any period by applying the Rate of Interest to:

- (i) in the case of Fixed Rate Notes which are represented by a Global Note, the aggregate outstanding nominal amount of the Fixed Rate Notes represented by such Global Note or, if they are Partly Paid Notes, the aggregate amount paid up; or
- (ii) in the case of Fixed Rate Notes in definitive form, the Calculation Amount;

and, in each case, multiplying such product by the applicable Day Count Fraction, and rounding the resultant figure to the nearest sub-unit of the relevant Specified Currency, half of any such sub-unit being rounded upwards or otherwise in accordance with applicable market convention. Where the Specified Denomination of a Fixed Rate Note in definitive form is a multiple of the Calculation Amount, the amount of interest payable in respect of such Fixed Rate Note shall be the product of the amount (determined in the manner provided above) for the Calculation Amount and the amount by which the Calculation Amount is multiplied to reach the Specified Denomination, without any further rounding.

(C) *Interest on Floating Rate Notes, Index Linked Interest Notes, Share Linked Interest Notes, Debt Linked Interest Notes, GDR/ADR Linked Interest Notes, FX Linked Interest Notes, Commodity Linked Interest Notes, Fund Linked Interest Notes and Inflation Linked Interest Notes*

(a) *Interest Payment Dates*

Each Floating Rate Note, Index Linked Interest Note, Share Linked Interest Note, Debt Linked Interest Note, GDR/ADR Linked Interest Note, FX Linked Interest Note, Commodity Linked Interest Note, Fund Linked Interest Note and Inflation Linked Interest Note bears interest on its outstanding nominal amount (or, if it is a Partly Paid Note, the amount paid up) from (and including) the Interest Commencement Date and such interest will be payable in arrear on either:

- (i) the Specified Interest Payment Date(s) in each year specified in the applicable Final Terms; or
- (ii) if no Specified Interest Payment Date(s) is/are specified in the applicable Final Terms, each date (each such date, together with each Specified Interest Payment Date, an “**Interest Payment Date**”) which falls the number of months or other period specified as the Specified Period in the applicable Final Terms after the preceding Interest Payment Date or, in the case of the first Interest Payment Date, after the Interest Commencement Date.

Such interest will be payable in respect of each Interest Period (which expression shall, in these Terms and Conditions, mean the period from (and including) an Interest Payment Date (or the Interest Commencement Date) to (but excluding) the next (or first) Interest Payment Date).

If a Business Day Convention is specified in the applicable Final Terms and (x) if there is no numerically corresponding day in the calendar month in which an Interest Payment Date should occur or (y) if any Interest Payment Date would otherwise fall on a day which is not a Business Day, then, if the Business Day Convention specified is:

- (1) in any case where Specified Periods are specified in accordance with Condition 5(C)(a)(ii) above, the Floating Rate Convention, such Interest Payment Date (i) in the case of (x) above, shall be the last day that is a Business Day in the relevant month and the provisions of (B) shall apply *mutatis mutandis* or (ii) in the case of (y) above, shall be postponed to the next day which is a Business Day unless it would thereby fall into the next calendar month, in which event (A) such Interest Payment Date shall be brought forward to the immediately preceding Business Day and (B) each subsequent Interest Payment Date shall be the last Business Day in the month which falls the Specified Period after the preceding applicable Interest Payment Date occurred; or
- (2) the Following Business Day Convention, such Interest Payment Date shall be postponed to the next day which is a Business Day; or
- (3) the Modified Following Business Day Convention, such Interest Payment Date shall be postponed to the next day which is a Business Day unless it would thereby fall into the next calendar month, in which event such Interest Payment Date shall be brought forward to the immediately preceding Business Day; or
- (4) the Preceding Business Day Convention, such Interest Payment Date shall be brought forward to the immediately preceding Business Day,

where “Business Day” has the meaning assigned to it in Condition 18.

(b) *Rate of Interest*

The Rate of Interest payable from time to time in respect of Floating Rate Notes, Index Linked Interest Notes, Share Linked Interest Notes, Debt Linked Interest Notes, GDR/ADR Linked Interest Notes, FX Linked Interest Notes, Commodity Linked Interest Notes, Fund Linked Interest Notes and Inflation Linked Interest Notes will be determined in the manner specified in the applicable Final Terms.

(i) *ISDA Determination for Floating Rate Notes*

Where ISDA Determination is specified in the applicable Final Terms as the manner in which the Rate of Interest is to be determined, the Rate of Interest for each Interest Period will be the relevant ISDA Rate plus or minus (as indicated in the applicable Final Terms) the Margin (if any). For the purposes of this sub paragraph (i), “**ISDA Rate**” for an Interest Period means a rate equal to the Floating Rate that would be determined by the Principal Paying Agent or the Calculation Agent under an interest rate swap

transaction if the Principal Paying Agent or the Calculation Agent were acting as Calculation Agent for that swap transaction under the terms of an agreement incorporating the 2006 ISDA Definitions, as published by the International Swaps and Derivatives Association, Inc. and as amended and updated as at the Issue Date of the first Tranche of the Notes (the “**ISDA Definitions**”) and under which:

- (A) the Floating Rate Option is as specified in the applicable Final Terms;
- (B) the Designated Maturity is a period specified in the applicable Final Terms; and
- (C) the relevant Reset Date is either (i) if the applicable Floating Rate Option is based on the London interbank offered rate (“**LIBOR**”) or on the Euro-zone interbank offered rate (“**EURIBOR**”), the first day of that Interest Period or (ii) in any other case, as specified in the applicable Final Terms.

For the purposes of this sub-paragraph (i), “**Floating Rate**”, “**Calculation Agent**”, “**Floating Rate Option**”, “**Designated Maturity**” and “**Reset Date**” have the meanings given to those terms in the ISDA Definitions.

Unless otherwise stated in the applicable Final Terms, the Minimum Rate of Interest shall be deemed to be zero.

(ii) *Screen Rate Determination for Floating Rate Notes*

Where Screen Rate Determination is specified in the applicable Final Terms as the manner in which the Rate of Interest is to be determined, the Rate of Interest for each Interest Period will, subject as provided below, be either:

- (A) the offered quotation; or
- (B) the arithmetic mean (rounded if necessary to the fifth decimal place, with 0.000005 being rounded upwards) of the offered quotations,

(expressed as a percentage rate per annum) for the Reference Rate which appears or appear, as the case may be, on the Relevant Screen Page as at 11.00 a.m. (London time, in the case of LIBOR, or Brussels time, in the case of EURIBOR (the “**Specified Time**”)) on the applicable Interest Determination Date plus or minus (as indicated in the applicable Final Terms) the Margin (if any), all as determined by the Calculation Agent. If five or more of such offered quotations are available on the Relevant Screen Page, the highest (or, if there is more than one such highest quotation, one only of such quotations) and the lowest (or, if there is more than one such lowest quotation, one only of such quotations) shall be disregarded by the Calculation Agent for the purpose of determining the arithmetic mean (rounded as provided above) of such offered quotations.

If the Relevant Screen Page is not available or if, in the case of clause (A) above, no offered quotation appears or, in the case of clause (B) above, fewer than three offered quotations appear, in each case as at the Specified Time, the Calculation Agent shall request each of the Reference Banks to provide the Calculation Agent with its offered quotation (expressed as a percentage rate per annum) for the Reference Rate at approximately the Specified Time on the Interest Determination Date in question. If two or more of the Reference Banks provide the Calculation Agent with offered quotations, the Rate of Interest for the Interest Period shall be the arithmetic mean (rounded if necessary to the fifth decimal place with 0.000005 being rounded upwards) of the offered quotations plus or minus (as appropriate) the Margin (if any), all as determined by the Calculation Agent.

If on any Interest Determination Date one only or none of the Reference Banks provides the Calculation Agent with an offered quotation as provided in the preceding paragraph, the Rate of Interest for the relevant Interest Period shall be the rate per annum which the Calculation Agent determines as being the arithmetic mean (rounded if necessary to the fifth decimal place, with 0.000005 being rounded upwards) of the rates, as communicated to (and at the request of) the Calculation Agent by the Reference Banks or any two or more of them, at which such banks were offered, at approximately the Specified Time on the relevant Interest Determination Date, deposits in the Specified Currency for a period equal to that which would have been used for the



Reference Rate by leading banks in the London inter-bank market (if the Reference Rate is LIBOR) or the Euro-zone inter-bank market (if the Reference Rate is EURIBOR) plus or minus (as appropriate) the Margin (if any) or, if fewer than two of the Reference Banks provide the Calculation Agent with offered rates, the offered rate for deposits in the Specified Currency for a period equal to that which would have been used for the Reference Rate, or the arithmetic mean (rounded as provided above) of the offered rates for deposits in the Specified Currency for a period equal to that which would have been used for the Reference Rate, at which, at approximately the Specified Time on the relevant Interest Determination Date, any one or more banks (which bank or banks is or are in the opinion of the Calculation Agent suitable for the purpose) informs the Calculation Agent it is quoting to leading banks in the London inter-bank market (if the Reference Rate is LIBOR) or the Euro-zone inter-bank market (if the Reference Rate is EURIBOR) plus or minus (as appropriate) the Margin (if any), provided that, if the Rate of Interest cannot be determined in accordance with the foregoing provisions of this paragraph, the Rate of Interest shall be determined by the Calculation Agent in good faith and in a commercially reasonable manner.

If the Reference Rate from time to time in respect of Floating Rate Notes is specified in the applicable Final Terms as being other than LIBOR or EURIBOR, the Rate of Interest in respect of such Notes will be determined as provided in the applicable Final Terms.

For the purposes of this sub-paragraph (ii) “**Reference Banks**” means, in the case of a determination of LIBOR, the principal London offices of four major banks in the London inter-bank market and, in the case of a determination of EURIBOR, the principal Euro-zone offices of four major banks in the Euro-zone inter-bank market, in each case selected by the Calculation Agent or as specified in the applicable Final Terms.

(c) *Minimum Rate of Interest and/or Maximum Rate of Interest*

If the applicable Final Terms specifies a Minimum Rate of Interest for any Interest Period, then, in the event that the Rate of Interest in respect of such Interest Period determined in accordance with the provisions of paragraph (b) above is less than such Minimum Rate of Interest, the Rate of Interest for such Interest Period shall be such Minimum Rate of Interest.

If the applicable Final Terms specifies a Maximum Rate of Interest for any Interest Period, then, in the event that the Rate of Interest in respect of such Interest Period determined in accordance with the provisions of paragraph (b) above is greater than such Maximum Rate of Interest, the Rate of Interest for such Interest Period shall be such Maximum Rate of Interest.

(d) *Determination of Rate of Interest and Calculation of Interest Amounts*

The Principal Paying Agent, in the case of Floating Rate Notes, and the Calculation Agent, in the case of Index Linked Interest Notes, Share Linked Interest Notes, Debt Linked Interest Notes, GDR/ADR Linked Interest Notes, FX Linked Interest Notes, Commodity Linked Interest Notes, Fund Linked Interest Notes and Inflation Linked Interest Notes, will, at or as soon as practicable after each time at which the Rate of Interest is to be determined, determine the Rate of Interest for the relevant Interest Period. In the case of Index Linked Interest Notes, Share Linked Interest Notes, Debt Linked Interest Notes, GDR/ADR Linked Interest Notes, FX Linked Interest Notes, Commodity Linked Interest Notes, Fund Linked Interest Notes and Inflation Linked Interest Notes, the Calculation Agent will notify the Principal Paying Agent of the Rate of Interest for the relevant Interest Period as soon as practicable after calculating the same.

The Principal Paying Agent, in the case of Floating Rate Notes, and the Calculation Agent, in the case of Index Linked Interest Notes, Share Linked Interest Notes, Debt Linked Interest Notes, GDR/ADR Linked Interest Notes, FX Linked Interest Notes, Commodity Linked Interest Notes, Fund Linked Interest Notes and Inflation Linked Interest Notes, will calculate the amount of interest (the “**Interest Amount**”) payable on the Notes for the relevant Interest Period by applying the Rate of Interest to:

- (i) in the case of Floating Rate Notes, Index Linked Interest Notes, Share Linked Interest Notes, Debt Linked Interest Notes, GDR/ADR Linked Interest Notes, FX Linked Interest Notes, Commodity Linked Interest Notes, Fund Linked Interest Notes or

Inflation Linked Interest Notes which are represented by a Global Note, the aggregate outstanding nominal amount of the Notes represented by such Global Note (or, if they are Partly Paid Notes, the aggregate amount paid up); or

- (ii) in the case of Floating Rate Notes, Index Linked Interest Notes, Share Linked Interest Notes, Debt Linked Interest Notes, GDR/ADR Linked Interest Notes, FX Linked Interest Notes, Commodity Linked Interest Notes, Fund Linked Interest Notes or Inflation Linked Interest Notes in definitive form, the Calculation Amount,

and, in each case, multiplying such product by the applicable Day Count Fraction, and rounding the resultant figure to the nearest sub-unit of the relevant Specified Currency, half of any such sub-unit being rounded upwards or otherwise in accordance with applicable market convention. Where the Specified Denomination of a Floating Rate Note, Index Linked Interest Note, Share Linked Interest Note, Debt Linked Interest Note, GDR/ADR Linked Interest Note, FX Linked Interest Note, Commodity Linked Interest Note, Fund Linked Interest Note or Inflation Linked Interest Note in definitive form is a multiple of the Calculation Amount, the Interest Amount payable in respect of such Note shall be the product of the amount (determined in the manner provided above) for the Calculation Amount and the amount by which the Calculation Amount is multiplied to reach the Specified Denomination, without any further rounding. In such case, the Calculation Agent will notify the Principal Paying Agent of the Interest Amount for the relevant Interest Period as soon as practicable after calculating the same.

(e) *Notification of Rate of Interest and Interest Amounts*

The Principal Paying Agent will cause the Rate of Interest and each Interest Amount for each Interest Period and the relevant Interest Payment Date to be notified to the Issuer and any stock exchange on which the relevant Floating Rate Notes, Index Linked Interest Notes, Share Linked Interest Notes, Debt Linked Interest Notes, GDR/ADR Linked Interest Notes, FX Linked Interest Notes, Commodity Linked Interest Notes, Fund Linked Interest Notes or Inflation Linked Interest Notes are for the time being listed (by no later than the first day of each Interest Period, in the case of Floating Rate Notes) and notice thereof to be published in accordance with Condition 14 as soon as possible after their determination but in no event later than the fourth London Business Day thereafter. Each Interest Amount and Interest Payment Date so notified may subsequently be amended (or appropriate alternative arrangements made by way of adjustment) without prior notice in the event of an extension or shortening of the Interest Period. Any such amendment will be promptly notified to each stock exchange on which the relevant Floating Rate Notes, Index Linked Interest Notes, Share Linked Interest Notes, Debt Linked Interest Notes, GDR/ADR Linked Interest Notes, FX Linked Interest Notes, Commodity Linked Interest Notes, Fund Linked Interest Notes or Inflation Linked Interest Notes are for the time being listed and to the Noteholders in accordance with Condition 14. For the purposes of this paragraph (e), the expression “**London Business Day**” means a day (other than a Saturday or a Sunday) on which banks and foreign exchange markets are open for general business in London.

(f) *Certificates to be final*

All certificates, communications, opinions, determinations, calculations, quotations and decisions given, expressed, made or obtained for the purposes of the provisions of this Condition 5(C), whether by the Principal Paying Agent or, if applicable, the Calculation Agent, shall (in the absence of wilful default, bad faith, manifest error or proven error) be binding on the Issuer, the Guarantor, the Principal Paying Agent, the Calculation Agent (if applicable), the other Paying Agents, the Registrar and all Noteholders, Receiptholders and Couponholders and (in the absence of wilful default or bad faith) no liability to the Issuer, the Guarantor, the Noteholders, the Receiptholders or the Couponholders shall attach to the Principal Paying Agent or the Calculation Agent (if applicable) in connection with the exercise or non exercise by it of its powers, duties and discretions pursuant to such provisions.

(D) *Interest on Partly Paid Notes*

In the case of Partly Paid Notes (other than Partly Paid Notes which are Zero Coupon Notes), interest will accrue as aforesaid on the paid-up nominal amount of such Notes and otherwise as specified in the applicable Final Terms.

(E) *Accrual of interest*

Each Note (or in the case of the redemption of part only of a Note, that part only of such Note) will cease to bear interest (if any) from the date for its redemption unless, upon due presentation thereof, payment of principal is improperly withheld or refused. In such event, interest will continue to accrue until whichever is the earlier of:

- (a) the date on which all amounts due in respect of such Note have been paid and/or all assets deliverable in respect of such Note have been delivered; and
- (b) five calendar days after the date on which the full amount of the moneys payable in respect of such Note has been received by the Principal Paying Agent and/or all assets in respect of such Note have been received by any agent appointed by the Issuer to deliver such assets to Noteholders and notice to that effect has been given to the Noteholders in accordance with Condition 14,

provided that if:

- (a) “Accrual of Interest upon Credit Event” is specified as Not Applicable in the applicable Final Terms, each Note shall cease to bear interest from the Interest Payment Date immediately preceding the Event Determination Date, or if the Event Determination Date is an Interest Payment Date such Interest Payment Date (or, in the case of the Event Determination Date falling on or after the Scheduled Maturity Date (which is an Interest Payment Date), the Interest Payment Date immediately preceding the Scheduled Maturity Date) or, if the Event Determination Date falls prior to the first Interest Payment Date, no interest shall accrue on the Notes; or
- (b) “Accrual of Interest upon Credit Event” is specified as being Applicable in the applicable Final Terms, each Note shall cease to bear interest from the Event Determination Date.

6. **Payments**

(A) *Method of payment*

Subject as provided below:

- (a) payments in a Specified Currency other than euro or U.S. dollars will be made by credit or transfer to an account in the relevant Specified Currency maintained by the payee with, or, at the option of the payee, by a cheque in such Specified Currency drawn on, a bank in the principal financial centre of the country of such Specified Currency (which, if the Specified Currency is Australian dollars or New Zealand dollars, shall be Sydney and Auckland, respectively);
- (b) payments in euro will be made by credit or transfer to a euro account (or any other account to which euro may be credited or transferred) specified by the payee or, at the option of the payee, by a euro cheque;
- (c) payments in U.S. dollars will be made by transfer to a U.S. dollar account maintained by the payee with a bank outside of the United States (which expression, as used in these Conditions, means the United States of America, including the States and the District of Columbia, its territories, its possessions and other areas subject to its jurisdiction), or by cheque drawn on a United States bank; and
- (d) payments in CNY shall be made solely by credit or transfer to a CNY account maintained by the payee with a bank in the CNY Settlement Centre in accordance with applicable laws, rules, regulations and guidelines.

Notwithstanding the foregoing, a cheque may not be delivered to an address in, a credit or transfer may not be delivered to an address in, and an amount may not be transferred to an account at a bank located in, the United States by any office or agency of the Issuer, the Guarantor, the Principal Paying Agent, or any Paying Agent.

Payments will be subject in all cases to any fiscal or other laws and regulations applicable thereto in the place of payment, but without prejudice to the provisions of Condition 8.

(B) *Payments in respect of Bearer Notes*

(a) *Presentation of Definitive Bearer Notes, Receipts and Coupons*

Payments of principal in respect of Definitive Bearer Notes will (subject as provided below) be made in the manner provided in paragraph (A) above only against presentation and surrender (or, in the case of part payment of any sum due, endorsement) of Definitive Bearer Notes, and payments of interest in respect of Definitive Bearer Notes will (subject as provided below) be made as aforesaid only against presentation and surrender (or, in the case of part payment of any sum due, endorsement) of Coupons, in each case at the specified office of any Paying Agent outside the United States.

Payments of instalments of principal (if any) in respect of Definitive Bearer Notes, other than the final instalment, will (subject as provided below) be made in the manner provided in paragraph (A) above only against presentation and surrender (or, in the case of part payment of any sum due, endorsement) of the relevant Receipt in accordance with the preceding paragraph. Payment of the final instalment will be made in the manner provided in paragraph (A) above only against presentation and surrender (or, in the case of part payment of any sum due, endorsement) of the relevant Note in accordance with the preceding paragraph. Each Receipt must be presented for payment of the relevant instalment together with the Definitive Bearer Note to which it appertains. Receipts presented without the Definitive Bearer Note to which they appertain do not constitute valid obligations of the Issuer. Upon the date on which any Definitive Bearer Note becomes due and repayable, unmatured Receipts (if any) relating thereto (whether or not attached) shall become void and no payment shall be made in respect thereof.

Fixed Rate Notes in definitive form (other than Index Linked Redemption Notes, Share Linked Redemption Notes, Debt Linked Redemption Notes, GDR/ADR Linked Redemption Notes, Commodity Linked Redemption Notes, Fund Linked Redemption Notes, Inflation Linked Redemption Notes, Credit Linked Notes or Long Maturity Notes (as defined below)) should be presented for payment together with all unmatured Coupons appertaining thereto (which expression shall for this purpose include Coupons falling to be issued on exchange of matured Talons), failing which the amount of any missing unmatured Coupon (or, in the case of payment not being made in full, the same proportion of the amount of such missing unmatured Coupon as the sum so paid bears to the sum due) will be deducted from the sum due for payment. Each amount of principal so deducted will be paid in the manner mentioned above against surrender of the relative missing Coupon at any time before the expiry of ten years after the Relevant Date (as defined in Condition 9) in respect of such principal (whether or not such Coupon would otherwise have become void under Condition 9) or, if later, five years from the date on which such Coupon would otherwise have become due, but in no event thereafter.

Upon any Fixed Rate Note in definitive form becoming due and repayable prior to its Maturity Date, all unmatured Talons (if any) appertaining thereto will become void and no further Coupons will be issued in respect thereof.

Upon the date on which any Floating Rate Note, Index Linked Note, Share Linked Note, Debt Linked Note, GDR/ADR Linked Note, Commodity Linked Note, Fund Linked Note, Inflation Linked Note, Credit Linked Note or Long Maturity Note in definitive form becomes due and repayable, unmatured Coupons and Talons (if any) relating thereto (whether or not attached) shall become void and no payment or, as the case may be, exchange for further Coupons shall be made in respect thereof. A “**Long Maturity Note**” is a Fixed Rate Note (other than a Fixed Rate Note which on issue had a Talon attached) whose nominal amount on issue is less than the aggregate interest payable thereon provided that such Note shall cease to be a Long Maturity Note on the Interest Payment Date on which the aggregate amount of interest remaining to be paid after that date is less than the nominal amount of such Note.

If the due date for redemption of any Definitive Bearer Note is not an Interest Payment Date, interest (if any) accrued in respect of such Note from (and including) the preceding Interest Payment Date or, as the case may be, the Interest Commencement Date shall be payable only against surrender of the relevant Definitive Bearer Note.

(b) *Payments in respect of Global Bearer Notes*

Payments of principal and interest (if any) in respect of Bearer Notes represented by any Global Bearer Note will (subject as provided below) be made in the manner specified above in relation to Definitive Bearer Notes and otherwise in the manner specified in the relevant Global Bearer Note against presentation or surrender, as the case may be, of such Global Bearer Note at the specified office of any Paying Agent outside the United States. A record of each payment made against presentation or surrender of any Global Bearer Note, distinguishing between any payment of principal and any payment of interest, will be made on such Global Bearer Note by the Paying Agent to which it was presented and such record shall be *prima facie* evidence that the payment in question has been made.

The holder of a Global Bearer Note shall be the only person entitled to receive payments or make a claim with respect to payments in respect of Notes represented by such Global Bearer Note and the Issuer or, as the case may be, the Guarantor will be discharged by payment to, or to the order of, the holder of such Global Bearer Note in respect of each amount so paid. Each of the persons shown in the records of Euroclear, Clearstream, Luxembourg or Euroclear France as the beneficial holder of a particular nominal amount of Notes represented by such Global Bearer Note must look solely to Euroclear, Clearstream, Luxembourg or Euroclear France, as the case may be, for his share of each payment so made by the Issuer or, as the case may be, the Guarantor to, or to the order of, the holder of such Global Bearer Note.

(C) *Payments in respect of Swedish Notes*

Payments due in respect of Swedish Notes shall be made to the registered holder of the relevant Global Registered Note and each payment so made will discharge the Issuer's obligations in respect thereof. It is expected that the registered holder will pay, or cause to be paid on its behalf, the relevant sums so received onwards (i) to the Swedish CSD or (ii) as the Swedish CSD instructs, in either case in its capacity as Swedish CSD in respect of the Swedish Notes.

Each holder of beneficial interests in the Swedish Notes must look solely to the Swedish CSD for its share of the payments made to the registered holder of the relevant Global Note. The Swedish CSD does not assume the obligations of the Issuer and is only obliged to distribute payments it has received in its capacity of Swedish CSD in respect of the Swedish Notes. Unless otherwise specified in the applicable Final Terms, it is expected that payments of principal and/or interest (or any other amounts due and payable) in respect of Swedish Notes will be received by Holders of Swedish Notes no later than the seventh Swedish business day (as defined by the then applicable Swedish CSD Rules) after the date on which such payment becomes due and payable in accordance with the terms and conditions applicable to the relevant Swedish Notes as specified in the applicable Final Terms. Pursuant to the Swedish CSD Rules, payments of principal and/or interest (or any other amounts due and payable) in respect of the beneficial interests in any Swedish Notes shall be made to the Holders recorded as such in the Swedish Register on the sixth Swedish business day (as defined by the then applicable Swedish CSD Rules) before the due date for such payment, or such other Swedish business day (as defined by the then applicable Swedish CSD Rules) falling closer to the due date as then may be stipulated in the Swedish CSD Rules. Such day shall be the Record Date in respect of the Notes in accordance with the Swedish CSD Rules. Payments will be subject in all cases to any fiscal or other laws and regulations applicable thereto in the place of payment and will be made in accordance with the Swedish CSD Rules. All such payments will be made outside of the United States.

(D) *Payments in respect of Registered Notes*

(a) *Payments in respect of Definitive Registered Notes*

Payments of principal, instalments of principal (if any) and interest in respect of Definitive Registered Notes will (subject as provided below) be made in the manner provided in paragraph (A) above upon the surrender (or, in the case of part payment of any sum due, endorsement) of the relevant Individual Note Certificate at the specified office of any Paying Agent outside the United States.

(b) *Payments in respect of Global Registered Notes*

All payments in respect of a Global Registered Note will be made to the person shown in the Register and, if no further payment falls to be made in respect of the Global Registered Notes, upon surrender of that Global Registered Note to or to the order of the Registrar. On each



occasion on which a payment of principal or interest is made in respect of the Global Registered Note, the Issuer shall procure that the payment is noted in a schedule thereto.

(c) *Record Date*

Each payment in respect of a Definitive Registered Note will be made to the person shown as the Holder in the Register at the opening of business in the place of the Registrar's specified office on the fifteenth calendar day before the due date for such payment (such date being the "**Record Date**" for Definitive Registered Notes). Where payment is to be made by cheque, the cheque will be mailed to the address shown as the address of the Holder in the Register on the Record Date in the case of Definitive Registered Notes and in the case of Global Registered Notes at the close of business on the business day for the relevant clearing system (being a day on which Euroclear, Clearstream, Luxembourg or Euroclear France, as applicable, is open for business) before the due date for payment (such date being the "**Record Date**" for Global Registered Notes).

(E) *General provisions applicable to payments*

Notwithstanding the foregoing provisions of this Condition 6, if any amount of principal and/or interest in respect of Notes is payable in U.S. dollars, such U.S. dollar payments of principal and/or interest in respect of such Notes will be made at the specified office of a Paying Agent in the United States if:

- (a) the Issuer has appointed Paying Agents with specified offices outside the United States with the reasonable expectation that such Paying Agents would be able to make payment in U.S. dollars at such specified offices outside the United States of the full amount of principal and interest on the Notes in the manner provided above when due;
- (b) payment of the full amount of such principal and interest at all such specified offices outside the United States is illegal or effectively precluded by exchange controls or other similar restrictions on the full payment or receipt of principal and interest in U.S. dollars; and
- (c) such payment is then permitted under United States law without involving, in the opinion of the Issuer and the Guarantor, adverse tax consequences to the Issuer or the Guarantor.

(F) *Payment Day*

If the date for payment of any amount in respect of any Note, Receipt or Coupon is not a Payment Day, the Holder thereof shall not be entitled to payment until (i) if "Following" is specified in the applicable Final Terms, the next following Payment Day or (ii) if "Modified Following" is specified in the applicable Final Terms, the next following Payment Day unless that Payment Day falls in the next calendar month, in which case the first preceding Payment Day, in the relevant place and shall not be entitled to further interest or other payment in respect of such delay or amendment. For these purposes, "**Payment Day**" means any day which (subject to Condition 9) is:

- (a) a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in:
  - (i) the relevant place of presentation (in the case of a Definitive Bearer Notes);
  - (ii) London; and
  - (iii) each Additional Financial Centre specified in the applicable Final Terms; and
- (b) either (i) in relation to any sum payable in a Specified Currency other than euro or CNY, a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in the principal financial centre of the country of the relevant Specified Currency (if other than the place of presentation, London and any Additional Financial Centre and which if the Specified Currency is Australian dollars or New Zealand dollars shall be Sydney or Auckland, respectively) or (ii) in relation to any sum payable in euro, a day on which the TARGET2 System is open or (iii) in relation to any sum payable in CNY, unless otherwise specified in the applicable Final Terms, a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in the CNY Settlement Centre.

(G) *Interpretation of principal and interest*

Any reference in these Terms and Conditions to principal in respect of the Notes shall be deemed to include, as applicable:

- (a) any additional amounts which may be payable with respect to principal under Condition 8;
- (b) the Final Redemption Amount of the Notes;
- (c) the Early Redemption Amount of the Notes;
- (d) the Optional Redemption Amount(s) (if any) of the Notes;
- (e) the Failure to Deliver Settlement Price (if any) in respect of the Notes;
- (f) the Disruption Cash Settlement Price (if any) in respect of the Notes;
- (g) the Credit Event Redemption Amount (if any) in respect of the Notes;
- (h) the Partial Cash Settlement Amount (if any) in respect of the Notes;
- (i) in relation to Notes redeemable in instalments, the Instalment Amounts;
- (j) in relation to Zero Coupon Notes, the Amortised Face Amount (as defined in Condition 7(G)(c)); and
- (k) any premium and any other amounts (other than interest) which may be payable by the Issuer under or in respect of the Notes.

Any reference in these Terms and Conditions to interest in respect of the Notes shall be deemed to include, as applicable, any additional amounts which may be payable with respect to interest under Condition 8.

(H) *Definition of Affiliate*

“**Affiliate**” means, in relation to any entity (the “**First Entity**”), any entity controlled, directly or indirectly, by the First Entity, any entity that controls, directly or indirectly, the First Entity or any entity directly or indirectly under common control with the First Entity. For these purposes “control” means ownership of a majority of the voting power of an entity.

(I) *Payment Disruption*

(a) *Occurrence of a Payment Disruption Event or a CNY Payment Disruption Event*

If the applicable Final Terms specifies “Payment Disruption Event” or “CNY Payment Disruption Event” to be applicable, in the event that the Calculation Agent, at any time and from time to time, determines in its sole discretion that a Payment Disruption Event or a CNY Payment Disruption Event, as the case may be, has occurred or is likely to occur, then the Calculation Agent shall as soon as practicable notify the Holders of the relevant Notes of the occurrence of such Payment Disruption Event or CNY Payment Disruption Event, as the case may be, in accordance with Condition 14.

(b) *Consequences of a Payment Disruption Event*

Upon the occurrence of a Payment Disruption Event:

(i) *Extension of relevant dates*

The Calculation Agent may extend the Interest Payment Date, the Maturity Date or any other date on which the Notes may be redeemed or any amount shall be due and payable in respect of the relevant Notes, subject to Condition 6(I)(e), to a date falling five Business Days (or such other date as may be determined by the Calculation Agent and notified to the Holders in accordance with Condition 14) after the date on which the Payment Disruption Event is no longer occurring and notice thereof shall be given to the relevant Holders in accordance with Condition 14.

(ii) *Obligation to pay postponed*

The Calculation Agent may postpone the Issuer’s obligation to pay the Interest Amount, Fixed Coupon Amount, Final Redemption Amount or any such other amounts in respect of the relevant Notes, subject to Condition 6(I)(e), until five Business Days (or

such other date as may be determined by the Calculation Agent and notified to the Holders in accordance with Condition 14) after the date on which the Payment Disruption Event is no longer occurring.

(iii) *Issuer's option to vary settlement*

Notwithstanding the Issuer's right to extend the dates for payments in accordance with Condition 6(I)(b)(i) or postpone payment in accordance with Condition 6(I)(b)(ii), as applicable, the Issuer may, if practicable (and to the extent lawful), and at the Issuer's sole and absolute discretion:

- (1) make payments due to be made in the Subject Currency in the Base Currency, converted from the Subject Currency into the Base Currency at a rate reasonably selected by the Calculation Agent;
- (2) make payments due to be made in the Base Currency in the Subject Currency, disregarding any obligation to convert amounts into the Base Currency;
- (3) in the case of Share Linked Notes, deliver the Shares in lieu of cash settlement; or
- (4) in the case of Share Linked Notes which reference a basket of Shares, elect to satisfy in part its obligation to pay the amounts as may be due and payable under the relevant Notes by making a partial payment(s) or partial deliveries, as the case may be (the "**Partial Distributions**"). Any Partial Distribution made by the Issuer to the Holders will be calculated and/or determined by the Calculation Agent in its sole and absolute discretion and shall be paid and/or delivered to the Holders *pro rata* (as far as possible, subject to any necessary adjustments for rounding) to the proportion of the Notes of the same series held by the relevant Holder. In the event that any Partial Distribution is made by the Issuer, the Calculation Agent may, in its sole and absolute discretion, make any such corresponding adjustment to any variable relevant to the redemption or payment terms of the relevant Notes as it deems necessary and shall notify the relevant Holders thereof in accordance with Condition 14.

Any payments or deliveries made in accordance with this Condition 6(I)(b)(iii) shall satisfy and discharge in full (in the case of payments or deliveries made in accordance with paragraphs (1) to (3)) and in part (in the case of Partial Distributions made in accordance with paragraph (4)) the Issuer's obligation to pay the Interest Amount, Fixed Coupon Amount, Final Redemption Amount or other amount in respect of which the Payment Disruption Event has arisen, and no further amounts shall be due and payable by the Issuer in respect thereof.

(c) *Consequences of a CNY Payment Disruption Event*

Upon the occurrence of a CNY Payment Disruption Event:

(i) *Extension of relevant dates*

If "Extension" is specified to be applicable in the applicable Final Terms, then Condition 6(I)(b)(i) shall apply, provided that the reference therein to "Payment Disruption Event" shall be construed as a reference to "CNY Payment Disruption Event".

(ii) *Obligation to pay postponed*

If "Payment Postponement" is specified to be applicable in the applicable Final Terms, then Condition 6(I)(b)(ii) shall apply, provided that the reference therein to "Payment Disruption Event" shall be construed as a reference to "CNY Payment Disruption Event".

(iii) *Payment of Equivalent Amount*

If "Payment of Equivalent Amount" is specified to be applicable in the applicable Final Terms, and the Calculation Agent determines that such CNY Payment Disruption Event is material in relation to the Issuer's obligations under the relevant Notes to pay any Interest Amount, Fixed Coupon Amount, Final Redemption Amount or other amount in respect of the relevant Notes on the relevant Interest Payment Date, Maturity Date, or such other date on which any amount in respect of the relevant Notes shall be due and

payable (such date, the “**Affected Payment Date**”), then the Issuer shall, on giving notice to Holders prior to the relevant Affected Payment Date, make payment of the Equivalent Amount of the relevant Interest Amount, Fixed Coupon Amount, Final Redemption Amount or such other amount payable (if applicable) on the relevant Affected Payment Date in full and final settlement of its obligations to pay such Interest Amount, Fixed Coupon Amount, Redemption Amount or other amount in respect of the relevant Notes.

(d) *Payments net of expenses*

Notwithstanding any provisions to the contrary, (a) any payments made in accordance with Condition 6(I)(b) or Condition 6(I)(c), as the case may be, shall be made after deduction of any costs, expenses or liabilities incurred or to be incurred by the Calculation Agent or Issuer in connection with or arising from the resolution of the relevant Payment Disruption Event(s) or CNY Payment Disruption Event(s), as the case may be, and (b) no interest shall be paid by the Issuer in respect of any delay which may occur in the payment of any amounts due and payable under the Notes as a result of the operation of Condition 6(I)(b) or Condition 6(I)(c), as the case may be.

(e) *Payment Event Cut-off Date*

In the event that a Payment Disruption Event or a CNY Payment Disruption Event, as the case may be, is still occurring on the Payment Event Cut-off Date, the Interest Payment Date, the Maturity Date, or any other date on which any Interest Amount, Fixed Coupon Amount, Final Redemption Amount or other amount in respect of the relevant Notes shall be due and payable (as the case may be) for the relevant Notes shall fall on the Payment Event Cut-off Date. In such circumstances, the Holder will not receive any amounts. Thereafter, the Issuer shall have no obligations whatsoever under the Notes.

For the purposes of this Condition 6(I):

“**Base Currency**” has the meaning given to it in Annex 5 – *Additional Terms and Conditions for FX Linked Securities*;

“**CNY**” means Chinese Renminbi, the lawful currency of the People’s Republic of China (including any lawful successor currency to the CNY);

“**CNY Payment Disruption Event**” means the occurrence of any of the following events:

- (a) an event that makes it impossible or impractical for the Issuer to convert any amounts in CNY due in respect of the Notes in the general CNY foreign exchange market in the relevant CNY Settlement Centre(s), other than where such impossibility or impracticality is due solely to the failure of the Issuer to comply with any law, rule or regulation enacted by any Governmental Authority (unless such law, rule or regulation is enacted after the relevant Trade Date, and it is impossible or impractical for the Issuer, due to an event beyond its control, to comply with such law, rule or regulation) (a “**CNY Inconvertibility Event**”);
- (b) an event that makes it impossible or impractical for the Issuer to (i) deliver CNY between accounts inside the relevant CNY Settlement Centre(s), or (ii) from an account inside the relevant CNY Settlement Centre(s) to an account outside the relevant CNY Settlement Centre(s) (including, if applicable, to another CNY Settlement Centre), other than where such impossibility or impracticality is due solely to the failure of the Issuer to comply with any law, rule or regulation enacted by any Governmental Authority (unless such law, rule or regulation is enacted after the Trade Date and it is impossible or impractical for the Issuer, due to an event beyond its control, to comply with such law, rule or regulation) (a “**CNY Non-Transferability Event**”); and
- (c) the general CNY foreign exchange market in the relevant CNY Settlement Centre becomes illiquid as a result of which the Issuer cannot obtain sufficient CNY in order to satisfy its payment obligations (in whole or in part) under the Notes (a “**CNY Non-Availability Event**”);

“**CNY Settlement Centre**” means the financial centre(s) specified as such in the applicable Final Terms;

“**Equivalent Amount**” means, in respect of the relevant Interest Amount, Fixed Coupon Amount, Final Redemption Amount or other amount payable (if applicable) on the relevant Affected

Payment Date (for these purposes, the “**Relevant Amount**”), an amount in the Base Currency determined by the Calculation Agent by converting the Relevant Amount into the Base Currency using the Equivalent Amount Settlement Rate for the relevant Affected Payment Date;

“**Equivalent Amount Settlement Rate**” means, unless otherwise specified in the applicable Final Terms, in respect of any relevant day, the spot exchange rate on such day between CNY and the Base Currency, determined by the Calculation Agent, taking into account all available information which the Calculation Agent deems relevant (including, but not limited to, pricing information obtained from the CNY non-deliverable market outside the People’s Republic of China and/or the CNY foreign exchange market in the People’s Republic of China);

“**Governmental Authority**” means any de facto or de jure government (or any agency or instrumentality thereof), court, tribunal, administrative or other governmental authority or any other entity (private or public) charged with the regulation of the financial markets (including the central bank) of the People’s Republic of China, the Hong Kong Special Administrative Region and any other CNY Settlement Centre;

“**impractical**” or “**impracticality**” means, in respect of any action to be taken by the Issuer, that the Issuer and/or its Affiliates would incur a materially increased amount of taxes, duties, expenses or fees (as compared with circumstances existing on the Trade Date) to perform such action, or the Issuer and/or any Affiliates would be in breach of any law, rule, regulation, guideline or internal policy of the Issuer and/or its Affiliates, if such action were to be performed;

“**Payment Disruption Event**” means:

- (a) the occurrence of either (a) an Inconvertibility Event and/or (b) a Non-Transferability Event (each as defined in Annex 5 – *Additional Terms and Conditions for FX Linked Securities*;
- (b) the imposition by the Subject Currency Jurisdiction (or any political or regulatory authority thereof) of any capital controls, or the publication of any notice of an intention to do so, which the Calculation Agent determines in good faith is likely materially to affect the Notes, and notice thereof is given by the Issuer to the Holders in accordance with Condition 14; or
- (c) the implementation by the Subject Currency Jurisdiction (or any political or regulatory authority thereof) or the publication of any notice of an intention to implement any changes to the laws or regulations relating to foreign investment in the Subject Currency Jurisdiction (including, but not limited to, changes in tax laws and/or laws relating to capital markets and corporate ownership), which the Calculation Agent determines are likely to affect materially the Issuer’s ability to hedge its obligations under the Notes;

“**Payment Event Cut-off Date**” means the date which is one year after the Maturity Date, or as determined by the Calculation Agent acting in good faith and notified to Holders in accordance with Condition 14;

“**Subject Currency**” has the meaning given to it in Annex 5 – *Additional Terms and Conditions for FX Linked Securities*;

“**Subject Currency Jurisdiction**” has the meaning given to it in Annex 5 – *Additional Terms and Conditions for FX Linked Securities*.

## 7. **Redemption and Purchase**

### (A) *Redemption at maturity*

Unless previously redeemed or purchased and cancelled as specified below, each Note (unless it is a Credit Linked Note) will be redeemed by the Issuer at its Final Redemption Amount specified in, or determined in the manner specified in, the applicable Final Terms in the relevant Specified Currency on the Maturity Date or if the Notes are specified as Physical Delivery Notes in the applicable Final Terms, by delivery of the Entitlement (subject as provided in Annex 10 – *Additional Terms and Conditions for Physical Delivery Notes*) specified in, or determined in the manner specified in, the applicable Final Terms on the Maturity Date.

### (B) *Redemption for Tax Reasons*

The Issuer may redeem the Notes, in whole, but not in part, at any time prior to maturity at their Early Redemption Amount, together, if appropriate, with accrued interest to (but excluding) the date fixed for redemption, if: (i) the Issuer or the Guarantor shall determine that as a result of any



change in or amendment to the laws (or any regulations or rulings promulgated thereunder) of the United States or Luxembourg, as the case may be, or any political subdivision or taxing authority of or in the United States or Luxembourg, as applicable, affecting taxation, or any change in application or official interpretation of such laws, regulations or rulings, which amendment or change is effective on or after the latest Issue Date of the Notes, the Issuer would be required to pay additional amounts, as provided in Condition 8, on the occasion of the next payment due with respect to the Notes; (ii) any payment or deemed payment as determined for United States tax purposes with respect to the Notes or with respect to a direct or indirect hedging arrangement entered into by the Issuer or any of its Affiliates relating to the Notes may be treated as a dividend or “dividend equivalent” for United States tax purposes (such event being a “**U.S. Withholding Tax Event**”); or (iii) on the occasion of the next payment due in respect of the Notes, the Guarantor would be unable to procure the Issuer to make payment and, in making such payment itself under the Guarantee, the Guarantor would, as a result of any change in or amendment to the laws (or any regulations or rulings promulgated thereunder) of the United States or any political subdivision or taxing authority thereof or therein affecting taxation, or any change in application or official interpretation of such laws, regulations or rulings, which amendment or change is effective on or after the latest Issue Date of the Notes, be required to pay additional amounts as provided in Condition 8.

The Notes are also subject to redemption in whole, but not in part, in the other circumstances described in Condition 8.

Notice of intention to redeem Notes will be given at least once in accordance with Condition 14 not less than 30 calendar days nor more than 60 calendar days prior to the date fixed for redemption, provided that no such notice of redemption shall be given earlier than 90 calendar days prior to the effective date of such change or amendment and that at the time notice of such redemption is given, such obligation to pay such additional amounts remains in effect and cannot be avoided by the Issuer’s taking reasonable measures available to it. From and after any redemption date, if monies for the redemption of Notes shall have been made available for redemption on such redemption date, such Notes shall cease to bear interest, if applicable, and the only right of the holders of such Notes and any Receipts or Coupons appertaining thereto shall be to receive payment of the Early Redemption Amount and, if appropriate, all unpaid interest accrued to such redemption date.

(C) *Redemption for Tax Compliance Reasons*

The Issuer may, at its option, redeem the Notes, in whole or in part, at any time prior to maturity, at their Early Redemption Amount, together, if appropriate, with accrued interest to (but excluding) the date fixed for redemption, if the Issuer determines in good faith that it has, or there is a substantial likelihood that it will, become subject to withholding imposed on a payment made to it on account of the Issuer’s inability to comply with the reporting requirements imposed by the FATCA Provisions (as defined below), provided that such inability to comply with the reporting requirements is attributable to non-compliance by any Holder of such Notes (or a foreign withholding agent (if any) in the chain of custody of payments made to the Holders) with the Issuer’s requests for certifications or identifying information (such redemption, a “**Redemption for Tax Compliance Reasons**”). Upon a Redemption for Tax Compliance Reasons, Notes held by compliant Holders, in addition to those held by non-compliant Holders, may be redeemed.

Notice of intention to redeem Notes will be given in accordance with Condition 14 not less than 30 calendar days nor more than 60 calendar days prior to the date fixed for redemption. From and after any redemption date, if monies for the redemption of Notes shall have been made available for redemption on such redemption date, such Notes shall cease to bear interest, if applicable, and the only right of the holders of such Notes and any Receipts or Coupons appertaining thereto shall be to receive payment of the Early Redemption Amount and, if appropriate, all unpaid interest accrued to such redemption date.

As used in these Terms and Conditions, the term “**FATCA Provisions**” means Section 1471 through 1474 of the Code, the U.S. Treasury regulations promulgated thereunder, and any administrative guidance with respect thereto, whether currently in effect or as published and amended from time to time.

(D) *Redemption at the option of the Issuer (Issuer Call)*

If Issuer Call is specified in the applicable Final Terms, the Issuer may, having given:

- (a) not less than 30 nor more than 60 calendar days' notice to the Noteholders in accordance with Condition 14 (or such other period as is specified in the applicable Final Terms); and
- (b) not less than 2 London Business Days' notice (or such other period as is specified in the applicable Final Terms) before the giving of the notice referred to in (a), notice to the Principal Paying Agent, and the Registrar, if applicable

(which notices shall be irrevocable and shall specify the date fixed for redemption), redeem all or some only of the Notes then outstanding on any Optional Redemption Date and at the Optional Redemption Amount(s) specified in, or determined in the manner specified in, the applicable Final Terms together, if appropriate, with interest accrued to (but excluding) the relevant Optional Redemption Date. Any such redemption must be of a nominal amount not less than the Minimum Redemption Amount and/or not more than the Maximum Redemption Amount in each case as may be specified in the applicable Final Terms. In the case of a partial redemption of Notes, the Notes to be redeemed ("**Redeemed Notes**") will be selected individually by lot, in the case of Redeemed Notes represented by Definitive Bearer Notes or Individual Note Certificates, and in accordance with any applicable laws and the rules of Euroclear and/or Clearstream, Luxembourg, (to be reflected in the records of Euroclear and Clearstream, Luxembourg as either a pool factor or a reduction in nominal amount at their discretion) in the case of Redeemed Notes represented by a Global Note, not more than 60 calendar days' prior to the date fixed for redemption (such date of selection being hereinafter called the "**Selection Date**"). In the case of Redeemed Notes represented by Definitive Bearer Notes or Individual Note Certificates, a list of the serial numbers of such Redeemed Notes will be published in accordance with Condition 14 not less than 30 calendar days prior to the date fixed for redemption. No exchange of the relevant Global Note will be permitted during the period from (and including) the Selection Date to (and including) the date fixed for redemption pursuant to this paragraph (D) and notice to that effect shall be given by the Issuer to the Noteholders in accordance with Condition 14 at least five calendar days' prior to the Selection Date.

(E) *Redemption at the option of the Noteholders (Investor Put)*

If Investor Put is specified in the applicable Final Terms, upon the holder of any Note giving to the Issuer in accordance with Condition 14 not less than 30 nor more than 60 calendar days' notice (or such other notice period as is specified in the applicable Final Terms) the Issuer will, upon the expiry of such notice, redeem, subject to, and in accordance with, the terms specified in the applicable Final Terms, such Note on the Optional Redemption Date and at the Optional Redemption Amount together, if appropriate, with interest accrued to (but excluding) the Optional Redemption Date. It may be that before an Investor Put can be exercised, certain conditions and/or circumstances will need to be satisfied. Where relevant, the provisions will be set out in the applicable Final Terms.

If the Note is represented by a Definitive Bearer Note or an Individual Note Certificate and held outside Euroclear and Clearstream, Luxembourg, to exercise the right to require redemption of the Note the holder of the Note must deliver:

- (i) in respect of Definitive Bearer Notes, at the specified office of any Paying Agent at any time during normal business hours of such Paying Agent falling within the notice period, a duly completed and signed notice of exercise (a "**Put Notice**") in the form (for the time being current) obtainable from any specified office of any Paying Agent and in which the holder must specify a bank account (or, if payment is required to be made by cheque, an address) to which payment is to be made under this Condition 7 accompanied by the Note or evidence satisfactory to the Paying Agent concerned that the Note will, following delivery of the Put Notice, be held to its order or under its control; or
- (ii) in respect of Definitive Registered Notes represented by Individual Note Certificates, at the specified office of the Registrar at any time during normal business hours of the Registrar falling within the notice period, a duly signed and completed Put Notice and in which the Holder must specify a bank account (or, if payment is required by cheque, an address) to which payment is to be made under this Condition 7 accompanied by the relevant Individual Note Certificate(s) or evidence satisfactory to the Registrar that the Individual Note Certificate(s) will, following delivery of the Put Notice, be held to its order or under its control.

If the Note is represented by a Global Note or is in definitive form and held through Euroclear or Clearstream, Luxembourg, to exercise the right to require redemption of the Note the holder of the Note must, within the notice period, give notice to, in respect of Global Bearer Notes and Definitive Bearer Notes, the Principal Paying Agent and, in respect of Global Registered Notes and Definitive Registered Notes, the Registrar of such exercise in accordance with the standard procedures of Euroclear and Clearstream, Luxembourg (which may include notice being given on his instruction by Euroclear or Clearstream, Luxembourg or the Common Depositary or its nominee or common safekeeper, as the case may be, for them to, in respect of Global Bearer Notes and Definitive Bearer Notes, the Principal Paying Agent and, in respect of Global Registered Notes and Definitive Registered Notes, the Registrar by electronic means) in a form acceptable to Euroclear and Clearstream, Luxembourg from time to time and, if the Note is represented by a Global Note, at the same time present or procure the presentation of the relevant Global Note to the Principal Paying Agent or the Registrar, as applicable for notation accordingly.

Any Put Notice or other notice given in accordance with the standard procedures of Euroclear and Clearstream, Luxembourg given by a holder of any Note pursuant to this paragraph (E) shall be irrevocable except where, prior to the due date of redemption, an Event of Default has occurred and is continuing in which event such holder, at its option, may elect by notice to the Issuer to withdraw the notice given pursuant to this paragraph (E) and instead to declare such Note forthwith due and payable pursuant to Condition 10.

(F) *Exercise of Options or Partial Redemption in respect of Definitive Registered Notes*

In the case of an exercise of an Issuer Call or Investor Put in respect of, or a partial redemption of, a holding of Definitive Registered Notes represented by a single Individual Note Certificate, a new Individual Note Certificate shall be issued to the Holder to reflect the exercise of such option or in respect of the balance of the holding not redeemed. In the case of a partial exercise of an option resulting in Definitive Registered Notes of the same holding having different terms, separate Individual Note Certificates shall be issued in respect of those Notes of that holding that have the same terms. New Individual Note Certificates shall only be issued against surrender of the existing Individual Note Certificate to the Registrar. In the case of a transfer of Definitive Registered Notes to a person who is already a Holder of Definitive Registered Notes, a new Individual Note Certificate representing the enlarged holding shall only be issued against surrender of the Individual Note Certificate representing the existing holding.

(G) *Early Redemption Amounts*

The Early Redemption Amount shall be calculated as follows:

- (a) in the case of a Note with a Final Redemption Amount equal to the Issue Price, at the Final Redemption Amount thereof;
- (b) in the case of a Note (other than a Zero Coupon Note and excluding Notes specified in paragraph (d) below but including an Instalment Note and a Partly Paid Note) with a Final Redemption Amount which is or may be less or greater than the Issue Price or which is payable in a Specified Currency other than that in which the Note is denominated, at the amount specified in, or determined in the manner specified in, the applicable Final Terms or, if no such amount or manner is so specified in the applicable Final Terms, at its nominal amount; or
- (c) in the case of a Zero Coupon Note, at an amount (the “**Amortised Face Amount**”) calculated in accordance with the following formula:

$$\text{Early Redemption Amount} = \text{RP} \times (1 + \text{AY})^y$$

where:

“RP” means the Reference Price; and

“AY” means the Accrual Yield expressed as a decimal; and

“y” is a fraction the numerator of which is equal to the number of days (calculated on the basis of a 360-day year consisting of 12 months of 30 days each) from (and including) the Issue Date of the first Tranche of the Notes to (but excluding) the date fixed for redemption or (as the case may be) the date upon which such Note becomes due and repayable and the denominator of which is 360,

or on such other calculation basis as may be specified in the applicable Final Terms; or

- (d) in the case of Index Linked Notes, Share Linked Notes, Debt Linked Notes, GDR/ADR Linked Notes, FX Linked Notes, Commodity Linked Notes, Fund Linked Notes, Inflation Linked Notes or Credit Linked Notes, the Early Redemption Amount in respect of each nominal amount of such Notes equal to the Calculation Amount will be set out in the applicable Final Terms

If “**Market Value less Associated Costs**” is specified as the Early Redemption Amount in the applicable Final Terms the Early Redemption Amount in respect of each nominal amount of Notes equal to the Calculation Amount shall be an amount determined by the Calculation Agent, which on (i) in the case of redemption other than pursuant to Condition 10, the second Business Day immediately preceding the due date for the early redemption of the Notes or (ii) in the case of redemption pursuant to Condition 10, the due date for the early redemption of such Notes, represents the fair market value of such Notes (taking into account all factors which the Calculation Agent determines relevant) less Associated Costs, and provided that no account shall be taken of the financial condition of the Issuer which shall be presumed to be able to perform fully its obligations in respect of the Notes.

As used herein:

“**Associated Costs**” means an amount per nominal amount of the Notes equal to the Calculation Amount equal to such Notes’ *pro rata* share of the total amount of any and all costs associated or incurred by the Issuer or any Affiliate in connection with such early redemption, including, without limitation, any costs associated with unwinding any funding relating to the Notes and any costs associated with unwinding any hedge positions relating to the Notes, all as determined by the Calculation Agent in its sole discretion.

(H) *Automatic Early Redemption Event*

If Automatic Early Redemption is specified as applicable in the applicable Final Terms, then unless previously redeemed or purchased and cancelled, if an Automatic Early Redemption Event as specified in the applicable Final Terms occurs, then the Issuer will give notice to Noteholders in accordance with Condition 14 and the Notes will be redeemed in whole, but not in part, on the Automatic Early Redemption Date as specified in the applicable Final Terms at the Automatic Early Redemption Amount as specified in the applicable Final Terms.

(I) *Instalments*

Instalment Notes will be redeemed in the Instalment Amounts and on the Instalment Dates. In the case of early redemption, the Early Redemption Amount will be determined pursuant to paragraph (G) above.

(J) *Partly Paid Notes*

Partly Paid Notes will be redeemed, whether at maturity, early redemption or otherwise, in accordance with the provisions of this Condition 7 and the applicable Final Terms.

(K) *Illegality*

In the event that the Issuer determines in good faith that (i) the performance of the Issuer’s obligations under the Notes or that any arrangements made to hedge the Issuer’s obligations under the Notes or (ii) the performance by the Guarantor of any of its obligations under the Guarantee in respect of the Notes, has or will become unlawful, illegal or otherwise prohibited in whole or in part as a result of compliance with any applicable present or future law, rule, regulation, judgment, order or directive of any governmental, administrative, legislative or judicial authority or power, or in the interpretation thereof, the Issuer having given not less than 10 nor more than 30 calendar days’ notice to Noteholders in accordance with Condition 14 (which notice shall be irrevocable), may, on expiry of such notice redeem all, but not less than all, of the Notes, each Note being redeemed at the Early Redemption Amount together (if appropriate) with interest accrued to (but excluding) the date of redemption.

(L) *Purchases*

The Issuer, the Guarantor or any of their affiliates may at any time purchase Notes (provided that, in the case of Definitive Bearer Notes, all unmatured Receipts, Coupons and Talons appertaining thereto are purchased therewith) at any price in the open market or otherwise. Such Notes may be

held, reissued, resold or, at the option of the Issuer or the Guarantor, surrendered to any Paying Agent for cancellation.

(M) *Cancellation*

All Notes which are redeemed will forthwith be cancelled (together with all unmatured Receipts, Coupons and Talons attached thereto or surrendered therewith at the time of redemption). All Notes so cancelled and any Notes purchased and cancelled pursuant to paragraph (L) above (together with all unmatured Receipts, Coupons and Talons cancelled therewith) shall be forwarded to the Principal Paying Agent and cannot be reissued or resold.

(N) *Late payment on Zero Coupon Notes*

If the amount payable in respect of any Zero Coupon Note upon redemption of such Zero Coupon Note pursuant to paragraphs (A), (B), (C), (D) or (E) above or upon its becoming due and repayable as provided in Condition 10 is improperly withheld or refused, the amount due and repayable in respect of such Zero Coupon Note shall be the amount calculated as provided in paragraph (G)(c) above as though the references therein to the date fixed for the redemption or the date upon which such Zero Coupon Note becomes due and payable were replaced by references to the date which is the earlier of:

- (a) the date on which all amounts due in respect of such Zero Coupon Note have been paid; and
- (b) five calendar days after the date on which the full amount of the moneys payable in respect of such Zero Coupon Notes has been received by the Principal Paying Agent and notice to that effect has been given to the Noteholders in accordance with Condition 14.

(O) *Early redemption of Swedish Notes*

In the event of a partial redemption of Swedish Notes pursuant to Condition 7(D) (*Redemption at the option of the Issuer (Issuer Call)*) the notice to Holders shall specify the Notes or amounts of the Notes to be redeemed or in respect of which such Issuer call option has been so exercised, and the procedures for partial redemptions set out in the Swedish CSD Rules will be observed. The notice shall also specify the closed period for the purposes of Condition 2(B)(a) (*Notes held in Euroclear, Clearstream, Luxembourg, Euroclear France and the Swedish CSD*) and the Swedish Record Date for the purposes of Condition 6(C) (*Payments in respect of Swedish Notes*).

In the event of an Investor Put in respect of Swedish Notes pursuant to Condition 7(E) (*Redemption at the option of the Noteholders (Investor Put)*), a Put Notice in respect of Swedish Notes will not take effect against the Issuer before the date on which the relevant Swedish Notes have been transferred to the account designated by the Swedish Security Agent and blocked for further transfer by the Swedish Security Agent (such date will be the first date of a closed period for the purposes of Condition 2(B)(a) (*Notes held in Euroclear, Clearstream, Luxembourg, Euroclear France and the Swedish CSD*)). No Swedish Note so transferred or blocked and option exercised may be withdrawn without the prior consent of the Issuer.

**8. Taxation**

- (A) The Issuer or the Guarantor, as the case may be, will, subject to certain limitations and exceptions (set forth below), pay to a Noteholder, Receiptholder or Couponholder who is a United States Alien or a Luxembourg Non-resident (each as defined below) such additional amounts as may be necessary so that every net payment of principal or interest or other amount with respect to the Notes, Receipts, Coupons or the Guarantee after deduction or withholding for or on account of any present or future tax, assessment or other governmental charge imposed upon such Noteholder, Receiptholder or Couponholder or by reason of the making of such payment, by the United States or Luxembourg or any political subdivision or taxing authority of or in the United States or Luxembourg, as the case may be, and will not be less than the amount provided for in the Notes, Receipts, Coupons or the Guarantee to be then due and payable, as the case may be. Neither the Issuer nor the Guarantor shall be required to make any payment of additional amounts for or on account of:

- (a) any tax, assessment or other governmental charge which would not have been imposed but for
  - (i) the existence of any present or former connection between such Noteholder, Receiptholder or Couponholder (or between a fiduciary, settlor, beneficiary, member or shareholder of, or possessor of a power over, such Noteholder, Receiptholder or Couponholder, if such



Noteholder, Receiptholder or Couponholder is an estate, trust, partnership or corporation) and the United States or Luxembourg, as the case may be, including, without limitation, such Noteholder, Receiptholder or Couponholder (or such fiduciary, settlor, beneficiary, member, shareholder or possessor) being or having been a citizen or resident or treated as a resident of the United States or Luxembourg, as the case may be, or being or having been present or engaged in a trade or business in the United States or Luxembourg, as the case may be, or having or having had a permanent establishment in the United States or Luxembourg, as the case may be, or (ii) the presentation of a Note, Receipt or Coupon for payment on a date more than 15 calendar days after the date on which such payment became due and payable or the date on which payment thereof is duly provided for, whichever occurs later;

- (b) any estate, inheritance, gift, sales, transfer, excise, wealth or personal property or any similar tax, assessment or other governmental charge;
- (c) any tax, assessment or other governmental charge imposed by reason of such Noteholder's, Receiptholder's or Couponholder's past or present status as a personal holding company, foreign personal holding company, passive foreign investment company, private foundation, or other tax-exempt entity, or controlled foreign corporation for United States tax purposes or a corporation which accumulates earnings to avoid United States federal income tax;
- (d) any tax, assessment or other governmental charge which is payable otherwise than by withholding from payments of principal or interest or other amount with respect to the Notes, Receipts or Coupons;
- (e) any tax, assessment or other governmental charge imposed as a result of such Noteholder's, Receiptholder's or Couponholder's past or present status as the actual or constructive owner of 10 per cent. or more of the total combined voting power of all classes of stock of the Issuer entitled to vote;
- (f) any tax, assessment or other governmental charge imposed as a result of such Noteholder, Receiptholder or Couponholder being a bank receiving payments on an extension of credit made pursuant to a loan agreement entered into in the ordinary course of its trade or business;
- (g) any tax, assessment or other governmental charge required to be withheld or deducted where such withholding or deduction is imposed on a payment to an individual and is required to be made pursuant to European Council Directive 2003/48/EC or any law implementing or complying with, or introduced in order to conform to, such Directive (including, for the avoidance of doubt, the agreements concluded by each member of the European Union with several dependant or associated territories of the European Union, aiming to apply measures similar to the ones deriving from the European Council Directive 2003/48/EC or any law implementing or complying with, or introduced in order to conform to, such agreements);
- (h) any tax, assessment or other governmental charge which would not have been imposed but for the failure to comply with certification, information or other reporting requirements concerning the nationality, residence, identity or connection with the United States or Luxembourg, as the case may be, of the Noteholder, Receiptholder or Couponholder or of the beneficial owner of such Note, Receipt or Coupon, if such compliance is required by statute or by Regulation of the United States Treasury Department or of the relevant Luxembourg authority, as the case may be, as a precondition to relief or exemption from such tax, assessment or other governmental charge;
- (i) any tax, assessment, or governmental charge imposed solely because the payment is to be made by a particular Paying Agent or a particular office of a Paying Agent and would not be imposed if made by another agent or by another office of this agent;
- (j) any tax, assessment, or other governmental charge that is imposed or withheld by reason of the application of Section 1471 (or any successor provision) or Section 1472 (or any successor provision) of the Code or any related administrative regulation or pronouncement;
- (k) any tax, assessment, or other governmental charge that is imposed or withheld by reason of the payment being treated as a dividend or "dividend equivalent" for United States tax purposes; or
- (l) any combination of paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), (j) and (k) above,

nor shall additional amounts be paid to any United States Alien or Luxembourg Non- resident, as the case may be, which is a fiduciary or partnership or other than the sole beneficial owner of the Note, Receipt or Coupon to the extent a beneficiary or settlor with respect to such fiduciary or a member of such partnership or a beneficial owner of the Note, Receipt or Coupon would not have been entitled to payment of the additional amounts had such beneficiary, settlor, member or beneficial owner been the holder of the Note, Receipt or Coupon.

The term “**United States Alien**” means any corporation, partnership, entity, individual, or fiduciary that is for United States federal income tax purposes (1) a foreign corporation, (2) a foreign partnership to the extent one or more of the members of which is, for United States federal income tax purposes, a foreign corporation, a non-resident alien individual, or a foreign estate or trust, (3) a non-resident alien individual, or (4) a foreign estate or trust.

The term “**Luxembourg Non-resident**” means any individual, corporation, partnership or any other entity that for Luxembourg tax purposes is a non-resident individual, non-resident corporation, non-resident partnership or any other non-resident entity.

- (B) If the Issuer or the Guarantor shall determine that any payment made outside the United States by the Issuer, the Guarantor or any of the Paying Agents of the full amount of the next scheduled payment in respect of any Bearer Note, Receipt or Coupon would, under any present or future laws or regulations of the United States affecting taxation or otherwise, be subject to any certification, information or other reporting requirements of any kind, the effect of which requirements is the disclosure to the Issuer, the Guarantor, any of the Paying Agents or any governmental authority of the nationality, residence or identity (as distinguished from status as a United States Alien) of a beneficial owner of such Bearer Note, Receipt or Coupon who is a United States Alien (other than such requirements which (a) would not be applicable to a payment made by the Issuer or the Guarantor to a custodian, nominee or other agent of the beneficial owner, or which can be satisfied by such a custodian, nominee or other agent certifying to the effect that such beneficial owner is a United States Alien, provided, however, in each case that payment by such custodian, nominee or agent to such beneficial owner is not otherwise subject to any requirements referred to in this sentence, (b) are applicable only to payment by a custodian, nominee or other agent of the beneficial owner to or on behalf of such beneficial owner, or (c) would not be applicable to a payment made by any other Paying Agent), the Issuer (at the election of the Guarantor) shall redeem the Notes as a whole but not in part at a redemption price equal to the Early Redemption Amount together, if applicable, with accrued interest to, but excluding, the date fixed for redemption, such redemption to take place on such date not later than one year after the publication of notice of such determination. If the Issuer or the Guarantor determines that such certification, information or other reporting requirements apply, the Issuer or the Guarantor shall give prompt notice of such determination (a “**Tax Notice**”) in accordance with Condition 14 stating in such notice the effective date of such certification, information or other reporting requirements and, if applicable, the date by which the redemption shall take place. Notwithstanding the foregoing, the Issuer shall not redeem Notes if the Issuer or the Guarantor shall subsequently determine not less than 30 calendar days prior to the date fixed for redemption that subsequent payments would not be subject to any such requirements, in which case the Issuer or the Guarantor shall give prompt notice of such determination in accordance with Condition 14 and any earlier redemption notice shall thereby be revoked and of no further effect.
- (C) Notwithstanding the foregoing, if and so long as the certification, information or other reporting requirements referred to in the preceding paragraph would be fully satisfied by payment of a backup withholding tax or similar charge, the Issuer or the Guarantor may elect prior to publication of the Tax Notice to have the provisions described in this Condition 8(C) apply in lieu of the provisions described in Condition 8(B), in which case the Tax Notice shall state the effective date of such certification, information or reporting requirements and that the Issuer, failing which the Guarantor, has elected to pay additional amounts rather than redeem the Notes. In such event, the Issuer, failing which the Guarantor, will pay as additional amounts such amounts as may be necessary so that every net payment made following the effective date of such certification, information or reporting requirements outside the United States by the Issuer or any of the Paying Agents of principal or interest due with respect to a Bearer Note, Receipt or Coupon to a holder who certifies to the effect that the beneficial owner of such Note, Receipt or Coupon is a United States Alien (provided that such certification shall not have the effect of communicating to the Issuer or any of the Paying Agents or any governmental authority the nationality, residence or identity of such beneficial owner) after deduction or withholding for or on account of such backup

withholding tax or similar charge (other than a backup withholding tax or similar charge which (1) is imposed as a result of certification, information or other reporting requirements referred to in the second parenthetical clause of the first sentence of Condition 8(B) is imposed as a result of the fact that the Issuer, the Guarantor, or any of the Paying Agents has actual knowledge that the holder or beneficial owner of such Note, Receipt or Coupon is not a United States Alien but is within the category of persons, corporations or other entities described in Condition 8(A)(a) above, or (3) is imposed as a result of presentation of such Note, Receipt or Coupon for payment more than 15 calendar days after the date on which such payment becomes due and payable or on which payment thereof is duly provided for, whichever occurs later), will not be less than the amount provided for in such Note, such Receipt or such Coupon to be then due and payable. In the event the Issuer or the Guarantor elect to pay such additional amounts, the Issuer will have the right, at its sole option, at any time, to redeem the Bearer Notes, as a whole but not in part at a redemption price equal to their Early Redemption Amount, together, if applicable, with accrued interest to the date fixed for redemption including any additional amounts required to be paid under this paragraph. If the Guarantor or the Issuer has made the determination described in Condition 8(B) with respect to certification, information or other reporting requirements applicable to interest only and subsequently makes a determination in the manner and of the nature referred to in Condition 8(B) with respect to such requirements applicable to principal, the Issuer will redeem the Bearer Notes in the manner and on the terms described in Condition 8(B) (except as provided below), unless the Guarantor or the Issuer elects to have the provisions of this Condition 8(C) apply rather than the provisions of Condition 8(B). If in such circumstances the Bearer Notes are to be redeemed, the Issuer and the Guarantor will be obligated to pay additional amounts with respect to interest, if any, accrued to the date of redemption. If the Guarantor or the Issuer has made the determination described in Condition 8(B) above and subsequently makes a determination in the manner and of the nature referred to in Condition 8(B) above that the level of withholding applicable to principal or interest has been increased, the Issuer will redeem the Bearer Notes in the manner and on the terms described in Condition 8(B) above (except as provided below), unless the Guarantor or the Issuer elects to have the provisions of this Condition 8(C) apply rather than the provisions of Condition 8(B) above. If in such circumstances the Bearer Notes are to be redeemed, the Issuer and the Guarantor will be obligated to pay additional amounts with respect to the original level of withholding on principal and interest, if any, accrued to the date of redemption.

9. **Prescription**

The Notes, Receipts and Coupons will become void unless presented for payment within a period of ten years (in the case of principal) and five years (in the case of interest) after the Relevant Date (as defined below) therefor.

As used herein, the “**Relevant Date**” means the date on which such payment first becomes due, except that, if the full amount of the moneys payable has not been duly received by the Principal Paying Agent on or prior to such due date, it means the date on which, the full amount of such moneys having been so received, notice to that effect is duly given to the Noteholders in accordance with Condition 14.

There shall not be included in any Coupon sheet issued on exchange of a Talon any Coupon the claim for payment in respect of which would be void pursuant to this Condition or Condition 6(B) or any Talon which would be void pursuant to Condition 6(B).

10. **Events of Default**

- (A) If any one or more of the following events (each an “**Event of Default**”) shall occur and be continuing in respect of any Series of Notes:
- (a) default shall be made in the payment of any amount of interest due in respect of any such Notes and the default continues for a period of 30 calendar days after the due date; or
  - (b) default shall be made in the payment of any principal of any such Notes or in the delivery when due of the Entitlement in respect of any such Notes (in each case whether at maturity or upon redemption or otherwise); or
  - (c) the Issuer or the Guarantor shall fail to perform or observe any other term, covenant or agreement contained in the Terms and Conditions applicable to any of such Notes or in the Agency Agreement or the Guarantee for the period of 90 calendar days after the date on which written notice of such failure, requiring the Issuer or the Guarantor to remedy the same,

first shall have been given to the Principal Paying Agent, the Issuer and the Guarantor by holders of at least 33 per cent. of the aggregate principal amount of any such Notes outstanding; or

- (d) a court having jurisdiction in the premises shall have entered a decree or order granting relief with respect to the Issuer or the Guarantor in an involuntary proceeding under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appointing a receiver, liquidator, trustee, assignee, custodian or sequestrator (or similar official) of the Issuer or the Guarantor or of all or substantially all of its property or for the winding up or liquidation of its affairs, and such decree or order shall have remained in force and unstayed for a period of 60 consecutive calendar days; or
- (e) the Issuer or the Guarantor shall institute proceedings for relief under any applicable bankruptcy, insolvency or any other similar law now or hereafter in effect, or shall consent to the institution of any such proceedings against it, or shall consent to the appointment of a receiver, liquidator, trustee, assignee, custodian or sequestrator (or similar official) of it or of all or substantially all of its property, or shall make an assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any corporate action in furtherance of any of the foregoing,

then the holders of 33 per cent. in aggregate principal amount of such Notes outstanding may, at their option, declare such Notes to be due and payable immediately at the Early Redemption Amount, together with interest, if any, accrued thereon by written notice to the Issuer and the Guarantor and the Principal Paying Agent at its main office in London, and unless all such defaults shall have been cured by the Issuer or the Guarantor prior to receipt of such written notice, such Notes shall become and be immediately due and payable at the Early Redemption Amount, together with the interest, if any, accrued on such Notes.

At any time after such a declaration of acceleration with respect to such Notes has been made and before a judgment or decree for payment of the money due with respect to such Notes has been obtained by any Noteholder of such Notes, such declaration and its consequences may be rescinded and annulled upon the written consent of holders of a majority in aggregate principal amount of such Notes then outstanding, or by resolution adopted by a majority in aggregate principal amount of such Notes outstanding present or represented at a meeting of holders of such Notes at which a quorum is present, as provided in the Agency Agreement, if:

- (i) (A) the Issuer has paid or deposited with the Principal Paying Agent a sum sufficient to pay:
  - (1) all overdue amounts of interest on the Notes;
  - (2) the principal of Notes which has become due otherwise than by such declaration of acceleration; or
 (B) in the case of Notes to be redeemed by physical delivery, the Issuer has delivered the relevant assets to any agent appointed by the Issuer to deliver such assets to the Noteholders; and
- (ii) all Events of Default with respect to the Notes, other than the non-payment of the principal of the Notes which has become due solely by such declaration of acceleration, have been cured or waived as provided in paragraph (B) below.

No such rescission shall affect any subsequent default or impair any right consequent thereon.

- (B) Any default by the Issuer or the Guarantor, other than the events described in paragraph (A)(a) or (A)(b) above, may be waived by the written consent of holders of a majority in aggregate principal amount of the Notes then outstanding affected thereby, or by resolution adopted by a majority in aggregate principal amount of such Notes then outstanding present or represented at a meeting of holders of the Notes affected thereby at which a quorum is present, as provided in the Agency Agreement.

#### 11. **Replacement of Notes, Receipts, Coupons and Talons**

Should any Note, Receipt, Coupon or Talon be lost, stolen, mutilated, defaced or destroyed, it may be replaced at the specified office of the Principal Paying Agent, in the case of Bearer Notes, or the Registrar, in the case of Registered Notes upon payment by the claimant of such costs and expenses as may be incurred in connection therewith and on such terms as to evidence and indemnity as the

Issuer may reasonably require. Mutilated or defaced Notes, Receipts, Coupons or Talons must be surrendered before replacements will be issued.

**12. Paying Agents, Registrar and Calculation Agent**

**(A) Paying Agents and Registrar**

The names of the initial Paying Agent and the Registrar and their initial specified offices are set out below.

In the case of Swedish Notes, the Issuer has appointed the Swedish Security Agent. The Swedish Security Agent acts solely as agent of the Issuer and does not assume any obligation to, or relationship of agency and trust with, the Holders.

The Issuer and the Guarantor are entitled to vary or terminate the appointment of any Paying Agent or the Registrar and/or appoint additional or other Paying Agents or Registrar and/or approve any change in the specified office through which any Paying Agent or Registrar acts, provided that:

- (a) there will at all times be a Principal Paying Agent and a Registrar;
- (b) so long as the Notes are listed on any stock exchange or admitted to listing by any other relevant authority, there will at all times be a Paying Agent, which may be the Principal Paying Agent, with a specified office in such place as may be required by the rules and regulations of the relevant stock exchange or other relevant authority;
- (c) so long as there is any Swedish Note outstanding, there will at all times be a Swedish CSD and a Swedish Security Agent (Swedish: *emissionsinstitut*); and
- (d) there will at all times be a Paying Agent in a Member State of the European Union that will not be obliged to withhold or deduct tax pursuant to European Council Directive 2003/48/EC or any law implementing or complying with, or introduced in order to conform to, such Directive.

In addition, the Issuer and the Guarantor shall forthwith appoint a Paying Agent having a specified office in New York City in the circumstances described in Condition 6(E). Any variation, termination, appointment or change shall only take effect (other than in the case of insolvency, when it shall be of immediate effect) after not less than 30 nor more than 45 calendar days' prior notice thereof shall have been given to the Noteholders in accordance with Condition 14.

In acting under the Agency Agreement, the Paying Agents and the Registrar act solely as agents of the Issuer and the Guarantor and do not assume any obligation to, or relationship of agency or trust with, any Noteholders, Receiptholders or Couponholders. The Agency Agreement contains provisions permitting any entity into which any Paying Agent or the Registrar is merged or converted or with which it is consolidated or to which it transfers all or substantially all of its assets to become the successor paying agent or registrar, as applicable.

**(B) Calculation Agent**

In relation to each issue of Notes, the Calculation Agent (whether it be Merrill Lynch International or another entity) acts solely as agent of the Issuer and the Guarantor and does not assume any obligation or duty to, or any relationship of agency or trust for or with, the Noteholders, Receiptholders or Couponholders. All calculations and determinations made in respect of the Notes by the Calculation Agent shall be in its sole and absolute discretion, in good faith, and shall (save in the case of manifest or proven error) be final, conclusive and binding on the Issuer, the Guarantor, the Paying Agents and the Noteholders, Receiptholders or Couponholders. The Calculation Agent shall promptly notify the Issuer and the Principal Paying Agent upon any such calculations and determinations, and (in the absence of wilful default, bad faith or manifest or proven error) no liability to the Issuer, the Guarantor, the Paying Agents, the Noteholders, the Receiptholders or the Couponholders shall attach to the Calculation Agent in connection with the exercise or non-exercise by it of its powers, duties and discretions pursuant to such provisions.

The Calculation Agent may, with the consent of the Issuer, delegate any of its obligations and functions to a third party as it deems appropriate.



### 13. **Exchange of Talons**

On and after the Interest Payment Date on which the final Coupon comprised in any Coupon sheet matures, the Talon (if any) forming part of such Coupon sheet may be surrendered at the specified office of the Principal Paying Agent or any other Paying Agent in exchange for a further Coupon sheet including (if such further Coupon sheet does not include Coupons to (and including) the final date for the payment of interest due in respect of the Note to which it appertains) a further Talon, subject to the provisions of Condition 9.

### 14. **Notices**

All notices regarding the Notes will be deemed to be validly given:

- (a) if, in respect of notices to Holders of Definitive Registered Notes, mailed to them at their respective addresses in the Register. Such notices will be deemed to have been given on the fourth weekday (being a day other than a Saturday or a Sunday) after the date of mailing;
- (b) if, in respect of notices to Holders of Definitive Bearer Notes, published in a leading English language daily newspaper of general circulation in London (which is expected to be the *Financial Times*). Any such notice will be deemed to have been given on the date of the first publication or, where required to be published in more than one newspaper, on the date of the first publication in all required newspapers;
- (c) if, in respect of any Notes that are admitted to trading on the regulated market of and listed on the Official List of the Luxembourg Stock Exchange, published in a daily newspaper of general circulation in Luxembourg and/or on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)). Any such notice will be deemed to have been given on the date of the first publication or, where required to be published in more than one newspaper, on the date of the first publication in all required newspapers; or
- (d) as otherwise specified in the applicable Final Terms.

In the case of Swedish Notes, all notices to Holders shall be valid if delivered by mail to the address registered for such Holder in the Swedish Register or otherwise in accordance with the rules and regulations of the Swedish CSD.

Until such time as any Definitive Bearer Notes or Individual Note Certificates are issued, there may, so long as any Global Notes representing the Notes are held in their entirety on behalf of Euroclear and/or Clearstream, Luxembourg, as the case may be, be substituted for such publication in such newspaper(s) (as described in Condition 14(b)) the delivery of the relevant notice to Euroclear and/or Clearstream, Luxembourg, as applicable for communication by them to the holders of the Notes and, in addition, for so long as any Notes are listed on a stock exchange or are admitted to trading by another relevant authority and the rules of that stock exchange or relevant authority so require, such notice will be published in a daily newspaper of general circulation in the place or places required by those rules. Any such notice shall be deemed to have been given to the holders of the Notes on the day on which such notice was given to Euroclear and/or Clearstream, Luxembourg, as applicable.

Notices to be given by any Noteholder shall be in writing and given by lodging the same, together with, in the case of any Definitive Bearer Notes, the relative Note or Notes, with the Principal Paying Agent or, in the case of Definitive Registered Notes, the relative Individual Note Certificate, with the Registrar. Whilst any of the Notes are represented by a Global Note, such notice may be given by any holder of a Note to the Principal Paying Agent or the Registrar, as applicable through Euroclear and/or Clearstream, Luxembourg, as the case may be, in such manner as the Principal Paying Agent or Registrar, as applicable and Euroclear and/or Clearstream, Luxembourg, as the case may be, may approve for this purpose.

### 15. **Meetings of Noteholders, Modification and Waiver**

The Agency Agreement contains provisions for convening meetings of the Holders of Notes of a particular Series to consider any matter affecting their interests, including the sanctioning by Extraordinary Resolution of a modification of such Notes, the Receipts, the Coupons or any of the provisions of the Agency Agreement. Such a meeting may be convened by the Issuer or the Guarantor and shall be convened by the Issuer if required in writing by the Noteholders holding not less than 33 per cent. in nominal amount of the Notes of the relevant Series for the time being

remaining outstanding. The quorum at any such meeting for passing an Extraordinary Resolution is one or more persons present and holding or representing in the aggregate not less than 50 per cent. in nominal amount of the Notes of the relevant Series for the time being outstanding, or at any adjourned meeting one or more persons present whatever the nominal amount of the Notes so held or represented, except that at any meeting the business of which includes the modification of certain provisions of the Notes, the Receipts or the Coupons (including modifying the date of maturity of the Notes or any date for payment of interest thereon, reducing or cancelling the amount of principal or the Entitlement or the rate of interest payable in respect of the Notes or altering the currency of payment of the Notes, the Receipts or the Coupons), the quorum shall be one or more persons present and holding or representing not less than two-thirds in nominal amount of the Notes of the relevant Series for the time being outstanding, or at any adjourned such meeting one or more persons present and holding or representing not less than one-third in nominal amount of the Notes of the relevant Series for the time being outstanding. An Extraordinary Resolution passed at any meeting of the Holders of the Notes of a particular Series shall be binding on all the Holders of Notes of such Series, whether or not they are present at the meeting, and on all Receiptholders and Couponholders.

The Principal Paying Agent and/or the Registrar, as applicable, and the Issuer may agree, without the consent of the Noteholders, Receiptholders or Couponholders, to:

- (a) any modification (except as mentioned above) of the Notes, the Receipts, the Coupons or Agency Agreement which is not prejudicial to the interests of the Noteholders; or
- (b) any modification of the Notes, the Receipts, the Coupons or the Agency Agreement which is of a formal, minor or technical nature or is made to correct a manifest or proven error or to comply with mandatory provisions of the law.

Any such modification shall be binding on the Noteholders, the Receiptholders and the Couponholders and any such modification shall be notified to the Noteholders in accordance with Condition 14 as soon as practicable thereafter.

#### 16. **Further Issues**

The Issuer shall be at liberty from time to time without the consent of the Noteholders, the Receiptholders or the Couponholders to create and issue further notes having terms and conditions the same as the Notes or the same in all respects save for the amount and date of the first payment of interest thereon and so that the same shall be consolidated and form a single Series with the outstanding Notes.

If the Issuer issues further Notes of the same Series during the initial 40-day restricted period applicable to the outstanding Notes of such Series, then such 40-day period will be extended until 40 calendar days after the later of the commencement of the offering of such further issue of Notes and the Issue Date of such further issue of Notes. In addition, if the Issuer issues further Notes of the same Series after the expiration of the 40-day restricted period, a new 40-day restricted period will be applied to such further issue of Notes without applying to the outstanding Notes. After the expiration of the new 40-day restricted period, all such Notes will be consolidated with and form a single Series with the outstanding Notes.

#### 17. **Consolidation or Merger**

The Issuer or the Guarantor may consolidate with, or sell or convey all or substantially all of its assets to, or merge with or into any other company provided that in any such case, (i) (a) in the case of the Issuer, either the Issuer shall be the continuing company, or the successor company shall expressly assume the due and punctual payment of all amounts or delivery of all assets, as the case may be, (including additional amounts as provided in Condition 8) payable or deliverable, as applicable, with respect to the Notes, Receipts and Coupons, according to their tenor, and the due and punctual performance and observance of all of the obligations under the Conditions to be performed by the Issuer by an amendment to the Agency Agreement executed by, *inter alios*, such successor company, the Guarantor, the Registrar and the Principal Paying Agent, and (b) in the case of the Guarantor, the Guarantor shall be the continuing company, or the successor company shall be a company organised and existing under the laws of the United States or a state thereof or the District of Columbia and such successor company shall expressly assume the due and punctual payment of all amounts or delivery of all assets, as the case may be, (including additional amounts as provided in Condition 8) payable or deliverable, as applicable, with respect to the Guarantee by the

execution of a new guarantee of like tenor and (ii) immediately after giving effect to such transaction, no Event of Default under Condition 10, and no event which, with notice or lapse of time or both, would become such an Event of Default shall have happened and be continuing. In case of any such consolidation, merger, sale or conveyance and upon any such assumption by the successor company, such successor company shall succeed to and be substituted for the Issuer or the Guarantor, as the case may be, with the same effect as if it had been named herein as the Issuer or the Guarantor, as the case may be, and the Issuer or the Guarantor, as the case may be, except in the event of a conveyance by way of lease, shall be relieved of any further obligations under the Conditions, the Agency Agreement and the Guarantee, as applicable.

**18. Business Days**

In these Terms and Conditions, “**Business Day**” means a day which is both:

- (A) a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in London and each Additional Business Centre specified in the applicable Final Terms; and
- (B) either (1) in relation to any sum payable in a Specified Currency other than euro or CNY, a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in the principal financial centre of the country of the relevant Specified Currency (if other than London and any Additional Business Centre and which if the Specified Currency is Australian dollars or New Zealand dollars shall be Sydney or Auckland, respectively) or (2) in relation to any sum payable in euro, a day on which the Trans-European Automated Real-time Gross settlement Express Transfer (TARGET2) system (the “**TARGET2 System**”) is open, or (3) in relation to any sum payable in CNY, unless otherwise specified in the applicable Final Terms, a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in the CNY Settlement Centre.

**19. Contracts (Rights of Third Parties) Act 1999**

No person shall have any right to enforce any term or condition of the Notes under the Contracts (Rights of Third Parties) Act 1999, but this does not affect any right or remedy of any person which exists or is available apart from that Act.

**20. Governing Law and Submission to Jurisdiction**

(A) *Governing law*

The Agency Agreement, the Notes Deed of Covenant, the Notes, the Receipts and the Coupons and any non-contractual obligations arising out of or in connection with the Agency Agreement, the Notes Deed of Covenant, the Notes, the Receipts and the Coupons (including without limitation any dispute, controversy, proceedings or claim of whatever nature (whether contractual, non-contractual or otherwise) arising out of or in any way relating to the Agency Agreement, the Notes Deed of Covenant, the Notes, the Receipts and the Coupons or their respective formation) shall be governed by, and construed in accordance with, English law.

The Guarantee is governed by, and shall be construed in accordance with the laws of the State of New York.

The provisions of articles 86 to 94-8 of the Luxembourg law on commercial companies of 10 August 1915, as amended, are excluded.

(B) *Submission to jurisdiction*

In relation to any legal action or proceedings arising out of or in connection with the Notes, Receipts or Coupons (“**Proceedings**”), the courts of England have exclusive jurisdiction and the Issuer and the Noteholders, Receiptholders and Couponholders submit to the exclusive jurisdiction of the English courts. The Issuer and the Noteholders, Receiptholders and Couponholders waive any objection to Proceedings in the English courts on the grounds of venue or that the Proceedings have been brought in an inconvenient forum.

For greater certainty, the Guarantor has not submitted to the jurisdiction of the English courts in the Guarantee, and claims under the Guarantee are required to be instituted in a federal court in the Borough of Manhattan in the City and State of New York.

(C) *Appointment of Process Agent*

The Issuer hereby appoints Merrill Lynch Corporate Services Limited currently at 2 King Edward Street, London EC1A 1HQ as its agent in England to receive service of process in any Proceedings in England. If for any reason such process agent ceases to act as such or no longer has an address in England, the Issuer agrees to appoint a substitute process agent and to notify the Holders of such appointment. Nothing herein shall affect the right to serve process in any other manner permitted by law.

**USE OF PROCEEDS OF THE NOTES**

MLSA intends to use the net proceeds from the sale of the Notes for general corporate purposes, including making general loans to affiliates.



**FORM OF FINAL TERMS OF THE W&C SECURITIES**

[Date]

**[MERRILL LYNCH S.A.] [MERRILL LYNCH INTERNATIONAL & CO. C.V.]**

**[Title of W&C Securities]**

**under the Merrill Lynch S.A. and Merrill Lynch International & Co. C.V.**

**Note, Warrant and Certificate Programme  
irrevocably guaranteed by Bank of America Corporation**

*[Include the following warning for all W&C Securities where capital is at risk:*

**INVESTING IN THE W&C SECURITIES PUTS YOUR CAPITAL AT RISK. YOU MAY  
LOSE SOME [OR ALL] OF YOUR INVESTMENT.]**

[The Base Prospectus referred to below (as completed by these Final Terms) has been prepared on the basis that, except as provided in sub-paragraph (ii) below, any offer of W&C Securities in any Member State of the European Economic Area which has implemented the Prospectus Directive (Directive 2003/71/EC) (as amended by Directive 2010/73/EU, the “**Prospectus Directive**”) (each, a “**Relevant Member State**”) will be made pursuant to an exemption under the Prospectus Directive, as implemented in that Relevant Member State, from the requirement to publish a prospectus for offers of the W&C Securities. Accordingly any person making or intending to make an offer of the W&C Securities may only do so:

- i. in circumstances in which no obligation arises for the Issuer or any Dealer to publish a prospectus pursuant to Article 3 of the Prospectus Directive or supplement a prospectus pursuant to Article 16 of the Prospectus Directive, in each case, in relation to such offer; or
- ii. in those Public Offer Jurisdictions mentioned in Paragraph 56 of Part A below, provided such person is one of the persons mentioned in Paragraph 56 of Part A below and that such offer is made during the Offer Period specified for such purpose therein.

Neither the Issuer nor any Dealer has authorised, nor do they authorise, the making of any offer of W&C Securities in any other circumstances].<sup>1</sup>

[The Base Prospectus referred to below (as completed by these Final Terms) has been prepared on the basis that any offer of W&C Securities in any Member State of the European Economic Area which has implemented the Prospectus Directive (Directive 2003/71/EC) (as amended by Directive 2010/73/EU, the “**Prospectus Directive**”) (each, a “**Relevant Member State**”) will be made pursuant to an exemption under the Prospectus Directive, as implemented in that Relevant Member State, from the requirement to publish a prospectus for offers of the W&C Securities. Accordingly any person making or intending to make an offer of the W&C Securities in that Relevant Member State may only do so in circumstances in which no obligation arises for the Issuer or any Dealer to publish a prospectus pursuant to Article 3 of the Prospectus Directive or supplement a prospectus pursuant to Article 16 of the Prospectus Directive, in each case, in relation to such offer. Neither the Issuer nor any Dealer has authorised, nor do they authorise, the making of any offer of W&C Securities in any other circumstances].<sup>2</sup>

[The W&C Securities will not be offered to the public in or from Switzerland and neither these Final Terms nor any other document relating to the W&C Securities may be publicly distributed in Switzerland in connection with any such offering or distribution. The W&C Securities will be offered in Switzerland without any public promotion or advertisement only to selected qualified investors in accordance with the Swiss Federal Act on Collective Investment Schemes.]<sup>3</sup>

[Each purchaser of Warrants being offered within the United States or to, or for the account or benefit of, a United States Person (as defined herein) is hereby notified that the offer and sale of such Warrants is being made in reliance upon an exemption from the registration requirements of the U.S. Securities Act of 1933, as amended (the “**Securities Act**”) and U.S. Investment Company Act of 1940, as amended. The Original Guarantee has not been and will not be registered under the Securities Act. The exercise of the

<sup>1</sup> Consider including this legend where a non-exempt offer of W&C Securities is anticipated.

<sup>2</sup> Consider including this legend where only an exempt offer of W&C Securities is anticipated.

<sup>3</sup> Consider including whenever W&C Securities are non-publicly offer in Switzerland.

Warrants will be conditional upon the holder (and any person on whose behalf the holder is acting) being a QIB and a QP, each as defined in the Terms and Conditions of the W&C Securities as set forth in the Base Prospectus. Investors in the Warrants will be deemed to have made or be required to make certain representations and warranties in connection with purchasing the Warrants. Warrants sold in the United States or to, or for the account or benefit of, United States Persons who are QIBs and also QPs will be cash settled Warrants only and will, unless otherwise specified, be sold through Merrill Lynch, Pierce, Fenner & Smith Incorporated or one of its affiliates, which in each case is a U.S. registered broker dealer.]<sup>4</sup>

[The W&C Securities, the relevant Guarantee and, in certain cases, the Entitlement have not been and will not be registered under the U.S. Securities Act of 1933, as amended (the “**Securities Act**”) or under any state securities laws and the W&C Securities may not be offered, sold, transferred, pledged, delivered, exercised or redeemed, directly or indirectly, at any time within the United States or to, or for the account or benefit of, any United States Person (as defined herein) except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act.]<sup>5</sup>

For the purposes hereof, “**United States Person**” means a person which is a “U.S. person” as defined by Regulation S under the Securities Act or a “United States person” as defined in Section 7701(a)(30) of the Internal Revenue Code of 1986, as amended and in U.S. Treasury regulations.

*[The purchase of W&C Securities involves substantial risks and is suitable only for investors who have the knowledge and experience in financial and business matters necessary to enable them to evaluate the risks and the merits of an investment in the W&C Securities. Before making an investment decision, prospective purchasers of W&C Securities should ensure that they understand the nature of the W&C Securities and the extent of their exposure to risks and that they consider carefully, in the light of their own financial circumstances, financial condition and investment objectives, all the information set forth in the Base Prospectus (including “Risk Factors” on pages 33 to 90 thereof) and these Final Terms.]*

**[Unregulated Securities: The Securities do not constitute a participation in a collective investment scheme within the meaning of the Swiss Federal Act on Collective Investment Schemes and are not subject to supervision by the Swiss Financial Market Supervisory Authority FINMA]**

None of the W&C Securities constitutes a participation in a collective investment scheme within the meaning of the Swiss Federal Act on Collective Investment Schemes. Therefore, none of the W&C Securities is subject to approval, registration or supervision by the Swiss Financial Market Supervisory Authority FINMA or any other regulatory authority in Switzerland. Accordingly, potential purchasers do not have the benefit of the specific investor protection provided under the Swiss Federal Act on Collective Investment Schemes and are exposed to the credit risk of the Issuer and Guarantor.]<sup>6</sup>

*[Insert any specific additional risk factors (relating only to the tranche of W&C Securities documented by these Final Terms)]*

<sup>4</sup> Include in the case of Rule 144A Warrants being offered within the United States or for the benefit of United States Persons.

<sup>5</sup> Include except in the case of Rule 144A Warrants being offered within the United States or for the benefit of United States Persons.

<sup>6</sup> Include in the case of W&C Securities offered in or from Switzerland.

**PART A – CONTRACTUAL TERMS**

Terms used herein shall be deemed to be defined as such for the purposes of the Terms and Conditions set forth in the base prospectus dated 24 May 2012 (the “**Base Prospectus**”)[and the supplement[s] to the Base Prospectus listed in the Annex hereto] which [together] constitute[s] a base prospectus for the purposes of the Prospectus Directive. This document constitutes the Final Terms of the W&C Securities described herein for the purposes of Article 5.4 of the Prospectus Directive and must be read in conjunction with the Base Prospectus [as supplemented]. Full information on the Issuer, the Guarantor and the offer of the W&C Securities is only available on the basis of the combination of these Final Terms and the Base Prospectus [as supplemented]. The Base Prospectus [and the supplement[s] to the Base Prospectus] [is] [are] available for viewing during normal business hours at the registered office of the Issuer and at the specified offices of the Security Agents for the time being in London, Luxembourg, New York City, Frankfurt, Paris and Stockholm and copies may be obtained from 2 King Edward Street, London EC1A 1HQ.

*[The following alternative language applies if the first tranche of an issue which is being increased was issued under a Base Prospectus with an earlier date.]*

[Terms used herein shall be deemed to be defined as such for the purposes of the Terms and Conditions (the “**Conditions**”) set forth in the Base Prospectus dated [15 September 2009] [22 June 2010] [22 June 2011] (the “**Original Base Prospectus**”). This document constitutes the Final Terms of the W&C Securities described herein for the purposes of Article 5.4 of the Prospectus Directive and must be read in conjunction with the Base Prospectus dated 24 May 2012 [and the supplement[s] to the Base Prospectus listed in the Annex hereto ([as so supplemented,] the “**Updated Base Prospectus**”), which constitutes a base prospectus for the purposes of the Prospectus Directive, save in respect of the Conditions which are extracted from the Original Base Prospectus and which are incorporated by reference into the Updated Base Prospectus. Full information on the Issuer, the Guarantor and the offer of the W&C Securities is only available on the basis of the combination of these Final Terms and the Updated Base Prospectus (including those sections of the Original Base Prospectus incorporated by reference therein). The Original Base Prospectus and the Updated Base Prospectus are available for viewing during normal business hours at the registered office of the Issuer and at the specified office of the Security Agents for the time being in London, Luxembourg, New York City, Frankfurt, Paris and Stockholm and copies may be obtained from 2 King Edward Street, London EC1A 1HQ and in electronic form on the Luxembourg Stock Exchange’s website (www.bourse.lu).]

References herein to numbered Conditions are to the terms and conditions of the W&C Securities and words and expressions defined in such terms and conditions shall bear the same meaning in these Final Terms, save as where otherwise expressly provided.

**[Suspension of trading: Securities listed on the SIX Swiss Exchange may be suspended from trading]**

Based on Article 57 of the Listing Rules of the SIX Swiss Exchange (suspension of trading due to unusual circumstances) in combination with Article 10 et. seq. of the Additional Rules for the Listing of Derivatives, W&C Securities based on equity securities, bonds and commodities may be listed on the SIX Swiss Exchange and traded on Scoach Switzerland only if the underlying equity securities, bonds and commodities are also listed on a recognised securities exchange or have been admitted to trading on such exchange. Consequently, if the underlying equity securities, bonds and commodities are delisted on such recognised exchange, Scoach Switzerland may suspend trading in these securities.<sup>7</sup>

Prospective investors should note that the “Terms and Conditions of the W&C Securities” set out in the Base Prospectus are governed by, and construed in accordance with, English law and the relevant Guarantee is governed by, and construed in accordance with, the laws of the State of New York.

*No person has been authorised to give any information or make any representation not contained in or not consistent with these Final Terms, or any other information supplied in connection with the W&C Securities and, if given or made, such information or representation must not be relied upon as having been authorised by the Issuer, the Guarantor or any Dealer.*

*By investing in the W&C Securities each investor represents that:*

- (a) *Non-Reliance. It is acting for its own account, and it has made its own independent decisions to invest in the W&C Securities and as to whether the investment in the W&C Securities is appropriate or proper for it based upon its own judgement and upon advice from such advisers as it has deemed*

<sup>7</sup> Include in the case of W&C Securities listed on the SIX Swiss Exchange.

necessary. It is not relying on any communication (written or oral) of the Issuer, the Guarantor or any Dealer as investment advice or as a recommendation to invest in the W&C Securities, it being understood that information and explanations related to the terms and conditions of the W&C Securities shall not be considered to be investment advice or a recommendation to invest in the W&C Securities. No communication (written or oral) received from the Issuer, the Guarantor or any Dealer shall be deemed to be an assurance or guarantee as to the expected results of the investment in the W&C Securities.

- (b) *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 and conditions and the risks of the investment in the W&C Securities. It is also capable of assuming, and assumes, the risks of the investment in the W&C Securities.
- (c) *Status of Parties.* None of the Issuer, the Guarantor and any Dealer is acting as fiduciary for or adviser to it in respect of the investment in the W&C Securities.

[These Final Terms shall also serve as a Confirmation by [name of applicable permitted dealer in the United States] pursuant to Rule 10b-10 of the Securities Exchange Act of 1934, as amended, and any other applicable rules and regulations.]<sup>8</sup>

These Final Terms relate to the series of W&C Securities as set out in “Specific Provisions for each Series” below. References herein to “W&C Securities” shall be deemed to be references to the relevant [Warrants/Certificates] that are the subject of this Final Terms and references to “W&C Securities” and “W&C Security” shall be construed accordingly.

[Include whichever of the following apply or specify as “Not Applicable” or delete relevant provision]

[When adding any other final terms or information consideration should be given as to whether such terms or information constitute “significant new factors” and consequently trigger the need for a supplement to the Base Prospectus under Article 16 of the Prospectus Directive or the use of a Securities Note or “unitary” Prospectus.]

1. Issuer: [Merrill Lynch S.A.] [Merrill Lynch International & Co. C.V.]<sup>9</sup>
2. Guarantor: Bank of America Corporation

#### SPECIFIC PROVISIONS FOR EACH SERIES

Series Number	No. of W&C Securities issued	[No. of Warrants per Unit]	ISIN	Common Code	[Wertpapier-kennnummer (WKN) (German Security Code)]	[Mnemonic (insert in the case of a listing on Euronext Paris S.A.)]	Issue Price per [W&C Security/ Unit (in the case of Warrants only)]
[●]	[●]	[●]	[●]	[●]	[●]	[●]	[●]
[●]	[●]	[●]	[●]	[●]	[●]	[●]	[●]

3. Consolidation: [Not Applicable] [The W&C Securities are to be consolidated and form a single series with the [insert title of relevant series of W&C Securities] issued on [insert issue date]] (N.B. Only applicable in relation to W&C Securities which are fungible with an existing series of W&C Securities)
4. Type of W&C Securities:
- (a) [Warrants] [Certificates]
- (b) [Index Linked W&C Securities]  
[Share Linked W&C Securities]  
[Debt Linked W&C Securities]  
[GDR/ADR Linked W&C Securities]

<sup>8</sup> Include in the case of Rule 144A Warrants.

<sup>9</sup> Merrill Lynch S.A. may only issue Certificates. Merrill Lynch International & Co, C.V. may issue Warrants or Certificates.

[FX Linked W&C Securities]  
 [Commodity Linked W&C Securities]  
 [Fund Linked W&C Securities]  
 [Inflation Linked W&C Securities]  
 [Long Credit Linked Certificates]  
 [Short Credit Linked Certificates]  
 [Long Credit Linked Warrants]  
 [Short Credit Linked Warrants]  
 [Saudi Share Linked Warrants]  
 [(specify other type of W&C Security)]

5. Trade Date: ☐
6. Strike Date: ☐ [insert date(s) and relevant fallback provisions if appropriate]
7. Issue Date: ☐
8. Exercise Date: [Not Applicable] [☐], provided that, if such date is not an Exercise Business Day<sup>10</sup>, the Exercise Date shall be the immediately [preceding] [succeeding] Exercise Business Day (the “**Scheduled Exercise Date**”) [,] [subject as provided in Credit Linked W&C Condition 4, [/and] [Credit Linked W&C Condition 5 [and] Credit Linked W&C Condition 6 [and] [Credit Linked W&C Condition 9] (include for Credit Linked W&C Securities)]]  
  
(N.B. Only applicable in relation to European Style Warrants and Certificates)
9. Settlement Date: (a) ☐ [In relation to each Actual Exercise Date,] (N.B. Insert for American Style Warrants) [The] [the] [fifth] Business Day following the Valuation Date [provided that if the occurrence of a Disrupted Day has resulted in the Valuation Date for one or more [Indices] [Shares] being adjusted as specified in the definition of “Valuation Date” set out in the [Index Linked Conditions] [Share Linked Conditions], the Settlement Date shall be the fifth Business Day next following the last occurring Valuation Date in relation to any [Index] [Share]] [The fifth Business Day following the last occurring Averaging Date [provided that if the occurrence of a Disrupted Day has resulted in an Averaging Date for one or more [Indices] [Shares] being adjusted as specified in the definition of “Averaging Date” as specified in the [Index Linked Conditions] [Share Linked Conditions], the Settlement Date shall be the fifth Business Day next following the last occurring Averaging Date in relation to any [Index] [Share]] [The provisions of Annex 12 of the

<sup>10</sup> Exercise Business Day is only applicable to Warrants.



Terms and Conditions – *Additional Terms and Conditions for Saudi Share Linked Warrants* shall apply] [other] (N.B. Only applicable in relation to Cash Settled W&C Securities)

- (b) “**Settlement Business Day**” means any day on which the clearing system is (or, but for the occurrence of a Settlement Disruption Event, would have been) open for the acceptance and execution of settlement instructions

(N.B. Only applicable in the case of Physical Delivery W&C Securities)

10. Number of W&C Securities being issued: The number of W&C Securities being issued is set out in “Specific Provisions for each Series” above
11. Issue Price: The issue price per [W&C Security] [Unit (*in relation to Warrants only*)] is set out in “Specific Provisions for each Series” above
12. Cash Settlement Amount: [Insert details of how Cash Settlement Amount is to be calculated]
- For Saudi Share Linked Warrants only: [The provisions of Annex 12 of the Terms and Conditions – *Additional Terms and Conditions for Saudi Share Linked Warrants* – shall apply. The relevant Adjustment Factor is set out in “Specific Information relating to the Reference Item(s)” in paragraph [39] of these Final Terms]
13. Business Day Centre(s): [●]
14. Settlement: [Cash Settled W&C Securities] [and/or] [Physical Delivery W&C Securities]
- (N.B. Swedish Securities, Finnish Securities, Rule 144A Warrants and Saudi Share Linked Warrants may only be Cash Settled)
15. Issuer’s Option to Vary Settlement: [Applicable] [Not Applicable]
16. Settlement Currency: [●]
17. Exchange Rate: The Exchange Rate for conversion of any amount into the Settlement Currency for the purposes of determining the Cash Settlement Amount is [●] [Not Applicable]
- For Saudi Share Linked Warrants only: [The provisions of Annex 12 of the Terms and Conditions – *Additional Terms and Conditions for Saudi Share Linked Warrants* shall apply]
18. Calculation Agent: [Merrill Lynch International] [*specify other*]

## PROVISIONS RELATING TO WARRANTS

19. Type of Warrants: [European Style] [American Style] [other]
- (N.B. Swedish Warrants and Finnish Warrants may only be European Style)
- If American Style:

- [The Exercise Period in respect of the Warrants is from and including [●] to and including [●] [, or if [●] is not an Exercise Business Day, the immediately succeeding Exercise Business Day]]
20. Units: [Warrants must be exercised in Units. Each Unit consists of the number of Warrants set out in “Specific Provisions for each Series” above. (N.B. This is in addition to any requirements relating to “Minimum Exercise Number” or “Maximum Exercise Number” set out below)] [Not Applicable]
21. Exercise Price: The Exercise Price per [Warrant] [Unit] is [●] [Not Applicable]  
(N.B. This should, in the case of Index Linked Warrants, be expressed as a monetary value. Not applicable for Saudi Share Linked Warrants)
22. Automatic Exercise: [Applicable] [Not Applicable]  
(N.B. Automatic exercise will always apply to Swedish Warrants and Finnish Warrants)
23. Minimum Exercise Number: [The minimum number of Warrants that may be exercised on any day by any Holder is [●] [and Warrants may only be exercised in integral multiples of [●] Warrants in excess thereof]] [Not Applicable]
24. Maximum Exercise Number: [The maximum number of Warrants that must be exercised on any day by any Holder or group of Holders (whether or not acting in concert) is [●]] [Not Applicable] (N.B. not applicable for European Style Warrants)

## PROVISIONS RELATING TO CERTIFICATES

25. Renouncement Notice Cut-Off Time: [10.00 a.m. (Milan time) on the Exercise Date/ 5.00 p.m. (Milan time) on the Business Day immediately following the Valuation Date] [Not Applicable]  
(N.B. Only applicable in the case of Italian Listed Certificates; specify 10.00 a.m. (Milan time) on the Exercise Date where the underlying assets or bases of reference are shares listed on the Italian Stock Exchange, or indices managed by Borsa Italiana S.p.A., or otherwise specify 5.00 p.m. (Milan time) on the Business Day immediately following the Valuation Date)
26. Holder Put Option: [Applicable] [Not Applicable]
- (a) Holder Put Option Notice Period: [As specified in Condition 29(E)] [specify other]
- (b) Put Option Cash Settlement: [Applicable] [Not Applicable]
- (c) Put Option Cash Settlement Amount: [insert details]

**PROVISIONS RELATING TO W&C SECURITIES**

27. Additional Amounts: [Applicable] [Not Applicable]
- (N.B. Additional Amounts are not applicable for Finnish Certificates and Finnish Warrants)*
- For Saudi Share Linked Warrants only (sub-paragraphs are not required for Saudi Share Linked Warrants):*
- [Applicable. The provisions of Annex 12 of the Terms and Conditions – Additional Terms and Conditions for Saudi Share Linked Warrants shall apply]
- For Share Linked Securities in respect of which the applicable Final Terms specify that the “Dividend Conditions” shall be applicable and that Share Linked Condition 10 shall be applicable (sub-paragraphs are not required):*
- [Applicable. Share Linked Condition 11 shall apply.]
- For Share Linked Securities in respect of which the applicable Final Terms specify that the “LEPW Conditions” shall be applicable (sub-paragraphs are not required):*
- [Applicable. LEPW Conditions 2 and 3 shall apply]
- (a) Notional Amount per W&C Security: [●]
- (b) Additional Amount Payment Dates: [●]
- (c) Additional Amount Rate: [●]
- (d) Additional Amount Rate Day Count Fraction: [Actual/360]  
[Actual/Actual (ISDA)]  
[Actual/365 (Fixed)]  
[30/360 (Floating) or 30/360 or Bond Basis]  
[30E/360 or Eurobond Basis]  
[30E/360 (ISDA)]
- (e) Additional Amount Cut-off Date: [Exercise Date] [Settlement Date] *[specify other]*
- (f) Other terms or special conditions relating to Additional Amounts: [●]
28. Issuer Call Option: [Applicable] [Not Applicable]
- (a) Issuer Call Option Notice Period: *For Certificates only:* [As specified in Condition 29(C)] *[specify other]*  
  
*For Warrants only:* [As specified in Condition 22(D)] *[specify other]*
- (b) Call Option Date(s): [insert date(s)]
- (c) Call Option Cash Settlement: [Applicable] [Not Applicable]
- (d) Call Option Cash Settlement Amount: [insert details]
29. Mandatory Early Exercise: [Applicable] [Not Applicable]
- (a) Mandatory Early Exercise Event: [●]
- (b) Mandatory Early Exercise Date: [●]

(c) Mandatory Early Exercise Cash Settlement: [Applicable] [Not Applicable]

(d) Mandatory Early Exercise Cash Settlement Amount: [insert details]

(e) Mandatory Early Exercise Cash Settlement Date: [●]

## PROVISIONS RELATING TO TYPE OF W&C SECURITIES

30. Index Linked Conditions: [Applicable] [Not Applicable]

(a) Index/Basket of Indices: [The index] [Each of the indices] set out under the heading “Index” in “Specific Information relating to the Reference Item(s)” below ([the “**Index**”] [each, an “**Index**” and together the “**Indices**” or “**Basket of Indices**”])

## SPECIFIC INFORMATION RELATING TO THE REFERENCE ITEM(S)

The terms “**Index**”, “**Bloomberg Code**”, “**Index Sponsor**”, “**Type of Index**”, “**Exchange**”, “**Related Exchange**”, “**Index Currency**”, [“**Weighting**”] and [“**Initial Level**”] (*insert additional columns as applicable*) applicable to [an] [the] Index shall have the corresponding meanings set forth against such Index in the table below:

Index	Bloomberg Code	Index Sponsor	Type of Index	Exchange	Related Exchange	Index Currency	[Weighting] <sup>11</sup>	[Initial Level]
[●]	[●]	[●]	[●]	[●]	[●]	[●]	[●]	[●]
[●]	[●]	[●]	[●]	[●]	[●]	[●]	[●]	[●]

(b) Index Performance: [●] [As specified in the Index Linked Conditions]

(c) Barrier Event (intraday): [Applicable] [Not Applicable]

(i) Barrier Event Determination Day: [As specified in the Index Linked Conditions]

(d) Barrier Event (closing): [Applicable] [Not Applicable]

(i) Barrier Event Determination Day: [Valuation Date]

[In respect of [the] [each] Index, each Scheduled Trading Day for such Index during [the] [each] Observation Period that is not a Disrupted Day for such Index]

[Each Common Scheduled Trading Day that is not a Disrupted Day for any Index in the Basket of Indices during [the] [each] Observation Period]

(e) Barrier Level: [●] [Not Applicable]

(f) Averaging: [Applicable] [Not Applicable]

(i) Averaging Date(s): [●]

(ii) Omission: [Applicable] [Not Applicable]

(iii) Postponement: [Applicable] [Not Applicable]

(iv) Modified Postponement: [Applicable] [Not Applicable]

(g) Valuation Date(s): [●]

(h) Valuation Time: [As specified in the Index Linked Conditions] [specify other]

(i) Observation Date(s): [●]

<sup>11</sup> May only be applicable in relation to Index Linked W&C Securities relating to a basket of Indices.

- (j) Observation Period: [Applicable: [Extension] [No Extension]] [Not Applicable]
- (i) Observation Period Start Date: [[●]] ([Including] [Excluding]) [Not Applicable]
- (ii) Observation Period End Date: [[●]] ([Including] [Excluding]) [Not Applicable]
- (k) Common Scheduled Trading Days: [Applicable. [Common] [Individual] Disrupted Days will apply] (*N.B. If Common Scheduled Trading Days are applicable, either Common or Individual Disrupted Days must be specified.*) [Not Applicable]
- N.B. May only be applicable in relation to Index Linked W&C Securities relating to a Basket*
- (l) Disrupted Day: [If the Valuation Date, an Averaging Date or an Observation Date, as the case may be, is a Disrupted Day, the relevant level or price will be calculated *[insert calculation method]*]
- [As specified in the Index Linked Conditions]
- (m) Additional Disruption Events: The following Additional Disruption Events apply to the W&C Securities:  
[Change in Law]  
[Hedging Disruption]  
[Increased Cost of Hedging]
- (n) LEPW Conditions: [Applicable] [Not Applicable]
- [The provisions of Annex 14 – *Additional Terms and Conditions for Low Exercise Price Warrants* shall apply]
- (o) Other terms or special conditions: [●]
31. Share Linked Conditions: [Applicable] [Not Applicable]
- (a) Share(s)/Basket of Shares: [The] [Each of the] [ordinary shares] [depository receipts] of the relevant Share Company set out under the heading “**Share Company**” in “Specific Information relating to the Reference item(s)” below (each a “**Share**” and together, the “**Shares**” [or the “**Basket of Shares**”])

#### SPECIFIC INFORMATION RELATING TO THE REFERENCE ITEM(S)

The terms “**Share Company**”, “**ISIN of Share**”, “**Bloomberg Code**”, “**Exchange**”, “**Related Exchange**”, “**Local Jurisdiction**” [, “**Weighting**”] and “**Initial Price**” (*insert additional columns as appropriate*) applicable to a Share shall have the corresponding meanings set forth against the relevant Share Company in the table below:

Share Company	ISIN of Share	Bloomberg Code	Exchange	Related Exchange	Local Jurisdiction	[Weighting] <sup>12</sup>	[Initial Price]
[●]	[●]	[●]	[●]	[●]	[●]	[●]	[●]
[●]	[●]	[●]	[●]	[●]	[●]	[●]	[●]

- (b) Share Performance: [●] [As specified in the Share Linked Conditions]
- (c) Barrier Event (intraday): [Applicable] [Not Applicable]
- (i) Barrier Event Determination Day: [As specified in the Share Linked Conditions]

<sup>12</sup> May only be applicable in relation to Share Linked W&C Securities relating to a basket of Shares.



- (d) Barrier Event (closing): [Applicable] [Not Applicable]
- (i) Barrier Event Determination Day: [Valuation Date]
- [In respect of [the] [each] Share, each Scheduled Trading Day for [the] [each] Share during [the] [each] Observation Period that is not a Disrupted Day for such Share]
- [Each Common Scheduled Trading Day that is not a Disrupted Day for any Share in the Basket of Shares during [the] [each] Observation Period]
- (e) Barrier Level: [●] [Not Applicable]
- (f) Averaging: [Applicable] [Not Applicable]
- (i) Averaging Date(s): [●]
- (ii) Omission: [Applicable] [Not Applicable]
- (iii) Postponement: [Applicable] [Not Applicable]
- (iv) Modified Postponement: [Applicable] [Not Applicable]
- (g) Valuation Date(s): [●]
- (h) Valuation Time: [As specified in the Share Linked Conditions] *[specify other]*
- (i) Observation Date(s): [●]
- (j) Observation Period: [Applicable: [Extension] [No Extension]] [Not Applicable]
- (i) Observation Period Start Date: [[●] ([Including] [Excluding])] [Not Applicable]
- (ii) Observation Period End Date: [[●] ([Including] [Excluding])] [Not Applicable]
- (k) Common Scheduled Trading Days: [Applicable. [Common] [Individual] Disrupted Days will apply] *(N.B. If Common Scheduled Trading Days are applicable, either Common or Individual Disrupted Days must be specified.)* [Not Applicable]
- (N.B. May only be applicable in relation to Share Linked W&C Securities relating to a Basket)*
- (l) Disrupted Day: [If the Valuation Date, an Averaging Date or an Observation Date, as the case may be, is a Disrupted Day, the relevant level or price will be calculated *[insert calculation method]*]
- [As specified in the Share Linked Conditions]
- (m) Tender Offer: [Applicable] [Not Applicable]
- (n) Share Substitution: [Applicable. Share Substitution Criteria are *[insert details]* [as specified in the Share Linked Conditions]] [Not Applicable]
- (o) Local Tax Adjustment: [Not Applicable]
- [Applicable. Local Jurisdiction is set out in “Specific Information relating to the Reference Item(s)” above [Where Local Jurisdiction is specified to be “United States” then this shall mean the United States of America’s federal and/or state and/or local taxes and/or any political subdivision thereof]]

- (p) Additional Disruption Events: The following Additional Disruption Events apply to the W&C Securities:  
 [Change in Law]  
 [Hedging Disruption]  
 [Increased Cost of Hedging]  
 [Increased Cost of Stock Borrow]  
 [Initial Stock Loan Rate: [●]]  
 [Insolvency Filing]  
 [Loss of Stock Borrow]  
 [Maximum Stock Loan Rate: [●]]
- (q) Dividend Conditions: [Applicable] [Not Applicable]  
 [Share Linked Conditions 10 [and 11] shall apply]
- (i) Number of Shares per W&C Security: [●]
- (r) LEPW Conditions: [Applicable] [Not Applicable]  
 [The provisions of Annex 14 – *Additional Terms and Conditions for Low Exercise Price Warrants* shall apply]
- (i) Number of Shares per Warrant: [●]
- (ii) Strike Price: [●]
- (s) Other terms or special conditions: [●]
32. Debt Linked Conditions: [Applicable] [Not Applicable]
- (a) Debt Instruments/Basket of Debt Instruments: [●]
- (b) Debt Instrument Price: [As specified in the Debt Linked Conditions] *[specify other]*
- (c) Averaging: [Applicable. The Averaging Dates are [●]] [Not Applicable]
- (d) Valuation Date(s): [●]
- (e) Valuation Time: [●]
- (f) Observation Period: [●]
- (g) Weighting: [Not Applicable] [Weighting to be applied to each item comprising the Basket to ascertain the Debt Instrument Price is [●]] (*N.B. Only applicable in relation to Debt Linked W&C Securities relating to a Basket*)
- (h) Exchange: [●]
- (i) Scheduled Trading Day: [●]
- (j) Relevant Screen Page: [●]
- (k) Redemption of Debt Instruments: Where one or more of the relevant Debt Instruments is redeemed (or otherwise ceases to exist) before the expiration of the W&C Securities, *[insert appropriate fallback provisions]*
- (l) Other terms or special conditions: [●]
33. GDR/ADR Linked Conditions: [Applicable] [Not Applicable]  
*(For GDR/ADR Linked W&C Securities complete sections for Share Linked W&C*

- Securities (paragraph 31 above) (completed and amended as appropriate) and this section)*
- (a) Partial Lookthrough: [Applicable] [Not Applicable]
- (b) Full Lookthrough: [Applicable] [Not Applicable]
34. FX Linked Conditions: [Applicable] [Not Applicable]
- (a) Base Currency/Subject Currency: [●]
- (b) Currency Price: [As specified in the FX Linked Conditions] *[specify other]*
- (c) FX Market Disruption Event(s): *(N.B. Only complete if Inconvertibility Event/ Price Materiality Event/Non-Transferability Event and/or other disruption events should be included as FX Market Disruption Events)*
- (i) Inconvertibility Event: [Applicable] [Not Applicable]
- (ii) Price Materiality Event: [Applicable. Price Materiality Percentage: [●]] [Not Applicable]
- (iii) Non-Transferability Event: [Applicable] [Not Applicable]
- (iv) Other: [●]
- (d) Disruption Fallbacks: (Specify the applicable Disruption Fallbacks in the order that they will apply)
- [Calculation Agent Determination]
- [Currency-Reference Dealers  
Reference Dealers: [four] *[specify other]*
- [EM Fallback Valuation Postponement]
- [EM Valuation Postponement]
- [Fallback Reference Price  
Fallback Reference Price: [●]]
- [Other Published Sources]
- [Postponement Maximum Days of  
Postponement: [●]]
- [Other]
- (e) FX Price Source(s): [●]
- (f) Specified Financial Centre(s): [●]
- (g) Averaging: [Applicable. The Averaging Dates are [●]] [Not Applicable]
- (h) Valuation Date(s): [●]
- (i) Valuation Time: [●]
- (j) Weighting: [Not Applicable] [The weighting to be applied to each item comprising the Basket to ascertain the Currency Price is [●]] *(N.B. Only applicable in relation to FX Linked W&C Securities relating to a Basket)*
- (k) EM Currency Provisions: [Applicable] [Not Applicable]
- (i) Unscheduled Holiday: [Applicable. Maximum Days of Deferral: [●]]
- [Not Applicable]
- (ii) EM Valuation Postponement: [Applicable. Maximum Days of EM Valuation Postponement: [●]]
- [Not Applicable]

- (iii) EM Fallback Valuation [Applicable. Fallback Maximum Period of Postponement: [As specified in the FX Linked Conditions] *[specify other]*  
[Not Applicable]]
- (iv) Cumulative Events: [Applicable. Maximum Days of Cumulative Postponement: [As specified in the FX Linked Conditions] *[specify other]* [Not Applicable]]
- (l) Successor Currency: [Applicable] [Not Applicable]  
[Issue Date/other]
- (m) Rebasing: [Applicable] [Not Applicable]
- (n) Additional Disruption Events: [Not Applicable]  
[The following Additional Disruption Events apply to the W&C Securities:  
[Change in Law]  
[Hedging Disruption]  
[Increased Cost of Hedging]]
- (o) Other terms or special conditions: [●]
35. Commodity Linked Conditions: [Applicable] [Not Applicable]
- (a) Commodity/Basket of Commodities/Commodity Index/Basket of Commodity Indices: [●]
- (b) Commodity Reference Price: [●]
- (c) Price Source: [●]
- (d) Exchange: [●]
- (e) Delivery Date: [●]
- (f) Pricing Date: [●]
- (g) Common Pricing (Commodity Linked Condition 3(a)): [Applicable] [Not Applicable] *(N.B. Only applicable in relation to Commodity Linked W&C Securities relating to a Basket of Commodities or Basket of Commodity Indices)*
- (h) Additional Commodity Market Disruption Events: *[Specify any additional Commodity Market Disruption Events]*
- (i) Disruption Fallback(s): [As specified in the Commodity Linked Conditions]/*[specify other]*  
[Fallback Reference Price: alternate Commodity Reference Price – [●]]  
[Commodity Cut-Off Date: [●]]  
[Commodity Index Cut-Off Date: [●]]
- (j) Additional Disruption Events in respect of a Commodity Index: [Not Applicable]  
[The following Additional Disruption Events apply to the W&C Securities in respect of a Commodity Index:  
[Change in Law]  
[Hedging Disruption]  
[Increased Cost of Hedging]]

- (k) Commodity Business Day: [In respect of [the] [each] Commodity as specified in the Commodity Linked Conditions]  
[In respect of [the] [each] Commodity Index [●]]  
*[If Commodity Index linked, the Commodity Business Day should mirror the definition of Business Day as used in the Commodity Index]*
- (l) Weighting: [Not Applicable] [The weighting to be applied to each item comprising the Basket is [●]] (N.B. Only applicable in relation to Commodity Linked W&C Securities relating to a Basket)
- (m) Specified Price: [high price]  
[low price]  
[average of the high price and the low price]  
[closing price]  
[opening price]  
[bid price]  
[asked price]  
[average of the bid price and the asked price]  
[settlement price]  
[official settlement price]  
[official price]  
[morning fixing]  
[afternoon fixing]  
[spot price]  
*[specify other]*
- (n) Other terms or special conditions: [●]  
*[If Commodity Index Linked, ensure that Market Disruption Event covers disruptions on any underlying sub-indices]*
36. Fund Linked Conditions: [Applicable] [Not Applicable]
- (a) Fund/Basket of Funds: [●]  
[[The [●] Fund is an ETF]  
[Exchange for each Fund Share: [●]]  
[Related Exchange for each Fund Share: [●] [All Exchanges]]  
[Underlying Index: [●]]  
*(N.B. Include for Exchange Traded Funds (ETFs))*
- (b) Fund Interest(s): [●]
- (c) Fund Performance: [●] [As specified in the Fund Linked Conditions]
- (d) Weighting: [Not Applicable] [The weighting to be applied to each Fund comprising the Basket of Funds [●]] (N.B. only applicable in relation to Fund Linked Notes relating to a Basket of Funds)
- (e) Barrier Event (intraday): [Applicable] [Not Applicable]
- (i) Barrier Event Determination Day: [As specified in the Fund Linked Conditions]
- (f) Barrier Event (closing): [Applicable] [Not Applicable]
- (i) Barrier Event Determination Day: [Valuation Date]  
[In respect of [the] [each] Fund Share, each Scheduled Trading Day for such Fund Share]



- during each Observation Period that is not a Disrupted Day for such Fund Share]
- [Each Common Scheduled Trading Day that is not a Disrupted Day for any Fund in the Basket of Funds during [the] [each] Observation Period]
- (g) Barrier Level: [●] [Not Applicable]
- (h) Averaging: [Applicable] [Not Applicable]
- (i) Averaging Dates: [insert dates]
- (ii) Omission: [Applicable] [Not Applicable] *(N.B. May only be applicable in relation to Exchange Traded Funds (ETFs))*
- (iii) Postponement: [Applicable] [Not Applicable] *(N.B. May only be applicable in relation to Exchange Traded Funds (ETFs))*
- (iv) Modified Postponement: [Applicable] [Not Applicable] *(N.B. May only be applicable in relation to Exchange Traded Funds (ETFs))*
- (i) Valuation Date(s): [●]
- (j) Valuation Time: [As specified in the Fund Linked Conditions] [specify other] *(N.B. May only be applicable in relation to Exchange Traded Funds (ETFs))*
- (k) Observation Date(s): [●]
- (l) Observation Period: [Applicable: [Extension] [No Extension]] [Not Applicable]
- (i) Observation Period Start Date: [[●] ([Including] [Excluding])] [Not Applicable]
- (ii) Observation Period End Date: [[●] ([Including] [Excluding])] [Not Applicable]
- (m) Common Scheduled Trading Days: [Applicable. [Common] [Individual] Disrupted Days will apply] *(N.B. If Common Scheduled Trading Days are applicable, either Common or Individual Disrupted Days must be specified)* [Not Applicable]
- (N.B. May only be applicable in relation to Fund Linked W&C Securities relating to a Basket of Funds)*
- (n) Additional Disruption Events: [Not Applicable]
- [The following Additional Disruption Events apply to the W&C Securities:
- [Change in Law]
- [Hedging Disruption]
- [Increased Cost of Hedging]]
- (o) Other terms or special conditions: [Merger Event: Merger Date on or before [the Valuation Date] [other]]

37. Inflation Linked Conditions: [Applicable] [Not Applicable]
- (a) Inflation Index/Basket of Inflation Indices/Inflation Index Sponsor(s): [●]  
Inflation Index Sponsor: [●]
- (b) Related Bond: [Applicable] [Not Applicable]  
The Related Bond is: [●] [Fallback Bond]  
[Fallback Bond: [Applicable] [Not Applicable]]  
The End Date is: [●]
- (c) Determination Date(s): [●]
- (d) Cut-Off Date: [●]
- (e) Other terms or special conditions: [●]
38. Credit Linked W&C Securities: [Applicable] [Not Applicable]  
[The provisions of Annex 9B of the Terms and Conditions – *Additional Terms and Conditions for Credit Linked W&C Securities shall apply*]
- (a) Notional Amount per Certificate: [●]
- (b) Aggregate Notional Amount of the Certificates: [●]
- (c) Credit Observation Start Date: [●] [Not Applicable]
- (d) Scheduled Exercise Date: [●]
- (e) Long/Short Exercise Date: [15 Business Days] [*specify other*]
- (f) Succession Event Backstop Date: [Not] [subject to adjustment for non-Business Days in accordance with the Business Day Convention]
- (g) Accrual of Additional Amounts upon Credit Event: [Applicable] [Not Applicable]
- (h) Calculation Agent Determination: [Applicable] [Not Applicable]
- (i) Credit Event Backstop Date: [[Not] [subject to adjustment for non-Business Days in accordance with the Business Day Convention]]
- (j) Reference Entity(ies): [●]  
Transaction Type: [●]
- (k) Reference Obligation(s): [●]  
[The obligation[s] identified as follows: [●]  
Primary Obligor: [●]  
Guarantor: [●]  
Maturity: [●]  
Coupon: [●]  
CUSIP/ISIN: [●]]
- (l) Party responsible for making calculations and determinations pursuant to the Credit Linked W&C Conditions (if not Calculation Agent): [●]
- (m) All Guarantees: [Applicable] [Not Applicable]

- (n) Credit Events: [As set forth in the Physical Settlement Matrix for the Transaction Type] [Bankruptcy]  
[Failure to Pay]  
[Grace Period Extension [Applicable]  
[Not Applicable]  
Payment Requirement: [●]  
[If Applicable:  
Grace Period: [●]]  
[Obligation Default]  
[Obligation Acceleration]  
[Repudiation/Moratorium]  
[Restructuring]  
Default Requirement: [●]  
– Provisions relating to Restructuring Credit Event: Credit Linked W&C Condition 11 [Applicable] [Not Applicable]  
– Provisions relating to Multiple Holder Obligation: Credit Linked W&C Condition 12 [Applicable] [Not Applicable]  
– [Restructuring Maturity Limitation and Fully Transferable Obligation [Applicable] [Not Applicable]]  
– [Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation [Applicable] [Not Applicable]]  
[Specify other]
- (o) Nth-to-Default Securities: [Applicable] [Not Applicable]  
Substitution: [Applicable] [Not Applicable]  
N: [●]  
Credit Bid Percentage: [●] (*N.B. if Substitution applicable*)
- (p) Conditions to Settlement: Notice of Publicly Available Information [Applicable] [Not Applicable]  
[If Applicable:  
Public Source(s): [●]  
Specified Number: [●]  
Notice Delivery Period: [●] Business Days  
Credit Cut-Off Date: [●]]
- (q) Obligation(s):  
Obligation Category: [As set out in the Physical Settlement Matrix for the Transaction Type] [Payment]  
[select one only]: [Borrowed Money]  
[Reference Obligations Only]  
[Bond]  
[Loan]

	[Bond or Loan]
Obligation Characteristics:	[As set out in the Physical Settlement Matrix for the Transaction Type] [Not Subordinated]
[select all of which apply]:	[Credit Linked Specified Currency: [specify currency] [Standard Specified Currencies] [Not Sovereign Lender] [Not Domestic Currency:] [Domestic Currency means: [specify currency]] [Not Domestic Law] [Domestic Law means [specify law]] [Listed] [Not Domestic Issuance]
Additional Obligation(s):	[●]
(r) Excluded Obligation(s):	[●]
(s) Redemption following Merger Event:	Credit Linked W&C Condition 10 [Applicable] [Not Applicable] <i>(If Applicable)</i> [Merger Event Redemption Amount: [●]] [Merger Event Redemption Date: [●]]
(t) Unwind Costs:	[Standard Unwind Costs] [other] [specify] [Not Applicable]
(u) Provisions relating to Monoline Insurer as Reference Entity:	Credit Linked W&C Condition 14 [Applicable] [Not Applicable]
(v) Provisions relating to LPN Reference Entities:	Credit Linked W&C Condition 15 [Applicable] [Not Applicable]
(w) Settlement Method:	[Cash Settlement] [Physical Settlement] <sup>13</sup> [Auction Settlement]
(x) Fallback Settlement Method: <i>Terms relating to Cash Settlement</i>	[Cash Settlement] [Physical Settlement] <sup>14</sup> <i>(N.B. include if Cash Settlement is the Settlement Method or Fallback Settlement Method)</i>
(y) Credit Event Redemption Amount:	[[●] per W&C Security] [As specified in the Credit Linked W&C Conditions]
(z) Credit Event Redemption Date:	[●] Business Days
(aa) Valuation Date:	[Single Valuation Date: [●] Business Days] [Multiple Valuation Dates: [●] Business Days; and each [●] Business Days thereafter Number of Valuation Dates: [●]]
(bb) Valuation Time:	[●]
(cc) Quotation Method:	[Bid] [Offer] [Mid-market]

<sup>13</sup> Long Credit Linked W&C Securities only.

<sup>14</sup> Long Credit Linked W&C Securities only.

- (dd) Quotation Amount: ☐ [Representative Amount]
- (ee) Minimum Quotation Amount: ☐
- (ff) Quotation Dealers: ☐
- (gg) Quotations: ☐ [Include Accrued Interest] ☐ [Exclude Accrued Interest]
- (hh) Valuation Method: ☐ [Market] ☐ [Highest]  
☐ [Average Market] ☐ [Highest] ☐ [Average Highest]  
☐ [Blended Market] ☐ [Blended Highest]  
☐ [Average Blended Market] ☐ [Average Blended Highest]
- (ii) Provisions relating to Deliverable Obligation Portfolio Valuation: ☐ Credit Linked W&C Condition 16 ☐ [Applicable] ☐ [Not Applicable]  
 [If Applicable: *Terms relating to Auction Settlement*  
 Benchmark Obligation: ☐ [Reference Obligation] ☐ [Other]  
*(N.B. Deliverable Obligation Category and Deliverable Obligation Characteristics should also be completed if Credit Linked W&C Condition 16 applies)*  
*Terms relating to Auction Settlement*
- (jj) Auction Settlement Amount: ☐
- (kk) Auction Settlement Date: ☐ [Five Business Days] ☐ [Specify other]
- (ll) Other terms or special conditions: ☐  
*Terms relating to Physical Settlement* *(N.B. include if Physical Settlement is the Settlement Method or the Fullback Settlement Method)*
- (mm) Physical Settlement Period: ☐ Business Days
- (nn) Accrued Interest on Entitlement: ☐ [Include Accrued Interest] ☐ [Exclude Accrued Interest]
- (oo) Settlement Currency: ☐
- (pp) Deliverable Obligations:  
 Deliverable Obligation Category ☐ [As set out in the Physical Settlement Matrix for the Transaction Type] ☐ [Payment]  
☐ [Borrowed Money]  
 [select one only]: ☐ [Reference Obligations Only]  
☐ [Bond]  
☐ [Loan]  
☐ [Bond or Loan]
- Deliverable Obligation Characteristics ☐ [As set out in the Physical Settlement Matrix for the Transaction Type] ☐ [Not Subordinated]  
 [select all of which apply]: ☐ [Credit Linked Specified Currency: [specify currency]]  
☐ [Standard Specified Currencies]  
☐ [Not Sovereign Lender]  
☐ [Not Domestic Currency]



- ☐ [Domestic Currency means: [specify currency]]  
☐ [Not Domestic Law]  
☐ [Domestic Law means: [specify law]]  
☐ [Listed]  
☐ [Not Contingent]  
☐ [Not Domestic Issuance]  
☐ [Assignable Loan]  
☐ [Consent Required Loan]  
☐ [Direct Loan Participation]  
☐ [Qualifying Participation Seller: Applicable] ☐ [Not Applicable *[insert requirements]*]  
☐ [Transferable]  
☐ [Maximum Maturity: ☐]  
☐ [Accelerated or Matured]  
☐ [Not Bearer]
- Additional Deliverable Obligation(s): ☐  
 (qq) Excluded Deliverable Obligation(s): ☐  
 (rr) Indicative Quotations: ☐ [Applicable] ☐ [Not Applicable]  
 (ss) Credit Cut-Off Date: ☐  
 (tt) Additional Disruption Events: ☐ [Not Applicable]
- ☐ [The following Additional Disruption Events will apply to the W&C Securities:  
☐ [Change in Law]  
☐ [Hedging Disruption]  
☐ [Increased Cost of Hedging]]
- (uu) Other terms or special conditions: ☐  
 39. Saudi Share Linked Warrant Conditions: ☐ [Applicable] ☐ [Not Applicable]
- (a) Share(s) / Basket of Shares: ☐ [Each of the ordinary shares of the relevant Share Company set out under the heading “**Share Company**” in “**Specific Information relating to the Reference Item(s)**” below (each a “**Share**” and together, the “**Shares**” [or the “**Basket of Shares**”])]

#### SPECIFIC INFORMATION RELATING TO THE REFERENCE ITEM(S)

The terms “**Share Company**”, “**Adjustment Factor**”, “**ISIN of Share**”, “**Weighting**” and “**Bloomberg Code**” applicable to the Share shall have the meaning set forth against the relevant Share Company in the table below.

Series Number	Share Company	Adjustment Factor	ISIN of Share	Weighting	Bloomberg Code
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- (b) Exchange(s): ☒ [Saudi Stock Exchange (*Tadawul*)]
- (c) Related Exchange: ☒ [All Exchanges]
- (d) Valuation Date: ☒ (*N.B. Valuation Date should be no longer than four years following the Trade Date in order to comply with the Saudi CMA Resolution*)
- [Common Scheduled Trading Days: ☐ [Applicable] ☐ [Not Applicable]] (*N.B. May only be applicable in relation to Share Linked W&C Securities relating to a Basket*)
- (e) Tender Offer: ☐ [Applicable] ☐ [Not Applicable]
- (f) Share Substitution: ☐ [Applicable. Share Substitution Criteria are [specified in Share Linked Condition 6] [*specify other*]]
- ☐ [Not Applicable]
- (g) Additional Disruption Events: The following Additional Disruption Events apply to the W&C Securities (in addition to CMA Order, Jurisdiction Event and/or Trading Failure as set out in the provisions of Annex 12 of the Terms and Conditions – *Additional Terms and Conditions for Saudi Share Linked Warrants*):
- ☐ [Change in Law]  
☐ [Hedging Disruption]  
☐ [Increased Cost of Hedging]  
☐ [Insolvency Filing]
- (h) Other terms or special conditions: ☒

#### PROVISIONS FOR PHYSICAL DELIVERY

40. Relevant Asset(s): ☒
41. Entitlement: The Entitlement (as defined in Condition 4) in relation to each W&C Security is ☒
- ☐ [The Entitlement will be evidenced and delivered in accordance with [Condition 23(C)(b) (*for Warrants*)] [Condition 29(A) (*for Certificates*)] [*Specify Other*]]
- (N.B. paragraphs [40]- [41] only applicable in relation to Physical Delivery W&C Securities that are not Credit Linked W&C Securities)*
42. Guaranteed Cash Settlement Amount: [The Guaranteed Cash Settlement Amount is calculated [as specified in Condition 3] [as specified in Credit Linked W&C Condition 5] [*specify other calculation method*]]
43. Failure to Deliver due to Illiquidity: ☐ [Applicable] ☐ [Not Applicable]
- (N.B. May only be applicable to Physical Delivery W&C Securities other than Credit Linked W&C Securities)*

## GENERAL

44. Form of W&C Securities:<sup>15</sup>

[The W&C Securities are to be issued into and transferred through Euroclear and Clearstream, Luxembourg]

[Euroclear/CBL Global Bearer Warrant]

[Euroclear/CBL Global Registered Warrant]

[Euroclear/CBL Temporary Global Certificate exchangeable for a Euroclear/CBL Permanent Global Certificate which is exchangeable for Definitive Bearer Certificates upon not less than 60 calendar days' notice from Euroclear and/or Clearstream, Luxembourg, as applicable (acting on the instructions of any holder of an interest in such Euroclear/CBL Permanent Global Certificate)]

[Euroclear/CBL Temporary Global Certificate exchangeable for Definitive Bearer Certificates on or after the Exchange Date]

[Euroclear/CBL Permanent Global Certificate exchangeable for Definitive Bearer Certificates upon not less than 60 calendar days' notice from Euroclear and/or Clearstream, Luxembourg, as applicable (acting on the instructions of any holder of an interest in such Euroclear/CBL Permanent Global Certificate)]

[Euroclear/CBL Global Registered Certificate exchangeable for Definitive Registered Certificates in the limited circumstances described in the Euroclear/CBL Global Registered Certificate]

OR

[The W&C Securities are to be issued into and transferred through Clearstream, Frankfurt]

[CBF Global Warrant]

[CBF Global Certificate]

OR

[The W&C Securities are to be issued into and transferred through Euroclear France]<sup>16</sup>

[Euroclear France Global Warrant]

[Euroclear France Temporary Global Certificate exchangeable for a Euroclear France Permanent Global Certificate which is exchangeable for Definitive Bearer Certificates upon not less than 60 calendar days' notice from Euroclear France (acting on the instructions of any holder of an interest in such Euroclear France Permanent Global Certificate)]<sup>17</sup>

<sup>15</sup> If MLICo. is the Issuer of the Certificates, Certificates shall be initially issued in permanent global form exchangeable for Definitive Certificates.

<sup>16</sup> Only MLICo. may issue W&C Securities issued into and transferred through Euroclear France.

<sup>17</sup> Only MLICo. may issue W&C Securities issued into and transferred through Euroclear France.

[Euroclear France Temporary Global Certificate exchangeable for Definitive Bearer Certificates on or after the Exchange Date]<sup>18</sup>

[Euroclear France Permanent Global Certificate exchangeable for Definitive Bearer Certificates upon not less than 60 calendar days' notice from Euroclear France (acting on the instructions of any holder of an interest in such Euroclear France Permanent Global Certificate)]]<sup>19</sup>

OR

[The Warrants are eligible for sale in the United States to QIBs who are also QPs or to, or for the account or benefit of United States Persons who are QIBs and also QPs]

[Regulation S/Rule 144A Global Warrant in registered form] [Rule 144A Global Warrant in registered form]

[The provisions of Annex 11 of the Terms and Conditions – Additional Terms and Conditions for Rule 144A Warrants shall apply]

*[N.B. Only Cash Settled W&C Securities will be eligible for sale in the United States or to, or for the account or benefit of, United States Persons]*

OR

[The Swedish Securities are to be issued into and cleared through the Swedish CSD]

[The Swedish Securities will be issued in dematerialised and uncertificated book entry form in accordance with the Swedish Financial Instruments Accounts Act (in Swedish: *lag (1998:1479) om kontoföring av finansiella instrument*)]

*[Insert provisions relating to exercise and settlement as agreed between the Issuer and the Swedish Certificate Agent]*

OR

[The Finnish Securities are to be issued into and cleared through Euroclear Finland]

[The Finnish Securities will be issued in dematerialised and uncertificated book entry form in accordance with the Finnish Act on the Book-Entry System (in Finnish: *laki arvo-osuusjärjestelmästä (826/1991)*) and the Finnish Act on Book-Entry Accounts (in Finnish: *laki arvo-osuustileistä (827/1991)*)]

*[Insert provisions relating to exercise and settlement as agreed between the Issuer and the Finnish Certificate Agent]*

OR

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<sup>18</sup> Only MLICo. may issue W&C Securities issued into and transferred through Euroclear France.

<sup>19</sup> Only MLICo. may issue W&C Securities issued into and transferred through Euroclear France.

[The W&C Securities are to be issued into and transferred through SIS.]

[Swiss Global Bearer Warrant exchangeable for Swiss Definitive Bearer Warrants (i) at the option of the Issuer upon the occurrence of a SIS Exchange Event or (ii) at the option of the Swiss Programme Agent if the Swiss Programme Agent determines that such exchange is necessary or useful or that the presentation of Warrants in definitive form is required by Swiss or foreign laws or regulations in connection with the enforcement of rights.]<sup>20</sup>

[Swiss Warrants in uncertificated form exchangeable for Swiss Definitive Registered Warrants (i) at the option of the Issuer upon the occurrence of a SIS Exchange Event or (ii) at the option of the Swiss Programme Agent if the Swiss Programme Agent determines that such exchange is necessary or useful or that the presentation of Warrants in definitive form is required by Swiss or foreign laws or regulations in connection with the enforcement of rights.]<sup>21</sup>

[Swiss Global Bearer Warrants exchangeable for Swiss Definitive Bearer Warrants at the option of the Issuer upon the occurrence of a SIS Exchange Event.]<sup>22</sup>

[Swiss Warrants in uncertificated form exchangeable for Swiss Definitive Registered Warrants at the option of the Issuer upon the occurrence of a SIS Exchange Event.]<sup>23</sup>

[Holders do not have the right to effect or demand the conversion of the Swiss Global Bearer Warrant into, or the delivery of, Warrants in uncertificated or definitive form.]<sup>24</sup>

[Holders do not have the right to effect or demand the conversion of the uncertificated securities into, or the delivery of, Swiss Definitive Registered Warrants.]<sup>25</sup>

[Swiss Global Bearer Certificate exchangeable for Swiss Definitive Bearer Certificates (i) at the option of the Issuer upon the occurrence of a SIS Exchange Event or (ii) at the option of the Swiss Programme Agent if the Swiss Programme Agent determines that such exchange is necessary or useful or that the presentation of Certificates in definitive form is required by Swiss or foreign

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<sup>20</sup> Include in the case of Warrants represented by a Swiss Global Bearer Warrant and listed on the SIX Swiss Exchange.

<sup>21</sup> Include in the case of Warrants issued in the form of uncertificated securities and listed on the SIX Swiss Exchange.

<sup>22</sup> Include in the case of Warrants represented by a Swiss Global Bearer Warrant and issued into and transferred through accounts at SIS, but not listed on the SIX Swiss Exchange.

<sup>23</sup> Include in the case of Warrants in the form of uncertificated securities and issued into and transferred through accounts at SIS, but not listed on the SIX Swiss Exchange.

<sup>24</sup> Include in the case of Warrants represented by a Swiss Global Bearer Warrant and listed on the SIX Swiss Exchange and/or issued into and transferred through accounts at SIS.

<sup>25</sup> Include in the case of Warrants issued in the form of uncertificated securities listed on the SIX Swiss Exchange and/or issued into and transferred through accounts at SIS.



laws or regulations in connection with the enforcement of rights.]<sup>26</sup>

[Swiss Certificates in uncertificated form exchangeable for Swiss Definitive Registered Certificates (i) at the option of the Issuer upon the occurrence of a SIS Exchange Event or (ii) at the option of the Swiss Programme Agent if the Swiss Programme Agent determines that such exchange is necessary or useful or that the presentation of Certificates in definitive form is required by Swiss or foreign laws or regulations in connection with the enforcement of rights.]<sup>27</sup>

[Swiss Global Bearer Certificate exchangeable for Swiss Definitive Bearer Certificates at the option of the Issuer upon the occurrence of a SIS Exchange Event.]<sup>28</sup>

[Swiss Certificates in uncertificated form exchangeable for Swiss Definitive Registered Certificates at the option of the Issuer upon the occurrence of a SIS Exchange Event.]<sup>29</sup>

[Holders do not have the right to effect or demand the conversion of the Swiss Global Bearer Certificate into, or the delivery of, Certificates in uncertificated or definitive form.]<sup>30</sup>

[Holders do not have the right to effect or demand the conversion of the uncertificated securities into, or the delivery of, Swiss Definitive Registered Certificates.]<sup>31</sup>

OR

[The CREST Securities are to be issued into and transferred through Euroclear UK.

The CREST Securities will be issued in uncertificated form in accordance with the Uncertificated Securities Regulations. The CREST Securities are participating securities for the purposes of the Uncertificated Securities Regulations.]

45. Eligibility for sale in the United States to QIBs who are also QPs or to, or for the account or benefit of, United States Persons who are QIBs and also QPs:

The W&C Securities are [not] eligible for sale in the United States to QIBs who are also QPs, or to, or for the account or benefit of, United States Persons who are QIBs and also QPs.

[(Where Cash Settled Index Linked Warrants or Cash Settled Share Linked Warrants are eligible for sale (a) in the United States to QIBs who are

<sup>26</sup> Include in the case of Certificates represented by a Swiss Global Bearer Certificate and listed on the SIX Swiss Exchange.

<sup>27</sup> Include in the case of Certificates issued in the form of uncertificated securities and listed on the SIX Swiss Exchange.

<sup>28</sup> Include in the case of Certificates represented by a Swiss Global Bearer Certificate and issued into and transferred through accounts at SIS, but not listed on the SIX Swiss Exchange.

<sup>29</sup> Include in the case of Certificates in the form of uncertificated securities and issued into and transferred through accounts at SIS, but not listed on the SIX Swiss Exchange.

<sup>30</sup> Include in the case of Certificates represented by a Swiss Global Bearer Certificate and listed on the SIX Swiss Exchange and/or issued into and transferred through accounts at SIS.

<sup>31</sup> Include in the case of Certificates in the form of uncertificated securities and listed on the SIX Swiss Exchange and/or issued into and transferred through accounts at SIS.

also QPs, or (b) to, or for the account or benefit of, United States Persons who are QIBs and also QPs, include the following:)

- (a) the Rule 144A Global Warrant will be held with [the U.S. Warrant Agent as custodian for DTC] [a nominee for the Common Depositary];
- (b) beneficial interests in Warrants held in DTC must be held through an Authorised Custodian. Each Authorised Custodian will have agreed with the Issuer and the Guarantor not to transfer any portion of a beneficial owner's interest in the Rule 144A Global Warrant to the account of any other person at the relevant Authorised Custodian, or to the account of any other participant in DTC or otherwise, without the prior written consent of the Issuer and the Guarantor or the prior written consent of a person authorised to act on their behalf. Subsequent transfers of beneficial interests in the Warrants may only be made to persons that hold such beneficial interests through direct DTC participants that have executed and delivered to the Issuer a Custodian Letter, in the form of schedule 17 to the Agency Agreement and available from the Issuer, and that have thereby become "Authorised Custodians" with respect to the Warrants. See "Book-Entry Clearing Systems";
- (c) the Warrants [may] [may not] be sold outside the United States to non-United States Persons [(such Warrants to be represented by a Regulation S/Rule 144A Global Warrant and deposited with a nominee for the Common Depositary)];
- (d) [insert applicable U.S. selling restrictions and specify details of any transfer restrictions and any necessary certifications, if different from those set out in the Terms and Conditions]; and
- (e) [specify any amendments to the form of Exercise Notice (the form of which is set out in a schedule to the Agency Agreement)].]

- 46. Payment Day (Condition 6(B)): [Following] [Modified Following]
- 47. Additional Financial Centre(s) or other special provisions relating to Payment Days: [Not Applicable] [*give details*]
- 48. Payment Disruption (Condition 6(C)): [Payment Disruption Event is applicable] [CNY Payment Disruption Event is applicable] [Not Applicable] [*specify other*]

[*If CNY Payment Disruption Event is applicable, include the following:*

Where "CNY Settlement Centre" means [the Hong Kong Special Administrative Region] [●]]

*(Generally, Payment Disruption Event should be applicable for Saudi Share Linked Warrants)*

(a) Base Currency/ Subject Currency: [As specified under paragraph 34] *[insert if FX Linked Provisions are not specified to be applicable] (for Saudi Share Linked Warrants, specify [Settlement Currency] [Saudi Arabian Riyal] [Currency of the Shares])*

(b) Payment of Equivalent Amount: [Applicable] [Not Applicable]  
*[If Payment of Equivalent Amount is applicable, include the following:*

Equivalent Amount Settlement Rate: [As specified in Condition 6(C)] *[specify other]*

49. Other Final Terms: [Not Applicable] *[give details]*

*(When adding any other final terms, consideration should be given as to whether such amendments would be acceptable as Final Terms or whether such terms constitute “significant new factors” and consequently trigger the need for a supplement to the Base Prospectus under Article 16 of the Prospectus Directive, the use of a Securities Note or “unitary” Prospectus)*

## DISTRIBUTION

50. [The initial purchasers and [name of applicable permitted dealer in the United States] of the Warrants: The dealer for the Warrants is [name of applicable permitted dealer in the United States], acting as principal. [Name of applicable permitted dealer in the United States] does not receive any compensation for the sales in which it participates.

*(Applicable where Cash Settled Index Linked Warrants or Share Linked Warrants are eligible for sale (a) in the United States to QIBs who are also QPs or (b) to, or for the account or benefit of, United States Persons who are QIBs and also QPs)*

51. Method of distribution: [Syndicated] [Non-Syndicated]

(a) If syndicated, names and addresses of Managers and underwriting commitments: [Not Applicable] *[give names, addresses and underwriting commitments]*

*(Include names and addresses of entities agreeing to underwrite the issue on a firm commitment basis and names and addresses of the entities agreeing to place the issue without a firm commitment or on a “best efforts” basis if such entities are not the same as the Managers)*

(b) (Date of Subscription Agreement: [●])

52. If non-syndicated, name and address of relevant Dealer: [Not Applicable]  
[give name and address]  
[Merrill Lynch International  
2 King Edward Street  
London  
EC1A 1HQ  
United Kingdom]
53. [Total commission and concession: [●]]
54. U.S. Selling Restrictions: [TEFRA D] [TEFRA D not applicable]
55. Additional U.S. Tax Considerations: [Not Applicable] [give details]
56. Non-exempt Offer:<sup>32</sup> [Not Applicable] [An offer of the W&C Securities may be made by the Manager[s] [and [specify names [and addresses]] of other financial intermediaries making non-exempt offers, to the extent known OR consider a generic description of other parties involved in non-exempt offers (e.g. “other parties authorised by the Managers”) or (if relevant) note that other parties may make non-exempt offers in the Public Offer Jurisdictions during the Offer Period, if not known]] (together with the Managers, the “**Financial Intermediaries**”) other than pursuant to Article 3(2) of the Prospectus Directive in [specify relevant Member State(s) – which must be jurisdictions where the Base Prospectus and any supplements have been passported (in addition to the jurisdiction where approved and published)] (“**Public Offer Jurisdictions**”) during the period from [specify date] until [specify date or a formula such as “the Issue Date” or “the date which falls [●] Business Days thereafter”]] (“**Offer Period**”). See further paragraph 8 of Part B below.  
  
(N.B. Consider any local regulatory requirements necessary to be fulfilled so as to be able to make a non-exempt offer in the relevant jurisdictions. No such offer should be made in any relevant jurisdiction until those requirements have been met. Non-exempt offers may only be made into jurisdictions in which the base prospectus (and any supplement) has been notified/passported)
57. Additional selling restrictions: [Not Applicable] [give details]

## PURPOSE OF FINAL TERMS

These Final Terms comprise the final terms required for issue [and] [public offer in the Public Offer Jurisdictions] [and] [admission to trading on [specify relevant regulated market (for example the Luxembourg Stock Exchange) and, if relevant, admission to an official list (for example, the Official List of the Luxembourg Stock Exchange)] [listing on the SIX Swiss Exchange and admission to trading on Scoach Switzerland]] of the W&C Securities described herein pursuant to the Note, Warrant and Certificate Programme of Merrill Lynch S.A. and Merrill Lynch International & Co. C.V.

<sup>32</sup> Not relevant for an issue of W&C Securities with an issue price equal to or greater than €100,000 (or its equivalent in another currency).

## RESPONSIBILITY

[[Subject as provided below,] the Issuer accepts responsibility for the information contained in these Final Terms.] [The information relating to [●] [and [●]] contained herein has been accurately extracted from [insert information source(s)]. The Issuer accepts responsibility for the accuracy of such extraction but accepts no further or other responsibility in respect of such information.]<sup>33</sup>

[Each of the Issuer and the Guarantor confirms that the information contained in these Final Terms is, to the best of its knowledge, correct, and that no material facts or circumstances have been omitted from the listing prospectus consisting of these Final Terms and the Base Prospectus, as supplemented as of the date of these Final Terms.]<sup>34</sup>

[The information set out in Part C has been extracted from publicly available information. Each of the Issuer and the Guarantor confirms that such information has been accurately reproduced and that, so far as it is aware, and is able to ascertain from information by the source(s) specified in Part C, no facts have been omitted in these Final Terms which would render the information in these Final Terms inaccurate or misleading.]<sup>35</sup>

Signed on behalf of the Issuer:

[Signed on behalf of the Guarantor:

By: .....

*Duly authorised*

By: .....

*Duly authorised]*<sup>36</sup>

<sup>33</sup> Include for all W&C Securities (including Swiss Securities) not listed on the SIX Swiss Exchange.

<sup>34</sup> Include for W&C Securities listed on the SIX Swiss Exchange.

<sup>35</sup> Include for W&C Securities listed on the SIX Swiss Exchange.

<sup>36</sup> Include for W&C Securities listed on the SIX Swiss Exchange.



## PART B – OTHER INFORMATION

### 1. LISTING AND ADMISSION TO TRADING

Listing and Admission to trading:

*(N.B. W&C Securities with over 364 days between Issue Date and Settlement Date must be listed on a “recognised stock exchange”).*

*(Where documenting a fungible issue need to indicate that original securities are already admitted to trading.)*

[Not Applicable] [Application [has been] [will be] made by the Issuer (or on its behalf) for the W&C Securities to be admitted to trading on [the regulated market of/the alternative market of,] and listed on the Official List of the [Luxembourg Stock Exchange/London Stock Exchange plc/Eurolist by Euronext Paris S.A./Euronext Amsterdam by NYSE Euronext] [with effect from, at the earliest the Issue Date. No assurances can be given that such application for listing will be granted, (or if granted, will be granted by the Issue Date)]

[Application will be made to trade and list the W&C Securities on Scoach Switzerland and the SIX Swiss Exchange, respectively, provided that no assurance can be given that the W&C Securities will be admitted to trading on Scoach Switzerland or listed on the SIX Swiss Exchange on the Issue Date or any specific date thereafter.]

[The Issuer has no duty to maintain the listing (if any) of the W&C Securities on the relevant stock exchange(s) over their entire lifetime. W&C Securities may be suspended from trading and/or de-listed at any time in accordance with applicable rules and regulations of the relevant stock exchange(s) [, provided, however, that, in the case of a Series that is listed on the SIX Swiss Exchange, the W&C Securities of such Series shall be de-listed with respect to the SIX Swiss Exchange, without any further action, if (i) the Issuer or any of its affiliates has prepaid, repaid, repurchased, redeemed or otherwise acquired or holds all the W&C Securities of such Series and (ii) the Issuer has published or caused to be published a notice stating that such W&C Securities have been de-listed with respect to the SIX Swiss Exchange in accordance with W&C Securities Condition 11]<sup>37</sup> .]

*W&C Securities admitted to trading on Scoach Switzerland and listed on the SIX Swiss Exchange only:*

[(i) First Scoach Switzerland Trading Day:

[●] [Anticipated to be the Issue Date]

(ii) Last Scoach Switzerland Trading Day:

[●] [trading on Scoach Switzerland until official close of trading on Scoach Switzerland on that day]

(iii) Swiss Paying Agent:

[BNP Paribas Securities Services S.A., Zurich Branch] [insert name]]

(iv) Minimum Trading Size:

[●]

(v) Payment Date:

[Issue Date]]

<sup>37</sup> Include for W&C Securities listed on the SIX Swiss Exchange.

## 2. INTERESTS OF NATURAL AND LEGAL PERSONS INVOLVED IN THE ISSUE

[Save for any fees payable to the [Managers/Dealers], so far as the Issuer is aware, no person involved in the issue of the W&C Securities has an interest material to the offer (*amend as appropriate if there are other interests*).]

*[(When adding any other description, consideration should be given as to whether such matters described constitute “significant new factors” and consequently trigger the need for a supplement to the Base Prospectus under Article 16 of the Prospectus Directive or the use of a Securities Note or “unitary” prospectus.)]*

## 3. REASONS FOR THE OFFER, ESTIMATED NET PROCEEDS AND TOTAL EXPENSES

- (i) [Reasons for the offer: [●] (*See “Use of Proceeds of the W&C Securities” wording in Base Prospectus – if reasons for offer different from making profit and/or hedging certain risks will need to include those reasons here*)]
- (ii) Estimated net proceeds: [●] (*If proceeds are intended for more than one use will need to split out and present in order of priority. If proceeds insufficient to fund all proposed uses state amount and sources of other funding.*)
- (iii) Estimated total expenses: [●] (*Expenses are required to be broken down into each principal intended “use” and presented in order of priority of such “uses”.*)  
((i) *above is required where the reasons for the offer are different from making profit and/or hedging certain risks in this case disclosure of net proceeds and total expenses at (ii) and (iii) above is also required.*)

## 4. YIELD (Fixed Rate Certificates Only)

- Indication of yield: [●]  
[Calculated as [*include details of method of calculation in summary form*] on the Issue Date.]  
The yield is calculated at the Issue Date on the basis of the Issue Price. It is not an indication of future yield.

## 5. HISTORIC INTEREST RATES (Floating Rate Certificates Only)

Details of historic [EURIBOR/LIBOR/other] rates can be obtained from [Reuters].

## 6. PERFORMANCE OF THE REFERENCE ITEM(S), EXPLANATION OF EFFECT ON VALUE OF INVESTMENT AND ASSOCIATED RISKS AND OTHER INFORMATION CONCERNING THE REFERENCE ITEM(S)

*[Need to include details of where past and future performance and volatility of Reference Items can be obtained. Where the underlying is an index, need to include the name of the index and a description if composed by the Issuer and if the index is not composed by the Issuer, need to include details of where the information about the index can be obtained. Where the underlying is not an index, need to include equivalent information. Include other information concerning the underlying required by paragraph 4.2 of Annex XII of the Prospectus Directive Regulation.]*

*[Need to include a clear and comprehensive explanation of how the value of the investment is affected by the underlying and the circumstances when the risks are most evident.]*

*[When completing this paragraph, consideration should be given as to whether such matters described constitute “significant new factors” and consequently trigger the need for a supplement to the Base Prospectus under Article 16 of the Prospectus Directive.]*

**7. OPERATIONAL INFORMATION**

- (i) ISIN: [The ISIN is set out in “Specific Provisions for each Series” above.]
- (ii) Common Code: [The Common Code is set out in “Specific Provisions for each Series” above.]
- (iii) [Swiss Securities Number (*Valorennummer*)] [●]<sup>38</sup>
- (iv) [Ticker Symbol (SIX):] [●]<sup>39</sup>
- (v) Wertpapierkennnummer (WKN) (German Security Code): [The WKN is set out in “Specific Provisions for each Series” above.]
- (vi) Mnemonic (*insert in case of a listing on Euronext Paris S.A.*): [The Mnemonic is set out in “Specific Provisions for each Series” above.]
- (vii) [(*insert here any other relevant codes such as CUSIP and CNS codes*)]: [●]
- (viii) Clearing System(s): [Euroclear Bank SA/NV.] [and] [Clearstream Banking, *société anonyme*] [Clearstream Banking AG, Frankfurt am Main] [Euroclear France S.A.] [DTC] [Euroclear Sweden, Klarabergsviadukten 63, Box 191, SE-101 23 Stockholm, Sweden/*specify other duly authorised Swedish central securities depository under the Swedish CSD Rules*] [Euroclear Finland, Ltd] [SIX SIS AG] [Euroclear UK & Ireland Limited]
- (ix) Any clearing system(s) other than Euroclear Bank SA/NV., Clearstream Banking, *société anonyme*, Clearstream Banking AG, Frankfurt am Main, Euroclear France, DTC, SIX SIS AG, Euroclear UK & Ireland Limited, Euroclear Finland, Ltd and Euroclear Sweden, Klarabergsviadukten 63, Box 191, SE-101 23 Stockholm, Sweden or a duly authorised Swedish central securities depository under the Swedish CSD Rules and the relevant identification number(s): [Not Applicable] [*give name(s) and number(s)*]
- (x) [Names and addresses of initial Security Agents:] [The Bank of New York Mellon, London Branch One Canada Square London E14 5AL United Kingdom]<sup>40</sup>
- [The Bank of New York Mellon (Luxembourg) S.A. Vertigo Building – Polaris 2-4 rue Eugène Ruppert L-2453 Luxembourg Grand Duchy of Luxembourg]<sup>41</sup>
- [The Bank of New York Mellon 101 Barclay Street New York, New York 10286 United States]<sup>42</sup>

<sup>38</sup> Only applicable to W&C Securities cleared through SIS.

<sup>39</sup> Only applicable to W&C Securities listed on the SIX Swiss Exchange.

<sup>40</sup> Include in the case of all Warrants (including Regulation S Warrants).

<sup>41</sup> Include in the case of Warrants clearing through Euroclear and Clearstream, Luxembourg.

<sup>42</sup> Include in the case of Rule 144 Warrants.

[BNP Paribas Securities Services S.C.A.,  
Frankfurt Branch  
Zweigniederlassung  
Europa-Allee 12  
60327 Frankfurt am Main  
Germany]<sup>43</sup>

[Insert details of the Paris Security Agent]<sup>44</sup>

[Skandinaviska Enskilda Banken AB (publ)  
Kungsträdgårdsgatan 8  
SE-10640 Stockholm  
Sweden]<sup>45</sup>

[Skandinaviska Enskilda Banken AB (publ),  
Helsinki Branch  
Unionsgatan 30  
00101 Helsinki  
Finland]<sup>46</sup>

[BNP Paribas Securities Services S.A.,  
Zurich Branch  
Selnaustrasse 16  
CH-8002 Zurich  
Switzerland]<sup>47</sup>

[Computershare Investor Services PLC  
The Pavilions  
Bridgwater Road  
Bristol BS13 8AE  
United Kingdom]<sup>48</sup>

(xi) Registrar:

[The Bank of New York Mellon (Luxembourg)  
S.A.

Vertigo Building - Polaris  
2-4 rue Eugène Ruppert  
L-2453 Luxembourg  
Grand Duchy of Luxembourg]<sup>49</sup>

[Deutsche Bank Luxembourg S.A.  
2, boulevard Konrad Adenauer  
L-1115 Luxembourg  
Grand Duchy of Luxembourg]<sup>50</sup>

[Not Applicable]

[(xii) Delivery:

Delivery free of payment into Euroclear account  
92835]<sup>56</sup>

## 8. TERMS AND CONDITIONS OF THE OFFER (Public Offer Only)

Offer Price:	[Issue Price] [Not Applicable] <i>[specify]</i>
[Conditions to which the offer is subject:]	[Not Applicable] <i>[give details]</i>

<sup>43</sup> Include in the case of Certificates cleared through Euroclear and Clearstream, Luxembourg and clearing through Clearstream, Frankfurt.

<sup>44</sup> Include in the case of W&C Securities clearing through Euroclear France.

<sup>45</sup> Include in the case of Swedish Securities.

<sup>46</sup> Include in the case of Finnish Securities.

<sup>47</sup> Include in the case of W&C Securities clearing through SIS.

<sup>48</sup> Include in the case of CREST Securities clearing through Euroclear UK.

<sup>49</sup> Include in the case of all Registered Warrants.

<sup>50</sup> Include in the case of all Registered Certificates.

<sup>56</sup> Include in the case of Registered Certificates issued by MLICo.

[Description of the application process:]	[Not Applicable] <i>[give details]</i>
[Details of the minimum and/or maximum amount of application:]	[Not Applicable] <i>[give details]</i>
[Description of possibility to reduce subscriptions and manner for refunding excess amount paid by applicants:]	[Not Applicable] <i>[give details]</i>
[Details of the method and time limits for paying up and delivering the W&C Securities:]	[Not Applicable] <i>[give details]</i>
[Manner in and date on which results of the offer are to be made public:]	[Not Applicable] <i>[give details]</i>
[Procedure for exercise of any right of pre-emption, negotiability of subscription rights and treatment of subscription rights not exercised:]	[Not Applicable] <i>[give details]</i>
[Categories of potential investors to which the W&C Securities are offered and whether tranche(s) have been reserved for certain countries:]	[Not Applicable] <i>[give details]</i>
[Process for notification to applicants of the amount allotted and the indication whether dealing may begin before notification is made:]	[Not Applicable] <i>[give details]</i>
[Amount of any expenses and taxes specifically charged to the subscriber or purchaser:]	[Not Applicable] <i>[give details]</i>
[Names(s) and address(es), to the extent known to the Issuer, of the placers in various countries where the offer takes place:]	[None] <i>[give details]</i>

9. **[FORM OF NOTICE FROM BENEFICIAL OWNER TO FINANCIAL INTERMEDIARY]**

10. **[ADDITIONAL INFORMATION]**<sup>51</sup>

**Publications:** Any notices or publications to be made to holders will be made [for so long as the W&C Securities are listed on the SIX Swiss Exchange, (i) by means of electronic publication on the internet website of the SIX Swiss Exchange ([www.six-swiss-exchange.com](http://www.six-swiss-exchange.com), where notices are currently published under the address [[www.six-swiss-exchange.com/news/official\\_notices/search\\_en.html](http://www.six-swiss-exchange.com/news/official_notices/search_en.html)]), or (ii) otherwise in accordance with the rules of the SIX Swiss Exchange.]<sup>52</sup> [by publishing the relevant notice, publication or, in case of amendments or corrections in accordance with W&C Securities Condition 10, the amended or corrected Final Terms [on the following website] [in the following newspaper]: [●].]<sup>53</sup>

**[Representatives [(for purposes of article 43 of the Listing Rules of the SIX Swiss Exchange)]: [●]** (for purposes of documentation) and [●] (for purposes of clearing and settlement).]<sup>54</sup>

**[No Material Adverse Change:** Save as disclosed in the Base Prospectus (including any documents incorporated by reference therein), there has been no material adverse change, nor any event involving a prospective material adverse change, in the assets and liabilities, financial position or profit and losses of the Issuer or the Guarantor since [*insert date of the most recently published audited annual or unaudited interim financial statements*].]<sup>55</sup>

**Collateralisation:** [Not Applicable] [Applicable] [The W&C Securities are collateralised in accordance with the terms of the SIX Swiss Exchange «Framework Agreement for Collateral Secured Instruments» (the “**Framework Agreement**”). The Issuer and Merrill Lynch Capital

<sup>51</sup> Include for W&C Securities that are Swiss Securities, as applicable.

<sup>52</sup> Include for W&C Securities listed on the SIX Swiss Exchange.

<sup>53</sup> Include for Swiss W&C Securities which are not listed on the SIX Swiss Exchange.

<sup>54</sup> Include for W&C Securities listed on the SIX Swiss Exchange.

<sup>55</sup> Include for W&C Securities listed on the SIX Swiss Exchange.



Markets AG, Zurich, Switzerland (the “**Collateral Provider**”) have entered into the Framework Agreement on or about 24 May 2012 and the Collateral Provider undertakes to secure the Current Value of the W&C Securities in favour of SIX Swiss Exchange. The legal position of the investors in relation to the collateralisation of the W&C Securities is determined by the provisions of the Framework Agreement. The core elements of the collateralisation are summarised in a SIX Swiss Exchange information sheet, which is available at [«www.six-swiss-exchange.com»](http://www.six-swiss-exchange.com). The Issuer shall, upon request, provide the Framework Agreement to the investors free of charge in the German version or in an English translation. A copy of the Framework Agreement may be obtained from Merrill Lynch Capital Markets AG, Stockerhof, Stockerstrasse 23, 8002 Zurich, Switzerland via telephone +41 44 297 75 93, fax +41 44 291 33 41 or via e-mail: [dg.ogc\\_zurich@baml.com](mailto:dg.ogc_zurich@baml.com).]

*[Include this part only in respect of W&C Securities listed on the SIX Swiss Exchange]*

## **PART C – ADDITIONAL INFORMATION RELATING TO THE REFERENCE ITEM(S)**

*The information included herein with respect to the Reference Item(s) consist(s) only of extracts from, or summaries of, publicly available information. The Issuer accepts responsibility that such information has been correctly extracted or summarised. No further or other responsibility in respect of such information is accepted by the Issuer, the Guarantor, [the Arranger] or any other Dealer. In particular, none of the Issuer, the Guarantor, [the Arranger] or any [other] Dealer accepts responsibility in respect of the accuracy or completeness of the information set forth herein concerning the Reference Item(s) or that there has not occurred any event which would affect the accuracy or completeness of such information. The information included below relates to the period up to the date of these Final Terms and has not been updated since.*

### **General information with respect to the Reference Item(s)**

General designation or description of the Reference Item(s)

*[[●] Insert description for each Reference Item]*

*[where applicable:]* [Company name and domicile of the issuer of the Reference Item(s)]

*[[●] Where applicable, insert company name and domicile of the issuer of the Reference Item for each Reference Item]*

ISIN of the Reference Item(s) *[if the ISIN is not available, then an alternative unique identifier is required]*

*[[●] Insert ISIN or alternative unique identifier for each Reference Item]*

Information on what source of the Reference Items' price is used as a basis for the price of the W&C Securities

*[[●] If the Reference Item(s) is/are trading on a stock exchange, the name of this exchange must be given. Information must otherwise be given on where the price-setting mechanism for the Reference Item(s) is/are available to the public]*

Information on which price for the Reference Item(s) is material in establishing the price of the W&C Securities

*[[●] Insert relevant price, e.g. closing price, arithmetical mean price over a specific period]*

Details of where information on the past performance of the Reference Item(s) can be obtained

*[[●] Insert relevant details/sources]*

[Additional information for W&C Securities on equity or debt securities:]

*[if delivery of the Reference Item(s) is planned:]* [Transferability of the Reference Item(s), any restrictions on tradability of the Reference Item(s)[, and the type of security]]

*[[●] Give information on the transferability of the Reference Item(s), insert any restrictions on tradability of the Reference Item(s), and specify the type of security in the case of shares, e.g. registered paper]*

Information on where the latest annual reports for the issuer of the Reference Item(s) may be obtained free of charge for the term of the W&C Securities

*[[●] Insert relevant details/sources]*

[Additional information for W&C Securities on collective investment schemes:]

Information on the fund management or issuing company, and details of the composition or investment universe of the relevant collective investment scheme

*[[●] Insert information on the fund management or issuing company, and details of the composition or investment universe of the relevant collective investment scheme]*

[The collective investment scheme has been authorised by the Swiss Financial Market Supervisory Authority FINMA for sale in or from Switzerland.] [The collective investment scheme has not been authorised by the Swiss Financial Market Supervisory Authority FINMA for sale in or from Switzerland.]

[Additional information for W&C Securities on indices:]

Name of the agency that calculates and publishes the index (index sponsor), and source where information on the method of calculation is available

*[[●] Insert relevant index sponsor and the source where information on the method of calculation is available to the public]*

Details of where information on the component securities and any modifications to composition are available

*[[●] Give details of where information on the [component securities] and any modifications to composition are available to the public, specifically where and when such adjustments are announced]*

[The index is a price index.] [The index is a performance (total return) index.]

*[Additional information for W&C Securities on standardised options and futures contracts:]*

Contract months, including the duration and the expiry[, or information on the roll-over mechanism]

*[[●] Insert relevant details re contract months, including the duration and the expiry, or information on the roll-over mechanism, e.g. roll-over to the corresponding front-end future contract]*

Contract unit and price quotation

*[[●] Insert contract unit and price quotation]*

*[Additional information for W&C Securities on baskets of Reference Items:]*

Initial fixing plus the percentage [and shares] of the initial weighting of basket securities

*[[●] Insert initial fixing plus the percentage and, where appropriate, shares of the initial weighting of basket securities]*

Permitted parameters for the composition of the basket

*[[●] if the composition of the basket is subject to predefined or discretionary modifications, then the permitted investment universe must be defined]*

**[NOTICE FROM THE BENEFICIAL OWNER TO HIS/HER FINANCIAL INTERMEDIARY]**

(to be completed by the beneficial owner of the Certificates for the valid renouncement of the automatic exercise of the Certificates)

[Merrill Lynch S.A./Merrill Lynch International & Co. C.V.]

[insert title of Certificates]

ISIN: [●]

(the “**Certificates**”)

[To: Financial Intermediary  
(the “**Financial Intermediary**”)]

We the undersigned beneficial owner(s) of the Certificates hereby communicate that we are renouncing the automatic exercise on the Exercise Date of the rights granted by the Certificates in accordance with the Terms and Conditions of the Certificates.

The undersigned understands that if this notice is not duly completed and delivered in order to enable the Holder to renounce the automatic exercise of the Certificates prior to the Renouncement Notice Cut-Off Time, or if this notice is determined to be incomplete or not in proper form (in the determination of the Financial Intermediary) it will be treated as null and void.

ISIN /Series number of the Certificates: [●]

Number of Certificates the subject of this notice: [●]

Name of beneficial owner of the Certificates

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Signature]<sup>56</sup>

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<sup>56</sup> Include for W&C Securities that are Swiss Securities, as applicable. Insert in the case of Italian Listed Certificates.

**[Schedule – Index Disclaimer]**



**ANNEX**

*[This Annex shall be included after publication of any supplement to the Base Prospectus dated 24 May 2012]*

The Base Prospectus dated 24 May 2012 has been supplemented by the following supplement(s):

<b>Supplement</b>	<b>Description</b>	<b>Date</b>
Supplement No. [●]	In respect of <i>[insert short description of content]</i>	[●]

## TERMS AND CONDITIONS OF THE W&C SECURITIES

*The following is the text of the Terms and Conditions of the W&C Securities which will apply to each issue of W&C Securities and which will include the Additional Terms and Conditions (the “Additional Terms and Conditions”) contained in Annex 1 in the case of Index Linked Securities, Annex 2 in the case of Share Linked Securities, Annex 3 in the case of Debt Linked Securities, Annex 4 in the case of GDR/ADR Linked Securities, Annex 5 in the case of FX Linked Securities, Annex 6 in the case of Commodity Linked Securities, Annex 7 in the case of Fund Linked Securities, Annex 8 in the case of Inflation Linked Securities, Annex 9B in the case of Credit Linked W&C Securities, Annex 11 in the case of Rule 144A Warrants, Annex 12 in the case of Saudi Share Linked Warrants and (if applicable) Annex 14 in the case of Index Linked Securities or Share Linked Securities. The Registration Document (the “Registration Document”) relating to the Programme and applicable Summary (if applicable) and Securities Note (the “Securities Note”), relating to a particular series of W&C Securities may also be used in connection with the issue of W&C Securities under the Programme and such applicable Securities Note may specify other terms and conditions which shall, to the extent so specified or to the extent inconsistent with the following Terms and Conditions, replace or modify the following Terms and Conditions for the purpose of such W&C Securities. To the extent that W&C Securities are issued pursuant to a Securities Note, references in the following Terms and Conditions to the “Final Terms” shall be read as references to the “Securities Note” in respect of such series of W&C Securities, and all such references shall be construed accordingly.*

The series of W&C Securities described in the applicable Final Terms (insofar as it relates to such series of W&C Securities) (such W&C Securities being hereinafter referred to as the “**W&C Securities**”) are issued by whichever of Merrill Lynch S.A. (“**MLSA**”) or Merrill Lynch International & Co. C.V. (“**MLICo.**”) is specified as the Issuer in the applicable Final Terms (the “**Issuer**”) and references to the Issuer shall be construed accordingly. W&C Securities will be either warrants (“**Warrants**”) or certificates (“**Certificates**”), as specified in the applicable Final Terms, and references in these Terms and Conditions to “W&C Security”, “W&C Securities”, “Warrant”, “Warrants”, “Certificate” and “Certificates” will be construed accordingly.

MSLA shall only issue Certificates. MLICo. may issue Warrants and Certificates.

The W&C Securities are issued pursuant to an Amended and Restated Agency Agreement dated 24 May 2012 (the “**Agency Agreement**”) among, *inter alios*, MLSA, MLICo., Bank of America Corporation (“**BAC**” or the “**Guarantor**”) as guarantor, Deutsche Bank AG, London Branch as principal paying agent, The Bank of New York Mellon, London Branch as principal warrant agent (the “**Principal Warrant Agent**”, which expression shall include any successor principal warrant agent), The Bank of New York Mellon (Luxembourg) S.A. as Luxembourg warrant agent (the “**Luxembourg Warrant Agent**”), The Bank of New York Mellon as U.S. warrant agent (the “**U.S. Warrant Agent**”), BNP Paribas Securities Services S.C.A., Frankfurt Branch as Frankfurt warrant agent (the “**Frankfurt Warrant Agent**”), BNP Paribas Securities Services S.C.A., Frankfurt Branch as principal certificate agent (the “**Principal Certificate Agent**”, which expression shall include any successor principal certificate agent), Deutsche Bank Luxembourg S.A. as Luxembourg certificate agent (the “**Luxembourg Certificate Agent**”), Skandinaviska Enskilda Banken AB (publ) as Swedish security agent (the “**Swedish Security Agent**”), Skandinaviska Enskilda Banken AB (publ), Helsinki Branch as Finnish security agent (the “**Finnish Security Agent**”), BNP Paribas Securities Services S.A., Zurich Branch as Swiss programme agent (the “**Swiss Programme Agent**”), Computershare Investor Services PLC as CREST agent (the “**CREST Agent**”), The Bank of New York Mellon (Luxembourg) S.A. as registrar in respect of Warrants and Deutsche Bank Luxembourg S.A., as registrar in respect of Certificates. References in these conditions to the “**Registrar**” are to The Bank of New York Mellon (Luxembourg) S.A. with respect to any Warrants and to Deutsche Bank Luxembourg S.A. with respect to any Certificates.

In connection with each issue of Warrants, references herein to the “**Principal Security Agent**”, the “**Luxembourg Security Agent**” and the “**Frankfurt Security Agent**” shall be deemed to be references to the Principal Warrant Agent, the Luxembourg Warrant Agent and the Frankfurt Warrant Agent, respectively, where the context permits and references to “**Security Agents**” shall be deemed to be references to such agents, the U.S. Warrant Agent, the Swedish Security Agent, the Finnish Security Agent, the Paris Security Agent, the Swiss Programme Agent and the CREST Agent and any additional or successor to such agents collectively.

In connection with each issue of Certificates, references herein to the “**Principal Security Agent**”, the “**Luxembourg Security Agent**” and the “**Frankfurt Security Agent**” shall be deemed to be references to the Principal Certificate Agent, the Luxembourg Certificate Agent and the Principal Certificate Agent,

respectively, where the context permits and references to “**Security Agents**” shall be deemed to be references to such agents, the Swedish Security Agent, the Finnish Security Agent, the Paris Security Agent, the Swiss Programme Agent and the CREST Agent and any additional or successor to such agents collectively.

Merrill Lynch International shall undertake the duties of calculation agent (the “**Calculation Agent**”) in respect of the W&C Securities unless another entity is so specified as the calculation agent in the applicable Final Terms. The expression Calculation Agent shall, in relation to the relevant W&C Securities, include such other specified calculation agent.

Except in the case of Swiss Securities in uncertificated form, Swedish Securities, Finnish Securities and CREST Securities (each as defined below), the applicable Final Terms for the W&C Securities are attached to or incorporated by reference into the Global W&C Security or to the Definitive W&C Securities, as the case may be. In the case of Swiss Securities in uncertificated form, Swedish Securities, Finnish Securities and CREST Securities, the applicable Final Terms (which for the avoidance of doubt may be issued in respect of more than one series of Swedish Securities or Finnish Securities) for the Swiss Securities in uncertificated form, Swedish Securities, Finnish Securities or CREST Securities, as applicable, will constitute a part of such Securities and will be available from Merrill Lynch International, 2 King Edward Street, London EC1A 1HQ or, in the case of Swiss Securities in uncertificated form, the Swiss Programme Agent.

The applicable Final Terms (the “**Final Terms**”) for the W&C Securities supplements these Terms and Conditions (the “**Terms and Conditions**”, or the “**Conditions**”) and may specify other terms and conditions which shall, to the extent so specified or to the extent inconsistent with these Terms and Conditions, supplement, replace or modify these Terms and Conditions for the purposes of the W&C Securities. References herein to the “applicable Final Terms” are to Part A (including, if applicable, any annex or appendix thereto) of the Final Terms or each Final Terms (in the case of any further securities issued pursuant to Condition 13 and forming a single series with the W&C Securities) (which for the avoidance of doubt may be issued in respect of more than one series of W&C Securities) attached to the Global W&C Security or to the Definitive Certificate, as the case may be, or constituting a part of such W&C Securities and made available as provided in the preceding paragraph insofar as it relates to the W&C Securities.

The Additional Terms and Conditions will apply to the W&C Securities to the extent specified in the Final Terms, and such Additional Terms and Conditions, as applicable, shall form part of the Terms and Conditions.

“**Series**” means W&C Securities which are identical in all respects (including as to listing and admission to trading), together with any further W&C Securities which are (i) expressed to be consolidated and form a single series and (ii) identical in all respects (including as to listing and admission to trading) except for their respective Issue Dates and/or Issue Prices.

Any reference to “**W&C Securityholders**” or “**Holders**” in relation to any W&C Securities shall mean the holders of the W&C Securities.

Other than in respect of Swiss COSI Securities, the payment of all amounts payable and/or delivery of non-cash consideration deliverable by the Issuer in respect of the W&C Securities are unconditionally and irrevocably guaranteed by BAC pursuant to the guarantee dated 24 May 2012, as executed by BAC (the “**Original Guarantee**”) and in respect of Swiss COSI Securities, the payment obligations of MLICo. to the extent of any Shortfall (as defined below) for the relevant Series of Swiss COSI Securities will be conditionally but irrevocably guaranteed by BAC pursuant to a guarantee to be executed by BAC, substantially in the form contained in “Form of the Swiss COSI Securities Guarantee” in the Base Prospectus dated 24 May 2012 (the “**Swiss COSI Securities Guarantee**” and, together with the Original Guarantee, the “**Guarantees**” and each a “**Guarantee**”). The original of the Original Guarantee is held by Deutsche Bank AG, London Branch at its specified office currently at Winchester House, 1 Great Winchester Street, London EC2N 2DB. The original of the Swiss COSI Securities Guarantee will be held by BNP Paribas Securities Services S.A., Zurich Branch at its specified office currently at Selnaustrasse 16, CH-8002 Zurich, Switzerland.

The W&C Securityholders are entitled to the benefit of the W&C Securities Deed of Covenant (the “**W&C Securities Deed of Covenant**”) dated 24 May 2012 and made by the Issuer. The original of the W&C Securities Deed of Covenant is held by common depositary for Euroclear and Clearstream, Luxembourg (each as defined below) (the “**Common Depositary**”).

Copies of the Agency Agreement (which contains the form of the Final Terms), the Guarantees and the applicable Final Terms (subject as provided below) may be obtained during normal office hours from the specified offices of the Security Agents and the Registrar save that, if the relevant W&C Securities are neither admitted to trading on a regulated market in the European Economic Area nor offered in the European Economic Area in circumstances where a prospectus is required to be published under the Prospectus Directive nor, with respect to W&C Securities offered in Switzerland, publicly offered in Switzerland, the applicable Final Terms will only be obtainable by a Holder (as defined in Condition 1(B), or Annex 11 to the Terms and Conditions – “*Additional Terms and Conditions for Rule 144A Warrants*” as applicable) holding one or more W&C Securities and such Holder must produce evidence satisfactory to the Issuer or the relevant Security Agent or Registrar, as applicable, as to its holding of such W&C Securities and its identity or, with respect to W&C Securities offered in Switzerland, a Holder being a qualified investor as defined in the Swiss Federal Act on Collective Investment Schemes. The Base Prospectus and in the case of W&C Securities listed on the SIX Swiss Exchange, the applicable Final Terms, will be published on the website of the Issuer ([www.mlinvest.com](http://www.mlinvest.com)).

Words and expressions defined in the Agency Agreement or used in the applicable Final Terms shall have the same meanings where used in these Terms and Conditions unless the context otherwise requires or unless otherwise stated and provided that, in the event of inconsistency between the Agency Agreement and the applicable Final Terms, the applicable Final Terms will prevail.

The Holders are entitled to the benefit of and are deemed to have notice of and are bound by all the provisions of the Agency Agreement (insofar as they relate to the W&C Securities) and the applicable Final Terms, which are binding on them.

## 1. Type, Title and Transfer

### (A) Type

W&C Securities may be issued in bearer form (“**Bearer W&C Securities**”), registered form (“**Registered W&C Securities**”) or uncertificated or dematerialised form. Bearer W&C Securities and Registered W&C Securities will be represented by Global W&C Securities or Definitive W&C Securities, in accordance with these Terms and Conditions of the W&C Securities.

The W&C Securities relate to a specified Index or basket of Indices (“**Index Linked W&C Securities**”), a specified Share or basket of Shares (“**Share Linked W&C Securities**”), a specified debt instrument or basket of debt instruments (“**Debt Linked W&C Securities**”), a specified American depositary receipt (an “**ADR**”) and/or global depositary receipt (a “**GDR**”) representing interests in a share (the “**Underlying Share**”) or basket of such GDRs and/or ADRs (“**GDR/ADR Linked W&C Securities**”), a specified currency or basket of currencies (“**FX Linked W&C Securities**”), a specified commodity or commodity index or basket of commodities and/or commodity indices (“**Commodity Linked W&C Securities**”), a specified fund share or unit or basket of fund shares or units (“**Fund Linked W&C Securities**”), a specified inflation index (“**Inflation Linked W&C Securities**”), a specified share of a company listed on the Saudi Stock Exchange (*Tadawul*) or basket of such shares (“**Saudi Share Linked Warrants**”) or the credit of a specified reference entity or reference entities (“**Credit Linked W&C Securities**”) or any other or further type of securities as is specified in the applicable Final Terms. The applicable Final Terms will specify which of the Additional Terms and Conditions for Index Linked Securities, the Additional Terms and Conditions for Share Linked Securities, the Additional Terms and Conditions for Debt Linked Securities, the Additional Terms and Conditions for GDR/ADR Linked Securities, the Additional Terms and Conditions for FX Linked Securities, the Additional Terms and Conditions for Commodity Linked Securities, the Additional Terms and Conditions for Fund Linked Securities, the Additional Terms and Conditions for Inflation Linked Securities, the Additional Terms and Conditions for Saudi Share Linked Warrants, the Additional Terms and Conditions for Credit Linked W&C Securities, the Additional Terms and Conditions for Rule 144A Warrants or the Additional Terms and Conditions for Low Exercise Price Warrants, in each case set out in the Annexes to these Conditions, apply to the W&C Securities.

The applicable Final Terms will indicate whether settlement shall be by way of cash payment (“**Cash Settled W&C Securities**”) or physical delivery (“**Physical Delivery W&C Securities**”) and whether averaging (“**Averaging**”) will apply to the W&C Securities.

If Averaging is specified as applying in the applicable Final Terms, the applicable Final Terms will state the relevant Averaging Dates and, in respect of Index Linked Securities and Share Linked

Securities, if an Averaging Date is a Disrupted Day, whether Omission, Postponement or Modified Postponement applies.

References in these Terms and Conditions, unless the context otherwise requires, to Cash Settled W&C Securities shall be deemed to include references to Physical Delivery W&C Securities, which include an option (as set out in the applicable Final Terms) at the Issuer's election to request cash settlement of such W&C Security and where settlement is to be by way of cash payment, and references in these Terms and Conditions, unless the context otherwise requires, to Physical Delivery W&C Securities shall be deemed to include references to Cash Settled W&C Securities which include an option (as set out in the applicable Final Terms) at the Issuer's election to request physical delivery of the relevant underlying asset in settlement of such W&C Security and where settlement is to be by way of physical delivery.

W&C Securities may, if so specified and provided for in the applicable Final Terms, allow Holders to elect for settlement by way of cash payment or by way of physical delivery or by such other method of settlement as is specified in the applicable Final Terms. Those W&C Securities where the Holder has elected for cash payment will be Cash Settled W&C Securities and those W&C Securities where the Holder has elected for physical delivery will be Physical Delivery W&C Securities. The rights of a Holder as described in this paragraph may be subject to the Issuer's right to vary settlement if so indicated in the applicable Final Terms.

(B) *Title to W&C Securities*

Subject as set out below, title to the Bearer W&C Securities in bearer form will pass by delivery and title to Registered W&C Securities will, subject to mandatory rules of law, pass by registration in the Register that the Issuer shall procure to be kept by the Registrar in accordance with the provisions of the Agency Agreement. Title to W&C Securities in uncertificated or dematerialised form will pass as described below for each such type of W&C Securities.

In the case of W&C Securities that are represented by a Global W&C Security, each person who is for the time being shown in the records of a Clearing System as the holder of a particular number or nominal amount, as the case may be, of W&C Securities (in which regard any certificate or other document issued by such Clearing System as to the number or nominal amount, as the case may be, of W&C Securities standing to the account of any person shall be conclusive and binding for all purposes save in the case of manifest or proven error) shall be treated by the Issuer, the Guarantor and any Security Agent as the holder of such number or nominal amount, as the case may be, of W&C Securities for all purposes other than (except in the case of CBF Global W&C Securities) with respect to the payment of principal or additional amounts on such number, or nominal amount, as the case may be, of such W&C Securities, for which purpose the bearer of the relevant Global W&C Security (in the case of Bearer W&C Securities) or the person recorded in the Register (in the case of Registered W&C Securities) shall be treated by the Issuer, the Registrar, the Guarantor and any Paying Agent as the Holder of such number, or nominal amount, as the case may be, of such W&C Securities in accordance with and subject to the terms of the relevant W&C Security (and the expression “**Holder**” and related expressions shall be construed accordingly).

In the case of Registered W&C Securities that are represented by a Global W&C Security, the Registrar will maintain the Register in accordance with the terms of the Agency Agreement. An individual certificate (“**individual certificate**”) will be issued to each holder of Definitive W&C Securities in registered form in respect of its registered holding. Each individual certificate will be numbered serially with an identifying number which will be recorded in the register. Each holder for the time being registered in the Register (or in the case of a joint holding, the first named thereof) shall be treated by the Issuer, the Guarantor, the Registrar and any Security Agent as the Holder of such number, or nominal amount, as the case may be, of such W&C Securities in accordance with and subject to the terms of the relevant W&C Security (and the expression “**Holder**” and related expressions shall be construed accordingly).

In the case of Swedish Securities, the holder of any such W&C Security will be the person in whose name such W&C Security is registered in the Swedish Register in accordance with the Swedish CSD Rules and the reference to a person in whose name a Swedish Security is so registered shall include any person duly authorised to act as a nominee (in Swedish: *förvaltare*) and registered as such for the Swedish Securities and except as ordered by a court of competent jurisdiction or as required by law, such holder of such W&C Security shall be deemed to be and may be treated as its absolute owner for all purposes, whether or not it is overdue and regardless of any notice of ownership, trust



or an interest in it and no person shall be liable for so treating such holder (and the expressions “**Holder**” and related expressions shall be construed accordingly). The Issuer shall be entitled to obtain information from the Swedish Register in accordance with the Swedish CSD Rules.

In the case of Finnish Securities, the holder of any such W&C Security will be the person in whose name such W&C Security is registered in the Finnish Register in accordance with the Euroclear Finland Rules and the person in whose name a Finnish Security is so registered shall include any person duly authorised to act as nominee and registered as such for the Finnish Securities and except as ordered by a court of competent jurisdiction or as required by law, such holder of such W&C Security shall be deemed to be and may be treated as its absolute owner for all purposes, whether or not it is overdue and regardless of any notice of ownership, trust or an interest in it and no person shall be liable for so treating such holder (and the expression “**Holder**” and related expressions shall be construed accordingly). The Issuer and the Finnish Security Agent shall be entitled to obtain information from the Finnish Register in accordance with the Euroclear Finland Rules.

In the case of Swiss Securities (i) represented by a Swiss Global W&C Security deposited with SIS (as defined below) or (ii) issued in the form of uncertificated securities and entered into the main register (*Hauptregister*) of SIS and, in either case, entered into the accounts of one or more participants of SIS, (a) such Swiss Securities will constitute intermediated securities (*Bucheffekten*) within the meaning of the Swiss Federal Intermediated Securities Act (*Bucheffektengesetz*) (“**Intermediated Securities**”), (b) the legal holder of each such Swiss Security is each person holding such Swiss Security in a securities account (*Effektenkonto*) that is in such person’s name or, in the case of intermediaries (*Verwahrungsstellen*), each intermediary (*Verwahrungsstelle*) holding any such Swiss Security for its own account in a securities account (*Effektenkonto*) that is in such intermediary’s name (and the expression “**Holder**” and related expressions shall be construed accordingly), and (c) any transfer of such Swiss Securities must be reflected in a securities account (*Effektenkonto*) of the transferee. Notwithstanding the foregoing, the Issuer shall make all payments due to the Holders under the Swiss Securities to the Swiss Programme Agent for such Holders and, upon receipt by the Swiss Programme Agent of the payment of such funds in Switzerland, shall be discharged from its obligations to the Holders under such Swiss Securities to the extent of the funds received by the Swiss Programme Agent as of such date.

In respect of Swiss Definitive Registered W&C Securities, an individual certificate will be issued to each holder of a Swiss Definitive Registered Warrant (“**Swiss Individual Warrant Certificate**”) and each holder of a Swiss Definitive Registered Certificate (“**Swiss Individual Certificate**”) in respect of its registered holding. Each Swiss Individual Warrant Certificate and Swiss Individual Certificate will be numbered serially with an identifying number which will be recorded in the register. Each holder for the time being registered in the register (or in the case of a joint holding, the first named thereof) shall be treated by the Issuer, the Guarantor, the Swiss Programme Agent and any other Security Agent as the Holder of such number, or nominal amount, as the case may be, of such Swiss Definitive Registered W&C Securities in accordance with and subject to the terms of the relevant Swiss Definitive Registered W&C Securities (and the expression “**Holder**” and related expressions shall be construed accordingly).

In the case of CREST Securities, title to such CREST Securities is recorded on the relevant Operator register of corporate securities. The CREST Agent on behalf of the Issuer shall maintain a record of uncertificated corporate securities (the “**Record**”) in relation to the CREST Securities and shall procure that the Record is regularly updated to reflect the Operator register of corporate securities in accordance with the rules of the Operator. Subject to this requirement, (i) each person who is for the time being shown in the Record as the Holder of a particular number of CREST Securities shall be treated by the Issuer, the Guarantor and any Security Agent as the Holder of such number of CREST Securities for all purposes (and the expressions “**Holder**” and related expressions shall be construed accordingly), and (ii) neither the Issuer, the Guarantor nor any Security Agent shall be liable in respect of any act or thing done or omitted to be done by it or on its behalf in reliance upon the assumption that the particulars entered in the Record which the CREST Agent maintains are in accordance with particulars entered in the Operator register of corporate securities relating to the CREST Securities.

No provisions of these Terms and Conditions as amended in accordance with the applicable Final Terms (notwithstanding anything contained therein) shall apply or have effect if it is in any respect inconsistent with (i) the holding of title to the CREST Securities in uncertificated form, (ii) the

transfer of title to the CREST Securities by means of a relevant system, or (iii) the Uncertificated Securities Regulations (as defined below). Without prejudice to the generality of the preceding sentence and notwithstanding anything contained in these Terms and Conditions or the applicable Final Terms, so long as the CREST Securities are participating securities, (a) any CREST Security which is not for the time being in all respects (save as to Issue Price and Issue Date) identical to, or does not for the time being have rights attached thereto identical in all respects to those attached to, other CREST Securities of the same series shall be deemed to constitute a separate series of CREST Securities, (b) the Operator register of corporate securities relating to the CREST Securities shall be maintained at all times in the United Kingdom, (c) the CREST Securities may be issued in uncertificated form in accordance with and subject as provided in the Uncertificated Securities Regulations; and (d) for the avoidance of doubt, the Terms and Conditions and the applicable Final Terms in relation to any CREST Security shall remain applicable notwithstanding that they are not endorsed on any certificate for such CREST Security.

As used herein each of “**Operator register of corporate securities**”, “**participating securities**”, “**record of uncertificated corporate securities**” and “**relevant system**” is as defined in the Uncertificated Securities Regulations and the relevant “**Operator**” (as such term is used in the Uncertificated Securities Regulations) is Euroclear UK & Ireland (“**Euroclear UK**”) or any additional or alternative operator from time to time approved by the Issuer, the Guarantor and the CREST Agent in relation to the CREST Securities and in accordance with the Uncertificated Securities Regulations. Any reference herein to the Operator shall, whenever the context so permits, be deemed to include a reference to any such additional or alternative Operator from time to time and notified to the Holders in accordance with Condition 11.

(C) *Transfers of W&C Securities*

(a) *Global W&C Securities*

In the case of W&C Securities that are represented by a Global W&C Security, which is held by a Clearing System, all transactions (including permitted transfers of W&C Securities) in the open market or otherwise must be effected through an account at such Clearing System subject to and in accordance with the rules and procedures for the time being of such Clearing System. Title will pass, other than in the case of W&C Securities deposited with SIS upon registration of the transfer in the books of each Clearing System.

(b) *Definitive W&C Securities in registered form*

In the case of Definitive W&C Securities in registered form, the Registrar will maintain the Register in accordance with the provisions of the Agency Agreement. Transfers of Definitive W&C Securities in registered form are effected upon (i) the surrender (at the specified office of the Registrar) of the individual certificate representing such Definitive W&C Securities to be transferred together with the form of transfer (which shall be available at the specified office of the Registrar) endorsed on such individual certificate (or another form of transfer substantially in the same form and containing the same representations and certifications (if any), unless otherwise agreed by the Issuer), duly completed and executed and any other evidence as the Registrar may reasonably require, (ii) the recording of such transfer in the Register and (iii) issuance of a new individual certificate to the transferee.

(c) *Swedish Securities, Finnish Securities and CREST Securities*

In the case of Swedish Securities, the W&C Securities will be issued, cleared, settled and transferable only in accordance with the provisions of the Swedish CSD Rules. Title to Swedish Securities will pass by registration in the Swedish Register. Where a nominee is registered as a holder of Swedish Securities it shall be treated for all purposes as the holder of such Swedish Securities.

In the case of Finnish Securities, the W&C Securities shall be issued, cleared, settled and transferable only in accordance with the provisions of the Euroclear Finland Rules. Title to Finnish Securities will pass by registration in the Finnish Register. Where a nominee is registered as a holder of Finnish Securities it shall be treated for all purposes as the holder of such Finnish Securities.

In the case of CREST Securities, all transactions (including transfers of CREST Securities) in the open market or otherwise must be effected through an account at the Operator subject to

and in accordance with the rules and procedures for the time being of the Operator. Title will pass upon registration of the transfer in the Operator register of corporate securities.

(d) *Swiss Securities*

As a matter of Swiss law, transfers of Swiss Securities (including Swiss Securities represented by a Global W&C Security deposited with SIS and Swiss Securities in uncertificated form) which constitute Intermediated Securities will only be effected by the entry of the transferred Swiss Securities in a securities account of the transferee.

In the case of Swiss Definitive Registered W&C Securities, the Swiss Programme Agent will maintain a register in accordance with the provisions of the Agency Agreement. Transfers of Swiss Definitive Registered W&C Securities are effected upon (i) the surrender (at the specified office of the Swiss Programme Agent) of the Swiss Individual Warrant Certificate or Swiss Individual Certificate representing such Swiss Definitive Registered W&C Securities to be transferred together with the form of transfer (which shall be available at the specified office of the Swiss Programme Agent) endorsed on such Swiss Individual Warrant Certificate or Swiss Individual Certificate (or another form of transfer substantially in the same form and containing the same representations and certifications (if any), unless otherwise agreed by the Issuer), duly completed and executed and any other evidence as the Swiss Programme Agent may reasonably require, (ii) the recording of such transfer in the register and (iii) issuance of a new Swiss Individual Warrant Certificate or Swiss Individual Certificate, as applicable, to the transferee.

Any reference herein to Euroclear Bank SA/NV. (“**Euroclear**”) and/or Clearstream Banking, société anonyme (“**Clearstream, Luxembourg**”) or Clearstream Banking AG, Frankfurt am Main (“**Clearstream, Frankfurt**”), Euroclear France S.A. (“**Euroclear France**”), SIX SIS AG (“**SIS**”), Euroclear Sweden AB (“**Euroclear Sweden**”), Euroclear Finland, Ltd (“**Euroclear Finland**”) or Euroclear UK shall, whenever the context so permits, be deemed to include a reference to any additional or alternative clearing system approved by the Issuer and the Principal Security Agent and the Swiss Programme Agent, as applicable, from time to time and notified to the Holders in accordance with Condition 11.

2. **Status of the W&C Securities and Guarantees**

Other than the Swiss COSI Securities, the W&C Securities constitute direct, unsubordinated, unconditional and unsecured obligations of the Issuer and rank equally among themselves and rank equally (subject to such exceptions as are from time to time provided by applicable laws) with all other present and future direct, unsubordinated, unconditional and unsecured obligations of the Issuer.

The Swiss COSI Securities constitute direct, unsubordinated and unconditional obligations of the Issuer and rank equally among themselves and rank equally (subject to such exceptions as are from time to time provided by applicable laws) with all other present and future direct, unsubordinated and unconditional obligations of the Issuer and are collateralised in accordance with the terms of the Framework Agreement.

The obligations of the Guarantor under each Guarantee, save for such exceptions as may be provided by applicable laws and regulations or judicial order, will rank *pari passu* with its other present and future unsecured and unsubordinated obligations.

3. **Guarantees**

Under the Original Guarantee, the Guarantor has unconditionally and irrevocably guaranteed to the Holders, (i) the due and punctual payment of any and all amounts payable by the Issuer as obligor in respect of the W&C Securities and (ii) subject as provided below, the due and punctual delivery of non-cash consideration deliverable by the Issuer in respect of the W&C Securities, if applicable, when and as the same shall become due and payable or when the same shall become due for delivery pursuant to the Conditions and to the extent provided in the Original Guarantee. As more fully set forth in the Original Guarantee, the Guarantor shall at all times have the right, at its sole and unfettered discretion, to elect not to deliver or procure delivery of the Entitlement to the holders of such Physical Delivery W&C Securities when the same shall become due and deliverable, but in lieu thereof, to pay an amount in cash equal to the Guaranteed Cash Settlement Amount. The “**Guaranteed Cash Settlement Amount**” in respect of each W&C Security means an amount

calculated pursuant to the terms of, or as specified in, the applicable Final Terms or Securities Note (or, in respect of each Credit Linked W&C Securities, as set out in Condition 5 (Conditions to Settlement – Physical Settlement) of Annex 9B – Additional Terms and Conditions for Credit Linked W&C Securities) or, if not specified in the applicable Final Terms or Securities Note, an amount equal to the fair market value of the Entitlement in respect of such W&C Security on any date notified as such by the Guarantor to the Issuer and the Calculation Agent, less the cost to the Issuer and/or its Affiliates or agents of unwinding or adjusting any underlying or related hedging arrangements (including the cost of funding in respect of such hedging arrangements), all as determined by the Guarantor in its sole and absolute discretion. Any payment of the Guaranteed Cash Settlement Amount in lieu of the Entitlement shall constitute a complete discharge of the Guarantor's obligations in respect of such Physical Delivery W&C Securities.

Under the Swiss COSI Securities Guarantee, the Guarantor will conditionally but irrevocably guarantee to the Holders the payment obligations of MLICo. to the extent of any Shortfall for the relevant Series of Swiss COSI Securities. Any and all obligations of the Guarantor under the Swiss COSI Securities Guarantee will be conditional and secondary, it being understood and agreed that the Holders shall have no right to proceed under the Swiss COSI Securities Guarantee until the SIX Swiss Exchange or other liquidator has liquidated all the collateral relating to the relevant Series of Swiss COSI Securities furnished by the Collateral Provider in accordance with the Framework Agreement and applicable law (the “**Collateral Enforcement Efforts**”). Subject as provided above, and as more fully set forth in the Swiss COSI Securities Guarantee, in the event that the proceeds and other amounts received by the SIX Swiss Exchange or other liquidator after exhausting all Collateral Enforcement Efforts are insufficient to pay to the Holders the Current Value of the relevant Series of Swiss COSI Securities (the “**Shortfall**”) and in case of the failure of MLICo. to punctually make payment of any Shortfall when and as the same shall become due and payable, the Guarantor will agree in the Swiss COSI Securities Guarantee to pay or cause to be paid promptly upon demand such additional amounts as are necessary to ensure that the Holders receive the Current Value of the relevant Series of Swiss COSI Securities as though there had been no Shortfall.

#### 4. Definitions

For the purposes of these Terms and Conditions, the following general definitions will apply:

“**Actual Exercise Date**” means the Exercise Date (in the case of European Style Warrants or Certificates), or, subject to Condition 23(F)(a)(ii), the date during the Exercise Period on which the Warrant is actually or is deemed exercised (in the case of American Style Warrants (as more fully set out in Condition 22(A)(a)).

“**Affiliate**” means in relation to any entity (the “**First Entity**”), any entity controlled, directly or indirectly, by the First Entity, any entity that controls, directly or indirectly, the First Entity or any entity directly or indirectly under common control with the First Entity. For these purposes “control” means ownership of a majority of the voting power of an entity.

“**Business Day**” means (a) a day (other than a Saturday or Sunday) (i) on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) in the relevant Business Day Centre(s), specified in the applicable Final Terms, and, if the W&C Securities are (A) Swedish Securities, in Stockholm or (B) Finnish Securities, in Helsinki, and (ii) on which each Clearing System is open for business and (b) for the purposes of making payments in euro, a day on which the Trans-European Automated Real-Time Gross Settlement Express Transfer (TARGET2) System or any successor thereto is open and (c) for the purposes of making payments in CNY, unless otherwise specified in the applicable Final Terms, a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in the Hong Kong Special Administrative Region.

“**Cash Settlement Amount**” means, in relation to a Cash Settled W&C Security, the amount (which may never be less than zero) which the Holder is entitled to receive on the Settlement Date in the Settlement Currency in relation to each such W&C Security, or, in the case of Warrants, if Units are specified in the applicable Final Terms, each Unit, as the case may be, as determined by the Calculation Agent pursuant to the provision set out in the applicable Final Terms. The Cash Settlement Amount will be rounded to the nearest two decimal places (or, in the case of Japanese Yen, the nearest whole unit) in the relevant Settlement Currency, 0.005 (or, in the case of Japanese



Yen, half a unit) being rounded upwards, with W&C Securities exercised at the same time by the same Holder being aggregated for the purpose of determining the aggregate Cash Settlement Amounts payable in respect of such W&C Securities.

**“CBF Global W&C Securities”** means the CBF Global Certificates and the CBF Global Warrants, each a **“CBF Global W&C Security”**.

**“Clearing System”** means:

- (a) in respect of W&C Securities represented by a Euroclear/CBL Global W&C Security, Euroclear and/or Clearstream, Luxembourg;
- (b) in respect W&C Securities represented by a CBF Global W&C Security, Clearstream, Frankfurt;
- (c) in respect of W&C Securities represented by a Euroclear France Global W&C Security, Euroclear France;
- (d) in respect of Swedish Securities, the Swedish CSD;
- (e) in respect of Swiss Securities, SIS;
- (f) in respect of CREST Securities, Euroclear UK; or
- (g) in respect of Finnish Securities, Euroclear Finland.

**“Collateral Enforcement Efforts”** has the meaning given to it in Condition 3 (Guarantee).

**“Collateral Provider”** means Merrill Lynch Capital Markets AG, Zurich, Switzerland.

**“CREST Securities”** means the CREST Warrants and the CREST Certificates (each as defined below) and each a **“CREST Security”**.

**“Current Value”** has the meaning given to it in clause 19 (Definitions) of the Framework Agreement.

**“Definitive Certificates”** means a Definitive Bearer Certificate (as defined in Condition 27) or an individual certificate (as defined in Condition 27), as the context so requires.

**“Definitive W&C Securities”** means the Definitive Certificates and the Swiss Definitive Warrants.

**“Entitlement”** means, in relation to a Physical Delivery W&C Security (other than a Credit Linked W&C Security), or, in the case of Warrants, if Units are specified in the applicable Final Terms, each Unit, as the case may be, the quantity of the Relevant Asset or the Relevant Assets, as the case may be, which a Holder is entitled to receive on the Settlement Date in respect of each such W&C Security or Unit, as the case may be, following payment of the Expenses, and, in the case of Warrants, the Exercise Price, which quantity will be rounded down as provided in Condition 22(C) or 29(A), as determined by the Calculation Agent and includes any documents evidencing such Entitlement.

**“Euroclear/CBL Global W&C Securities”** means the Euroclear/CBL Global Certificates and the Euroclear/CBL Global Warrants, each a **“Euroclear/CBL Global W&C Security”**.

**“Euroclear Finland Rules”** means Finnish laws, regulations, decisions and operating procedures from time to time applicable to the Finnish Securities and/or issued by Euroclear Finland.

**“Euroclear France Global W&C Securities”** means the Euroclear France Global Certificates and the Euroclear France Global Warrants, each a **“Euroclear France Global W&C Security”**.

**“Exercise Price”** means the price specified as the Exercise Price in the applicable Final Terms.

**“FATCA Provisions”** means Section 1471 through 1474 of the Code, the U.S. Treasury regulations promulgated thereunder, and any administrative guidance with respect thereto, whether currently in effect or as published and amended from time to time.

**“Finnish Securities”** means (a) in the case of Warrants, Finnish Warrants (as defined in Condition 20) or (b) in the case of Certificates, Finnish Certificates (as defined in Condition 27).

**“Finnish Register”** means the book-entry register maintained by Euroclear Finland on behalf of the Issuer in respect of Finnish Securities in accordance with the Euroclear Finland Rules.



“**Framework Agreement**” means the Swiss law governed SIX Swiss Exchange «Framework Agreement for Collateral Secured Instruments», to be dated on or about 24 May 2012, between SIX Swiss Exchange, SIS, MLICo. and the Collateral Provider, pursuant to which the Collateral Provider undertakes to secure the Current Value of the Swiss Securities for which “Collateralisation” is specified to be applicable in the applicable Final Terms.

“**Global W&C Security**” means (a) in the case of an issue of Warrants, the Global Warrant (as defined in Condition 20) representing such Warrants and (b) in the case of an issue of Certificates, the Global Certificate (as defined in Condition 27) representing such Certificates.

“**Mandatory Early Exercise Cash Settlement Amount**” means, in respect of a Mandatory Early Exercise Date, such amount specified in the applicable Final Terms.

“**Mandatory Early Exercise Cash Settlement Date**” means, in respect of a Mandatory Early Exercise Date, such date specified in the applicable Final Terms.

“**Mandatory Early Exercise Date**” means each Mandatory Early Exercise Date specified in the applicable Final Terms.

“**Mandatory Early Exercise Event**” means each Mandatory Early Exercise Event specified in the applicable Final Terms.

“**Register**” means the register held by the Registrar in respect of Registered W&C Securities.

“**Regulation S**” means Regulation S under the Securities Act.

“**Relevant Assets**” means the assets comprising the Entitlement, as specified in the applicable Final Terms.

“**Settlement Business Day**” means any day on which the relevant Clearing System is (or, but for the occurrence of a Settlement Disruption Event, would have been) open for the acceptance and execution of settlement instructions.

“**Settlement Date**” has the meaning given in the applicable Final Terms.

“**Shortfall**” has the meaning given to it in Condition 3 (Guarantee).

“**Swedish CSD**” means the Swedish central securities deposit (*central värdepappersfövarare*) which is expected to be Euroclear Sweden.

“**Swedish CSD Rules**” means the Swedish Financial Instruments Accounts Act (in Swedish: *lag* (1998:1479) *om kontoföring av finansiella instrument*) and any regulations, rules and operating procedures applicable to and/or issued by the Swedish CSD from time to time.

“**Swedish Register**” means the book-entry register maintained by the Swedish CSD on behalf of the Issuer in respect of Swedish Securities in accordance with the Swedish Rules.

“**Swedish Securities**” means (a) in the case of Warrants, Swedish Warrants (as defined in Condition 20)) or (b) in the case of Certificates, Swedish Certificates (as defined in Condition 27).

“**Swiss COSI Securities**” means Swiss Securities in respect of which collateralisation is specified to be applicable in the relevant Final Terms.

“**Swiss Definitive Registered W&C Securities**” means the Swiss Definitive Registered Certificates and the Swiss Definitive Registered Warrants.

“**Swiss Global W&C Securities**” means the Swiss Global Bearer Certificates and the Swiss Global Bearer Warrants, each a Swiss Global W&C Security.

“**Swiss Securities**” means the Swiss Certificates and the Swiss Warrants (each as defined below).

“**Uncertificated Securities Regulations**” means the United Kingdom Uncertificated Securities Regulations 2001, including any modification or re-enactment thereof for the time being in force.

“**Unit**” has meaning given in the applicable Final Terms.

“**United States**” means the United States of America (including the states and District of Columbia) and its possessions.

“**United States Person**” means a person which is a “U.S. person” as defined by Regulation S under the Securities Act or a “United States person” as defined in Section 7701(a)(30) of the Internal Revenue Code of 1986, as amended and in U.S. Treasury regulations.

5. **General provisions relating to Physical Settlement in respect of W&C Securities (other than Credit Linked W&C Securities)**

The provisions of Conditions 5(A), 5(B) and 5(C) apply to W&C Securities other than Credit Linked W&C Securities.

(A) *Settlement Disruption*

If, following the exercise of Physical Delivery W&C Securities, in the opinion of the Calculation Agent, delivery of the Entitlement using the method of delivery specified in the applicable Final Terms is not practicable by reason of a Settlement Disruption Event (as defined below) having occurred and continuing on any Settlement Date, then such Settlement Date for such W&C Securities shall be postponed to the first following Settlement Business Day in respect of which there is no such Settlement Disruption Event, provided that the Issuer may elect in its sole discretion to satisfy its obligations in respect of the relevant W&C Securities or Unit, as the case may be, by delivering the Entitlement using such other commercially reasonable manner as it may select and in such event the Settlement Date shall be such day as the Issuer deems appropriate in connection with delivery of the Entitlement in such other commercially reasonable manner. For the avoidance of doubt, where a Settlement Disruption Event affects some but not all of the Relevant Assets comprising the Entitlement, the Settlement Date for the Relevant Assets not affected by the Settlement Disruption Event will be the originally designated Settlement Date. In the case of Warrants, in the event that a Settlement Disruption Event will result in the delivery on a Settlement Date of some but not all of the Relevant Assets comprising the Entitlement, the Calculation Agent shall determine in its discretion the appropriate *pro rata* portion of the Exercise Price to be paid by the relevant Holder in respect of that partial settlement. For so long as delivery of the Entitlement is not practicable by reason of a Settlement Disruption Event, then in lieu of physical settlement and notwithstanding any other provision hereof, the Issuer may elect in its sole discretion to satisfy and discharge its obligations in respect of the relevant W&C Securities or Unit, as the case may be, by payment to the relevant Holder of the Disruption Cash Settlement Price (as defined below) on the third Business Day following the date that notice of such election is given to the Holders in accordance with Condition 11. The Calculation Agent shall give notice as soon as practicable to the Holders in accordance with Condition 11 that a Settlement Disruption Event has occurred provided that any failure to give, or non-receipt of, such notice will not affect the validity of any such Settlement Disruption Event. No Holder shall be entitled to any payment in respect of the relevant W&C Security or Unit, as the case may be, in the event of any delay in the delivery of the Entitlement due to the occurrence of a Settlement Disruption Event and no liability in respect thereof shall attach to the Issuer or the Guarantor.

For the purposes hereof:

“**Disruption Cash Settlement Price**” in respect of any relevant W&C Securities or Unit, as the case may be, shall be the fair market value of such W&C Securities or Unit, as the case may be, (taking into account, where the Settlement Disruption Event affected some but not all of the Relevant Assets comprising the Entitlement and such non-affected Relevant Assets have been duly delivered as provided above, the value of such duly delivered Relevant Assets), less the cost to the Issuer and/or its Affiliates or agents of unwinding any underlying related hedging arrangements (including any cost of funding in respect of such hedging arrangements), all as determined by the Issuer in its sole and absolute discretion, plus, in the case of Warrants and if already paid, the Exercise Price (or, where as provided above some Relevant Assets have been delivered, and a *pro rata* portion thereof has been paid, such *pro rata* portion); and

“**Settlement Disruption Event**” means, in the opinion of the Calculation Agent, an event beyond the control of the Issuer as a result of which the Issuer cannot make delivery of the Relevant Asset(s) using the method specified in the applicable Final Terms.

(B) *Failure to Deliver due to Illiquidity*

If “Failure to Deliver due to Illiquidity” is specified as applicable in the applicable Final Terms and, following the exercise of Physical Delivery W&C Securities, in the opinion of the Calculation Agent, it is impossible or impracticable to deliver, when due, some or all of the Relevant Assets (the

“**Affected Relevant Assets**”) comprising the Entitlement, where such failure to deliver is due to illiquidity in the market for the Relevant Assets (a “**Failure to Deliver due to Illiquidity**”), then:

- (a) subject as provided elsewhere in the Conditions, any Relevant Assets which are not Affected Relevant Assets, will be delivered on the originally designated Settlement Date and, in the case of Warrants, the Calculation Agent shall determine in its discretion the appropriate *pro rata* portion of the Exercise Price to be paid by the relevant Holder in respect of that partial settlement; and
- (b) in respect of any Affected Relevant Assets, in lieu of physical settlement and notwithstanding any other provision hereof, the Issuer may elect in its sole discretion to satisfy its obligations in respect of the relevant W&C Securities or Unit, as the case may be, by payment to the relevant Holder of the Failure to Deliver Settlement Price (as defined below) on the fifth Business Day following the date that notice of such election is given to the Holders in accordance with Condition 11. The Calculation Agent shall give notice as soon as practicable to the Holders in accordance with Condition 11 that the provisions of this Condition 5(B) apply.

For the purposes hereof:

“**Failure to Deliver Settlement Price**” means, in respect of any relevant W&C Security or Unit, as the case may be, the fair market value of such W&C Security or Unit, as the case may be (taking into account, the Relevant Assets comprising the Entitlement which have been duly delivered as provided above), less the cost to the Issuer and/or its Affiliates or agents of unwinding any underlying related hedging arrangements, all as determined by the Issuer in its sole and absolute discretion, plus, in the case of Warrants and if already paid, the Exercise Price (or, where as provided above some Relevant Assets have been delivered, and a *pro rata* portion thereof has been paid, such *pro rata* portion).

(C) *Issuer’s Option to Vary Settlement*

If the applicable Final Terms indicates that the Issuer has an option to vary settlement in respect of the W&C Securities, upon a valid exercise of W&C Securities in accordance with these Terms and Conditions, the Issuer may, at its sole and unfettered discretion, in respect of each such W&C Security or Unit elect not to pay the relevant Holders the Cash Settlement Amount or not to deliver or procure delivery of the Entitlement, as the case may be, to the relevant Holders but, in lieu thereof to deliver or procure delivery of the Entitlement or make payment of the Cash Settlement Amount on the Settlement Date to the relevant Holders. Notification of such election will be given to Holders in accordance with Condition 11 no later than 10.00 a.m. (London time) on the second Business Day following the Actual Exercise Date.

6. **General provisions relating to Settlement**

(A) *General Provisions*

None of the Issuer, the Guarantor, the Calculation Agent, the Security Agents or the Registrar shall have any responsibility for any errors or omissions in the calculation of any Cash Settlement Amount or of any Entitlement.

Exercise of the W&C Securities is subject to all applicable laws, regulations and practices in force on the relevant Exercise Date and none of the Issuer, the Guarantor or any of its Affiliates, the Security Agents or the Registrar shall incur any liability whatsoever if it is unable to effect the transactions contemplated, after using all reasonable efforts, as a result of any such laws, regulations or practices. None of the Issuer, the Guarantor or any of its Affiliates, the Security Agents or the Registrar shall under any circumstances be liable for any acts or defaults of Euroclear; Clearstream, Luxembourg; Clearstream, Frankfurt; Euroclear France; SIS; the Swedish CSD; Euroclear Finland or Euroclear UK in relation to the performance of their duties in relation to the W&C Securities.

The purchase of W&C Securities does not confer on any holder of such W&C Securities any rights (whether in respect of voting, distributions or otherwise) attaching to any Relevant Asset.

(B) *Payment Day*

If the date for payment of any amount in respect of any W&C Security is not a Payment Day, the Holder thereof shall not be entitled to payment until (i) if “Following” is specified in the applicable Final Terms, the next following Payment Day or (ii) if “Modified Following” is specified in the

applicable Final Terms, the next following Payment Day unless that Payment Day falls in the next calendar month, in which case the first preceding Payment Day, in the relevant place and shall not be entitled to further interest or other payment in respect of such delay or amendment. For these purposes, “**Payment Day**” means any day which is

- (a) a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in:
  - (i) the relevant place of presentation (in the case of a W&C Security in definitive form);
  - (ii) London; and
  - (iii) each Additional Financial Centre specified in the applicable Final Terms; and
- (b) either (1) in relation to any sum payable in a Settlement Currency other than euro or CNY, a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in the principal financial centre of the country of the relevant Settlement Currency (if other than the place of presentation, London and any Additional Financial Centre and which if the Settlement Currency is Australian dollars or New Zealand dollars shall be Sydney or Auckland, respectively) or (2) in relation to any sum payable in euro, a day on which the TARGET2 System is open, or (3) in relation to any sum payable in CNY, unless otherwise specified in the applicable Final Terms, a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in the CNY Settlement Centre.

(C) *Payment Disruption*

- (a) Occurrence of a Payment Disruption Event or a CNY Payment Disruption Event

If the applicable Final Terms specifies “Payment Disruption Event” or “CNY Payment Disruption Event” to be applicable, in the event that the Calculation Agent, at any time and from time to time, determines in its sole discretion that a Payment Disruption Event or a CNY Payment Disruption Event, as the case may be, has occurred or is likely to occur, then the Calculation Agent shall as soon as practicable notify the Holders of the relevant W&C Securities of the occurrence of such Payment Disruption Event or CNY Payment Disruption Event, as the case may be, in accordance with Condition 11.

- (b) Consequences of a Payment Disruption Event

Upon the occurrence of a Payment Disruption Event:

- (i) *Extension of relevant dates*

The Calculation Agent may extend the Exercise Date, the Settlement Date or any other date on which the W&C Securities may be exercised or redeemed or any amount shall be due and payable in respect of the relevant W&C Securities, subject to Condition 6(C)(e), to a date falling five (5) Business Days (or such other date as may be determined by the Calculation Agent and notified to the Holders in accordance with Condition 11) after the date on which the Payment Disruption Event is no longer occurring and notice thereof shall be given to the relevant Holders in accordance with Condition 11.

- (ii) *Obligation to pay postponed*

The Calculation Agent may postpone the Issuer’s obligation to pay the Cash Settlement Amount or any such other amounts in respect of the relevant W&C Securities or deliver any Relevant Asset, subject to Condition 6(C)(e), until five (5) Business Days (or such other date as may be determined by the Calculation Agent and notified to the Holders in accordance with Condition 11) after the date on which the Payment Disruption Event is no longer occurring.

- (iii) *Issuer’s option to vary settlement*

Notwithstanding the Issuer’s right to extend the dates for payments in accordance with Condition 6(C)(b)(i) or postpone payment in accordance with Condition 6(C)(b)(ii), as applicable, the Issuer may, if practicable (and to the extent lawful), and at the Issuer’s sole and absolute discretion:

- (1) make payments due to be made in the Subject Currency in the Base Currency, converted from the Subject Currency into the Base Currency at a rate reasonably selected by the Calculation Agent;
- (2) make payments due to be made in the Base Currency in the Subject Currency, disregarding any obligation to convert amounts into the Base Currency;
- (3) in the case of Share Linked W&C Securities, deliver the Shares in lieu of cash settlement; or
- (4) in the case of Share Linked W&C Securities which reference a basket of Shares, elect to satisfy in part its obligation to pay the amounts as may be due and payable under the relevant W&C Securities by making a partial payment(s) or partial deliveries, as the case may be (the “**Partial Distributions**”). Any Partial Distribution made by the Issuer to the Holders will be calculated and/or determined by the Calculation Agent in its sole and absolute discretion and shall be paid and/or delivered to the Holders *pro rata* (as far as possible, subject to any necessary adjustments for rounding) to the proportion of the W&C Securities of the same series held by the relevant Holder. In the event that any Partial Distribution is made by the Issuer, the Calculation Agent may, in its sole and absolute discretion, make any such corresponding adjustment to any variable relevant to the redemption or payment terms of the relevant W&C Securities as it deems necessary and shall notify the relevant Holders thereof in accordance with Condition 11.

Any payments or deliveries made in accordance with this Condition 6(C)(b)(iii) shall satisfy and discharge in full (in the case of payments or deliveries made in accordance with paragraphs (1) to (3)) and in part (in the case of Partial Distributions made in accordance with paragraph (4)) the Issuer’s obligation to pay the Cash Settlement Amount or other amount in respect of which the Payment Disruption Event has arisen, and no further amounts shall be due and payable by the Issuer in respect thereof.

(c) *Consequences of a CNY Payment Disruption Event*

Upon the occurrence of a CNY Payment Disruption Event:

(i) *Extension of relevant dates*

If “Extension” is specified to be applicable in the applicable Final Terms, then Condition 6(C)(b)(i) shall apply, provided that the reference therein to “Payment Disruption Event” shall be construed as a reference to “CNY Payment Disruption Event”.

(ii) *Obligation to pay postponed*

If “Payment Postponement” is specified to be applicable in the applicable Final Terms, then Condition 6(C)(b)(ii) shall apply, provided that the reference therein to “Payment Disruption Event” shall be construed as a reference to “CNY Payment Disruption Event”.

(iii) *Payment of Equivalent Amount*

If “Payment of Equivalent Amount” is specified to be applicable in the applicable Final Terms, and the Calculation Agent determines that such CNY Payment Disruption Event is material in relation to the Issuer’s obligations under the relevant W&C Securities to pay any Additional Amount, Cash Settlement Amount or other amount in respect of the relevant W&C Securities on the relevant Additional Amount Payment Date, Settlement Date or such other date on which any amount in respect of the relevant W&C Securities shall be due and payable (such date, the “**Affected Payment Date**”), then the Issuer shall, on giving notice to Holders prior to the relevant Affected Payment Date, make payment of the Equivalent Amount of the relevant Additional Amount, Cash Settlement Amount or such other amount payable (if applicable) on the relevant Affected Payment Date in full and final settlement of its obligations to pay such Additional Amount, Settlement Amount or other amount in respect of the relevant W&C Securities.



(d) *Payments net of expenses*

Notwithstanding any provisions to the contrary, (a) any payments or deliveries made in accordance with Condition 6(C)(b) or Condition 6(C)(c), as the case may be, shall be made after deduction of any costs, expenses or liabilities incurred or to be incurred by the Calculation Agent or Issuer in connection with or arising from the resolution of the relevant Payment Disruption Event(s) or CNY Payment Disruption Event(s), as the case may be, and (b) no interest shall be paid by the Issuer in respect of any delay which may occur in the payment of any amounts due and payable under the W&C Securities as a result of the operation of Condition 6(C)(b) or Condition 6(C)(c), as the case may be.

(e) *Payment Event Cut-off Date*

In the event that a Payment Disruption Event or a CNY Payment Disruption Event, as the case may be, is still occurring on the Payment Event Cut-off Date, the Exercise Date, the Settlement Date, or any other date on which any Additional Amount, Cash Settlement Amount or other amount in respect of the relevant W&C Securities shall be due and payable (as the case may be) for the relevant W&C Securities shall fall on the Payment Event Cut-off Date. In such circumstances, the Holder will not receive any amounts. Thereafter, the Issuer shall have no obligations whatsoever under the W&C Securities.

For the purposes of this Condition 6(C):

“**Base Currency**” has the meaning given to it in Annex 5 – *Additional Terms and Conditions for FX Linked Securities*;

“**CNY**” means Chinese Renminbi, the lawful currency of the People’s Republic of China (including any lawful successor currency to the CNY);

“**CNY Payment Disruption Event**” means the occurrence of any of the following events:

- (a) an event that makes it impossible or impractical for the Issuer to convert any amounts in CNY due in respect of the W&C Securities in the general CNY foreign exchange market in the relevant CNY Settlement Centre(s), other than where such impossibility or impracticality is due solely to the failure of the Issuer to comply with any law, rule or regulation enacted by any Governmental Authority (unless such law, rule or regulation is enacted after the relevant Trade Date, and it is impossible or impractical for the Issuer, due to an event beyond its control, to comply with such law, rule or regulation) (a “**CNY Inconvertibility Event**”);
- (b) an event that makes it impossible or impractical for the Issuer to (i) deliver CNY between accounts inside the relevant CNY Settlement Centre(s), or (ii) from an account inside the relevant CNY Settlement Centre(s) to an account outside the relevant CNY Settlement Centre(s) (including, if applicable, to another CNY Settlement Centre), other than where such impossibility or impracticality is due solely to the failure of the Issuer to comply with any law, rule or regulation enacted by any Governmental Authority (unless such law, rule or regulation is enacted after the Trade Date and it is impossible or impractical for the Issuer, due to an event beyond its control, to comply with such law, rule or regulation) (a “**CNY Non-Transferability Event**”); and
- (c) the general CNY foreign exchange market in the relevant CNY Settlement Centre becomes illiquid as a result of which the Issuer cannot obtain sufficient CNY in order to satisfy its payment obligations (in whole or in part) under the W&C Securities (a “**CNY Non-Availability Event**”);

“**CNY Settlement Centre**” means the financial centre(s) specified as such in the applicable Final Terms;

“**Equivalent Amount**” means, in respect of the relevant Additional Amount, Cash Settlement Amount or other amount payable (if applicable) on the relevant Affected Payment Date (for these purposes, the “**Relevant Amount**”), an amount in the Base Currency determined by the Calculation Agent by converting the Relevant Amount into the Base Currency using the Equivalent Amount Settlement Rate for the relevant Affected Payment Date;

“**Equivalent Amount Settlement Rate**” means, unless otherwise specified in the applicable Final Terms, in respect of any relevant day, the spot exchange rate on such day between CNY and the Base Currency, determined by the Calculation Agent, taking into account all available information



which the Calculation Agent deems relevant (including, but not limited to, pricing information obtained from the CNY non-deliverable market outside the People's Republic of China and/or the CNY foreign exchange market in the People's Republic of China;

**“Governmental Authority”** means any *de facto* or *de jure* government (or any agency or instrumentality thereof), court, tribunal, administrative or other governmental authority or any other entity (private or public) charged with the regulation of the financial markets (including the central bank) of the People's Republic of China, the Hong Kong Special Administrative Region and any other CNY Settlement Centre;

**“impractical”** or **“impracticality”** means, in respect of any action to be taken by the Issuer, that the Issuer and/or its Affiliates would incur a materially increased amount of taxes, duties, expenses or fees (as compared with circumstances existing on the Trade Date) to perform such action, or the Issuer and/or any Affiliates would be in breach of any law, rule, regulation, guideline or internal policy of the Issuer and/or its Affiliates, if such action were to be performed;

**“Payment Disruption Event”** means:

- (a) the occurrence of either (a) an Inconvertibility Event and/or (b) a Non-Transferability Event (each as defined in Annex 5 – *Additional Terms and Conditions for FX Linked Securities*);
- (b) the imposition by the Subject Currency Jurisdiction (or any political or regulatory authority thereof) of any capital controls, or the publication of any notice of an intention to do so, which the Calculation Agent determines in good faith is likely materially to affect the W&C Securities, and notice thereof is given by the Issuer to the Holders in accordance with Condition 11; or
- (c) the implementation by the Subject Currency Jurisdiction (or any political or regulatory authority thereof) or the publication of any notice of an intention to implement any changes to the laws or regulations relating to foreign investment in the Subject Currency Jurisdiction (including, but not limited to, changes in tax laws and/or laws relating to capital markets and corporate ownership), which the Calculation Agent determines are likely to affect materially the Issuer's ability to hedge its obligations under the W&C Securities;

**“Payment Event Cut-off Date”** means the date which is one year after the Exercise Date, Settlement Date or as determined by the Calculation Agent acting in good faith and notified to Holders in accordance with Condition 11;

**“Subject Currency”** has the meaning given to it in Annex 5 – *Additional Terms and Conditions for FX Linked Securities*; and

**“Subject Currency Jurisdiction”** has the meaning given to it in Annex 5 – *Additional Terms and Conditions for FX Linked Securities*.

## 7. Cancellation for Tax Reasons and Tax Compliance Reasons

### (A) Cancellation for Tax Reasons

The Issuer may cancel the W&C Securities, in whole, but not in part, at any time at their Early Settlement Amount (as defined in Condition 8), if the Issuer shall determine that any payment or deemed payment as determined for United States tax purposes with respect to the W&C Securities or with respect to a direct or indirect hedging arrangement entered into by the Issuer or any of its Affiliates relating to the W&C Securities may be treated as a dividend or “dividend equivalent” for United States tax purposes (such event being a **“U.S. Withholding Tax Event”**).

### (B) Cancellation for Tax Compliance Reasons

The Issuer may, at its option, cancel the W&C Securities, in whole or in part, at any time, at their Early Settlement Amount (as defined in Condition 8), if the Issuer determines in good faith that it has, or there is a substantial likelihood that it will, become subject to withholding imposed on a payment made to it on account of the Issuer's inability to comply with the reporting requirements imposed by the FATCA Provisions, provided that such inability to comply with the reporting requirements is attributable to non-compliance by any Holder of such W&C Securities (or a foreign withholding agent (if any) in the chain of custody of payments made to the Holders) with the Issuer's requests for certifications or identifying information (such cancellation, a **“Cancellation for**

**Tax Compliance Reasons**”). Upon a Cancellation for Tax Compliance Reasons, W&C Securities held by compliant Holders, in addition to those held by non-compliant Holders, may be cancelled.

Notice of intention to cancel W&C Securities will be given in accordance with Condition 11 not less than 30 calendar days nor more than 60 calendar days prior to the date fixed for cancellation. Payment will be made in such manner as shall be notified to the Holders in accordance with Condition 11.

#### 8. **Illegality**

If the Issuer determines that (i) the performance of its obligations under the W&C Securities or that any arrangements made to hedge the Issuer’s obligations under the W&C Securities or (ii) the performance by the Guarantor of its obligations under the relevant Guarantee in respect of the W&C Securities, have become illegal in whole or in part for any reason, the Issuer may cancel the W&C Securities by giving notice to Holders in accordance with Condition 11.

Should any one or more of the provisions contained in these Terms and Conditions be or become invalid, the validity of the remaining provisions shall not in any way be affected thereby.

If the Issuer cancels the W&C Securities then the Issuer will, if and to the extent permitted by applicable law, pay an amount to each Holder in respect of each W&C Security or each Unit, as the case may be, held by such Holder, which amount shall be the fair market value of a W&C Security or Unit, as the case may be, notwithstanding such illegality less the cost to the Issuer and/or its Affiliates or agents of unwinding any underlying related hedging arrangements (including any cost of funding in respect of such hedging arrangements) plus, in the case of Warrants and if already paid by or on behalf of the Holder, the Exercise Price, all as determined by the Calculation Agent in its sole and absolute discretion (the “**Early Settlement Amount**”). Payment will be made in such manner as shall be notified to the Holders in accordance with Condition 11.

#### 9. **Purchases**

The Issuer, the Guarantor or any of their Affiliates may, but is not obliged to, at any time purchase W&C Securities at any price in the open market or by tender or private treaty. Any W&C Securities so purchased may be held or resold or surrendered for cancellation.

#### 10. **Agents, Determinations, Modifications and Meeting Provisions**

##### (A) *Security Agents and Registrar*

The specified offices of the Security Agents and the Registrar are as set out at the end of these Terms and Conditions.

The Issuer and the Guarantor reserve the right at any time to vary or terminate the appointment of any Security Agent or the Registrar and to appoint further or additional Security Agents or Registrar, provided that no termination of appointment of the Principal Security Agent or Registrar shall become effective until a replacement Principal Security Agent or Registrar shall have been appointed and provided that, so long as any of the W&C Securities are listed on any stock exchange or admitted to trading or listing by any other relevant authority, there shall be a Security Agent having a specified office in each location required by the rules and regulations of the relevant stock exchange or other relevant authority and provided further that (i) so long as any of the W&C Securities are represented by a CBF Global W&C Security there shall be a Frankfurt Security Agent, (ii) so long as any of the W&C Securities are represented by a Euroclear France Global W&C Security there shall be a Paris Security Agent, (iii) so long as any of the W&C Securities are Swedish Securities there shall be a Swedish Security Agent who shall be duly authorised as an account operator and issuing agent under the Swedish CSD Rules, (iv) so long as any of the W&C Securities are listed on the SIX Swiss Exchange, there shall be a Swiss Programme Agent being a Swiss bank or securities dealer, (v) so long as any of the W&C Securities are CREST Securities, there shall be a CREST Agent and (vi) so long as any of the W&C Securities are Finnish Securities there shall be a Finnish Security Agent who shall be duly authorised as an account operator and issuing agent under the Euroclear Finland Rules. Notice of any termination of appointment and of any changes in the specified office of any Security Agent or the Registrar will be given to Holders in accordance with Condition 11 provided that any failure to give, or non-receipt of, such notice will not affect the validity of any such termination or changes. In acting under the Agency Agreement, each Security Agent and the Registrar acts solely as agent of the Issuer and the Guarantor and does

not assume any obligation or duty to, or any relationship of agency or trust for or with, the Holders and any determinations and calculations by the Security Agents or Registrar in respect of the W&C Securities shall (save in the case of manifest or proven error) be final, conclusive and binding on the Issuer, the Guarantor and the Holders.

The Agency Agreement may be amended by the parties thereto, without the consent of the Holders, for the purpose of curing any ambiguity or of curing, correcting or supplementing any defective provision contained therein or in any manner which the parties may mutually deem necessary or desirable and which shall not be materially prejudicial to the interests of the Holders.

In the case of Swedish Securities, the Issuer has appointed the Swedish Security Agent. The Swedish Security Agent acts solely as agent of the Issuer and does not assume any obligation to, or relationship of agency and trust with, the Holders.

In the case of Finnish Securities, the Issuer has appointed the Finnish Security Agent. The Finnish Security Agent acts solely as agent to the Issuer and does not assume any obligation to, or relationship of agency with, the Holders.

(B) *Calculation Agent*

In relation to each issue of W&C Securities, the Calculation Agent (whether it be Merrill Lynch International or another entity) acts solely as agent of the Issuer and the Guarantor and does not assume any obligation or duty to, or any relationship of agency or trust for or with, the Holders. All calculations and determinations made in respect of the W&C Securities by the Calculation Agent shall (save in the case of manifest or proven error) be final, conclusive and binding on the Issuer, the Guarantor, the Security Agents and the Holders. The Calculation Agent shall promptly notify the Issuer and the Principal Security Agent upon any such calculations and determinations, and (in the absence of wilful default, bad faith or manifest or proven error) no liability to the Issuer, the Guarantor, the Security Agents or the Holders shall attach to the Calculation Agent in connection with the exercise or non-exercise by it of its powers, duties and discretions pursuant to such provisions.

The Calculation Agent may, with the consent of the Issuer, delegate any of its obligations and functions to a suitably competent third party of good standing as it deems appropriate.

(C) *Determinations by the Issuer*

Any determination made by the Issuer pursuant to these Terms and Conditions shall (save in the case of manifest or proven error) be final, conclusive and binding on the Security Agents, the Registrar and the Holders.

(D) *Modifications and Meetings Provisions*

The Agency Agreement contains provisions for convening meetings of the Holders to consider any matter affecting their interests, including the sanctioning by Extraordinary Resolution of a modification of the Terms and Conditions of the W&C Securities or any of the provisions of the Agency Agreement. Such a meeting may be convened by the Issuer or the Guarantor and shall be convened by the Issuer if required in writing by the Holders holding not less than 33 per cent. (by number) of the W&C Securities of the relevant Series for the time being remaining unexercised. The quorum at any such meeting for passing an Extraordinary Resolution is one or more persons present and holding or representing in the aggregate not less than 50 per cent. (by number) of the W&C Securities of the relevant Series for the time being unexercised, or at any adjourned meeting one or more persons present whatever the number of the W&C Securities so held or represented by them, except that at any meeting the business of which includes the modification of certain provisions of the Terms and Conditions of the W&C Securities (including modifying the Exercise Date, reducing or cancelling the Cash Settlement Amount or the Entitlement or the additional amount payable (if applicable) or altering the Cash Settlement Currency), the quorum shall be one or more persons present and holding or representing not less than two-thirds (by number) of the W&C Securities of the relevant Series for the time being unexercised, or at any adjourned such meeting one or more persons present and holding or representing not less than one-third (by number) of the W&C Securities of the relevant Series for the time being unexercised. An Extraordinary Resolution passed at any meeting of the Holders shall be binding on all Holders, whether or not they are present at the meeting.

The relevant Security Agents and/or Registrar and the Issuers may agree, without the consent of the Holders, to:

- (a) any modification (except as mentioned above) of the W&C Securities or Agency Agreement which is not prejudicial to the interests of the Holders; or
- (b) any modification of the W&C Securities or the Agency Agreement which is of a formal, minor or technical nature or is made to correct a manifest or proven error or to comply with mandatory provisions of the law.

Any such modification shall be binding on the Holders and any such modification shall be notified to the Holders in accordance with Condition 11 as soon as practicable thereafter.

## 11. Notices

In the case of W&C Securities represented by a Global W&C Security, Swedish Securities or Finnish Securities, all notices to Holders shall be valid: (i) if delivered (x) in the case of W&C Securities, which are not Swedish Securities or Finnish Securities, to each Clearing System, for communication by them to the Holders, (y) in the case of Swedish Securities, by mail to the address registered for such Holder in the Swedish Register or otherwise in accordance with the rules and regulations of the Swedish CSD, (z) in the case of Finnish Securities, by (A) mail from the Issuer or the Finnish Security Agent to the address registered for such Holder in the Finnish Register, (B) e-mail or other electronic means such as a SWIFT message from the Issuer or the Finnish Security Agent to the e-mail, SWIFT or relevant electronic address for such Holder as provided by Euroclear Finland, (C) publication in a leading Finnish language daily newspaper of general circulation in Helsinki (which is expected to be *Kauppalehti*) or (D) otherwise in accordance with the rules and regulations of Euroclear Finland; (ii) if and so long as the W&C Securities are admitted to trading on, and listed on any stock exchange or are admitted to trading by another relevant authority, if delivered in accordance with the rules and regulations of the relevant stock exchange or other relevant authority (in the case of Italian Listed Certificates such notices shall be published by Borsa Italiana S.p.A.); (iii) if and so long as the W&C Securities are listed on the SIX Swiss Exchange, in accordance with the rules of the SIX Swiss Exchange and as specified in the Final Terms; and (iv) as otherwise specified in the applicable Final Terms.

If the W&C Securities are admitted to trading on the Luxembourg Stock Exchange's regulated market and listed on the Official List of the Luxembourg Stock Exchange, notices shall be published either in a daily newspaper with general circulation in Luxembourg (which is expected to be the *Luxemburger Wort* or *Tageblatt*) or on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)). If the W&C Securities are admitted to trading on Euronext Paris S.A. and so long as the rules of Euronext Paris S.A. so require, notices shall be published in a leading daily financial newspaper having general circulation in Paris (which is expected to be *Les Echos* or *La Tribune*) or if such newspapers cease to be published or timely publication in them shall not be practicable in such other financial daily newspaper having general circulation in Paris.

In the case of Definitive Certificates, notices to the Holders will be deemed to be validly given if: (i) in the case of Definitive Certificates other than Definitive Registered Certificates, published in a leading English language daily newspaper of general circulation in London (which is expected to be the *Financial Times*), or (ii) in the case of Definitive Registered Certificates, if posted to the Holders of such Definitive Registered Certificates at their respective addresses in the Register.

In the case of CREST Securities, notices to the Holders shall be valid (i) if delivered to the address of the Holder appearing in the Record on the second Business Day immediately prior to despatch of such notice by first class post or by hand or, if such address is not in the United Kingdom, by airmail post (such notices to be delivered or sent in accordance with provision (i) shall be sent at the risk of the relevant Holder), or (ii) if published in a daily newspaper with general circulation in the United Kingdom (which is expected to be the *Financial Times*).

Any such notice shall be deemed to have been given (i) in the case of W&C Securities which are neither Swedish Securities nor Finnish Securities and which are held through a Clearing System, on the day on which such notice is delivered to the relevant Clearing System, (ii) in the case of W&C Securities which are not Swedish Securities, Finnish Securities or CREST Securities and which are not held through a Clearing System, on the second Business Day following such publication, (iii) in the case of Swedish Securities, if sent by mail to the Holders, on the fourth weekday (being a day other than a Saturday or a Sunday) following the day on which the notice was sent by mail or other



electronic means such as SWIFT message, in each case if earlier, the date of such publication or, if published more than once, on the date of the first such publication, (iv) in the case of Finnish Securities, (x) if sent by mail to the Holders, on the fourth weekday (being a day other than a Saturday or a Sunday) following the day on which the notice was sent by mail, (y) if sent by e-mail to the Holders, on the weekday (being a day other than a Saturday or a Sunday) following the day on which such e-mail was sent or, (z) in each case if earlier, the date of such publication or, if published more than once, on the date of the first such publication, (v) in the case of CREST Securities, if delivered by hand, at the time of delivery, if sent by first class post, two Business Days after despatch or, if sent by airmail post, five Business Days after despatch or the date of such publication or, if published more than once, on the date of the first such publication, (vi) in the case of Definitive Registered Certificates, if sent by post, on the fourth weekday (being a day other than Saturday or Sunday) after the date of mailing, or (vii) in the case of W&C Securities listed on the SIX Swiss Exchange, on the day such notice is published.

## 12. Expenses and Taxation

- (a) A holder of W&C Securities must pay all taxes, duties and/or expenses, including any applicable depositary charges, transaction or exercise charges, stamp duty, stamp duty reserve tax, issue, registration, securities transfer and/or other taxes or duties arising from the exercise and settlement of such W&C Securities and/or, if applicable, the delivery of the Entitlement pursuant to the terms of such W&C Securities (together “**Expenses**”).
- (b) The Issuer shall not be liable for or otherwise obliged to pay any tax, duty, withholding or other payment which may arise as a result of the ownership, transfer, exercise or enforcement of any W&C Security by any person and all payments made by the Issuer shall be made subject to any such tax, duty, withholding or other payment which may be required to be made, paid, withheld or deducted.

## 13. Further Issues

The Issuer shall be at liberty from time to time without the consent of Holders to create and issue further W&C Securities so as to be consolidated with and form a single series with the outstanding W&C Securities.

## 14. Substitution of the Issuer, Consolidation and Merger

### (A) *Substitution of the Issuer*

The Issuer, or any previous substituted company or other entity, may, at any time, without the consent of the Holders, substitute for itself as principal obligor under the W&C Securities any company or other entity (the “**Substitute**”) being the Guarantor or any of its other subsidiaries, subject to:

- (i) (except in the case of the substitution of the Guarantor), the W&C Securities being guaranteed by the Guarantor on the same terms, *mutatis mutandis*, as the W&C Securities;
- (ii) all actions, conditions and things required to be taken, fulfilled and done (including the obtaining of any necessary consents) to ensure that the W&C Securities represent legal, valid and binding obligations of the Substitute having been taken, fulfilled and done and are in full force and effect;
- (iii) the Substitute shall have become party to the Agency Agreement, with any appropriate consequential amendments, as if it had been an original party to it;
- (iv) the Substitute and the Issuer shall have obtained legal opinions from independent legal advisers of recognised standing in the country of incorporation or other form of organisation of the Substitute, and (if the Guarantor is not the Substitute) the States of Delaware and New York and England, that the obligations of the Substitute and (if the Guarantor is not the Substitute) the Guarantor are legal, valid and binding obligations, that all consents and approvals as aforesaid have been obtained;
- (v) the Issuer shall have given at least 30 calendar days’ prior notice of the date of such substitution to the Holders in accordance with Condition 11;
- (vi) each stock exchange or market on which the W&C Securities are listed or admitted to trading shall have confirmed that, following the proposed substitution by the Substitute, the W&C

Securities will continue to be listed or admitted to trading on such stock exchange(s) or such market(s), as the case may be;

- (vii) if appropriate, the Substitute shall have appointed a process agent as its agent in England to receive service of process on its behalf in relation to any legal action or proceedings arising out of or in connection with the W&C Securities;
- (viii) if the Securities are Swedish Securities, the Swedish CSD having given its consent to such substitution (such consent not to be unreasonably withheld or delayed); and
- (ix) if the Securities are Finnish Securities, Euroclear Finland having given its consent to such substitution (such consent not to be unreasonably withheld or delayed).

(B) *Consolidation or Merger*

The Issuer or the Guarantor may consolidate with, or sell or convey all or substantially all of its assets to, or merge with or into any other company provided that in any such case, (a) in the case of the Issuer, either the Issuer shall be the continuing company, or the successor company shall expressly assume the due and punctual payment of all amounts or delivery of all assets, as the case may be, payable or deliverable, as applicable, with respect to the W&C Securities, according to their tenor, and the due and punctual performance and observance of all of the obligations under the Conditions to be performed by the Issuer by an amendment to the Agency Agreement executed by, *inter alios*, such successor company, the Guarantor and the Principal Security Agent, and (b) in the case of the Guarantor, the Guarantor shall be the continuing company, or the successor company shall be a company organised and existing under the laws of the United States or a state thereof or the District of Columbia and such successor company shall expressly assume (i) the due and punctual payment of all amounts or delivery of all assets, as the case may be, payable or deliverable, as applicable, with respect to the Original Guarantee and (ii) the obligations for payment of any Shortfall with respect to the Swiss COSI Securities Guarantee, in each case by the execution of a new guarantee of like tenor. In case of any such consolidation, merger, sale or conveyance and upon any such assumption by the successor company, such successor company shall succeed to and be substituted for the Issuer or the Guarantor, as the case may be, with the same effect as if it had been named herein as the Issuer or the Guarantor, as the case may be, and the Issuer or the Guarantor, as the case may be, except in the event of a conveyance by way of lease, shall be relieved of any further obligations under the Conditions, the Agency Agreement and the each Guarantee, as applicable.

15. **Governing Law and Submission to Jurisdiction**

(A) *Governing law*

The W&C Securities, Global W&C Securities, Definitive W&C Securities, the Agency Agreement and the W&C Securities Deed of Covenant and any non-contractual obligations arising out of the W&C Securities, Global W&C Securities, Definitive W&C Securities, the Agency Agreement and the W&C Securities Deed of Covenant (including without limitation any dispute, controversy, proceedings or claim of whatever nature (whether contractual, non-contractual or otherwise) arising out of or in any way relating to the W&C Securities, Global W&C Securities, Definitive W&C Securities, the Agency Agreement and the W&C Securities Deed of Covenant or their respective formation) shall be governed by and construed in accordance, with English law.

Each Guarantee is governed by, and shall be construed in accordance with laws of the State of New York.

For the avoidance of doubt, the provisions of articles 86 to 94-8 of the Luxembourg law on commercial companies of 10 August 1915, as amended, are excluded.

(B) *Submission to jurisdiction*

In relation to any legal action or proceedings arising out of or in connection with the W&C Securities and the Global W&C Securities (“**Proceedings**”), the courts of England have exclusive jurisdiction and the Issuer and the Holders submit to the exclusive jurisdiction of the English courts. The Issuer and the Holders waive any objection to Proceedings in the English courts on the grounds of venue or that the Proceedings have been brought in an inconvenient forum.

For greater certainty, the Guarantor has not submitted to the jurisdiction of the English courts in the Guarantees, and claims under the Guarantees are required to be instituted in a federal court in the Borough of Manhattan in the City and State of New York.



(C) *Appointment of Process Agent*

The Issuer hereby appoints Merrill Lynch Corporate Services Limited, currently at 2 King Edward Street, London EC1A 1HQ as its agent in England to receive service of process in any Proceedings in England. If for any reason such process agent ceases to act as such or no longer has an address in England, the Issuer agrees to appoint a substitute process agent and to notify the Holders of such appointment. Nothing herein shall affect the right to serve process in any other manner permitted by law.

16. **Adjustments for European Monetary Union**

The Issuer may, without the consent of the Holders, on giving notice to the Holders in accordance with Condition 11:

- (a) elect that, with effect from the Adjustment Date specified in the notice, certain terms of the W&C Securities shall be redenominated in euro.

The election will have effect as follows:

- (i) where the Settlement Currency of the W&C Securities is the National Currency Unit of a country which is participating in the third stage of European Economic and Monetary Union, such Settlement Currency shall be deemed to be an amount of euro converted from the original Settlement Currency into euro at the Established Rate, subject to such provisions (if any) as to rounding as the Calculation Agent may decide and as may be specified in the notice, and after the Adjustment Date, all payments of the Cash Settlement Amount in respect of the W&C Securities will be made solely in euro as though references in the W&C Securities to the Settlement Currency were to euro;
  - (ii) where the Exchange Rate and/or any other terms of these Terms and Conditions are expressed in or, in the case of the Exchange Rate, contemplate the exchange from or into, the currency (the “**Original Currency**”) of a country which is participating in the third stage of European Economic and Monetary Union, such Exchange Rate and/or any other terms of these Terms and Conditions shall be deemed to be expressed in or, in the case of the Exchange Rate, converted for or, as the case may be into, euro at the Established Rate; and
  - (iii) such other changes shall be made to these Terms and Conditions as the Issuer may decide, in its sole and absolute discretion to conform them to conventions then applicable to instruments expressed in euro; and/or
- (b) require that the Calculation Agent make such adjustments to the Multiplier and/or, in the case of Warrants, the Exercise Price and/or any other terms of these Terms and Conditions and/or the applicable Final Terms as the Calculation Agent, in its sole discretion, may determine to be appropriate to account for the effect of the third stage of European Economic and Monetary Union on the Multiplier and/or, in the case of Warrants, the Exercise Price and/or such other terms of these Terms and Conditions.

Notwithstanding the foregoing, none of the Issuer, any of its Affiliates or agents, the Calculation Agent, any Security Agent or the Registrar shall be liable to any Holder or other person for any commissions, costs, losses or expenses in relation to or resulting from the transfer of euro or any currency conversion or rounding effected in connection therewith.

In this Condition, the following expressions have the following meanings:

“**Adjustment Date**” means a date specified by the Issuer in the notice given to the Holders pursuant to this Condition which falls on or after the date on which the country of the Original Currency first participates in the third stage of European Economic and Monetary Union pursuant to the Treaty;

“**Established Rate**” means the rate for the conversion of the Original Currency (including compliance with rules relating to rounding in accordance with applicable European Community regulations) into euro established by the Council of the European Union pursuant to first sentence of Article 1091(4) of the Treaty;

“**euro**” means the currency introduced at the start of the third stage of European Economic and Monetary Union pursuant to the Treaty;

“**National Currency Unit**” means the unit of the currency of a country, as those units are defined on the date on which the country of the Original Currency first participates in European Economic and Monetary Union; and

“**Treaty**” means the treaty establishing the European Community, as amended.

17. **Contracts (Rights of Third Parties) Act 1999**

The W&C Securities do not confer on any third party any rights under the Contracts (Rights of Third Parties) Act 1999 (the “**Act**”) to enforce any term of the W&C Securities, but this does not affect any right or remedy of a third party which exists or is available apart from the Act.

18. **Terms applicable to Warrants only**

Conditions 19, 20, 21, 22, 23 and 24 apply to Warrants only.

19. **Definitions (Warrants)**

For the purposes of the Warrants:

“**Exercise Business Day**” means a day that is a Business Day and, in the case of an Index Linked Warrant or Share Linked Warrant, a Scheduled Trading Day; and

“**In-The-Money**” means:

- (a) in the case of a Cash Settled Warrant, the Cash Settlement Amount in respect of such Warrant is greater than zero; and
- (b) in the case of a Physical Delivery Warrant, the value of the Entitlement on the Actual Exercise Date for such Warrant is greater than the Exercise Price as determined by the Calculation Agent.

20. **Form of Warrants**

If the applicable Final Terms indicates that such Warrants are not eligible for sale in the United States or to, or for the account or benefit of, United States Persons pursuant to an exemption from the registration requirements of the Securities Act and are to be issued into and transferred through accounts at Euroclear and Clearstream, Luxembourg, such Series of Warrants will on issue be constituted by either a global bearer warrant (the “**Euroclear/CBL Global Bearer Warrant**”) or a global registered warrant (the “**Euroclear/CBL Global Registered Warrant**” and, together with a Euroclear/CBL Global Bearer Warrant, a “**Euroclear/CBL Global Warrant**”), which, in either case, will be deposited with, the Common Depositary and, in the case of Euroclear/CBL Global Registered Warrants, registered in the name of the nominee of such depositary.

If the applicable Final Terms indicates that such Warrants are not eligible for sale in the United States or to, or for the account or benefit of, United States Persons pursuant to an exemption from the registration requirements of the Securities Act and are to be issued into and transferred through accounts at Clearstream, Frankfurt, such Series of Warrants will on issue be constituted by a global bearer warrant (the “**CBF Global Warrant**”), provided, however, that the CBF Global Warrants will be treated as in registered form for United States federal income tax purposes. The CBF Global Warrant will be delivered on or prior to the issue date of the relevant series of CBF Global Warrants to Clearstream, Frankfurt.

If the applicable Final Terms indicates that such Warrants are not eligible for sale in the United States or to, or for the account or benefit of, United States Persons pursuant to an exemption from the registration requirements of the Securities Act and are to be issued into and transferred through accounts at Euroclear France, such Series of Warrants will on issue be constituted by a global bearer warrant (the “**Euroclear France Global Warrant**”) which will be deposited with Euroclear France.

If the applicable Final Terms indicates that Warrants are not eligible for sale in the United States or to, or for the account or benefit of, United States Persons pursuant to an exemption from the registration requirement of the Securities Act and that such Warrants are to be listed on the SIX Swiss Exchange and/or issued and transferred through accounts at SIS (“**Swiss Warrants**”), each Tranche of such Warrants will on issue be constituted either (i) by a permanent global warrant in bearer form (the “**Swiss Global Bearer Warrant**”), which will be deposited with SIS acting as central depository on or before the Issue Date of such Tranche or (ii) as uncertificated securities, and which will be entered into the main register (*Hauptregister*) of SIS on the Issue Date.

In case of Swiss Warrants which are Swiss COSI Securities, such Swiss Warrants will on issue be constituted as uncertificated securities which come into effect once they are registered in accordance with the applicable rules and regulations of SIS in the “uncertificated securities book” maintained in electronic form in the systems of SIS and which will be entered into the main register (*Hauptregister*) of SIS on the Issue Date.

As a matter of Swiss law, once (i) a Swiss Global Bearer Warrant is deposited with SIS or (ii) Swiss Warrants issued in the form of uncertificated securities are entered into the main register (*Hauptregister*) of SIS and, in either case, are entered into the accounts of one or more participants of SIS, the respective Swiss Warrants will constitute Intermediated Securities.

No Holder of Swiss Warrants will at any time have the right to effect or demand the conversion of (i) the Swiss Global Bearer Warrant or (ii) the uncertificated securities representing such Swiss Warrants into, or the delivery of, Warrants in (in the case of a Swiss Global Bearer Warrant) uncertificated or definitive form. However, Swiss Warrants represented by a Swiss Global Bearer Warrant will be exchangeable (free of charge), in whole but not in part, for definitive Warrants in bearer form (“**Swiss Definitive Bearer Warrants**”) and Swiss Warrants in uncertificated form will be exchangeable (free of charge) in whole but not in part for Swiss Individual Warrant Certificates representing definitive Warrants in registered form (“**Swiss Definitive Registered Warrants**” and together with the Swiss Definitive Bearer Warrants, the “**Swiss Definitive Warrants**”) (i) at the option of the Issuer if the Issuer has been notified by the Swiss Programme Agent that SIS has been closed for business for a continuous period of 14 calendar days (other than by reason of holiday, statutory or otherwise) or has announced an intention permanently to cease business or has in fact done so and no successor clearing system is available (an “**SIS Exchange Event**”), or (ii) in the case of Swiss Warrants listed on the SIX Swiss Exchange, at the option of the Swiss Programme Agent if the Swiss Programme Agent determines that such exchange is necessary or useful or that the presentation of Warrants in definitive form is required by Swiss or foreign laws or regulations in connection with the enforcement of rights.

The Issuer will promptly give notice to Holders in accordance with Condition 11 if an SIS Exchange Event occurs. In the event of the occurrence of an SIS Exchange Event, SIS may give notice to the Swiss Programme Agent requesting exchange. Any such exchange shall occur not later than 45 calendar days after the date of receipt of the first relevant notice by the Swiss Programme Agent from SIS.

If Swiss Definitive Bearer Warrants or Swiss Individual Warrant Certificates representing Swiss Definitive Registered Warrants are printed and issued in exchange for Swiss Global Bearer Warrants or Swiss Warrants in uncertificated form, as applicable, the Swiss Programme Agent will (i) in the case that such Swiss Warrants are represented by a Swiss Global Bearer Warrant, cancel such Swiss Global Bearer Warrant and, in the case of such Swiss Warrants being issued as uncertificated securities, deregister such Swiss Warrants in the “uncertificated securities book”, and (ii) deliver the Swiss Definitive Bearer Warrants or Swiss Individual Warrant Certificates representing Swiss Definitive Registered Warrants to the relevant Holders.

Whenever a Swiss Warrant in uncertificated form is to be exchanged for Swiss Individual Warrant Certificates, MLICo. shall procure that the number or nominal amount of Swiss Individual Warrant Certificates issued will be equal to the number or nominal amount represented by the Swiss Warrants in uncertificated form within five Business Days of the delivery, by or on behalf of the registered holder of the Swiss Warrants in uncertificated form to the Swiss Programme Agent of such information as is required to complete and deliver such Swiss Individual Warrant Certificates (including, without limitation, the names and addresses of the persons in whose names the Swiss Individual Warrant Certificates are to be registered and the number or nominal amount of each such person’s holding).

Such exchange will be effected in accordance with the provisions of the Agency Agreement and, in particular, shall be effected without charge to any holder, but against such indemnity as the Swiss Programme Agent may require in respect of any tax or other duty of whatsoever nature which may be levied or imposed in connection with such exchange.

The Euroclear/CBL Global Warrant, the CBF Global Warrant, the Euroclear France Global Warrant and the Swiss Global Bearer Warrant are referred to herein as the “**Global Warrants**” and each a “**Global Warrant**”.

If the Warrants are Swedish Warrants (“**Swedish Warrants**”) and the applicable Final Terms indicates that such Warrants are not eligible for sale in the United States or to, or for the account or benefit of, United States Persons pursuant to an exemption from the registration requirements of the Securities Act and are to be issued into and cleared through the Swedish CSD, such Series of Warrants will be issued in dematerialised and uncertificated book-entry form in accordance with the Swedish Financial Instruments Accounts Act (in Swedish: *lag (1998: 1479) om kontoföring av finansiella instrument*).

If the Warrants are Finnish Warrants (“**Finnish Warrants**”) and the applicable Final Terms indicates that such Warrants are not eligible for sale in the United States or to, or for the account or benefit of, United States Persons pursuant to an exemption from the registration requirements of the Securities Act and are to be issued into and cleared through Euroclear Finland, such Series of Warrants will be issued in dematerialised and uncertificated book-entry form in accordance with the Finnish Act on the Book-Entry System (in Finnish: *laki arvo-osuusjärjestelmästä (826/1991)*) and the Finnish Act on Book-Entry Accounts (in Finnish: *laki arvo-osuustileistä (827/1991)*).

If the applicable Final Terms indicates that Warrants (the “**CREST Warrants**”) are not eligible for sale in the United States or to, or for the account or benefit of, United States Persons and are to be issued into and cleared through accounts at Euroclear UK, such Series of Warrants will be issued in uncertificated form in accordance with the Uncertificated Securities Regulations. The Warrants are participating securities for the purposes of the Uncertificated Securities Regulations.

## 21. **Style and Title (Warrants)**

### (A) *Style*

The applicable Final Terms will indicate whether the Warrants are American style Warrants (“**American Style Warrants**”) or European style Warrants (“**European Style Warrants**”) or such other type as may be specified in the applicable Final Terms and whether automatic exercise (“**Automatic Exercise**”) applies to the Warrants or such other type as may be specified in the applicable Final Terms and whether the Warrants may only be exercised in Units. If Units are specified in the applicable Final Terms, Warrants must be exercised in Units and any Exercise Notice which purports to exercise Warrants in breach of this provision shall be void and of no effect.

If the Warrants are Swedish Warrants or Finnish Warrants they will be European Style Warrants, Cash Settled W&C Securities and Automatic Exercise will apply.

### (B) *Swiss Definitive Bearer Warrants*

Title to Swiss Definitive Bearer Warrants will pass by delivery and the bearer of any Swiss Definitive Bearer Warrant shall be treated by MLICo., the Guarantor and the Swiss Programme Agent as the absolute owner.

### (C) *Swiss Definitive Registered Warrants*

#### (i) *Transfer of Swiss Definitive Registered Warrants*

Transfers of Swiss Definitive Registered Warrants are effected upon (i) the surrender (at the specified office of the Swiss Programme Agent) of the Swiss Individual Warrant Certificate representing such Swiss Definitive Registered Warrants to be transferred, together with the form of transfer (which shall be available at the specified office of the Swiss Programme Agent) endorsed on such Swiss Individual Warrant Certificate (or another form of transfer substantially in the same form and containing the same representations and certifications (if any), unless otherwise agreed by MLICo.), duly completed and executed and any other evidence as the Swiss Programme Agent may reasonably require, (ii) the recording of such transfer in the register and (iii) issuance of a new Swiss Individual Warrant Certificate to the transferee.

#### (ii) *Part Transfer of Swiss Definitive Registered Warrants*

In the case of a transfer of part only of a holding of Swiss Definitive Registered Warrants represented by one Swiss Individual Warrant Certificate, a new Swiss Individual Warrant Certificate shall be issued to the transferee in respect of the part transferred and a further new Swiss Individual Warrant Certificate in respect of the balance of the holding not transferred shall be issued to the transferor.

(D) *Delivery of New Swiss Individual Warrant Certificates*

Each new Swiss Individual Warrant Certificate to be issued pursuant to this Condition 21 shall be available for delivery within three Business Days of receipt of the form of transfer and surrender of the Swiss Individual Warrant Certificate for exchange. Delivery of the new Swiss Individual Warrant Certificate(s) shall be made at the specified office of the Swiss Programme Agent to whom delivery or surrender of such request for exchange, form of transfer, or Swiss Individual Warrant Certificate shall have been made or, at the option of the Holder making such delivery or surrender as aforesaid and as specified in the relevant request for exchange, form of transfer or otherwise in writing, be mailed by uninsured post at the risk of the Holder entitled to the new Swiss Individual Warrant Certificate (as applicable) to such address as may be so specified, unless such Holder requests otherwise and pays in advance to the Swiss Programme Agent the costs of such other method of delivery and/or such insurance as it may specify.

(E) *Closed Periods in respect of Swiss Definitive Registered Warrants*

No Holder may require the transfer of a Swiss Definitive Registered Warrant to be registered:

- (i) during the period of 15 days before any date on which Warrants may be called for automatic exercise by the Issuer at its option pursuant to Condition 22(D) (Issuer Call Option);
- (ii) after any such Warrant has been called for automatic exercise, cancellation or settlement; or
- (iii) during the period of seven days ending on (and including) any Record Date and/ or Additional Amount Payment Record Date.

(F) *Exchange Free of Charge*

Exchange and transfer of Warrants on registration, transfer, automatic exercise, settlement, cancellation or exercise of an option (as applicable) shall be effected without charge by or on behalf of the Issuer or the Swiss Programme Agent, but upon payment of any tax or other governmental charges that may be imposed in relation to it (or the giving of such indemnity as the Swiss Programme Agent may require).

22. **Exercise Rights (Warrants)**

(A) *Exercise Period*

(a) *American Style Warrants*

American Style Warrants are exercisable on any Exercise Business Day during the Exercise Period.

If Automatic Exercise is not specified in the applicable Final Terms, in the case of Warrants represented by a Global Warrant, any such American Style Warrant with respect to which no Exercise Notice (as defined below) has been delivered in the manner set out in Condition 23, at or prior to 10.00 a.m., Brussels, Luxembourg, Frankfurt or Paris or Zurich time, as the case may be, on the last Exercise Business Day of the Exercise Period (the “**Expiration Date**”), shall become void.

If Automatic Exercise is specified in the applicable Final Terms, in the case of Warrants represented by a Global Warrant, any such American Style Warrant with respect to which no Exercise Notice has been delivered in the manner set out in Condition 23, at or prior to 10.00 a.m., Brussels, Luxembourg, Frankfurt, Paris or Zurich time, as the case may be, on the Expiration Date and which is in the determination of the Calculation Agent “In-The-Money” shall be automatically exercised on the Expiration Date and the provisions of Condition 23(E) shall apply.

In the case of Warrants represented by a Global Warrant, the Exercise Business Day during the Exercise Period on which an Exercise Notice is delivered prior to 10.00 a.m., Brussels, Luxembourg, Frankfurt or Paris time (as appropriate), to Euroclear, Clearstream, Luxembourg, the Frankfurt Warrant Agent or the Paris Security Agent, as the case may be, and, a copy thereof is delivered to Merrill Lynch International, the Registrar (in the case of Euroclear/CBL Global Registered Warrants) and the Principal Warrant Agent, in each case as provided in Condition 23, or, if Automatic Exercise is specified in the applicable Final Terms and the Warrants are automatically exercised on the Expiration Date as provided above, the Expiration Date, is referred to herein as the “**Actual Exercise Date**”. If any such Exercise



Notice is received by Euroclear or Clearstream, Luxembourg or the Frankfurt Warrant Agent or the Paris Security Agent, as the case may be, or if a copy thereof is delivered to Merrill Lynch International, the Registrar (in the case of Euroclear/CBL Global Registered Warrants), and the Principal Warrant Agent, in each case, after 10.00 a.m., Brussels, Luxembourg, Frankfurt or Paris time (as appropriate), on any Exercise Business Day during the Exercise Period, such Exercise Notice will be deemed to have been delivered on the next Exercise Business Day, which Exercise Business Day shall be deemed to be the Actual Exercise Date, provided that any such Warrant in respect of which no Exercise Notice has been delivered in the manner set out in Condition 23 at or prior to 10.00 a.m. Brussels, Luxembourg, Frankfurt, or Paris time (as appropriate) on the Expiration Date shall (i) if Automatic Exercise is not specified in the applicable Final Terms, become void or (ii) if Automatic Exercise is specified in the applicable Final Terms, be automatically exercised on the Expiration Date as provided above.

In the case of Swiss Warrants, the Exercise Business Day during the Exercise Period on which an Exercise Notice is delivered prior to 10.00 a.m. Zurich time, to the Swiss Programme Agent and, a copy thereof is delivered to Merrill Lynch International, in each case as provided in Condition 23, or, if Automatic Exercise is specified in the applicable Final Terms and the Swiss Warrants are automatically exercised on the Expiration Date as provided above, the Expiration Date, is referred to herein as the “**Actual Exercise Date**”. If any such Exercise Notice is received by the Swiss Programme Agent, or if a copy thereof is delivered to Merrill Lynch International, in each case, after 10.00 a.m., Zurich time, on any Exercise Business Day during the Exercise Period, such Exercise Notice will be deemed to have been delivered on the next Exercise Business Day, which Exercise Business Day shall be deemed to be the Actual Exercise Date, provided that any such Swiss Warrant in respect of which no Exercise Notice has been delivered in the manner set out in Condition 23 at or prior to 10.00 a.m. Zurich time on the Expiration Date shall (i) if Automatic Exercise is not specified in the applicable Final Terms, become void or (ii) if Automatic Exercise is specified in the applicable Final Terms, be automatically exercised on the Expiration Date as provided above.

In the case of any CREST Warrant that is an American Style Warrant (an “**American Style CREST Warrant**”) with respect to which no Exercise Notice has been delivered in the manner set out in Condition 23 at or prior to 10.00 a.m. London time on the Expiration Date, such Warrant shall be automatically exercised on the Expiration Date, provided that such Warrant is in the determination of the Calculation Agent “In-The-Money”. If such Warrant is not in the determination of the Calculation Agent “In-The-Money”, no Automatic Exercise shall occur.

With respect to an American Style CREST Warrant, the “Actual Exercise Date” means (a) the Exercise Business Day during the Exercise Period on which an Exercise Notice in respect of an American Style CREST Warrant is delivered to the CREST Agent at or prior to 10.00 a.m. London time or (b) in the case of Automatic Exercise, the Expiration Date. If any Exercise Notice in respect of an American Style CREST Warrant is received by the CREST Agent after 10.00 a.m. London time on any Exercise Business Day during the Exercise Period, such Exercise Notice will be deemed to have been delivered on the next Exercise Business Day, which Exercise Business Day shall be deemed to be the Actual Exercise Date, provided that any such Warrant in respect of which no Exercise Notice has been delivered in the manner set out in Condition 23 at or prior to 10.00 a.m. London time on the Expiration Date shall be automatically exercised on the Expiration Date as provided above.

The expressions “exercise”, “due exercise” and related expressions shall be construed to apply to any Warrants which are automatically exercised on the Expiration Date in accordance with this provision.

(b) European Style Warrants other than Credit Linked Warrants

European Style Warrants are only exercisable on the Exercise Date.

In the case of Warrants represented by a Global Warrant, if Automatic Exercise is not specified in the applicable Final Terms, any European Style Warrant with respect to which no Exercise Notice has been delivered in the manner set out in Condition 23, at or prior to 10.00 a.m., Brussels, Luxembourg, Frankfurt, Paris or Zurich time (as appropriate) on the Actual Exercise Date, shall become void. If Automatic Exercise is specified in the applicable Final

Terms, any such European Style Warrant with respect to which no Exercise Notice has been delivered in the manner set out in Condition 23, at or prior to 10.00 a.m., Brussels, Luxembourg, Frankfurt, Paris or Zurich time, as the case may be, on the Actual Exercise Date and which is in the determination of the Calculation Agent “In-The-Money”, shall be automatically exercised on the Actual Exercise Date and the provisions of Condition 23(E) shall apply.

In the case of Swedish Warrants and CREST Warrants, if any such Warrant is in the determination of the Calculation Agent “In-The-Money” on the Actual Exercise Date, such Warrant shall be automatically exercised on the Actual Exercise Date.

The expressions “exercise”, “due exercise” and related expressions shall be construed to apply to any Warrants which are automatically exercised on the Actual Exercise Date in accordance with this provision.

(c) *Credit Linked Warrants*

Credit Linked Warrants shall be automatically exercised on the Long Exercise Date or the Short Exercise Date (as the case may be) in accordance with Credit Linked W&C Security Condition 3.

(B) *Cash Settlement*

In the case of Warrants which are Cash Settled Warrants, each such Warrant or, if Units are specified in the applicable Final Terms, each Unit, entitles its holder, upon due exercise and subject to certification as to non-U.S. beneficial ownership to receive from the Issuer on the Settlement Date the Cash Settlement Amount.

(C) *Physical Settlement*

If the Warrants are Physical Delivery Warrants, each such Warrant or, if Units are specified in the applicable Final Terms, each Unit, as the case may be, entitles its holder, upon due exercise and, subject to certification as to non-U.S. beneficial ownership, to receive from the Issuer on the Settlement Date the Entitlement or, in the case of Credit Linked Warrants, Delivery of the Deliverable Obligations comprising the Entitlement, subject to payment of the relevant Exercise Price, if any, and any other Expenses or sums payable. The method of delivery of the Entitlement is set out in the applicable Final Terms.

Unless otherwise specified in the applicable Final Terms, Warrants or Units, as the case may be, exercised at the same time by the same Holder will be aggregated for the purpose of determining the aggregate Entitlements in respect of such Warrants or Units, as the case may be, provided that the aggregate Entitlements in respect of the same Holder will be rounded down to the nearest whole unit of the Relevant Asset or each of the Relevant Assets, as the case may be, in such manner as the Calculation Agent shall determine. Therefore, fractions of the Relevant Asset or of each of the Relevant Assets, as the case may be, will not be delivered and in lieu thereof a cash adjustment calculated by the Calculation Agent in its sole and absolute discretion shall be paid to the Holder.

Following exercise of a Share Linked Warrant which is a Physical Delivery Warrant, all dividends on the relevant Shares to be delivered will be payable to the party that would receive such dividend according to market practice for a sale of the Shares executed on the relevant Actual Exercise Date and to be delivered in the same manner as such relevant Shares. Any such dividends to be paid to a Holder will be paid to the account specified by the Holder in the relevant Exercise Notice as referred to in Condition 23(A)(a)(2)(vi), Condition 23(A)(b)(2)(iv) or Condition 23(A)(c)(2)(iv), as applicable.

All references in this Condition to “Brussels, Luxembourg, Frankfurt, Paris or Zurich time” shall, where W&C Securities are cleared through an additional or alternative clearing system other than the Swedish CSD or Euroclear Finland, be deemed to refer as appropriate to the time in the city where the relevant clearing system is located.

(D) *Issuer Call Option*

If Issuer Call Option is specified as applicable in the applicable Final Terms, the Issuer, having given not less than 10 nor more than 60 calendar days’ notice (or such other Issuer Call Option Notice Period as is set out in the applicable Final Terms) to the Holders in accordance with Condition 11 (which notice shall be irrevocable), may elect that all (but not less than all) of the Warrants will be

automatically exercised on the Call Option Date. If Call Option Cash Settlement is specified as applicable in the applicable Final Terms, notwithstanding any provision to the contrary in the Terms and Conditions and/or the applicable Final Terms (a) if the Warrants are not Cash Settled Warrants, the Warrants shall be deemed to be Cash Settled Warrants and (b) the Cash Settlement Amount shall be the Call Option Cash Settlement Amount specified in the applicable Final Terms.

If the Warrants are automatically exercised on the Call Option Date, (i) the Call Option Date shall be deemed to be the Expiration Date (in the case of American Style Warrants) or the Exercise Date (in the case of European Style Warrants), (ii) except in the case of Swedish Warrants and Finnish Warrants, the provisions of Condition 23(E) shall apply, (iii) the provisions of Conditions 23(C) shall apply and (iv) the expressions “exercise”, “due exercise” and related expressions shall be construed to apply to any Warrants which are automatically exercised on the Call Option Date in accordance with this provision.

(E) *Mandatory Early Exercise*

If Mandatory Early Exercise is specified as applicable in the applicable Final Terms and a Mandatory Early Exercise Event occurs, all (but not less than all) of the Warrants will be automatically exercised on the Mandatory Early Exercise Date. If Mandatory Early Exercise Cash Settlement is specified as applicable in the applicable Final Terms, notwithstanding any provision to the contrary in the Terms and Conditions and/or the applicable Final Terms (a) if the Warrants are not Cash Settled Warrants, the Warrants shall be deemed to be Cash Settled Warrants and (b) the Cash Settlement Amount shall be the Mandatory Early Exercise Cash Settlement Amount specified in the applicable Final Terms, which shall be payable on the Mandatory Early Exercise Cash Settlement Date.

If the Warrants are automatically exercised on the Mandatory Early Exercise Date, (i) the Mandatory Early Exercise Date shall be deemed to be the Expiration Date (in the case of American Style Warrants) or the Exercise Date (in the case of European Style Warrants), (ii) except in the case of Swedish Warrants and Finnish Warrants, the provisions of Condition 23(E) shall apply, (iii) the provisions of Conditions 23(C) shall apply and (iv) the expressions “exercise”, “due exercise” and related expressions shall be construed to apply to any Warrants which are automatically exercised on the Mandatory Early Exercise Date in accordance with this provision.

23. **Exercise Procedure (Warrants)**

(A) *Exercise Notices*

(a) Warrants represented by a Euroclear/CBL Global Warrant

Subject as provided in Condition 23(E), Warrants represented by a Euroclear/CBL Global Warrant may only be exercised by the sending of an authenticated instruction by SWIFT message or by any other authorised communication channel, in accordance with Euroclear and/or Clearstream, Luxembourg’s rules and operating procedures (an “**Exercise Notice**”) which includes the information set out in the Agency Agreement (copies of which may be obtained from Euroclear, Clearstream, Luxembourg and the relevant Security Agents) to Euroclear or Clearstream, Luxembourg, as the case may be in accordance with the provisions of Condition 22 and this Condition. Euroclear and Clearstream, Luxembourg will send copies of any Exercise Notices so received to the Principal Warrant Agent and the Principal Warrant Agent will send such copies to Merrill Lynch International and, in the case of Warrants represented by a Euroclear/CBL Global Registered Warrant, the Registrar.

(1) In the case of Cash Settled Warrants, the Exercise Notice shall:

- (i) specify the ISIN of the Warrants and the number of Warrants being exercised and, if Units are specified in the applicable Final Terms, the number of Units being exercised;
- (ii) specify the number of the Holder’s account at Euroclear or Clearstream, Luxembourg, as the case may be, to be debited with the Warrants being exercised;
- (iii) irrevocably instruct Euroclear or Clearstream, Luxembourg, as the case may be, to debit on or before the Settlement Date the Holder’s account with the Warrants being exercised;

- (iv) specify the number of the Holder's account at Euroclear or Clearstream, Luxembourg, as the case may be, to be credited with the Cash Settlement Amount (if any) for each Warrant or Unit, as the case may be, being exercised and include an authorisation for Euroclear or Clearstream, Luxembourg to disclose such number of the Holder's account to the Principal Warrant Agent and, in the case of Warrants represented by a Euroclear/CBL Global Registered Warrant, the Registrar;
  - (v) certify, *inter alia*, that the beneficial owner of each Warrant being exercised is not a United States Person, such Warrants were not held on behalf of a United States Person and no cash, securities or other property has been or will be delivered within the United States or to, or for the account or benefit of, a United States Person in connection with such exercise and, where appropriate, undertake to provide such various forms of certification in respect of selling restrictions under the securities, commodities and other laws of the United States as set out in the applicable Final Terms; and
  - (vi) authorise the production of such certification in applicable administrative or legal proceedings, all as provided in the Agency Agreement.
- (2) In the case of Physical Delivery Warrants, the Exercise Notice shall:
- (i) specify the ISIN of the Warrants and the number of Warrants being exercised and, if Units are specified in the applicable Final Terms, the number of Units being exercised;
  - (ii) specify the number of the Holder's account at Euroclear or Clearstream, Luxembourg, as the case may be, to be debited with the Warrants being exercised;
  - (iii) irrevocably instruct Euroclear or Clearstream, Luxembourg, as the case may be, to debit on or before the Settlement Date the Holder's account with the Warrants being exercised;
  - (iv) irrevocably instruct Euroclear or Clearstream, Luxembourg, to debit on the Actual Exercise Date a specified account of the Holder with Euroclear or Clearstream, Luxembourg, as the case may be, with the aggregate Exercise Prices in respect of such Warrants or Units, as the case may be, (together with any other amounts payable);
  - (v) include such details as are required by the applicable Final Terms for delivery of the Entitlement which may include account details and/or the name and address of any person(s) into whose name evidence of the Entitlement is to be registered and/or any bank, broker or agent to whom documents evidencing the Entitlement are to be delivered and specify the name and the number of the Holder's account with Euroclear or Clearstream, Luxembourg, as the case may be, to be credited with any cash payable by the Issuer, either in respect of any cash amount constituting the Entitlement or any dividends relating to the Entitlement or as a result of the occurrence of a Settlement Disruption Event and the Issuer electing to pay the Disruption Cash Settlement Price or the occurrence of a Failure to Deliver due to Illiquidity and the Issuer electing to pay the Failure to Deliver Settlement Price as applicable, or in respect of any Partial Cash Settlement Amount;
  - (vi) in the case of FX Linked Warrants only, specify the number of the Holder's account at Euroclear or Clearstream, Luxembourg, as the case may be, to be credited with the amount due upon exercise of the Warrants;
  - (vii) certify, *inter alia*, that the beneficial owner of each Warrant being exercised is not a United States Person, such Warrants were not held on behalf of a United States Person and no cash, securities or other property has been or will be delivered within the United States or to, or for the account or benefit of, a United States Person in connection with such exercise and, where appropriate, undertake to provide such various forms of certification in respect of selling restrictions under the securities, commodities and other laws of the United States as set out in the applicable Final Terms; and

(viii) authorise the production of such certification in any applicable administrative or legal proceedings,

all as provided in the Agency Agreement.

- (3) If Condition 5(C) applies, the information required to be provided in the Exercise Notice will be different from that set out above. Copies of such information required for this Exercise Notice may be obtained from Euroclear, Clearstream, Luxembourg, the relevant Security Agents and, in the case of Warrants represented by a Euroclear/CBL Global Registered Warrant, the Registrar.

(b) Warrants represented by a CBF Global Warrant

Subject as provided in Condition 23(E), Warrants represented by a CBF Global Warrant may only be exercised by the delivery or the sending by facsimile (confirmed in writing) of a duly completed exercise notice (an “**Exercise Notice**”) in the form set out in the Agency Agreement (copies of which form may be obtained from the relevant Security Agents) to the Frankfurt Warrant Agent with a copy to Merrill Lynch International and the Principal Warrant Agent, in accordance with the provisions of Condition 22 and this Condition. The relevant Holder must also transfer to the Frankfurt Warrant Agent the Warrants to which such Exercise Notice relates and failure to transfer such Warrants at or prior to the time such Exercise Notice is delivered shall render such Exercise Notice null and void.

(1) In the case of Cash Settled Warrants, the Exercise Notice shall:

- (i) specify the series of the Warrants and the number of Warrants being exercised and, if Units are specified in the applicable Final Terms, the number of Units being exercised;
- (ii) specify the name and number of the Holder’s account at a bank in the principal financial centre of the relevant Settlement Currency to be credited with the Cash Settlement Amount (if any) for each Warrant or Unit, as the case may be, being exercised;
- (iii) include an undertaking to pay all Expenses;
- (iv) certify, *inter alia*, that the beneficial owner of each Warrant being exercised is not a United States Person, such Warrants were not held on behalf of a United States Person and no cash, securities or other property has been or will be delivered within the United States or to, or for the account or benefit of, a United States Person in connection with such exercise and, where appropriate, undertake to provide such various forms of certification in respect of selling restrictions under the securities, commodities and other laws of the United States as set out in the applicable Final Terms; and
- (v) authorise the production of such certification in applicable administrative or legal proceedings,

all as provided in the Agency Agreement.

(2) In the case of Physical Delivery Warrants, the Exercise Notice shall:

- (i) specify the series of the Warrants and the number of Warrants being exercised and, if Units are specified in the applicable Final Terms, the number of Units being exercised;
- (ii) include an undertaking to pay the aggregate Exercise Prices in respect of such Warrants or Units, as the case may be, (together with any other amounts payable);
- (iii) include an undertaking to pay all Expenses;
- (iv) include such details as are required by the applicable Final Terms for delivery of the Entitlement which may include account details and/or the name and address of any person(s) into whose name evidence of the Entitlement is to be registered and/or any bank, broker or agent to whom documents evidencing the Entitlement are to be delivered and specify the name and the number of the Holder’s account at a bank in the principal financial centre of the relevant Settlement Currency to be credited with any cash payable by the Issuer, either in respect of any cash amount



constituting the Entitlement or any dividends relating to the Entitlement or as a result of the occurrence of a Settlement Disruption Event and the Issuer electing to pay the Disruption Cash Settlement Price or the occurrence of a Failure to Deliver due to Illiquidity and the Issuer electing to pay the Failure to Deliver Settlement Price;

- (v) in the case of FX Linked Warrants only, specify the number of the Holder's account at a bank in the principal financial centre of the relevant Settlement Currency to be credited with the amount due upon exercise of the Warrants;
- (vi) certify, *inter alia*, that the beneficial owner of each Warrant being exercised is not a United States Person, such Warrants were not held on behalf of a United States Person and no cash, securities or other property has been or will be delivered within the United States or to, or for the account or benefit of, a United States Person in connection with such exercise and, where appropriate, undertake to provide such various forms of certification in respect of selling restrictions under the securities, commodities and other laws of the United States as set out in the applicable Final Terms; and
- (vii) authorise the production of such certification in any applicable administrative or legal proceedings,

all as provided in the Agency Agreement.

- (3) If Condition 5(C) applies, the form of Exercise Notice required to be delivered will be different from that set out above. Copies of such Exercise Notice may be obtained from the relevant Security Agents.

(c) Warrants represented by a Euroclear France Global Warrant

Subject as provided in Condition 23(E), Warrants represented by a Euroclear France Global Warrant may only be exercised by the delivery or the sending by facsimile (confirmed in writing) of a duly completed exercise notice (an "**Exercise Notice**") in the form set out in the Agency Agreement (copies of which form may be obtained from the relevant Security Agents) to the Paris Security Agent with a copy to Merrill Lynch International and the Principal Warrant Agent in accordance with the provisions of Condition 22 and this Condition. The relevant Holder must also transfer to the Paris Security Agent the Warrants to which such Exercise Notice relates and failure to transfer such Warrants at or prior to the time such Exercise Notice is delivered shall render such Exercise Notice null and void.

(1) In the case of Cash Settled Warrants, the Exercise Notice shall:

- (i) specify the series of the Warrants and the number of Warrants being exercised and, if Units are specified in the applicable Final Terms, the number of Units being exercised;
- (ii) specify the name and number of the Holder's account at a bank in the principal financial centre of the relevant Settlement Currency or the number of the Holder's account at Euroclear France, as the case may be, to be credited with the Cash Settlement Amount (if any) for each Warrant or Unit, as the case may be, being exercised;
- (iii) include an undertaking to pay all Expenses;
- (iv) certify, *inter alia*, that the beneficial owner of each Warrant being exercised is not a United States Person, such Warrants were not held on behalf of a United States Person and no cash, securities or other property has been or will be delivered within the United States or to, or for the account or benefit of, a United States Person in connection with such exercise and, where appropriate, undertake to provide such various forms of certification in respect of selling restrictions under the securities, commodities and other laws of the United States as set out in the applicable Final Terms; and
- (v) authorise the production of such certification in applicable administrative or legal proceedings,

all as provided in the Agency Agreement.

- (2) In the case of Physical Delivery Warrants, the Exercise Notice shall:
- (i) specify the series of the Warrants and the number of Warrants being exercised and, if Units are specified in the applicable Final Terms, the number of Units being exercised;
  - (ii) include an undertaking to pay the aggregate Exercise Prices in respect of such Warrants or Units, as the case may be, (together with any other amounts payable);
  - (iii) include an undertaking to pay all Expenses;
  - (iv) include such details as are required by the applicable Final Terms for delivery of the Entitlement which may include account details and/or the name and address of any person(s) into whose name evidence of the Entitlement is to be registered and/or any bank, broker or agent to whom documents evidencing the Entitlement are to be delivered and specify the name and the number of the Holder's account at a bank in the principal financial centre of the relevant Settlement Currency or the number of the Holder's account at Euroclear France, as the case may be, to be credited with any cash payable by the Issuer, either in respect of any cash amount constituting the Entitlement or any dividends relating to the Entitlement or as a result of the occurrence of a Settlement Disruption Event and the Issuer electing to pay the Disruption Cash Settlement Price or the occurrence of a Failure to Deliver due to Illiquidity and the Issuer electing to pay the Failure to Deliver Settlement Price;
  - (v) in the case of FX Linked Warrants only, specify the number of the Holder's account at a bank in the principal financial centre of the relevant Settlement Currency or the number of the Holder's account at Euroclear France, as the case may be, to be credited with the amount due upon exercise of the Warrants; and
  - (vi) certify, *inter alia*, that the beneficial owner of each Warrant being exercised is not a United States Person, such Warrants were not held on behalf of a United States Person and no cash, securities or other property has been or will be delivered within the United States or to, or for the account or benefit of, a United States Person in connection with such exercise and, where appropriate, undertake to provide such various forms of certification in respect of selling restrictions under the securities, commodities and other laws of the United States as set out in the applicable Final Terms; and
  - (vii) authorise the production of such certification in any applicable administrative or legal proceedings,
- all as provided in the Agency Agreement.
- (3) If Condition 5(C) applies, the form of Exercise Notice required to be delivered will be different from that set out above. Copies of such Exercise Notice may be obtained from the relevant Security Agents.
- (d) Subject as provided in Condition 23(E), Swiss Warrants may only be exercised by the delivery or sending by fax or authenticated SWIFT message (confirmed in writing) of a duly completed exercise notice (the “**Exercise Notice**”) in the form set out in the Agency Agreement (copies may be obtained from the Swiss Programme Agent) to the Swiss Programme Agent with a copy to Merrill Lynch International in accordance with the provisions of Condition 22 and this Condition. In the event that a Warrant is in definitive form the relevant Exercise Notice must be delivered along with the relevant Swiss Definitive Warrant in the manner provided above to the Swiss Programme Agent with a copy to Merrill Lynch International.
- (1) In the case of Cash Settled Warrants, the Exercise Notice shall:
- (i) specify the Swiss securities number (Valoren number) or ISIN of the Warrants and the number of Warrants being exercised and, if Units are specified in the applicable Final Terms, the number of Units being exercised;
  - (ii) specify the securities account at SIS to be debited with the Warrants being exercised;

- (iii) except in case of Swiss Definitive Warrants, irrevocably instruct the Issuer to instruct SIS to debit on or before the Settlement Date the securities account with the Warrants being exercised;
  - (iv) specify the cash account to be credited with the Cash Settlement Amount (if any);
  - (v) include such details as are required by the applicable Final Terms and an undertaking to pay all taxes, duties and/or expenses, including any applicable depository charges, transaction or exercise charges, stamp duty, stamp duty reserve tax, issue, registration, securities transfer and/or other taxes or duties arising in connection with the exercise of such Warrants and, except in the case of Swiss Definitive Warrants, an authority to SIS to debit a specified account at SIS in respect thereof and to pay such expenses;
  - (vi) certify, *inter alia*, that the beneficial owner of each Warrant being exercised is not a United States Person, such Warrants were not held on behalf of a United States Person and no cash, securities or other property has been or will be delivered within the United States or to, or for the account or benefit of, a United States Person in connection with such exercise and, where appropriate, undertake to provide such various forms of certification in respect of selling restrictions under the securities, commodities and other laws of the United States as set out in the applicable Final Terms; and
  - (vii) authorise the production of such certification in applicable administrative or legal proceedings,
- all as provided in the Agency Agreement.
- (2) In the case of Physical Delivery Warrants, the Exercise Notice shall:
- (i) specify the Swiss securities number (Valoren number) or ISIN of the Warrants and the number of Warrants being exercised and, if Units are specified in the applicable Final Terms, the number of Units being exercised;
  - (ii) specify the securities account at SIS to be debited with the Warrants being exercised;
  - (iii) except in case of Swiss Definitive Warrants irrevocably instruct Issuer to instruct SIS to debit on or before the Settlement Date the securities account with the Warrants being exercised;
  - (iv) irrevocably instruct the Issuer to instruct SIS to debit on the Actual Exercise Date a specified cash account or securities account at SIS with the aggregate Exercise Prices or Entitlement in respect of such Warrant, (together with any other amounts payable);
  - (v) include such details as are required by the applicable Final Terms for delivery of the Entitlement or Exercise Price which may include account details and/or the name and address of any person(s) into whose name evidence of the Entitlement is to be registered and/or any bank, broker or agent to whom documents evidencing the Entitlement are to be delivered and specify the name and the number of the cash account at SIS to be credited with any cash payable by the Issuer, either in respect of any cash amount constituting the Entitlement or any dividends relating to the Entitlement or as a result of the occurrence of a Settlement Disruption Event and the Issuer electing to pay the Disruption Cash Settlement Price;
  - (vi) include an undertaking to pay all taxes, duties and/or expenses, including any applicable depository charges, transaction or exercise charges, stamp duty, stamp duty reserve tax, issue, registration, securities transfer and/or other taxes or duties arising from the exercise of such Warrants and/or the delivery or transfer of the Entitlement pursuant to the terms of such Warrants;
  - (vii) certify, *inter alia*, that the beneficial owner of each Warrant being exercised is not a United States Person, such Warrants were not held on behalf of a United States Person and no cash, securities or other property has been or will be delivered within the United States or to, or for the account or benefit of, a United States

Person in connection with such exercise and, where appropriate, undertake to provide such various forms of certification in respect of selling restrictions under the securities, commodities and other laws of the United States as set out in the applicable Final Terms; and

(viii) authorise the production of such certification in any applicable administrative or legal proceedings,

all as provided in the Agency Agreement.

- (3) If Condition 5(C) applies, the form of Exercise Notice required to be delivered will be different from that set out above. Copies of such Exercise Notice may be obtained from the Swiss Programme Agent.
- (e) Subject as provided in Condition 23(E), CREST Warrants may only be exercised by the delivery or sending by fax of a duly completed exercise notice (the “**Exercise Notice**”) in the form set out in the Agency Agreement (copies may be obtained from the CREST Agent) to the CREST Agent with a copy to Merrill Lynch International in accordance with the provisions of Condition 22 and this Condition.
- (1) In the case of Cash Settled Warrants, the Exercise Notice shall:
    - (i) specify the name, address and a contact telephone number of the relevant Holder;
    - (ii) request the exercise of the Warrants or Units to which the Exercise Notice relates;
    - (iii) specify the ISIN and the series number of the Warrants and the number of Warrants being exercised and, if Units are specified in the applicable Final Terms, the number of the Units being exercised;
    - (iv) specify the Participant ID and Member Account (if any) of the Holder at the Operator from which the Warrants to which the Exercise Notice relates will be delivered to the CREST Agent’s account with the Operator against payment of the Cash Settlement Amount (if any) less any Expenses on the Settlement Date;
    - (v) irrevocably agree to deliver such instructions to the Operator as may be requested by the Agent to give effect to the delivery and payment on the Settlement Date described in (iv) above;
    - (vi) certify, *inter alia*, that the beneficial owner of each Warrant being exercised is not a United States Person, such Warrants were not held on behalf of a United States Person and no cash, securities or other property has been or will be delivered within the United States or to, or for the account or benefit of, a United States Person in connection with such exercise and, where appropriate, undertake to provide such various forms of certification in respect of selling restrictions under the securities, commodities and other laws of the United States as set out in the applicable Final Terms; and
    - (vii) authorise the production of such certification in applicable administrative or legal proceedings,all as provided in the Agency Agreement.
  - (2) In the case of Physical Delivery Warrants, the Exercise Notice shall:
    - (i) specify the name, address and a contact telephone number of the relevant Holder;
    - (ii) request the exercise of the Warrants or Units to which the Exercise Notice relates;
    - (iii) specify the ISIN and the series number of the Warrants and the number of Warrants being exercised and, if Units are specified in the applicable Final Terms, the number of the Units being exercised;
    - (iv) specify the Participant ID and Member Account (if any) of the Holder at the Operator from which the Warrants to which the Exercise Notice relates will be delivered to the CREST Agent’s account with the Operator against delivery of the Entitlement on the Settlement Date;

- (v) specify the cash memorandum account of the Holder as shown in the records of the Operator from which the aggregate Exercise Prices and all Expenses (together with any other amounts payable) in respect of such Warrants will be paid to the CREST Agent's account with the Operator against delivery of the Entitlement on the Settlement Date;
- (vi) irrevocably agree to deliver such instructions to the Operator as may be requested by the Agent to give effect to the delivery and payment on the Settlement Date described in (v) above;
- (vii) include such details as are required by the applicable Final Terms for delivery of the Entitlement which may include account details and/or the name and address of any person(s) into whose name evidence of the Entitlement is to be registered and/or any bank, broker or agent to whom documents evidencing the Entitlement are to be delivered and specify the name and the number of the Holder's cash memorandum account as shown in the records of the Operator to be credited with any cash payable by the Issuer, either in respect of any cash amount constituting the Entitlement or any dividends relating to the Entitlement or as a result of the occurrence of a Settlement Disruption Event or, if applicable, a Failure to Deliver due to Illiquidity and the Issuer electing to pay the Disruption Cash Settlement Price or Failure to Deliver Settlement Price (each as defined in Condition 5);
- (viii) certify, *inter alia*, that the beneficial owner of each Warrant being exercised is not a United States Person, such Warrants were not held on behalf of a United States Person and no cash, securities or other property has been or will be delivered within the United States or to, or for the account or benefit of, a United States Person in connection with such exercise and, where appropriate, undertake to provide such various forms of certification in respect of selling restrictions under the securities, commodities and other laws of the United States as set out in the applicable Final Terms; and
- (ix) authorise the production of such certification in applicable administrative or legal proceedings,

all as provided in the Agency Agreement.

(f) Irrevocable Election

Delivery of an Exercise Notice shall constitute an irrevocable election by the relevant Holder to exercise the Warrants specified. After the delivery of such Exercise Notice, such exercising Holder may not transfer such Warrants.

(B) *Verification of the Holder*

In the case of Warrants represented by a Euroclear/CBL Global Warrant, upon receipt of a valid Exercise Notice, Euroclear or Clearstream, Luxembourg, as the case may be, shall verify that the person exercising the Warrants is the holder thereof according to the books of Euroclear or Clearstream, Luxembourg, as the case may be. Subject thereto, Euroclear or Clearstream, Luxembourg, as the case may be, will confirm to the Principal Warrant Agent and, in the case of Warrants represented by a Euroclear/CBL Global Registered Warrant, the Registrar, the ISIN and the amount of Warrants being exercised, the account number of the exercising Holder, a confirmation of the exercising Holder's certification and the account details, if applicable, for the payment of the Cash Settlement Amount or, as the case may be, the details for the delivery of the Entitlement in respect of each Warrant or Unit, as the case may be, being exercised. Upon receipt of such confirmation, the Principal Warrant Agent will inform the Issuer and, in the case of Warrants represented by a Euroclear/CBL Global Registered Warrant, the Registrar thereof. Euroclear or Clearstream, Luxembourg, as the case may be, will on or before the Settlement Date debit the account of the relevant Holder with the Warrants being exercised. If the Warrants are American Style Warrants, upon exercise of less than all the Warrants constituted by the Euroclear/CBL Global Warrant, the Common Depositary will, on the instructions of, and on behalf of, the Principal Warrant Agent, note such exercise on the Schedule to such Euroclear/CBL Global Warrant and the number of Warrants so constituted shall be reduced by the cancellation *pro tanto* of the Warrants so exercised.



In the case of a CBF Global Warrant, upon receipt of an Exercise Notice and the relevant Warrants, the Frankfurt Warrant Agent shall verify that the person delivering the Exercise Notice, prior to such transfer was the holder according to the records of Clearstream, Frankfurt. Subject thereto, the Frankfurt Warrant Agent shall notify the Issuer of the series number and the number of Warrants being exercised and the account details, if applicable, for the payment of the Cash Settlement Amount or, as the case may be, the details for the delivery of the Entitlement in respect of each Warrant or Unit, as the case may be, being exercised. Upon receipt of such confirmation, the Frankfurt Warrant Agent will inform the Issuer thereof. If the Warrants are American Style Warrants, upon exercise of less than all the Warrants constituted by the CBF Global Warrant, it will, on the instructions of, and on behalf of, the Principal Warrant Agent, note such exercise on the Schedule to such CBF Global Warrant and the number of Warrants so constituted shall be reduced by the cancellation *pro tanto* of the Warrants so exercised.

In the case of a Euroclear France Global Warrant upon receipt of an Exercise Notice and the relevant Warrants, the Paris Security Agent shall verify that the person delivering the Exercise Notice, prior to such transfer was the holder according to the records of Euroclear France. Subject thereto, the Paris Security Agent shall notify the Issuer of the series number and the number of Warrants being exercised and the account details, if applicable, for the payment of the Cash Settlement Amount or, as the case may be, the details for the delivery of the Entitlement in respect of each Warrant or Unit, as the case may be, being exercised. Upon receipt of such confirmation, the Paris Security Agent will inform the Issuer. If the Warrants are American Style Warrants, upon exercise of less than all the Warrants constituted by the Euroclear France Global Warrant, it will, on the instructions of, and on behalf of, the Principal Warrant Agent, note such exercise on the Schedule to such Euroclear France Global Warrant and the number of Warrants so constituted shall be reduced by the cancellation *pro tanto* of the Warrants so exercised.

In the case of a Swiss Warrant, upon receipt of an Exercise Notice the Swiss Programme Agent shall verify that the person delivering the Exercise Notice was the holder, in the case of Swiss Global Bearer Warrants or Swiss Warrants in uncertificated form, according to the records of SIS or, in the case of Swiss Definitive Registered Warrants, according to the register. Subject thereto, the Swiss Programme Agent shall notify the Issuer of the ISIN and the number of Warrants being exercised and the account details, (if applicable) for the payment of the Cash Settlement Amount or, as the case may be, the details for the delivery of the Entitlement in respect of each Warrant or Unit, as the case may be, being exercised. Upon receipt of such Exercise Notice, the Swiss Programme Agent will inform the Issuer thereof. The Swiss Programme Agent may assume that the person delivering the Exercise Notice is duly representing the Holder of the Warrants being exercised.

In the case of a CREST Warrant, upon receipt of an Exercise Notice the CREST Agent shall verify that the person delivering such notice is the Holder of the related Warrants according to the Record maintained by the CREST Agent. Subject thereto the CREST Agent, on behalf of the Issuer, shall promptly liaise with the Holder to request that it delivers any necessary instructions to the Operator referred to in Condition 23(A)(e)(1)(v) to give effect to the delivery of the relevant Warrants to the CREST Agent's account with the Operator against payment of the Cash Settlement Amount (if any) less any Expenses on the Settlement Date. Settlement of the relevant Warrants is conditional on any such necessary instructions being given by the Holder.

## (C) Settlement

### (a) Cash Settled Warrants

In the case of Warrants represented by a Global Warrant, the Issuer or failing the Issuer, the Guarantor, through the relevant Security Agent, shall on the Settlement Date pay or cause to be paid the Cash Settlement Amount (if any) for each duly exercised Warrant or Unit, as the case may be, to the Holder's account specified in the relevant Exercise Notice for value on the Settlement Date less any Expenses not already paid.

In the case of Swedish Warrants, payment of the Cash Settlement Amount (if any) less Expenses will be made to the persons registered as Holders in the Swedish Register (A) on the fifth business day (where the Swedish Warrants have been registered by the Swedish CSD on the basis of notional amount) or, as the case may be, (B) on the fourth business day (where the Swedish Warrants have been registered by the Swedish CSD on the basis of the number of W&C Securities) (in each case as such business day is defined by the then applicable Swedish CSD Rules) before the due date for such payment, or, in each case, (C) on such other business

day falling closer to the due date for payment as then may be stipulated in the Swedish CSD Rules (such date being the “**Record Date**” for Swedish Warrants). The Swedish Security Agent will pay the Cash Settlement Amount through the Swedish CSD to each Holder appearing in the Swedish Register on the Record Date on the Settlement Date.

In the case of Finnish Warrants, payment of the Cash Settlement Amount (if any) less Expenses will be made to the persons registered as Holders in the Finnish Register on the third Business Day before the due date for such payment, or on such Business Day falling closer to the due date for payment as may be stipulated in the Euroclear Finland Rules (such date being the “**Record Date**” for Finnish Warrants). The Finnish Security Agent will pay the Cash Settlement Amount through Euroclear Finland to each Holder appearing in the Finnish Register on the Record Date on the Settlement Date.

In the case of CREST Warrants, payment of the Cash Settlement Amount (if any) for each duly exercised Warrant or Unit, as the case may be, will be made to the Holder’s cash memorandum account as shown in the records of the Operator for value on the Settlement Date less any Expenses, such payment to be made in accordance with the rules of the Operator. The Issuer’s obligations in relation to the Cash Settlement Amounts in respect of the Warrants or Units, as the case may be, will be discharged by payment (as shown in the records of the Operator) to the cash memorandum account of the relevant Holder as shown in the records of the Operator. Each of the persons shown in the Operator register of corporate securities as the holder of a particular number of Warrants must look solely to the settlement bank or institution at which its cash memorandum account is held for his share of each such payment so made by or on behalf of the Issuer.

In the case of Swiss Definitive Registered Warrants, payment of the Cash Settlement Amount (if any) less Expenses will be made to the persons registered as Holders in the register on the fifteenth day before the due date for such payment (such date being the “**Record Date**” for Swiss Definitive Registered Warrants). The Swiss Programme Agent will pay the Cash Settlement Amount to the Holder’s account specified in the relevant Exercise Notice. In order to receive the Cash Settlement Amount less any Expense the Holder must deliver the relevant Swiss Individual Warrant Certificate to the Swiss Programme Agent.

Payments will be subject in all cases to any fiscal or other laws and regulations applicable thereto in the place of payment.

(b) Physical Delivery Warrants

Subject to payment of the aggregate Exercise Prices, if any, and payment of any Expenses with regard to the relevant Warrants or Units, as the case may be, the Issuer shall on the Settlement Date deliver, or procure the delivery of, the Entitlement, or, in the case of Credit Linked Warrants, Deliver, or procure the Delivery of the Deliverable Obligations comprising the Entitlement, for each duly exercised Warrant or Unit, as the case may be, pursuant to the details specified in the Exercise Notice subject as provided in Condition 22(C).

Unless otherwise specified in the applicable Final Terms, the Entitlement will be evidenced by the delivery of the Entitlement to the securities account with such clearing system (the “**Physical Delivery Clearing System**”) or in such other manner as shall have been specified by the Holder in the relevant Exercise Note. The Issuer, Guarantor and Calculation Agent shall be under no obligation to register or procure the registration of a Holder in the register of members of the Share Company.

Unless otherwise specified in the applicable Final Terms, the Entitlement will be delivered to such securities account with such Physical Delivery Clearing System or in such other manner as shall have been specified by the Holder in the relevant Exercise Notice, provided that, if, in the opinion of the Issuer, delivery of the Entitlement to the Holder in the manner specified by the Holder or through the Physical Delivery Clearing System specified by the Holder is not commercially reasonable, the Issuer shall deliver the Entitlement to the Holder through a clearing system which the Issuer determines to be commercially reasonable for such delivery and references to “Physical Delivery Clearing System” shall be deemed to be references to such clearing system selected by the Issuer. For the avoidance of doubt, the Issuer or the Guarantor will be fully discharged of any and all obligations with respect to delivery of the Entitlement by making delivery in the manner specified by the Holder in the relevant Exercise Notice.

**(D) Determinations**

Any determination as to whether an Exercise Notice is duly completed and in proper form shall, in the case of Warrants represented by a Global Warrant, be made by the Principal Warrant Agent or, in the case of Warrants represented by a Euroclear/CBL Global Warrant, Euroclear or Clearstream, Luxembourg, as the case may be, in consultation with the Principal Warrant Agent and, in the case of Warrants represented by a Euroclear/CBL Global Registered Warrant, the Registrar or, in the case of Swiss Warrants, the Swiss Programme Agent or, in the case of CREST Warrants, the CREST Agent, and shall be conclusive and binding on the Issuer, the relevant Security Agents and the relevant Holder. Subject as set out below, any Exercise Notice so determined to be incomplete or not in proper form, or which is not sent to Merrill Lynch International by the Principal Warrant Agent, immediately after being delivered or sent to Euroclear and/or Clearstream, Luxembourg, the Frankfurt Warrant Agent, the Paris Security Agent, the Registrar, the Swiss Programme Agent or the CREST Agent, as the case may be, shall be null and void.

If such Exercise Notice is subsequently corrected to the satisfaction of the Principal Warrant Agent, in the case of Warrants represented by a Euroclear/CBL Global Warrant, Euroclear or Clearstream, Luxembourg in consultation with the Principal Warrant Agent and, in the case of Warrants represented by a Euroclear/CBL Global Registered Warrant, the Registrar or, in the case of Swiss Warrants, the Swiss Programme Agent or, in the case of CREST Warrants, the CREST Agent, it shall be deemed to be a new Exercise Notice submitted at the time such correction was delivered to Euroclear or Clearstream, Luxembourg, the Frankfurt Warrant Agent or the Paris Security Agent or the Swiss Programme Agent or the CREST Agent, as the case may be, with a copy to the Principal Warrant Agent, in the case of Warrants represented by a Euroclear/CBL Global Registered Warrant, the Registrar and Merrill Lynch International.

**If Automatic Exercise is not specified in the applicable Final Terms, any Warrants (other than CREST Warrants) with respect to which the Exercise Notice has not been duly completed and delivered in the manner set out above by the cut-off time specified in Condition 22(A)(a), in the case of American Style Warrants, or Condition 22(A)(b), in the case of European Style Warrants, shall become void.**

Euroclear and/or Clearstream, Luxembourg, the Frankfurt Warrant Agent, the Paris Security Agent, the Swiss Programme Agent or the CREST Agent, as the case may be, shall use its best efforts promptly to notify the Holder submitting an Exercise Notice if, in consultation with the Principal Warrant Agent and, in the case of Warrants represented by a Euroclear/CBL Global Registered Warrant, the Registrar, as the case may be, it has determined that such Exercise Notice is incomplete or not in proper form. In the absence of negligence or wilful misconduct on its part, none of the Issuer, the Guarantor, the Security Agents, Euroclear and/or Clearstream, Luxembourg, Clearstream, Frankfurt, Euroclear France, Euroclear UK or the Registrar, shall be liable to any person with respect to any action taken or omitted to be taken by it in connection with such determination or the notification of such determination to a Holder.

**(E) Automatic Exercise**

This paragraph only applies to Warrants which are not Swedish Warrants or Finnish Warrants and (i) if Automatic Exercise is specified in the applicable Final Terms and the Warrants are automatically exercised as provided in Condition 22(A)(a), Condition 22(A)(b) or Condition 22(A)(c) or (ii) the Warrants are automatically exercised pursuant to Condition 22(D).

In order to receive the Cash Settlement Amount, if the Warrants are Cash Settled Warrants, or the Entitlement, if the Warrants are Physical Delivery Warrants, in respect of a Warrant, or if Units are specified in the applicable Final Terms, a Unit, as the case may be, the relevant Holder must: (A) in the case of Warrants represented by a Euroclear/CBL Global Warrant send a duly completed Exercise Notice to Euroclear or Clearstream, Luxembourg, as the case may be on any Business Day until not later than 10.00 a.m., Brussels or Luxembourg time (as appropriate), on the day (the “**Cut-off Date**”) falling 180 calendar days after (i) the Expiration Date, in the case of American Style Warrants, (ii) the Actual Exercise Date, in the case of European Style Warrants other than Credit Linked Warrants and (iii) the Credit Cut-Off Date, in the case of Credit Linked Warrants or (B) in the case of Warrants represented by a CBF Global Warrant, deliver a duly completed Exercise Notice to the Frankfurt Warrant Agent with a copy to Merrill Lynch International, the Principal Warrant Agent on any Business Day until not later than 10.00 a.m., Frankfurt time on the Cut-off

Date (as defined above) or (C) in the case of Warrants represented by a Euroclear France Global Warrant, deliver a duly completed Exercise Notice to the Paris Security Agent with a copy to Merrill Lynch International, the Principal Warrant Agent on any Business Day until not later than 10.00 a.m., Paris time on the Cut-off Date (as defined above) or (D) in the case of Swiss Warrants, deliver a duly completed Exercise Notice to the Swiss Programme Agent with a copy to Merrill Lynch International on any Business Day until no later than 10.00 a.m., Zurich time on the Cut-off Date or (E) in the case of CREST Warrants, deliver a duly completed Exercise Notice to the CREST Agent with a copy to Merrill Lynch International and the Principal Warrant Agent on any Business Day until not later than 10.00 a.m., London time on the Cut-off Date (as defined above). The Exercise Notice shall include the applicable information set out in the Exercise Notice referred to in Condition 23(A)(a), Condition 23(A)(b), Condition 23(A)(c), Condition 23(A)(d) or Condition 23(A)(e), as applicable. The Business Day during the period from the Expiration Date or the Actual Exercise Date, as the case may be, until the Cut-off Date on which an Exercise Notice is delivered to Euroclear, Clearstream, Luxembourg, the Frankfurt Warrant Agent, the Paris Security Agent, the Swiss Programme Agent or the CREST Agent, as the case may be, and a copy thereof delivered to Merrill Lynch International and, in the case of Euroclear/CBL Global Registered Warrants, the Registrar by the Principal Warrant Agent, is referred to in this Condition as the “**Exercise Notice Delivery Date**”, provided that if the Exercise Notice is delivered to Euroclear or Clearstream, Luxembourg, the Frankfurt Warrant Agent, the Paris Security Agent, the Swiss Programme Agent or the CREST Agent, as the case may be, and a copy thereof delivered to the Principal Warrant Agent and, in the case of Euroclear/CBL Global Registered Warrants, the Registrar at or after 10.00 a.m., Brussels, Luxembourg, Frankfurt, Paris, Zurich or London time (as appropriate) on a Business Day the Exercise Notice Delivery Date shall be deemed to be the next succeeding Business Day.

Subject to the relevant Holder performing its obligations in respect of the relevant Warrant or Unit, as the case may be, in accordance with these Terms and Conditions, the Settlement Date for such Warrants or Units, as the case may be, shall be (i) in the case of Cash Settled Warrants, the fourth Business Day following the Exercise Notice Delivery Date and (ii) in the case of Physical Delivery Warrants and subject to Conditions 5(B) and 5(C), the fourth Settlement Business Day following the Exercise Notice Delivery Date. In the event that a Holder does not so deliver an Exercise Notice in accordance with this Condition prior to 10.00 a.m. Brussels, Luxembourg, Frankfurt, Paris, Zurich or London time (as appropriate) on the Cut-off Date, the Issuer’s obligations in respect of such Warrants and the Guarantor’s obligations in respect of the relevant Guarantee shall be discharged and no further liability in respect thereof shall attach to the Issuer or the Guarantor.

(F) *Minimum and Maximum Number of Warrants Exercisable*

(a) *American Style Warrants*

This paragraph (a) applies only to American Style Warrants:

- (i) The number of Warrants exercisable by any Holder on any Actual Exercise Date, as determined by the Issuer, must not be less than the Minimum Exercise Number specified in the applicable Final Terms and, if specified in the applicable Final Terms, if a number greater than the Minimum Exercise Number, must be an integral multiple of the number specified in the applicable Final Terms. Any Exercise Notice which purports to exercise Warrants in breach of this provision shall be void and of no effect.
- (ii) If the Issuer determines that the number of Warrants being exercised on any Actual Exercise Date by any Holder or a group of Holders (whether or not acting in concert) exceeds the Maximum Exercise Number (a number equal to the Maximum Exercise Number being the “**Quota**”), the Issuer may deem the Actual Exercise Date for the first Quota of such Warrants, selected at the discretion of the Issuer, to be such day and the Actual Exercise Date for each additional Quota of such Warrants (and any remaining number thereof) to be each of the succeeding Exercise Business Days until all such Warrants have been attributed with an Actual Exercise Date, provided, however, that the deemed Actual Exercise Date for any such Warrants which would thereby fall after the Expiration Date shall fall on the Expiration Date. In any case where more than the Quota of Warrants are exercised on the same day by Holder(s), the order of settlement in respect of such Warrants shall be at the sole discretion of the Issuer.



(b) European Style Warrants

This paragraph (b) applies only to European Style Warrants:

The number of Warrants exercisable by any Holder on any Exercise Date as determined by the Issuer must not be less than the Minimum Exercise Number specified in the applicable Final Terms and, if specified in the applicable Final Terms, if a number greater than the Minimum Exercise Number, must be an integral multiple of the number specified in the applicable Final Terms. Any Exercise Notice which purports to exercise Warrants in breach of this provision shall be void and be of no effect.

24. **Additional Amounts**

(A) *Calculation of Additional Amounts*

If so specified in the applicable Final Terms, each Warrant pays additional amounts from and including the Issue Date at the Additional Amount Rate payable in arrear on each Additional Amount Payment Date.

The additional amount payable in respect of each Warrant on each Additional Amount Payment Date will amount to the Additional Amount for the Additional Amount Period ending on (but excluding) such Additional Amount Payment Date.

If an additional amount is required to be calculated for a period ending other than on (but excluding) an Additional Amount Payment Date, it will be calculated on the basis of the number of calendar days from and including the most recent Additional Amount Payment Date (or, if none, the Issue Date) to but excluding the relevant payment date and the Additional Amount Rate Day Count Fraction.

(B) *Accrual of Additional Amounts*

Each Warrant will cease to accrue additional amounts from and including the Additional Amount Cut-off Date or, if earlier, the date on which the Warrants are cancelled (the “**Cancellation Date**”), if applicable, in accordance with these Terms and Conditions unless payment of the amount and/or delivery of any Entitlement due on the Settlement Date or Cancellation Date, as the case may be, is improperly withheld or refused or unless default is otherwise made in respect of the payment or delivery in which case additional amount(s) shall accrue from the date such amount or delivery of such Entitlement was due until such amount or delivery of such Entitlement is paid or delivered, as the case may be provided that:

- (a) “Accrual of Additional Amounts upon Credit Event” is specified as not applicable in the applicable Final Terms, each Warrant shall cease to accrue additional amount from the Additional Amount Payment Date or, if applicable, the Additional Amount Cut-off Date, immediately preceding the Event Determination Date, or if the Event Determination Date is an Additional Amount Payment Date or, if applicable, the Additional Amount Cut-off Date, such date (or, in the case of the Event Determination Date falling on or after the Actual Exercise Date (which is an Additional Amount Payment Date), the Additional Amount Payment Date immediately preceding the Actual Exercise Date or, if applicable, the Additional Amount Cut-off Date corresponding to such Additional Amount Payment Date) or, if the Event Determination Date falls prior to the first Additional Amount Payment Date or, if applicable, the Additional Amount Cut-off Date, no additional amount shall accrue on the Warrants; or
- (b) “Accrual of Additional Amounts upon Credit Event” is specified as being applicable in the applicable Final Terms, each Warrant shall cease to accrue additional amounts from the Event Determination Date.

For the avoidance of doubt, no additional amount on the Warrants shall accrue beyond the Exercise Date in the event that delivery of any Entitlement is postponed due to the occurrence of a Settlement Disruption Event.

(C) *Payment of Additional Amounts*

Except in the case of Swedish Warrants, Swiss Warrants and CREST Warrants, where the Warrants pay additional amounts as specified in the applicable Final Terms, subject as provided below, the Issuer or failing the Issuer, the Guarantor shall pay or cause to be paid the Additional Amount for



each Warrant in respect of each Additional Amount Payment Date by credit or transfer to the Holder's account with the relevant Clearing System for value on the relevant Additional Amount Payment Date, such payment to be made in accordance with the rules of the relevant Clearing System.

Except in the case of Swedish Warrants, Swiss Warrants and CREST Warrants, the Issuer or the Guarantor, as applicable, will be discharged by payment to, or to the order of, the relevant Clearing System in respect of the amount so paid. Each of the persons shown in the records of the relevant Clearing System as the holder of a particular amount of the Warrants must look solely to such Clearing System for his share of each such payment so made to, or to the order of, the relevant Clearing System.

In the case of Swedish Warrants, where the Warrants pay Additional Amounts as specified in the applicable Final Terms, subject as provided below, payment of the Additional Amount for each Swedish Warrant will be made to the persons registered as Holders in the Swedish Register on the fifth Business Day prior to the relevant Additional Amount Payment Date (the “**Additional Amount Payment Record Date**”). The Swedish Security Agent will pay the Additional Amount through the Swedish CSD to each Holder appearing in the Swedish Register on the Additional Amount Payment Record Date on the relevant Additional Amount Payment Date.

In the case of Swiss Warrants, where the Warrants pay Additional Amounts as specified in the applicable Final Terms, the Issuer or failing the Issuer, the Guarantor, through the Swiss Programme Agent, shall pay or cause to be paid the Additional Amount (if any) for each Warrant in respect of each Additional Amount Payment Date to the Holder for value on the relevant Additional Amount Payment Date, less any Expenses not already paid. In the case of Swiss Definitive Registered Warrants, payment of the Additional Amount for each Swiss Warrant will be made to the persons registered as Holders in the register on the fifteenth calendar day before to the relevant Additional Amount Payment Date (the “**Additional Amount Payment Record Date**”). The Swiss Programme Agent will pay the Additional Amount by credit or transfer to an account specified by the Holder or, at the option of the Holder, by cheque be mailed to the address shown as the address of the Holder in the register on the Additional Amount Payment Record Date on the relevant Additional Amount Payment Date. In order to receive the Additional Amount less any Expense the Holder must deliver the relevant Swiss Individual Warrant Certificate to the Swiss Programme Agent.

In the case of CREST Warrants, where the Warrants pay Additional Amounts as specified in the applicable Final Terms, the Issuer or failing the Issuer, the Guarantor, shall pay or cause to be paid by the CREST Agent the Additional Amount (if any) for each Warrant in respect of each Additional Amount Payment Date to the Holder's cash memorandum account as shown in the records of the Operator, such payments to be made in accordance with the rules of the Operator.

Payments will be subject in all cases to any fiscal or other laws and regulations applicable thereto in the place of payment.

(D) *Definitions*

“**30/360 (Floating)**” or “**360/360**” or “**Bond Basis**” means the number of days in the Additional Amount Period divided by 360, calculated on a formula basis as follows:

$$\text{Day Count Fraction} = \frac{[360 \times (Y_2 - Y_1) + [30 \times (M_2 - M_1)] + (D_2 - D_1)]}{360}$$

where:

“**Y<sub>1</sub>**” is the year, expressed as a number, in which the first day of the Additional Amount Period falls;

“**Y<sub>2</sub>**” is the year, expressed as a number, in which the day immediately following the last day of the Additional Amount Period falls;

“**M<sub>1</sub>**” is the calendar month, expressed as a number, in which the first day of the Additional Amount Period falls;

“**M<sub>2</sub>**” is the calendar month, expressed as a number, in which the day immediately following the last day of the Additional Amount Period falls;

“**D<sub>1</sub>**” is the first calendar day, expressed as a number, of the Additional Amount Period, unless such number would be 31, in which case D1 will be 30; and

“**D<sub>2</sub>**” is the calendar day, expressed as a number, immediately following the last day included in the Additional Amount Period, unless such number would be 31 and D1 is greater than 29, in which case D2 will be 30.

“**30E/360**” or “Eurobond Basis” means the number of days in the Additional Amount Period divided by 360, calculated on a formula basis as follows:

$$\text{Day Count Fraction} = \frac{[360 \times (Y_2 - Y_1) + [30 \times (M_2 - M_1)] + (D_2 - D_1)]}{360}$$

where:

“**Y<sub>1</sub>**” is the year, expressed as a number, in which the first day of the Additional Amount Period falls;

“**Y<sub>2</sub>**” is the year, expressed as a number, in which the day immediately following the last day of the Additional Amount Period falls;

“**M<sub>1</sub>**” is the calendar month, expressed as a number, in which the first day of the Additional Amount Period falls;

“**M<sub>2</sub>**” is the calendar month, expressed as a number, in which the day immediately following the last day of the Additional Amount Period falls;

“**D<sub>1</sub>**” is the first calendar day, expressed as a number, of the Additional Amount Period, unless such number would be 31, in which case D1 will be 30; and

“**D<sub>2</sub>**” is the calendar day, expressed as a number, immediately following the last day included in the Additional Amount Period, unless such number would be 31, in which case D2 will be 30.

“**30E/360 (ISDA)**” means the number of days in the Additional Amount Period divided by 360, calculated on a formula basis as follows:

$$\text{Day Count Fraction} = \frac{[360 \times (Y_2 - Y_1) + [30 \times (M_2 - M_1)] + (D_2 - D_1)]}{360}$$

where:

“**Y<sub>1</sub>**” is the year, expressed as a number, in which the first day of the Additional Amount Period falls;

“**Y<sub>2</sub>**” is the year, expressed as a number, in which the day immediately following the last day of the Additional Amount Period falls;

“**M<sub>1</sub>**” is the calendar month, expressed as a number, in which the first day of the Additional Amount Period falls;

“**M<sub>2</sub>**” is the calendar month, expressed as a number, in which the day immediately following the last day of the Additional Amount Period falls;

“**D<sub>1</sub>**” is the first calendar day, expressed as a number, of the Additional Amount Period, unless (a) that day is the last day of February or (b) such number would be 31, in which case D1 will be 30; and

“**D<sub>2</sub>**” is the calendar day, expressed as a number, immediately following the last day included in the Additional Amount Period, unless (a) that day is the last day of February but not the Exercise Date or (b) such number would be 31, in which case D2 will be 30.

“**Actual/360**” means the actual number of days in the Additional Amount Period divided by 360.

“**Actual/Actual (ISDA)**” means the actual number of days in the Additional Amount Period divided by 365 (or, if any portion of that Additional Amount Period falls in a leap year, the sum of (a) the actual number of days in that portion of the Additional Amount Period falling in a leap year divided by 366; and (b) the actual number of days in that portion of the Additional Amount Period falling in a non-leap year divided by 365).

**“Actual/365 (Fixed)”** means the actual number of days in the Additional Amount Period divided by 365.

**“Additional Amount”** means, in respect of each Warrant and each Additional Amount Period, an amount calculated by the Calculation Agent as follows:

Notional Amount per Warrant x Additional Amount Rate x Additional Amount Rate Day Count Fraction.

**“Additional Amount Period”** means the period commencing on (and including) the Issue Date to (but excluding) the first Additional Amount Payment Date (or if earlier the Additional Amount Cut off Date) and each period commencing on (and including) an Additional Amount Payment Date to (but excluding) the next following Additional Amount Payment Date (or if earlier the Additional Amount Cut off Date).

25. **Terms applicable to Certificates only**

Conditions 26, 27, 28, 29, 30 and 31 apply to Certificates only.

26. **Definitions (Certificates)**

For the purposes of the Certificates:

**“Global W&C Security”** means, as the context so requires, a Global Certificate.

**“Italian Listed Certificates”** means Cash Settled Certificates which are listed and admitted to trading on the electronic “Securitized Derivatives Market” (the “**SeDeX**”), organised and managed by Borsa Italiana S.p.A.

27. **Form of Certificates**

If the applicable Final Terms indicates that the Certificates (**“Euroclear/CBL Certificates”**) are to be issued into and transferred through accounts at Euroclear and Clearstream, Luxembourg, such Series of Euroclear/CBL Certificates will on issue be constituted by either a temporary global certificate in bearer form (the **“Euroclear/CBL Temporary Global Certificate”**) or a permanent global certificate in bearer form (the **“Euroclear/CBL Permanent Global Certificate”** or a global certificate in registered form (the **“Euroclear/CBL Global Registered Certificate”** and, together with the Euroclear/CBL Temporary Global Certificate and the Euroclear/CBL Permanent Global Certificate, the **“Euroclear/CBL Global Certificates”** and each a **“Euroclear/CBL Global Certificate”**) as indicated in the applicable Final Terms which, in either case, will be deposited with a depositary common to Euroclear and Clearstream, Luxembourg and, in the case of Euroclear/CBL Global Registered Certificates, registered in the name of the nominee of such depositary.

If the applicable Final Terms indicates that the Certificates are to be listed on the SIX Swiss Exchange and/or issued and transferred through accounts at SIS (**“Swiss Certificates”**), each tranche of such Swiss Certificates will on issue be constituted either (i) by a permanent global certificate in bearer form (a **“Swiss Global Bearer Certificate”**) as specified in the applicable Final Terms, which will be deposited with SIS as central depositary on or before the Issue Date of such Tranche or (ii) as uncertificated securities as specified in the applicable Final Terms, and which will be entered into the main register (Hauptregister) of SIS on the Issue Date.

In case of Swiss Certificates which are Swiss COSI Securities, such Swiss Certificates will on issue be constituted as uncertificated securities which come into effect once they are registered in accordance with the applicable rules and regulations of SIS in the “uncertificated securities book” maintained in electronic form in the systems of SIS and which will be entered into the main register (Hauptregister) of SIS on the Issue Date.

As a matter of Swiss law, once (i) a Swiss Global Bearer Certificate is deposited with SIS or (ii) Swiss Certificates issued in the form of uncertificated securities are entered into the main register (*Hauptregister*) of SIS and, in either case, are entered into the accounts of one or more participants of SIS, the respective Swiss Certificates will constitute Intermediated Securities.

If the applicable Final Terms indicates that the Certificates (**“CBF Certificates”**) are to be issued into and transferred through accounts at Clearstream, Frankfurt, such Series of CBF Certificates will on issue be constituted by a permanent global certificate in bearer form (the **“CBF Global**

**Certificate**”) provided, however, that the CBF Global Certificates will be treated as in registered form for United States federal income tax purposes. The CBF Global Certificate will be delivered on or prior to the issue date of the relevant series of CBF Global Certificates to Clearstream, Frankfurt.

If the applicable Final Terms indicates that the Certificates (“**Euroclear France Certificates**”) are to be issued into and transferred through accounts at Euroclear France, such Series of Euroclear France Certificates will on issue be constituted by either a temporary global certificate in bearer form (the “**Euroclear France Temporary Global Certificate**”) or a permanent global certificate in bearer form (the “**Euroclear France Permanent Global Certificate**” and, together with the Euroclear France Temporary Global Certificate, the “**Euroclear France Global Certificates**” and each a “**Euroclear France Global Certificate**”) as indicated in the applicable Final Terms which, in either case, will be deposited with Euroclear France.

The Euroclear/CBL Global Certificates, the Swiss Global Bearer Certificates, the CBF Global Certificates and the Euroclear France Global Certificates are referred to herein as “**Global Certificates**” and each a “**Global Certificate**”.

If the applicable Final Terms indicates that the Certificates (“**Swedish Certificates**”) are to be issued into and cleared through the Swedish CSD, such Series of Swedish Certificates will be issued in dematerialised and uncertificated book-entry form in accordance with the Swedish Financial Instruments Accounts Act (in Swedish: *lag (1998: 1479) om kontoföring av finansiella instrument*).

If the applicable Final Terms indicates that the Certificates (“**Finnish Certificates**”) are to be issued into and cleared through Euroclear Finland, such Series of Finnish Certificates will be issued in dematerialised and uncertificated book-entry form in accordance with the Finnish Act on the Book-Entry System (in Finnish: *laki arvo-osuus järjestelmästä (826/1991)*) and the Finnish Act on Book-Entry Accounts (in Finnish: *laki arvo-osuustileistä (827/1991)*).

If the applicable Final Terms indicates that the Certificates (the “**CREST Certificates**”) are to be issued into and cleared through accounts at Euroclear UK, such Series of Certificates will be issued in uncertificated form in accordance with the Uncertificated Securities Regulations. The Certificates are participating securities for the purposes of the Uncertificated Securities Regulations.

On and after the Exchange Date, which generally is 40 calendar days after the Euroclear/CBL Temporary Global Certificate is issued, interests in such temporary global certificate will be exchangeable (a) for a Euroclear/CBL Permanent Global Certificate or (b) for definitive Certificates in bearer form (“**Definitive Bearer Certificates**” and each a “**Definitive Bearer Certificate**”), in each case only to the extent that certification (in a form to be provided) to the effect that the beneficial owners of interests in such Certificate are not United States Persons or persons who have purchased for resale to any United States Person, as required by U.S. Treasury Regulations, has been received by Euroclear and/or Clearstream, Luxembourg and Euroclear and/or Clearstream, Luxembourg, as applicable, has given a like certification (based on the certification received) to the Principal Certificate Agent. A Euroclear/CBL Permanent Global Certificate will be exchangeable (free of charge), in whole but not in part, for Definitive Bearer Certificates upon not less than 60 calendar days’ notice from Euroclear and/or Clearstream, Luxembourg (acting on the instructions of any holder of an interest in such Euroclear/CBL Permanent Global Certificate). No Definitive Bearer Certificate delivered in exchange for a Euroclear/CBL Temporary Global Certificate or a Euroclear/CBL Permanent Global Certificate, as the case may be, will, in connection with its sale during the restricted period (as such term is defined in U.S. Treasury Regulation Section 1.163-5(c)(2)(i)(D)(7)), be mailed or otherwise delivered to any location in the United States or its possessions.

On and after the Exchange Date, which generally is 40 calendar days after the Euroclear France Temporary Global Certificate is issued, interests in such temporary global certificate will be exchangeable (a) for a Euroclear France Permanent Global Certificate or (b) for Definitive Bearer Certificates, in each case only to the extent that certification (in a form to be provided) to the effect that the beneficial owners of interests in such Certificate are not United States Persons or persons who have purchased for resale to any United States Person, as required by U.S. Treasury Regulations, has been received by Euroclear France and Euroclear France has given a like certification (based on the certification received) to the Paris Security Agent. A Euroclear France Permanent Global Certificate will be exchangeable (free of charge), in whole but not in part, for Definitive Bearer Certificates upon not less than 60 calendar days’ notice from Euroclear France

(acting on the instructions of any holder of an interest in such Euroclear France Permanent Global Certificate). No Definitive Bearer Certificate delivered in exchange for a Euroclear France Temporary Global Certificate or a Euroclear France Permanent Global Certificate, as the case may be, will, in connection with its sale during the restricted period (as such term is defined in U.S. Treasury Regulation Section 1.163-5(c)(2)(i)(D)(7)), be mailed or otherwise delivered to any location in the United States or its possessions.

No Holder of Swiss Certificates will at any time have the right to effect or demand the conversion of (i) the Swiss Global Bearer Certificate or (ii) the uncertificated securities representing such Swiss Certificate into, or the delivery of, Certificates in (in case of a Swiss Global Bearer Certificate) uncertificated or definitive form. However, Swiss Certificates represented by a Swiss Global Bearer Certificate will be exchangeable (free of charge), in whole but not in part, for definitive Certificates in bearer form (“**Swiss Definitive Bearer Certificates**”) and Swiss Certificates in uncertificated form will be exchangeable (free of charge), in whole but not in part, for Swiss Individual Certificates representing definitive Certificates in registered form (“**Swiss Definitive Registered Certificates**”) and together with the Swiss Definitive Bearer Certificates, the “**Swiss Definitive Certificates**”) as specified in the applicable Final Terms, (i) at the option of the Issuer if the Issuer has been notified by the Swiss Programme Agent that SIS has been closed for business for a continuous period of 14 calendar days (other than by reason of holiday, statutory or otherwise) or has announced an intention permanently to cease business or has in fact done so and no successor clearing system is available (an “**SIS Exchange Event**”), or (ii) in the case of Swiss Certificates listed on the SIX Swiss Exchange, at the option of the Swiss Programme Agent if the Swiss Programme Agent determines that such exchange is necessary or useful or that the presentation of Certificates in definitive form is required by Swiss or foreign laws or regulations in connection with the enforcement of rights.

The Issuer will promptly give notice to Holders in accordance with Condition 11 if an SIS Exchange Event occurs. In the event of the occurrence of an SIS Exchange Event, SIS may give notice to the Swiss Programme Agent requesting exchange. Any such exchange shall occur no later than 45 calendar days after the date of receipt of the first relevant notice by the Swiss Programme Agent from SIS.

If Swiss Definitive Bearer Certificates or Swiss Individual Certificates representing Swiss Definitive Registered Certificates are printed and issued in exchange for Swiss Global Bearer Certificates or Swiss Certificates in uncertificated form, as applicable, the Swiss Programme Agent will (i) in the case that such Swiss Certificates are represented by a Swiss Global Bearer Certificate, cancel such Swiss Global Bearer Certificate and, in the case of such Swiss Certificates being issued as uncertificated securities, deregister such Swiss Certificates in the “uncertificated securities book”, and (ii) deliver the Swiss Definitive Bearer Certificates or Swiss Individual Certificates representing the Swiss Definitive Registered Certificates, as applicable, to the relevant Holders.

Whenever Swiss Certificates in uncertificated form are to be exchanged for Swiss Individual Certificates, the Issuer shall procure that the number or nominal amount of Swiss Individual Certificates issued will be equal to the number or nominal amount represented by the Swiss Certificates in uncertificated form within five Business Days of the delivery, by or on behalf of the registered holder of the Swiss Certificates in uncertificated form to the Swiss Programme Agent of such information as is required to complete and deliver such Swiss Individual Certificates (including, without limitation, the names and addresses of the persons in whose names the Swiss Individual Certificates are to be registered and the number or nominal amount of each such person’s holding).

Such exchange will be effected in accordance with the provisions of the Agency Agreement and, in particular, shall be effected without charge to any holder, but against such indemnity as the Swiss Programme Agent may require in respect of any tax or other duty of whatsoever nature which may be levied or imposed in connection with such exchange.

No Definitive Bearer Certificate, as the case may be, will, in connection with its sale during the restricted period (as such term is defined in U.S. Treasury Regulation Section 1.163-5(c)(2)(i)(D)(7)), be mailed or otherwise delivered to any location in the United States.

If the applicable Final Terms indicates that Certificates are to be issued in registered global form, then the Certificates will initially be in the form of a Euroclear/CBL Global Registered Certificate which will be exchangeable in whole, but not in part, for individual certificates “**individual certificates**”:



- (a) on the expiry of such period of notice as may be specified in the applicable Final Terms; or
- (b) at any time, if so specified in the applicable Final Terms; or
- (c) if the Issuer has been notified that Euroclear or Clearstream, Luxembourg or any other relevant clearing system is closed for business for a continuous period of 14 calendar days (other than by reason of legal holidays) or announces an intention permanently to cease business.

Whenever the Euroclear/CBL Global Registered Certificate is to be exchanged for individual certificates, the Issuer shall procure the delivery of individual certificates representing such Euroclear/CBL Global Registered Certificate within five Business Days of the delivery, by or on behalf of the registered holder of the Euroclear/CBL Global Registered Certificate to the Registrar of such information as is required to complete and deliver such individual certificates (including, without limitation, the names and addresses of the persons in whose names the individual certificates are to be registered and the principal amount of each such person's holding) against the surrender of the Euroclear/CBL Global Registered Certificate at the specified office of the Registrar.

Such exchange will be effected in accordance with the provisions of the Agency Agreement and the regulations concerning the transfer and registration of Certificates scheduled thereto and, in particular, shall be effected without charge to any holder, but against such indemnity as the Registrar may require in respect of any tax or other duty of whatsoever nature which may be levied or imposed in connection with such exchange.

If:

- (a) individual certificates have not been delivered by 5.00 p.m. (London time) on the thirtieth calendar day after they are due to be issued and delivered in accordance with the terms of the Euroclear/CBL Global Registered Certificate; or
- (b) any of the Certificates represented by a Euroclear/CBL Global Registered Certificate (or any part of it) has become due and payable in accordance with the Terms and Conditions of the Certificates or the date for final settlement of the Certificates has occurred and, in either case, payment in full of all amounts due has not been made to the holder of the Euroclear/CBL Global Registered Certificate in accordance with the terms of the Euroclear/CBL Global Registered Certificate on the due date for payment,

then the Euroclear/CBL Global Registered Certificate (including the obligation to deliver individual certificates) will become void at 5.00 p.m. (London time) on such thirtieth calendar day (in the case of (a) above) or at 5.00 p.m. (London time) on such due date (in the case of (b) above) and the holder of the Euroclear/CBL Global Registered Certificate will have no further rights thereunder (but without prejudice to the rights which the holder of the Euroclear/CBL Global Registered Certificate or others may have under the W&C Securities Deed of Covenant). Under the W&C Securities Deed of Covenant, persons shown in the records of Euroclear and/or Clearstream, Luxembourg and/or any other relevant clearing system as being entitled to an interest in a Global Registered Certificate will acquire directly against the Issuer all those rights to which they would have been entitled if, immediately before the Euroclear/CBL Global Registered Certificate became void, they had been the holders of individual certificates in an aggregate principal amount equal to the principal amount of Certificates they were shown as holding in the records of Euroclear and/or Clearstream, Luxembourg and/or any other relevant clearing system.

## 28. **Type and Title (Certificates)**

### (A) *Cash Settled Certificates*

If the Certificates are Swedish Certificates or Finnish Certificates, they will be Cash Settled Certificates.

### (B) *Definitive Bearer Certificates*

Title to Definitive Bearer Certificates will pass by delivery and the bearer of any Definitive Bearer Certificates shall be treated by the Issuer, the Guarantor and any Security Agent as the absolute owner thereof.

### (C) *Definitive Registered Certificates and Swiss Definitive Registered Certificates*

(i) *Transfer of Definitive Registered Certificates*

Transfers of Definitive Registered Certificates and Swiss Definitive Registered Certificates are effected upon (i) the surrender (at, in the case of Definitive Registered Certificates, the specified office of the Registrar or, in the case of Swiss Definitive Registered Certificates, the specified office of the Swiss Programme Agent) of the individual certificate representing such Definitive Registered Certificates or Swiss Individual Certificate representing the Swiss Definitive Registered Certificate, as applicable, to be transferred, together with the form of transfer (which shall be available at, in the case of Definitive Registered Certificates, the specified office of the Registrar or, in the case of Swiss Definitive Registered Certificates, the specified office of the Swiss Programme Agent) endorsed on such individual certificate or Swiss Individual Certificate, as applicable (or another form of transfer substantially in the same form and containing the same representations and certifications (if any), unless otherwise agreed by the Issuer), duly completed and executed and any other evidence as the Registrar or Swiss Programme Agent may reasonably require, (ii) the recording of such transfer, in the case of the Definitive Registered Certificates, in the Register or, in the case of the Swiss Definitive Registered Certificates, in the register kept by the Swiss Programme Agent and (iii) the issuance of a new individual certificate or Swiss Individual Certificate, as applicable, to the transferee.

(ii) *Part Transfer of Definitive Registered Certificates and Swiss Definitive Registered Certificates*

In the case of a transfer of part only of a holding of a Definitive Registered Certificate represented by one individual certificate or of a Swiss Definitive Registered Certificate represented by one Swiss Individual Certificate, a new individual certificate or Swiss Individual Certificate, as applicable, shall be issued to the transferee in respect of the part transferred and a further new individual certificate or Swiss Individual Certificate, as applicable, in respect of the balance of the holding not transferred shall be issued to the transferor.

(D) *Delivery of New Individual Certificates and Swiss Individual Certificates*

Each new individual certificate or Swiss Individual Certificate to be issued pursuant to this Condition 28 shall be available for delivery within three Business Days of receipt of the form of transfer and surrender of the individual certificate or Swiss Individual Certificate, as applicable, for exchange. Delivery of the new individual certificate(s) or Swiss Individual Certificate(s), as applicable, shall be made, in the case of individual certificate(s), at the specified office of the Registrar or, in the case of Swiss Individual Certificate(s), at the specified office of the Swiss Programme Agent, to whom delivery or surrender of such request for exchange, form of transfer, or individual certificate or Swiss Individual Certificate shall have been made or, at the option of the Holder making such delivery or surrender as aforesaid and as specified in the relevant request for exchange, form of transfer or otherwise in writing, be mailed by uninsured post at the risk of the Holder entitled to the new individual certificate or Swiss Individual Certificate (as applicable) to such address as may be so specified, unless such Holder requests otherwise and pays in advance to the Registrar or the Swiss Programme Agent, as applicable, the costs of such other method of delivery and/or such insurance as it may specify.

(E) *Closed Periods in respect of Definitive Registered Certificates or Swiss Definitive Registered Certificates*

No Holder may require the transfer of a Definitive Registered Certificate or Swiss Definitive Registered Certificates to be registered:

- (i) during the period of 15 days before any date on which Certificates may be called for cancellation and settlement by the Issuer at its option pursuant to Condition 29(C) (*Issuer Call Option*);
- (ii) after any such Certificate has been called for cancellation or settlement; or
- (iii) during the period of seven days ending on (and including) any Settlement Record Date or Additional Amount Payment Record Date.

(F) *Exchange Free of Charge*

Exchange and transfer of Certificates on registration, transfer, cancellation, settlement or exercise of an option (as applicable) shall be effected without charge by or on behalf of the Issuer, or the

Registrar or Swiss Programme Agent, as applicable, but upon payment of any tax or other governmental charges that may be imposed in relation to it (or the giving of such indemnity as the Registrar or Swiss Programme Agent, as applicable, may require).

**29. Exercise Rights (Certificates)**

**(A) *Certificates other than Credit Linked Certificates***

Certificates other than Credit Linked Certificates shall be automatically exercised on the Actual Exercise Date. If the Certificates are Cash Settled Certificates, each such Certificate entitles its Holder to receive from the Issuer on the Settlement Date the Cash Settlement Amount. If the Certificates are Physical Delivery Certificates, each such Certificate entitles its Holder, subject to certification as to non-U.S. beneficial ownership and to the provisions of Condition 30(A), to receive from the Issuer on the Settlement Date the Entitlement subject to payment of any Expenses.

Unless otherwise specified in the applicable Final Terms, the Entitlement will be evidenced by the delivery of the Entitlement to the securities account with the Physical Delivery Clearing System or in such other manner as shall have been specified by the Holder in the relevant Collection Notice. The Issuer, Guarantor and Calculation Agent shall be under no obligation to register or procure the registration of a Holder in the register of members of the Share Company.

Unless otherwise specified in the applicable Final Terms, the Entitlement will be delivered to such securities account with the Physical Delivery Clearing System or in such other manner as shall have been specified by the Holder in the relevant Collection Notice, provided that, if, in the opinion of the Issuer, delivery of the Entitlement to the Holder in the manner specified by the Holder or through the Physical Delivery Clearing System specified by the Holder is not commercially reasonable, the Issuer shall deliver the Entitlement to the Holder through a clearing system which the Issuer determines to be commercially reasonable for such delivery and references to “Physical Delivery Clearing System” shall be deemed to be references to such clearing system selected by the Issuer. For the avoidance of doubt, the Issuer or the Guarantor will be fully discharged of any and all obligations with respect to delivery of the Entitlement by making delivery in the manner specified by the Holder in the relevant Collection Notice.

Unless otherwise specified in the applicable Final Terms, Certificates of the same Holder automatically exercised and in respect of which a Collection Notice (as defined below) has been duly given as provided in Condition 30(A), will be aggregated for the purpose of determining the aggregate Entitlements in respect of such Certificates, provided that the aggregate Entitlements will be rounded down to the nearest whole unit of the Relevant Asset or each of the Relevant Assets, as the case may be, in such manner as the Calculation Agent shall determine. Therefore, fractions of the Relevant Asset or of each of the Relevant Assets, as the case may be, will not be delivered and in lieu thereof a cash adjustment calculated by the Calculation Agent in its sole and absolute discretion shall be paid to the Holder.

Following exercise of a Share Certificate which is a Physical Delivery Certificate, all dividends on the relevant Shares to be delivered will be payable to the party that would receive such dividend according to market practice for a sale of the Shares executed on the Actual Exercise Date and to be delivered in the same manner as such relevant Shares. Any such dividends to be paid to a Holder will be paid to the account specified by the Holder in the relevant Collection Notice as referred to in Condition 30(A)(a)(1)(v), Condition 30(A)(b)(1)(iii) or Condition 30(A)(c)(1)(iii), as applicable.

The expressions “exercise”, “due exercise” and related expressions shall be construed to apply to any Certificates which are automatically exercised on the Actual Exercise Date in accordance with this provision.

**(B) *Credit Linked Certificates***

Credit Linked Certificates shall be automatically exercised on the Long Exercise Date or the Short Exercise Date (as the case may be) in accordance with Credit Linked W&C Security Condition 3.

**(C) *Issuer Call Option***

If Issuer Call Option is specified as applicable in the applicable Final Terms the Issuer may, having given not less than 10 nor more than 60 calendar days’ notice (or such other Issuer Call Option Notice Period as is set out in the applicable Final Terms) to the Holders in accordance with

Condition 11 (which notice shall be irrevocable) elect that the Exercise Date for all (but not less than all) of the Certificates be brought forward to the Call Option Date. If Call Option Cash Settlement is specified as applying in the applicable Final Terms, notwithstanding any provision to the contrary in the Terms and Conditions and/or the applicable Final Terms (a) if the Certificates are not Cash Settled Certificates, the Certificates shall be deemed to be Cash Settled Certificates and (b) the Cash Settlement Amount shall be the Call Option Cash Settlement Amount specified in the applicable Final Terms.

(D) *Mandatory Early Exercise*

If Mandatory Early Exercise is specified as applicable in the applicable Final Terms and a Mandatory Early Exercise Event occurs, the Exercise Date for all (but not less than all) of the Certificates will be brought forward to the Mandatory Early Exercise Date. If Mandatory Early Exercise Cash Settlement is specified as applicable in the applicable Final Terms, notwithstanding any provision to the contrary in the Terms and Conditions and/or the applicable Final Terms (a) if the Certificates are not Cash Settled Certificates, the Certificates shall be deemed to be Cash Settled Certificates and (b) the Cash Settlement Amount shall be the Mandatory Early Exercise Cash Settlement Amount specified in the applicable Final Terms, which shall be payable on the Mandatory Early Exercise Cash Settlement Date.

(E) *Holder Put Option*

If Holder Put Option is specified as applicable in the applicable Final Terms, a Holder may, by giving not less than 10 nor more than 60 calendar days' notice (or such other Holder Put Option Notice Period as is set out in the applicable Final Terms) as set out below elect to bring forward the Exercise Date for his Certificates to the Put Option Date set out in the relevant Put Notice (as defined below). If Put Option Cash Settlement is specified as applying in the applicable Final Terms, notwithstanding any provision to the contrary in the Terms and Conditions and/or the applicable Final Terms (a) if the Certificates are not Cash Settled Certificates, the Certificates shall be deemed to be Cash Settled Certificates and (b) the Cash Settlement Amount for the relevant Certificates shall be the Put Option Cash Settlement Amount specified in the applicable Final Terms.

In order to exercise the right to bring forward the Exercise Date of a Certificate the Holder must deliver by fax or authenticated SWIFT message (confirmed in writing) a duly completed notice of exercise (a "**Put Notice**") in the form set out in the Agency Agreement to (a) in the case of Euroclear/CBL Certificates, Euroclear or Clearstream, Luxembourg with a copy to Merrill Lynch International and the Principal Certificate Agent, (b) in the case of CBF Certificates, the Principal Certificate Agent with a copy to Merrill Lynch International, (c) in the case of Euroclear France Certificates, the Paris Security Agent with a copy to Merrill Lynch International, (d) in the case of Swedish Certificates, the Swedish Security Agent with a copy to Merrill Lynch International, (e) in the case of Swiss Certificates, the Swiss Programme Agent with a copy to Merrill Lynch International, (f) in the case of Finnish Certificates, the Finnish Security Agent with a copy to Merrill Lynch International, (g) in the case of CREST Certificates, the CREST Agent with a copy to Merrill Lynch International, (h) in the case of Global Certificates, in registered form, the relevant Clearing System and the Luxembourg Certificate Agent with a copy to Merrill Lynch International, and (i) in the case of Definitive Registered Certificates, the Registrar with a copy to Merrill Lynch International. Copies of the Put Notice are available at the specified offices of the Agents and the Registrar. Once delivered a Put Notice shall be irrevocable and the Certificates the subject of such notice may not be transferred.

(F) *Prescription*

Definitive Certificates will become void unless presented for payment within a period of ten years (in the case of principal) and five years (in the case of additional amounts) after the Relevant Date (as defined below) therefor.

As used herein, the "**Relevant Date**" means the date on which such payment first becomes due, except that, if the full amount of the moneys payable has not been duly received by the relevant Security Agent on or prior to such due date, it means the date on which, the full amount of such moneys having been so received, notice to that effect is duly given to the Holders in accordance with Condition 11.

30. **Collection Notices and Settlement (Certificates)**(A) *Collection Notices*

## (a) Euroclear/CBL Certificates

If the Certificates are Euroclear/CBL Certificates, in order to receive the Entitlement in respect of a Certificate, the relevant Holder must send an instruction by authenticated SWIFT message or by any other authorised communication channel, in accordance with Euroclear and/or Clearstream, Luxembourg's rules and operating procedures (a "**Collection Notice**") which includes the information set out in Schedule 8 Part 2 to the Agency Agreement (copies of which may be obtained from Euroclear, Clearstream, Luxembourg and the relevant Security Agents) to Euroclear or Clearstream, Luxembourg, as the case may be, on (x) in the case of Certificates other than Credit Linked Certificates any Business Day up until not later than 10.00 a.m., Brussels or Luxembourg time (as appropriate), on the Actual Exercise Date or (y) in the case of Credit Linked Certificates, the Credit Cut-Off Date (each the "**Cut-off Date**"). Euroclear and Clearstream, Luxembourg will send a copy of any Collection Notices so received to the Principal Certificate Agent or, in the case of Registered Certificates, to the Luxembourg Certificate Agent. The Principal Certificate Agent or the Luxembourg Certificate Agent, as the case may be, will send such copies to Merrill Lynch International and, in the case of Registered Certificates, to the Registrar. In the event that a Certificate is in definitive bearer form, the relevant Collection Notice must be delivered in writing, along with the relevant Definitive Certificate in the manner provided above to the Issuer with a copy to the Principal Certificate Agent and Merrill Lynch International.

## (1) The Collection Notice shall:

- (i) specify the series of the Certificates and the number of Certificates the subject of such Collection Notice;
- (ii) except in the case of Definitive Certificates, specify the number of the Holder's account at Euroclear or Clearstream, Luxembourg, as the case may be, to be debited with the Certificates the subject of such Collection Notice;
- (iii) except in the case of Definitive Certificates, irrevocably instruct Euroclear or Clearstream, Luxembourg, as the case may be, to debit on or before the Settlement Date the Holder's account with the Certificates the subject of such Collection Notice;
- (iv) include an undertaking to pay all Expenses and except in the case of Definitive Certificates, an authority to Euroclear or Clearstream, Luxembourg, as the case may be, to debit a specified account of the Holder at Euroclear or Clearstream, Luxembourg, as the case may be, in respect thereof and to pay such Expenses;
- (v) include such details as are required by the applicable Final Terms for delivery of the Entitlement which may include account details and/or the name and address of any person(s) into whose name evidence of the Entitlement is to be registered and/or any bank, broker or agent to whom documents evidencing the Entitlement are to be delivered and specify the name and the number of the Holder's account with Euroclear or Clearstream, Luxembourg, as the case may be, or, in the case of a Definitive Certificate, at a bank in the principal financial centre of the relevant Settlement Currency to be credited with any cash payable by the Issuer, either in respect of any cash amount constituting the Entitlement or any dividends relating to the Entitlement or as a result of the occurrence of a Settlement Disruption Event or a Failure to Deliver due to Illiquidity and the Issuer electing to pay the Disruption Cash Settlement Price or Failure to Deliver Settlement Price, as applicable, or in respect of any Partial Cash Settlement Amount;
- (vi) in the case of FX Linked Certificates only, specify the number of the Holder's account at Euroclear or Clearstream, Luxembourg, as the case may be, or, in the case of a Definitive Certificate, at a bank in the principal financial centre of the relevant Settlement Currency to be credited with the amount due upon exercise of the Certificates;



- (vii) certify, *inter alia*, that the beneficial owner of each Certificate which is the subject of such Collection Notice is not a United States Person, the Certificate was not held on behalf of a United States Person and no cash, securities or other property have been or will be delivered within the United States or to, or for the account or benefit of, a United States Person in connection with such exercise and, where appropriate, undertake to provide such various forms of certification in respect of selling restrictions under the securities, commodities and other laws of the United States as set out in the applicable Final Terms; and
  - (viii) authorise the production of such certification in any applicable administrative or legal proceedings,
- all as provided in the Agency Agreement.
- (2) If Condition 5(C) applies, the information required to be provided in the Collection Notice will be different from that set out above. Copies of such information required for this Collection Notice may be obtained from Euroclear, Clearstream, Luxembourg, the Certificate Agents and, in the case of Registered Certificates, the Registrar.
- (b) CBF Certificates

If the Certificates are CBF Certificates, in order to receive the Entitlement in respect of a Certificate, the relevant Holder must transfer such Certificates to the Principal Certificate Agent and deliver or send by fax or authenticated SWIFT message (confirmed in writing) a duly completed CBF collection notice (a “**Collection Notice**”) in the form set out in the Agency Agreement (copies of which form may be obtained from the Certificate Agents) in the case of Certificates other than Credit Linked Certificates in each case to the Principal Certificate Agent with a copy to Merrill Lynch International on (x) any Business Day up until not later than 10.00 a.m., Frankfurt time, on the Actual Exercise Date or (y) in the case of Credit Linked Certificates, the Credit Cut-Off Date (each the “**Cut-off Date**”).

- (1) The Collection Notice shall:
- (i) specify the series of the Certificates and the number of Certificates the subject of such Collection Notice;
  - (ii) include an undertaking to pay all Expenses;
  - (iii) include such details as are required by the applicable Final Terms for delivery of the Entitlement which may include account details and/or the name and address of any person(s) into whose name evidence of the Entitlement is to be registered and/or any bank, broker or agent to whom documents evidencing the Entitlement are to be delivered and specify the name and the number of the Holder’s account at a bank in the principal financial centre of the relevant Settlement Currency to be credited with any cash payable by the Issuer, either in respect of any cash amount constituting the Entitlement or any dividends relating to the Entitlement or as a result of the occurrence of a Settlement Disruption Event or a Failure to Deliver due to Illiquidity and the Issuer electing to pay the Disruption Cash Settlement Price or Failure to Deliver Settlement Price, as applicable, or in respect of any Partial Cash Settlement Amount;
  - (iv) in the case of FX Linked Certificates only, specify the number of the Holder’s account at a bank in the principal financial centre of the relevant Settlement Currency to be credited with the amount due upon exercise of the Certificates;
  - (v) certify, *inter alia*, that the beneficial owner of each Certificate which is the subject of such Collection Notice is not a United States Person, the Certificate was not held on behalf of a United States Person and no cash, securities or other property have been or will be delivered within the United States or to, or for the account or benefit of, a United States Person in connection with such exercise and, where appropriate, undertake to provide such various forms of certification in respect of selling restrictions under the securities, commodities and other laws of the United States as set out in the applicable Final Terms; and
  - (vi) authorise the production of such certification in any applicable administrative or legal proceedings,

all as provided in the Agency Agreement.

- (2) If Condition 5(C) applies, the form of Collection Notice required to be delivered will be different from that set out above. Copies of such Collection Notice may be obtained from the relevant Certificate Agents.

(c) Euroclear France Certificates

If the Certificates are Euroclear France Certificates, in order to receive the Entitlement in respect of a Certificate, the relevant Holder must transfer such Certificates to the Paris Security Agent and deliver or send by fax or authenticated SWIFT message (confirmed in writing) a duly completed Euroclear France collection notice (a “**Collection Notice**”) in the form set out in the Agency Agreement (copies of which form may be obtained the Certificate Agents) in each case to the Paris Security Agent with a copy to Merrill Lynch International and the Principal Certificate Agent on (x) in the case of Certificates other than Credit Linked Certificates any Business Day up until not later than 10.00 a.m., Paris time, on the Exercise Date or (y) in the case of Credit Linked Certificates, the Credit Cut-Off Date (each the “**Cut-off Date**”).

In the event that a Certificate is in definitive bearer form the relevant Collection Notice must be delivered, along with the relevant Definitive Certificate in the manner provided above to the Issuer with a copy to the Paris Security Agent, Merrill Lynch International and the Principal Certificate Agent.

(1) The Collection Notice shall:

- (i) specify the series of the Certificates and the number of Certificates the subject of such Collection Notice;
- (ii) include an undertaking to pay all Expenses;
- (iii) include such details as are required by the applicable Final Terms for delivery of the Entitlement which may include account details and/or the name and address of any person(s) into whose name evidence of the Entitlement is to be registered and/or any bank, broker or agent to whom documents evidencing the Entitlement are to be delivered and specify the name and the number of the Holder’s account at a bank in the principal financial centre of the relevant Settlement Currency to be credited with any cash payable by the Issuer, either in respect of any cash amount constituting the Entitlement or any dividends relating to the Entitlement or as a result of the occurrence of a Settlement Disruption Event or a Failure to Deliver due to Illiquidity and the Issuer electing to pay the Disruption Cash Settlement Price or Failure to Deliver Settlement Price, as applicable, or in respect of any Partial Cash Settlement Amount;
- (iv) in the case of FX Linked Certificates only, specify the number of the Holder’s account at a bank in the principal financial centre of the relevant Settlement Currency to be credited with the amount due upon exercise of the Certificates; and
- (v) certify, *inter alia*, that the beneficial owner of each Certificate which is the subject of such Collection Notice is not a United States Person, the Certificate was not held on behalf of a United States Person and no cash, securities or other property have been or will be delivered within the United States or to, or for the account or benefit of, a United States Person in connection with such exercise and, where appropriate, undertake to provide such various forms of certification in respect of selling restrictions under the securities, commodities and other laws of the United States as set out in the applicable Final Terms; and
- (vi) authorise the production of such certification in any applicable administrative or legal proceedings,

all as provided in the Agency Agreement.

- (2) If Condition 5(C) applies, the form of Collection Notice required to be delivered will be different from that set out above. Copies of such Collection Notice may be obtained from the relevant Security Agents.

(d) Swiss Certificates

If the Certificates are Swiss Certificates, in order to receive the Entitlement in respect of a Certificate, the relevant Holder must deliver or send by fax or authenticated SWIFT message (confirmed in writing) a duly completed Swiss collection notice (a “**Collection Notice**”) in the form set out in the Agency Agreement (copies of which form may be obtained from the Swiss Programme Agent) to the Swiss Programme Agent with a copy to Merrill Lynch International on (x) in the case of Certificates other than Credit Linked Certificates any Business Day up until not later than 10.00 a.m., Zurich time, on the Actual Exercise Date or (y) in the case of Credit Linked Certificates, the Credit Cut-Off Date (each the “**Cut-Off Date**”). In the event that a Certificate is in definitive form the relevant Collection Notice must be delivered along with the relevant Definitive Certificate in the manner provided above to the Swiss Programme Agent with a copy to Merrill Lynch International.

(1) The Collection Notice shall:

- (i) specify the Swiss Securities number (Valoren number) or ISIN of the Certificates and the number of Certificates the subject of such Collection Notice;
- (ii) specify the securities account at SIS to be debited with the Certificates the subject of such Collection Notice;
- (iii) except in the case of Definitive Certificates, irrevocably instruct SIS, as the case may be, to debit on or before the Settlement Date the securities account with the Certificates the subject of such Collection Notice;
- (iv) include an undertaking to pay all Expenses and, except in the case of Definitive Certificates, an authority to SIS, to debit a specified account at SIS in respect thereof and to pay such Expenses;
- (v) include such details as are required by the applicable Final Terms for delivery of the Entitlement which may include account details and/or the name and address of any person(s) into whose name evidence of the Entitlement is to be registered and/or any bank, broker or agent to whom documents evidencing the Entitlement are to be delivered and specify the name and the number of the Holder’s account with SIS, at a bank in the principal financial centre of the relevant Settlement Currency to be credited with any cash payable by the Issuer, either in respect of any cash amount constituting the Entitlement or any dividends relating to the Entitlement or as a result of the occurrence of a Settlement Disruption Event or a Failure to Deliver due to Illiquidity and the Issuer electing to pay the Disruption Cash Settlement Price or Failure to Deliver Settlement Price, as applicable, or in respect of any Partial Cash Settlement Amount;
- (vi) in the case of FX Linked Certificates only, specify the number of the Holder’s account at SIS or, in the case of a Definitive Certificate, at a bank in the principal financial centre of the relevant Settlement Currency to be credited with the amount due upon exercise of the Certificates;
- (vii) certify, *inter alia*, that the beneficial owner of each Certificate which is the subject of such Collection Notice is not a United States Person, the Certificate was not held on behalf of a United States Person and no cash, securities or other property have been or will be delivered within the United States or to, or for the account or benefit of, a United States Person in connection with such exercise and, where appropriate, undertake to provide such various forms of certification in respect of selling restrictions under the securities, commodities and other laws of the United States as set out in the applicable Final Terms; and
- (viii) authorise the production of such certification in any applicable administrative or legal proceedings,

all as provided in the Agency Agreement.

(2) If Condition 5(C) applies, the form of Collection Notice required to be delivered will be different from that set out above. Copies of such Collection Notice may be obtained from the Swiss Programme Agent.

(e) CREST Certificates

If the Certificates are CREST Certificates, in order to receive the Entitlement in respect of a Certificate, the relevant Holder must deliver or send by fax or authenticated SWIFT message (confirmed in writing) to the CREST Agent a duly completed collection notice (a “**Collection Notice**”) in the form set out in the Agency Agreement (copies of which form may be obtained from the CREST Agent) with a copy to Merrill Lynch International on (x) in the case of Certificates other than Credit Linked Certificates any Business Day up until not later than 10.00 a.m., London time, on the Actual Exercise Date or (y) in the case of Credit Linked Certificates, the Credit Cut-Off Date (each the “**Cut-Off Date**”).

(1) The Collection Notice shall:

- (i) specify the name, address and a contact telephone number of the relevant Holder;
- (ii) specify the ISIN and the series number of the Certificates and the number of Certificates to which the Physical Delivery Confirmation Notice relates;
- (iii) specify the cash memorandum account of the Holder as shown in the records of the Operator from which the aggregate Expenses (together with any other amounts payable) in respect of such Certificates will be paid to the CREST Agent’s account with the Operator against delivery of the Entitlement on the Redemption Date;
- (iv) irrevocably agree to deliver such instructions to the Operator as may be requested by the CREST Agent to give effect to the delivery and payments described in (iii) above;
- (v) include such details as are required by the applicable Final Terms for delivery of the Entitlement which may include account details and/or the name and address of any person(s) into whose name evidence of the Entitlement is to be registered and/or any bank, broker or agent to whom documents evidencing the Entitlement are to be delivered and specify the name and the number of the Holder’s cash memorandum account as shown in the records of the Operator, to be credited with any cash payable by the Issuer, either in respect of any cash amount constituting the Entitlement or any dividends relating to the Entitlement or as a result of the occurrence of a Settlement Disruption Event or, if applicable, a Failure to Deliver due to Illiquidity and the Issuer electing to pay the Disruption Cash Settlement Price or Failure to Deliver Settlement Price;
- (vi) certify, *inter alia*, that the beneficial owner of each Certificate which is the subject of such Collection Notice is not a United States Person, the Certificate was not held on behalf of a United States Person and no cash, securities or other property have been or will be delivered within the United States or to, or for the account or benefit of, a United States Person in connection with such exercise and, where appropriate, undertake to provide such various forms of certification in respect of selling restrictions under the securities, commodities and other laws of the United States as set out in the applicable Final Terms; and
- (vii) authorise the production of such certification in any applicable administrative or legal proceedings,

all as provided in the Agency Agreement.

- (2) If Condition 5(C) applies, the form of Collection Notice required to be delivered will be different from that set out above. Copies of such Collection Notice may be obtained from the CREST Agent.

(f) Definitive Registered Certificates

If the Certificates are Definitive Registered Certificates, in order to receive the Entitlement in respect of a Certificate, the relevant Holder must deliver an instruction in writing (a “**Collection Notice**”) which includes the information set out in Schedule 8 Part 7 to the Agency Agreement (copies of which may be obtained from the Registrar) along with the relevant Definitive Registered Certificate to the Registrar on (x) in the case of Certificates other than Credit Linked Certificates any Business Day up until not later than 10.00 a.m., Luxembourg time, on the Actual Exercise Date or (y) in the case of Credit Linked Certificates, the Credit Cut-Off Date (each the “**Cut-off Date**”). The Registrar will send a copy of any Collection Notices so received to Merrill Lynch International.

(1) The Collection Notice shall:

- (i) specify the series of the Certificates and the number of Certificates the subject of such Collection Notice;
- (ii) include an undertaking to pay all Expenses;
- (iii) include such details as are required by the applicable Final Terms for delivery of the Entitlement which may include account details and/or the name and address of any person(s) into whose name evidence of the Entitlement is to be registered and/or any bank, broker or agent to whom documents evidencing the Entitlement are to be delivered and specify the name and the number of the Holder's account at a bank in the principal financial centre of the relevant Settlement Currency to be credited with any cash payable by the Issuer, either in respect of any cash amount constituting the Entitlement or any dividends relating to the Entitlement or as a result of the occurrence of a Settlement Disruption Event or a Failure to Deliver due to Illiquidity and the Issuer electing to pay the Disruption Cash Settlement Price or Failure to Deliver Settlement Price, as applicable, or in respect of any Partial Cash Settlement Amount;
- (iv) in the case of FX Linked Certificates only, specify the number of the Holder's account at a bank in the principal financial centre of the relevant Settlement Currency to be credited with the amount due upon exercise of the Certificates;
- (v) certify, *inter alia*, that the beneficial owner of each Certificate which is the subject of such Collection Notice is not a United States Person, the Certificate was not held on behalf of a United States Person and no cash, securities or other property have been or will be delivered within the United States or to, or for the account or benefit of, a United States Person in connection with such exercise and, where appropriate, undertake to provide such various forms of certification in respect of selling restrictions under the securities, commodities and other laws of the United States as set out in the applicable Final Terms; and
- (vi) authorise the production of such certification in any applicable administrative or legal proceedings,

all as provided in the Agency Agreement.

- (2) If Condition 5(C) applies, the information required to be provided in the Collection Notice will be different from that set out above. Copies of such information required for this Collection Notice may be obtained from the Registrar.

(g) Late Delivery and Non-delivery of Collection Notice

If a Holder so delivers a duly completed Collection Notice after the Cut-off Date, the Entitlement shall be delivered as soon as practicable after the Settlement Date or, in the case of Credit Linked Certificates, the Credit Settlement Date, provided that if a Holder does not so deliver a duly completed Collection Notice in accordance with this Condition 30(A) prior to the close of business in the place of receipt on the 90<sup>th</sup> calendar day following the Cut-off Date, the Issuer's obligations in respect of such Certificates and the Guarantor's obligations in respect of the relevant Guarantee shall be discharged and no further liability in respect thereof shall attach to the Issuer or the Guarantor. For the avoidance of doubt, in such circumstances such Holder shall not be entitled to any payment, whether of interest or otherwise as a result of such Settlement Date or Credit Settlement Date falling after the originally designated Settlement Date or Credit Settlement Date, as the case may be, and no liability in respect hereof shall attach to the Issuer or the Guarantor.

After the delivery of a Collection Notice, the relevant Holder may not transfer the Certificates to which the Collection Notice relates.

(B) *Verification of the Holder*

In the case of a Collection Notice submitted in respect of a Euroclear/CBL Certificate, upon receipt of a valid Collection Notice, Euroclear or Clearstream, Luxembourg, as the case may be, shall verify that the person submitting the Collection Notice is the holder of the relevant Certificates according to the books of Euroclear or Clearstream, Luxembourg, as the case may be. Subject thereto,



Euroclear or Clearstream, Luxembourg, as the case may be, will confirm to the Principal Certificate Agent or, in the case of Registered Certificates, to the Registrar, the ISIN and the amount of Certificates being exercised, the account number of the exercising Holder, a confirmation of the exercising Holder's certification, the relevant account details (if applicable) and the details for the delivery of the Entitlement in respect of each Certificate the subject of the relevant Collection Notice. Upon receipt of such confirmation, the Principal Certificate Agent or the Luxembourg Certificate Agent, as applicable, will inform the Issuer thereof. Euroclear or Clearstream, Luxembourg, as the case may be, will on or before the Settlement Date debit the account of the relevant Holder with the Certificates the subject of the relevant Collection Notice.

In the case of a Collection Notice submitted in respect of a CBF Certificate, upon receipt of a Collection Notice and the Certificates the Principal Certificate Agent shall verify that the person delivering the Collection Notice is (or, if the Certificates have been transferred to the Principal Certificate Agent in accordance with Condition 30(A)(b) above, prior to such transfer was) the Holder according to the records of Clearstream, Frankfurt. Subject thereto, the Principal Certificate Agent shall notify the Issuer of the series number and the number of Certificates the subject of such notice, the account details and the details for the delivery of the Entitlement of each Certificate.

In the case of a Collection Notice submitted in respect of a Euroclear France Certificate, upon receipt of a Collection Notice and the Certificates the Paris Security Agent shall verify that the person delivering the Collection Notice is (or, if the Certificates have been transferred to the Paris Security Agent in accordance with Condition 30(A)(c) above, prior to such transfer was) the Holder according to the records of Euroclear France. Subject thereto, the Paris Security Agent shall notify the Issuer and the Principal Certificate Agent shall notify the Issuer of the series number and the number of Certificates the subject of such notice, the account details and the details for the delivery of the Entitlement of each Certificate.

In the case of a Swiss Certificate, upon receipt of a Collection Notice the Swiss Programme Agent shall verify that the person delivering the Collection Notice was the Holder according to the records of SIS. Subject thereto, the Swiss Programme Agent shall notify the Issuer of the ISIN and the number of Certificates and the relevant account details for the delivery of the Entitlement in respect of each Certificate being subject of the relevant Collection Notice. Upon receipt of such Collection Notice, the Swiss Programme Agent will inform the Issuer thereof. The Swiss Programme Agent may assume that the person delivering the Collection Notice is duly representing the Holder of the Certificates that are the subject of such Collection Notice.

In the case of a CREST Certificate, upon receipt of a Collection Notice the CREST Agent shall verify that the person delivering the Collection Notice was the Holder according to the Record maintained by the CREST Agent. Subject thereto, the CREST Agent shall notify the Issuer of the ISIN and the number of Certificates and the relevant account details for the delivery of the Entitlement in respect of each Certificate being subject of the relevant Collection Notice. Upon receipt of such Collection Notice, the CREST Agent will inform the Issuer thereof.

(C) *Settlement*

(a) *Cash Settled Certificates*

For so long as the Certificates are represented by Definitive Bearer Certificates, subject as provided below, the Issuer or failing the Issuer, the Guarantor shall pay or cause to be paid the Cash Settlement Amount (if any) for each Certificate by credit or transfer to an account in the relevant Settlement Currency outside the United States (in accordance with applicable U.S. Treasury Regulations) specified by the Holder, for value on the Settlement Date less any Expenses. In order to receive the Cash Settlement Amount less any Expenses the Holder must deliver the relevant Definitive Bearer Certificate, as the case may be, to the Issuer.

For so long as the Certificates are represented by Definitive Registered Certificates, the Issuer, or failing the Issuer, the Guarantor shall pay or cause to be paid the Cash Settlement Amount (if any) of each Certificate by credit or transfer to an account in the relevant Settlement Currency specified by the Holder, or at the option of the Holder, by cheque mailed to the address of the Holder in the Register on the fifteenth calendar day before the due date for such payment (such date being the "**Settlement Record Date**" for Definitive Registered Certificates). In order to receive the Cash Settlement Amount less any Expenses the Holder must deliver the relevant individual certificate to the Registrar.

For so long as the Certificates are represented by a Global Certificate (other than a Swiss Global Bearer Certificate), subject as provided below, the Issuer or failing the Issuer, the Guarantor shall pay or cause to be paid the Cash Settlement Amount (if any) for each Certificate by credit or transfer to the Holder's account with the relevant Clearing System for value on the Settlement Date less any Expenses, such payment to be made in accordance with the rules of the relevant Clearing System. The Issuer or the Guarantor, as applicable, will be discharged by payment to, or to the order of, the relevant Clearing System in respect of the amount so paid. Each of the persons shown in the records of the relevant Clearing System as the holder of a particular amount of the Certificates must look solely to such Clearing System for his share of each such payment so made to, or to the order of such Clearing System.

In the case of Swedish Certificates, subject as provided below, payment of the Cash Settlement Amount (if any) for each Certificate will be made to the persons registered as the Holders in the Swedish Register (A) on the fifth business day (where the Swedish Certificates have been registered by the Swedish CSD on the basis of notional amount) or, as the case may be, (B) on the fourth business day (where the Swedish Certificates have been registered by the Swedish CSD on the basis of the number of W&C Securities) (in each case as such business day is defined by the then applicable Swedish CSD Rules) before the due date for such payment, or, in each case, (C) on such other business day falling closer to the due date for payment as then may be stipulated in the Swedish CSD Rules (such date being the “**Settlement Record Date**” for Swedish Certificates). The Swedish Security Agent will pay the Cash Settlement Amount less any Expenses through the Swedish CSD to each Holder appearing in the Swedish Register on the Settlement Record Date on the Settlement Date.

In the case of Finnish Certificates, subject as provided below, payment of the Cash Settlement Amount (if any) for each Certificate will be made to the person registered as the Holder in the Finnish Register on (A) the third Business Day before the due date for such payment if the Finnish Certificates have been registered as warrants in the Finnish Register, (B) on the Business Day immediately preceding the due date for such payment if the Finnish Certificates have been registered as notes in the Finnish Register, or (C) such other Business Day falling closer to the due date for payment as may be stipulated in the Euroclear Finland Rules (such date being the “**Settlement Record Date**” for Finnish Certificates). The Finnish Security Agent will pay the Cash Settlement Amount less any Expenses through Euroclear Finland to each Holder appearing in the Finnish Register on the Settlement Record Date on the Settlement Date.

In the case of Swiss Certificates, subject as provided below, the Issuer or failing the Issuer, the Guarantor, through the Swiss Programme Agent, shall on the Settlement Date pay or cause to be paid the Cash Settlement Amount (if any) for each Swiss Certificate to the Holder's account with the relevant Clearing System for value on the Settlement Date, less any Expenses not already paid. For so long as the Swiss Certificates are represented by Swiss Definitive Registered Certificates, the Issuer, or failing the Issuer, the Guarantor shall pay or cause to be paid the Cash Settlement Amount (if any) of each Certificate by credit or transfer to an account in the relevant Settlement Currency specified by the Holder, or at the option of the Holder, by cheque mailed to the address of the Holder in the register on the fifteenth day before the due date for such payment (such date being the “**Settlement Record Date**” for Swiss Definitive Registered Certificates). In order to receive the Cash Settlement Amount less any Expenses the Holder must deliver the relevant Swiss Individual Certificate to the Swiss Programme Agent.

Payments will be subject in all cases to any fiscal or other laws and regulations applicable thereto in the place of payment.

Notwithstanding the foregoing, a cheque may not be delivered to an address in, a credit or transfer may not be delivered to an address in, and an amount may not be transferred to an account at a bank located in, the United States by any office or agency of the Issuer, the Guarantor, the Principal Paying Agent, the Principal Certificate Agent, any Paying Agent, any Security Agent or the Registrar.

In the case of CREST Certificates, payment of the Cash Settlement Amount (if any) for each Certificate will be made to the Holder's cash memorandum account as shown in the records of the Operator for value on the Settlement Date less any Expenses, such payment to be made in accordance with the rules of the Operator. The Issuer's obligations in relation to the Cash

Settlement Amounts in respect of the Certificates will be discharged by payment (as shown in the records of the Operator) to the cash memorandum account of the relevant Holder as shown in the records of the Operator. Each of the persons shown in the Operator register of corporate securities as the holder of a particular number of Certificates must look solely to the settlement bank or institution at which its cash memorandum account is held for his share of each such payment so made by or on behalf of the Issuer.

(b) Physical Delivery Certificates

Subject to payment of any Expenses with regard to the relevant Certificates, the Issuer shall deliver, or procure the delivery of, the Entitlement or, in the case of Credit Linked Certificates, Deliver, or procure the Delivery of the Deliverable Obligations comprising the Entitlement for each Certificate in respect of which a valid Collection Notice (and, in the case of Definitive Certificates, the relevant Definitive Certificate) has been delivered as provided in Condition 30(A) pursuant to the details specified in the Collection Notice subject as provided in Condition 5 and, in the case of CBF Certificates and Euroclear France Certificates, in respect of which the relevant Certificates have been transferred to the Principal Certificate Agent or the Paris Security Agent, as the case may be, as provided in Condition 30(A).

The Issuer shall at the risk of the relevant Holder deliver the Entitlement in respect of each Certificate or, in the case of Credit Linked Certificates, Deliver the Deliverable Obligations comprising the Entitlement in such commercially reasonable manner as the Issuer shall, in its sole discretion, determine to be appropriate for such delivery. In the case of Credit Linked Certificates, in relation to each Deliverable Obligation constituting the Entitlement, the Issuer will Deliver or procure the Delivery of the relevant Deliverable Obligation as provided above on the Credit Settlement Date provided that if all or some of the Deliverable Obligations included in the Entitlement are Undeliverable Obligations and/or Hedge Disruption Obligations, then the Issuer shall continue to attempt to Deliver all or a portion of such Undeliverable Obligations or Hedge Disruption Obligations, as the case may be, on or before the 30<sup>th</sup> Business Day following the Credit Settlement Date (the “**Final Delivery Date**”), provided further that if all or a portion of such Undeliverable Obligations or Hedge Disruption Obligations, as the case may be, are not Delivered by the Final Delivery Date the provisions of Credit Linked W&C Condition 10 shall apply.

(D) *Determinations*

Any determination as to whether a Collection Notice is duly completed and in proper form shall be made by the Principal Certificate Agent or, in the case of Registered Certificates, the Luxembourg Certificate Agent in consultation with, in the case of Euroclear/CBL Certificates, Euroclear or Clearstream, Luxembourg, or, in the case of Euroclear France Certificates, the Paris Security Agent, or, in the case of Swiss Certificates, the Swiss Programme Agent, or in the case of Definitive Bearer Certificates, the Issuer, or in the case of CREST Certificates, the CREST Agent or, in the case of Definitive Registered Certificates, the Registrar and shall be conclusive and binding on the Issuer, the relevant Security Agents and the relevant Holder. Subject as set out below, any Collection Notice so determined to be incomplete or not in proper form, or which is not sent to Merrill Lynch International by the Principal Certificate Agent, the Luxembourg Certificate Agent or the Registrar, as applicable, immediately after being delivered or sent to Euroclear or Clearstream, Luxembourg, the Principal Certificate Agent, the Luxembourg Certificate Agent, the Paris Security Agent, the Swiss Programme Agent, the Issuer, the CREST Agent or the Registrar, as applicable, shall be null and void.

If such Collection Notice is subsequently corrected to the satisfaction of Euroclear or Clearstream, Luxembourg, the Principal Certificate Agent, the Luxembourg Certificate Agent, the Paris Security Agent, the Swiss Programme Agent, the Issuer, the CREST Agent or the Registrar, as applicable, in consultation with the Principal Certificate Agent or the Luxembourg Certificate Agent, as the case may be, (in the case of Euroclear/CBL Certificates, Euroclear France Certificates, Definitive Bearer Certificates or Definitive Registered Certificates, as applicable), it shall be deemed to be a new Collection Notice submitted at the time such correction was delivered to Euroclear or Clearstream, Luxembourg, the Principal Certificate Agent, the Luxembourg Certificate Agent, the Paris Security Agent, the Swiss Programme Agent, the Issuer, the CREST Agent or the Registrar, as applicable, and copied to the Principal Certificate Agent, or the Luxembourg Certificate Agent, as the case may be, Merrill Lynch International or the Registrar, as applicable (in the case of Euroclear/CBL Certificates and Euroclear France Certificates).

Euroclear or Clearstream, Luxembourg, the Principal Certificate Agent, the Luxembourg Certificate Agent, the Paris Security Agent, the Swiss Programme Agent, the Issuer, the CREST Agent or the Registrar, as applicable, shall use its best efforts promptly to notify the Holder submitting a Collection Notice if, in consultation with the Principal Certificate Agent or the Luxembourg Certificate Agent, as the case may be, (in the case of Euroclear/CBL Certificates and Euroclear France Certificates), it has determined that such Collection Notice is incomplete or not in proper form. In the absence of negligence or wilful misconduct on its part, none of the Issuer, the Guarantor, the Security Agents, Euroclear, Clearstream, Luxembourg, the Principal Certificate Agent, the Luxembourg Certificate Agent, the Swiss Programme Agent or the CREST Agent shall be liable to any person with respect to any action taken or omitted to be taken by it in connection with such determination or the notification of such determination to a Holder.

(E) *Italian Listed Certificates*

If the Certificates are Italian Listed Certificates, prior to the Renouncement Notice Cut-Off Time, as specified in the applicable Final Terms, the Holder may renounce automatic exercise of such Certificate in accordance with applicable laws and regulations, including the regulations of the Italian Stock Exchange applicable from time to time, by the delivery or sending by fax of a duly completed Renouncement Notice (a “**Renouncement Notice**”) to Euroclear and/or Clearstream, Luxembourg in the form and manner from time to time agreed with Euroclear and Clearstream, Luxembourg with a copy to Merrill Lynch International and the Principal Certificate Agent. Once delivered a Renouncement Notice shall be irrevocable.

Any determination as to whether a Renouncement Notice is duly completed and in proper form shall be made by Euroclear and/or Clearstream, Luxembourg (in consultation with Merrill Lynch International and the Principal Certificate Agent) and shall be conclusive and binding on the Issuer, the Guarantor, the Security Agents and the relevant Holder. Subject as set out below, any Renouncement Notice so determined to be incomplete or not in proper form, or which is not copied to Merrill Lynch International and the Principal Certificate Agent immediately after being delivered or sent to Euroclear and/or Clearstream Luxembourg, shall be null and void. If such Renouncement Notice is subsequently corrected to the satisfaction of Euroclear and/or Clearstream, Luxembourg in consultation with Merrill Lynch International and the Principal Certificate Agent, it shall be deemed to be a new Renouncement Notice submitted at the time such correction was delivered to Euroclear and/or Clearstream, Luxembourg with a copy to Merrill Lynch International and the Principal Certificate Agent.

31. **Additional Amounts**

(A) *Calculation of Additional Amounts*

If so specified in the applicable Final Terms, each Certificate pays additional amounts from and including the Issue Date at the Additional Amount Rate payable in arrear on each Additional Amount Payment Date.

The additional amount payable in respect of each Certificate on each Additional Amount Payment Date will amount to the Additional Amount for the Additional Amount Period ending on (but excluding) such Additional Amount Payment Date.

If an additional amount is required to be calculated for a period ending other than on (but excluding) an Additional Amount Payment Date, it will be calculated on the basis of the number of calendar days from and including the most recent Additional Amount Payment Date (or, if none, the Issue Date) to but excluding the relevant payment date and the Additional Amount Rate Day Count Fraction.

(B) *Accrual of Additional Amount*

Each Certificate will cease to accrue additional amounts from and including the Additional Amount Cut-off Date or, if earlier, the date on which the Certificates are cancelled (the “**Cancellation Date**”), if applicable, in accordance with these Terms and Conditions unless payment of the amount and/or delivery of any Entitlement due on the Settlement Date or Cancellation Date, as the case may be, is improperly withheld or refused or unless default is otherwise made in respect of the payment or delivery in which case additional amount(s) shall accrue from the date such amount or delivery of such Entitlement was due until such amount or delivery of such Entitlement is paid or delivered, as the case may be, provided that:



- (a) “Accrual of Additional Amounts upon Credit Event” is specified as Not Applicable in the applicable Final Terms, each Certificate shall cease to accrue additional amount from the Additional Amount Payment Date or, if applicable, the Additional Amount Cut-off Date, immediately preceding the Event Determination Date, or if the Event Determination Date is an Additional Amount Payment Date or, if applicable, the Additional Amount Cut-off Date, such date (or, in the case of the Event Determination Date falling on or after the Actual Exercise Date (which is an Additional Amount Payment Date), the Additional Amount Payment Date immediately preceding the Actual Exercise Date or, if applicable, the Additional Amount Cut-off Date corresponding to such Additional Amount Payment Date) or, if the Event Determination Date falls prior to the first Additional Amount Payment Date or, if applicable, the Additional Amount Cut-off Date, no additional amount shall accrue on the Certificates; or
- (b) “Accrual of Additional Amounts upon Credit Event” is specified as being Applicable in the applicable Final Terms, each Certificate shall cease to accrue additional amounts from the Event Determination Date.

For the avoidance of doubt, no additional amount on the Certificates shall accrue beyond the Exercise Date in the event that delivery of any Entitlement is postponed due to the occurrence of a Settlement Disruption Event.

(C) *Payment of Additional Amounts*

For so long as the Certificates are represented by Definitive Bearer Certificates, where the Certificates pay additional amounts, subject as provided below, against presentation and endorsement of the relevant Definitive Bearer Certificate, the Issuer or failing the Issuer, the Guarantor shall pay or cause to be paid the Additional Amount for each Certificate in respect of each Additional Amount Payment Date by credit or transfer to an account in the relevant Settlement Currency outside the United States (in accordance with the applicable U.S. Treasury Regulations) specified by the Holder, for value on the relevant Additional Amount Payment Date.

For so long as the Certificates are represented by Definitive Registered Certificates, where the Certificates pay additional amounts, subject as provided below, the Issuer or failing the Issuer, the Guarantor shall pay or cause to be paid the Additional Amount for each Certificate in respect of each Additional Amount Payment Date by credit or transfer to an account in the relevant Settlement Currency outside the United States (in accordance with the applicable U.S. Treasury Regulations) specified by the Holder or, at the option of the Holder, by cheque mailed to the address of the Holder registered in the Register on the fifteenth calendar day before the due date for such payment (such date being the “**Additional Amount Payment Record Date**” for such Definitive Registered Certificates) for value on the relevant Additional Amount Payment Date. In order to receive the Additional Amount the Holder must deliver the relevant individual certificate to the Registrar.

For so long as the Certificates are represented by a Global Certificate (other than a Swiss Global Bearer Certificate), where the Certificates pay additional amounts, subject as provided below, the Issuer or failing the Issuer, the Guarantor shall pay or cause to be paid the Additional Amount for each Certificate in respect of each Additional Amount Payment Date by credit or transfer to the Holder’s account with Euroclear, Clearstream, Luxembourg, Clearstream, Frankfurt or Euroclear France, as the case may be, for value on the relevant Additional Amount Payment Date, such payment to be made in accordance with the rules of Euroclear, Clearstream, Luxembourg, Clearstream, Frankfurt or Euroclear France, as the case may be.

Except in the case of Swedish Certificates, Swiss Certificates and CREST Certificates, the Issuer or the Guarantor, as applicable, will be discharged by payment to, or to the order of, Euroclear, Clearstream, Luxembourg, Clearstream, Frankfurt or Euroclear France, as the case may be, in respect of the amount so paid. Each of the persons shown in the records of Euroclear, Clearstream, Luxembourg, Clearstream, Frankfurt or Euroclear France, as the case may be, as the holder of a particular amount of the Certificates must look solely to Euroclear, Clearstream, Luxembourg, Clearstream, Frankfurt or Euroclear France, as the case may be, for his share of each such payment so made to, or to the order of, Euroclear, Clearstream, Luxembourg, Clearstream, Frankfurt or Euroclear France, as the case may be.

In the case of Swedish Certificates, where the Certificates pay additional amounts, subject as provided below, the Issuer or failing the Issuer, the Guarantor shall pay or cause to be paid the



Additional Amount for each Swedish Certificate in respect of each Additional Amount Payment Date by credit or transfer to the person registered as Holder in the Swedish Register on the fifth Business Day prior to the relevant Additional Amount Payment Date (the “**Additional Amount Payment Record Date**”). The Swedish Security Agent will pay the Additional Amounts through the Swedish CSD to each Holder appearing in the Swedish Register on the Additional Amount Payment Record Date on the relevant Additional Amount Payment Date.

In the case of Swiss Certificates, where the Certificates pay Additional Amounts as specified in the applicable Final Terms, the Issuer or failing the Issuer, the Guarantor, through the Swiss Programme Agent, shall pay or cause to be paid the Additional Amount (if any) for each Certificate in respect of each Additional Amount Payment Date to the Holder for value on the relevant Additional Amount Payment Date, less any Expenses not already paid. For so long as the Swiss Certificates are represented by Swiss Definitive Registered Certificates, the Issuer or failing the Issuer, the Guarantor shall pay or cause to be paid the Additional Amount for each Certificate in respect of each Additional Amount Payment Date by credit or transfer to an account in the relevant Settlement Currency outside the United States (in accordance with the applicable U.S. Treasury Regulations) specified by the Holder or, at the option of the Holder, by cheque mailed to the address of the Holder registered in the Register on the fifteenth calendar day before the due date for such payment (such date being the “**Additional Amount Payment Record Date**” for such Swiss Definitive Registered Certificates) for value on the relevant Additional Amount Payment Date. In order to receive the Additional Amount the Holder must deliver the relevant Swiss Individual Certificate to the Swiss Programme Agent.

In the case of CREST Certificates, where the Certificates pay Additional Amounts as specified in the applicable Final Terms, the Issuer or failing the Issuer, the Guarantor, shall pay or cause to be paid by the CREST Agent the Additional Amount (if any) for each Certificate in respect of each Additional Amount Payment Date to the Holder’s cash memorandum account as shown in the records of the Operator, such payments to be made in accordance with the rules of the Operator.

Payments will be subject in all cases to any fiscal or other laws and regulations applicable thereto in the place of payment.

Notwithstanding the foregoing, a cheque may not be delivered to an address in, a credit or transfer may not be delivered to an address in, and an amount may not be transferred to an account at a bank located in, the United States by any office or agency of the Issuer, the Guarantor, the Principal Paying Agent, the Principal Certificate Agent, any Paying Agent or any Security Agent.

(D) *Definitions*

“**30/360 (Floating)**” or “**360/360**” or “Bond Basis” means the number of days in the Additional Amount Period divided by 360, calculated on a formula basis as follows:

$$\text{Day Count Fraction} = \frac{[360 \times (Y_2 - Y_1) + [30 \times (M_2 - M_1)] + (D_2 - D_1)]}{360}$$

where:

“**Y<sub>1</sub>**” is the year, expressed as a number, in which the first day of the Additional Amount Period falls;

“**Y<sub>2</sub>**” is the year, expressed as a number, in which the day immediately following the last day of the Additional Amount Period falls;

“**M<sub>1</sub>**” is the calendar month, expressed as a number, in which the first day of the Additional Amount Period falls;

“**M<sub>2</sub>**” is the calendar month, expressed as a number, in which the day immediately following the last day of the Additional Amount Period falls;

“**D<sub>1</sub>**” is the first calendar day, expressed as a number, of the Additional Amount Period, unless such number would be 31, in which case D<sub>1</sub> will be 30; and

“**D<sub>2</sub>**” is the calendar day, expressed as a number, immediately following the last day included in the Additional Amount Period, unless such number would be 31 and D<sub>1</sub> is greater than 29, in which case D<sub>2</sub> will be 30.

“**30E/360**” or “Eurobond Basis” means the number of days in the Additional Amount Period divided by 360, calculated on a formula basis as follows:

$$\text{Day Count Fraction} = \frac{[360 \times (Y_2 - Y_1) + [30 \times (M_2 - M_1)] + (D_2 - D_1)]}{360}$$

where:

“**Y<sub>1</sub>**” is the year, expressed as a number, in which the first day of the Additional Amount Period falls;

“**Y<sub>2</sub>**” is the year, expressed as a number, in which the day immediately following the last day of the Additional Amount Period falls;

“**M<sub>1</sub>**” is the calendar month, expressed as a number, in which the first day of the Additional Amount Period falls;

“**M<sub>2</sub>**” is the calendar month, expressed as a number, in which the day immediately following the last day of the Additional Amount Period falls;

“**D<sub>1</sub>**” is the first calendar day, expressed as a number, of the Additional Amount Period, unless such number would be 31, in which case D1 will be 30; and

“**D<sub>2</sub>**” is the calendar day, expressed as a number, immediately following the last day included in the Additional Amount Period, unless such number would be 31, in which case D2 will be 30.

“**30E/360 (ISDA)**” means the number of days in the Additional Amount Period divided by 360, calculated on a formula basis as follows:

$$\text{Day Count Fraction} = \frac{[360 \times (Y_2 - Y_1) + [30 \times (M_2 - M_1)] + (D_2 - D_1)]}{360}$$

where:

“**Y<sub>1</sub>**” is the year, expressed as a number, in which the first day of the Additional Amount Period falls;

“**Y<sub>2</sub>**” is the year, expressed as a number, in which the day immediately following the last day of the Additional Amount Period falls;

“**M<sub>1</sub>**” is the calendar month, expressed as a number, in which the first day of the Additional Amount Period falls;

“**M<sub>2</sub>**” is the calendar month, expressed as a number, in which the day immediately following the last day of the Additional Amount Period falls;

“**D<sub>1</sub>**” is the first calendar day, expressed as a number, of the Additional Amount Period, unless (a) that day is the last day of February or (b) such number would be 31, in which case D1 will be 30; and

“**D<sub>2</sub>**” is the calendar day, expressed as a number, immediately following the last day included in the Additional Amount Period, unless (a) that day is the last day of February but not the Exercise Date or (b) such number would be 31, in which case D2 will be 30.

“**Actual/360**” means the actual number of days in the Additional Amount Period divided by 360.

“**Actual/Actual (ISDA)**” means the actual number of days in the Additional Amount Period divided by 365 (or, if any portion of that Additional Amount Period falls in a leap year, the sum of (a) the actual number of days in that portion of the Additional Amount Period falling in a leap year divided by 366; and (b) the actual number of days in that portion of the Additional Amount Period falling in a non-leap year divided by 365).

“**Actual/365 (Fixed)**” means the actual number of days in the Additional Amount Period divided by 365.

“**Additional Amount**” means, in respect of each Certificate and each Additional Amount Period, an amount calculated by the Calculation Agent as follows:

Notional Amount per Certificate x Additional Amount Rate x Additional Amount Rate Day Count Fraction.

“**Additional Amount Period**” means the period commencing on (and including) the Issue Date to (but excluding) the first Additional Amount Payment Date (or if earlier the Additional Amount Cut-off Date) and each period commencing on (and including) an Additional Amount Payment Date to (but excluding) the next following Additional Amount Payment Date (or if earlier the Additional Amount Cut-off Date).

## **USE OF PROCEEDS OF THE W&C SECURITIES**

### **W&C Securities**

Each Issuer intends to use the net proceeds from each issue of W&C Securities issued by it for its general corporate purposes. A substantial portion of the proceeds from the issue of W&C Securities may be used to hedge market risk with respect to such W&C Securities. If in respect of any particular issue of W&C Securities, there is a particular identified use of proceeds, this will be stated in the applicable Final Terms.

## ANNEX 1

## ADDITIONAL TERMS AND CONDITIONS FOR INDEX LINKED SECURITIES

## 1. Interpretation

If specified as applicable in the applicable Final Terms, the terms and conditions applicable to Index Linked Notes shall comprise the terms and conditions of the Notes (the “**Note Conditions**”) and the Additional Terms and Conditions for Index Linked Securities set out below (the “**Index Linked Conditions**”), in each case subject to completion and/or amendment in the applicable Final Terms. The terms and conditions applicable to Index Linked W&C Securities shall comprise the terms and conditions of the W&C Securities (the “**W&C Securities Conditions**”) and the Index Linked Conditions, in each case subject to completion and/or amendment in the applicable Final Terms. In the event of any inconsistency between the Note Conditions, in the case of Notes, and the W&C Securities Conditions, in the case of W&C Securities, and the Index Linked Conditions, the Index Linked Conditions shall prevail. In the event of any inconsistency between (a) the Note Conditions or the W&C Securities Conditions and/or the Index Linked Conditions and (b) the applicable Final Terms, the applicable Final Terms shall prevail. References in the Index Linked Conditions to “Security” and “Securities” shall be deemed to be references to “Note” and “Notes” or “W&C Security” and “W&C Securities” as the context admits.

## 2. Definitions

For the purposes of these Index Linked Conditions:

“**Averaging Cut-Off Date**” means the eighth Scheduled Trading Day (or, where the Index Linked Securities relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the eighth Common Scheduled Trading Day) immediately following the original date that, but for the occurrence of another Averaging Date or Disrupted Day, or on account of such date not being a Scheduled Trading Day (or, where the Index Linked Securities relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, a Common Scheduled Trading Day), would have been the final Averaging Date, or, if earlier, the Scheduled Trading Day (or, where the Index Linked Securities relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the Common Scheduled Trading Day) falling on or immediately preceding the second Business Day (or, in respect of Swedish Securities, the sixth Business Day) immediately preceding the date on which payment of any amount or delivery of any assets may have to be made pursuant to any calculation or determination made on the relevant Averaging Dates, *provided that* the Averaging Cut-Off Date shall not fall prior to the original date on which the final Averaging Date was scheduled to fall.

“**Averaging Date**” means each date specified as an Averaging Date in the applicable Final Terms or, if any such date is not a Scheduled Trading Day, the immediately following Scheduled Trading Day (or, where the Index Linked Securities relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the immediately following Common Scheduled Trading Day), or, if earlier, the Averaging Cut-Off Date. If any such day is a Disrupted Day:

- (a) if “**Omission**” is specified as applying in the applicable Final Terms, then such date will be deemed not to be an Averaging Date for the purposes of determining the relevant level or price provided that, if through the operation of this provision there would not be an Averaging Date, then the provisions of the definition of “Valuation Date” will apply for purposes of determining the relevant level or price on the final Averaging Date, as if such final Averaging Date were a Valuation Date that was a Disrupted Day; or
- (b) if “**Postponement**” is specified as applying in the applicable Final Terms, then the provisions of the definition of “Valuation Date” will apply for the purposes of determining the relevant level or price on that Averaging Date as if such Averaging Date were a Valuation Date that was a Disrupted Day irrespective of whether, pursuant to such determination, that deferred Averaging Date would fall on a day that already is or is deemed to be an Averaging Date; or
- (c) if “**Modified Postponement**” is specified as applying in the applicable Final Terms then:
  - (i) where the Index Linked Securities relate to a single Index, the Averaging Date shall be the first succeeding Valid Date. If the first succeeding Valid Date has not occurred as of



the Valuation Time on the Averaging Cut-Off Date or if such Averaging Date falls on the Averaging Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for the Index, then (A) the Averaging Cut-Off Date shall be deemed to be the Averaging Date (irrespective of whether the Averaging Cut-Off Date is already an Averaging Date), and (B) the Calculation Agent shall determine the relevant level or price for that Averaging Date in accordance with sub-paragraph (a)(ii) of the definition of “Valuation Date” below;

- (ii) where the Index Linked Securities relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” shall not be applicable, the Averaging Date for each Index not affected by the occurrence of a Disrupted Day shall be the originally designated Averaging Date (following adjustment of such date owing to the original date not being a Scheduled Trading Day, if applicable) (the “**Scheduled Averaging Date**”) and the Averaging Date for an Index affected by the occurrence of a Disrupted Day shall be the first succeeding Valid Date in relation to such Index. If the first succeeding Valid Date in relation to such Index has not occurred as of the Valuation Time on the Averaging Cut-Off Date or if such Averaging Date falls on the Averaging Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for the Index, then (A) the Averaging Cut-Off Date shall be deemed to be the Averaging Date (irrespective of whether the Averaging Cut-Off Date is already an Averaging Date) in relation to such Index, and (B) the Calculation Agent shall determine the relevant level or price for that Averaging Date in accordance with sub-paragraph (b)(ii) of the definition of “Valuation Date” below;
- (iii) where the Index Linked Securities relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Individual Disrupted Days” shall be applicable, the Averaging Date for each Index not affected by the occurrence of a Disrupted Day shall be the originally designated Averaging Date (following adjustment of such date owing to the original date not being a Common Scheduled Trading Day, if applicable) (the “**Scheduled Averaging Date**”) and the Averaging Date for an Index affected by the occurrence of a Disrupted Day shall be the first succeeding Valid Date in relation to such Index. If the first succeeding Valid Date in relation to such Index has not occurred as of the Valuation Time on the Averaging Cut-Off Date or if such Averaging Date falls on the Averaging Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day for the Index, then (A) the Averaging Cut-Off Date shall be deemed to be the Averaging Date (irrespective of whether the Averaging Cut-Off Date is already an Averaging Date) in relation to such Index, and (B) the Calculation Agent shall determine the relevant level or price for that Averaging Date in accordance with sub-paragraph (c)(ii) of the definition of “Valuation Date” below; or
- (iv) where the Index Linked Securities relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Common Disrupted Days” shall be applicable, the Averaging Date for each Index shall be the first succeeding Common Valid Date in relation to such Index. If the first succeeding Common Valid Date has not occurred as of the Valuation Time on the Averaging Cut-Off Date or if such Averaging Date falls on the Averaging Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day, then (A) the Averaging Cut-Off Date shall be deemed to be the Averaging Date (irrespective of whether the Averaging Cut-Off Date is already an Averaging Date), and (B) the Calculation Agent shall determine the relevant level or price for that Averaging Date in accordance with sub-paragraph (d)(ii) of the definition of “Valuation Date” below,

and, for the purposes of these Index Linked Conditions “**Valid Date**” means a Scheduled Trading Day that is not a Disrupted Day and on which another Averaging Date does not or is deemed not to occur, and “**Common Valid Date**” means a Common Scheduled Trading Day that is not a Disrupted Day for any Index, and on which another Averaging Date does not or is deemed not to occur.

“**Barrier Event Determination Day**” means, in respect of each Index:

- (a) if the applicable Final Terms provides that the Barrier Event (intraday) provisions shall apply, unless otherwise specified in the applicable Final Terms, each day on which the level of such Index is published and/or disseminated by the Index Sponsor during the relevant Observation Period, regardless of whether or not such day is a Scheduled Trading Day for such Index (and if the Calculation Agent in its sole and absolute discretion determines that a Market Disruption Event is occurring for such Index at any time on any Barrier Event Determination Day, it shall disregard the period during which it determines in its sole and absolute discretion that such Market Disruption Event has occurred and is continuing for the purposes of determining whether or not a Barrier Event (intraday) has occurred); or
- (b) if the applicable Final Terms provides that the Barrier Event (closing) provisions shall apply, each day specified as such in the applicable Final Terms.

**“Barrier Event Valuation Time (closing)”** means:

- (a) in relation to an Index which is specified in the applicable Final Terms as being a Unitary Index, the Scheduled Closing Time on the relevant Exchange on the relevant Barrier Event Determination Day, as the case may be, in relation to each Index to be valued. If the relevant Exchange closes prior to its Scheduled Closing Time and the specified Barrier Event Valuation Time (closing) is after the actual closing time for its regular trading session, then the Barrier Event Valuation Time (closing) shall be such actual closing time;
- (b) in relation to an Index which is specified in the applicable Final Terms as being a Multi-Exchange Index, (i) for the purposes of determining whether a Market Disruption Event has occurred: (A) in respect of any Component Security, the Scheduled Closing Time on the relevant Exchange and (B) in respect of any options contracts or futures contracts on the Index, the close of trading on the relevant Related Exchange, and (ii) in all other circumstances, the time at which the official closing level of the Index is calculated and published by the Index Sponsor; or
- (c) in relation to an Index which is specified in the applicable Final Terms as being a Proprietary Index, the time at which the Index Sponsor calculates and publishes the official closing level of the Index.

**“Barrier Event Valuation Time (intraday)”** means any time during the regular trading session (without regard to any after hours or any other trading outside of the regular session) on the relevant Exchange.

**“Barrier Level”** means, in respect of an Index, such level for such Index as is specified in the applicable Final Terms.

**“Basket of Indices”** means, subject to adjustment in accordance with these Index Linked Conditions, a basket composed of indices in their relative proportions or number of indices, as specified in the applicable Final Terms.

**“Common Scheduled Trading Day”** means, in respect of a Basket of Indices, each day which is a Scheduled Trading Day for all the Indices in the Basket of Indices.

**“Component Security”** means, in respect of an Index, any share or other component security included in such Index as determined by the Calculation Agent and related expressions shall be construed accordingly.

**“Disrupted Day”** means:

- (a) in relation to an Index which is specified in the applicable Final Terms as being a Unitary Index, any Scheduled Trading Day on which a relevant Exchange or any Related Exchange fails to open for trading during its regular trading session or on which a Market Disruption Event has occurred;
- (b) in relation to an Index which is specified in the applicable Final Terms as being a Multi-Exchange Index, any Scheduled Trading Day on which (i) the Index Sponsor fails to publish the level of the Index (provided that the Calculation Agent may, in its discretion, determine that such event instead results in the occurrence of an Index Disruption), (ii) the Related Exchange fails to open for trading during its regular trading session or (iii) a Market Disruption Event has occurred; or

- (c) in relation to an Index which is specified in the applicable Final Terms as being a Proprietary Index, any Scheduled Trading Day on which a Market Disruption Event has occurred (provided that the Calculation Agent may, in its discretion, determine that such event instead results in the occurrence of an Index Disruption).

**“Early Closure”** means:

- (a) in relation to an Index which is specified in the applicable Final Terms as being a Unitary Index, the closure on any Exchange Business Day of any relevant Exchange(s) relating to securities that comprise 20 per cent. or more of the level of the relevant Index or any Related Exchange(s) prior to its Scheduled Closing Time unless such earlier closing time is announced by such Exchange(s) or Related Exchange(s) at least one hour prior to the earlier of (i) the actual closing time for the regular trading session on such Exchange(s) or Related Exchange(s) on such Exchange Business Day and (ii) the submission deadline for orders to be entered into the Exchange or Related Exchange system for execution at the Valuation Time on such Exchange Business Day; or
- (b) in relation to an Index which is specified in the applicable Final Terms as being a Multi-Exchange Index, the closure on any Exchange Business Day of the Exchange in respect of any Component Security or the Related Exchange prior to its Scheduled Closing Time unless such earlier closing is announced by such Exchange or Related Exchange, as the case may be, at least one hour prior to the earlier of (i) the actual closing time for the regular trading session on such Exchange or Related Exchange, as the case may be, on such Exchange Business Day, or (ii) the submission deadline for orders to be entered into on the relevant Exchange or Related Exchange system for execution at the relevant Valuation Time on such Exchange Business Day.

**“Exchange”** means:

- (a) in relation to an Index which is specified in the applicable Final Terms as being a Unitary Index, each exchange or quotation system specified as such for such Index in the applicable Final Terms, any successor to such exchange or quotation system or any substitute exchange or quotation system to which trading in the securities comprising such Index has temporarily relocated (provided that the Calculation Agent has determined that there is comparable liquidity relative to the securities comprising such Index on such temporary substitute exchange or quotation system as on the original Exchange); or
- (b) in relation to an Index which is specified in the applicable Final Terms as being a Multi-Exchange Index, in respect of each Component Security, the principal stock exchange on which such Component Security is principally traded, as determined by the Calculation Agent.

**“Exchange Business Day”** means (a) where the relevant Index is specified in the applicable Final Terms to be a Unitary Index, any Scheduled Trading Day on which each Exchange and each Related Exchange are open for trading during their respective regular trading sessions, notwithstanding any such Exchange or Related Exchange closing prior to its Scheduled Closing Time or (b) where the relevant Index is specified in the applicable Final Terms to be a Multi-Exchange Index, any Scheduled Trading Day on which (i) the Index Sponsor publishes the level of the Index, and (ii) the Related Exchange is open for trading during its regular trading session, notwithstanding the Related Exchange closing prior to its Scheduled Closing Time.

**“Exchange Disruption”** means:

- (a) in relation to an Index which is specified in the applicable Final Terms as being a Unitary Index, any event (other than an Early Closure) that disrupts or impairs (as determined by the Calculation Agent) the ability of market participants in general (i) to effect transactions in, or obtain market values for, on any relevant Exchange(s) in securities that comprise 20 per cent. or more of the level of the relevant Index, or (ii) to effect transactions in, or obtain market values for, futures or options contracts relating to the relevant Index on any relevant Related Exchange; or
- (b) in relation to an Index which is specified in the applicable Final Terms as being a Multi-Exchange Index, any event (other than an Early Closure) that disrupts or impairs (as determined by the Calculation Agent) the ability of market participants in general to effect transactions in, or obtain market values for: (i) any Component Security on the Exchange in

respect of such Component Security; or (ii) futures or options contracts relating to the Index on the relevant Related Exchange.

**“Final Level”** means, in respect of an Index, unless otherwise specified in the applicable Final Terms, the Index Closing Level of such Index on the Valuation Date, subject to adjustment in accordance with these Index Linked Conditions.

**“Index”** and **“Indices”** mean, subject to adjustment in accordance with the Index Linked Conditions, the indices or index specified in the applicable Final Terms and related expressions shall be construed accordingly.

**“Index Closing Level”** means, in respect of an Index and any relevant date, subject to these Index Linked Conditions, an amount equal to the official closing level (which shall be deemed to be an amount in the Index Currency) of such Index as determined by the Calculation Agent on such date.

**“Index Currency”** means in respect of an Index, the index currency specified in the applicable Final Terms.

**“Index Level”** means, in respect of an Index and a time on any day, and subject to these Index Linked Conditions, the level of such Index at such time on such day as determined by the Calculation Agent.

**“Index Performance”** means unless otherwise specified in the applicable Final Terms, in respect of an Index and any relevant date, an amount (expressed as a percentage) determined by the Calculation Agent as being equal to (a) the Index Closing Level of such Index on such date, divided by (b) the Initial Level of such Index.

**“Index Sponsor”** means, in relation to an Index, the corporation or other entity that (a) is responsible for setting and reviewing the rules and procedures and the methods of calculation and adjustments, if any, related to such Index and (b) announces (directly or through an agent) the level of such Index on a regular basis during each Scheduled Trading Day, which as of the Issue Date is the index sponsor specified for such Index in the applicable Final Terms.

**“Initial Level”** means, in respect of an Index, unless otherwise specified in the applicable Final Terms, the Index Closing Level of such Index on the Strike Date, subject to adjustment in accordance with these Index Linked Conditions.

**“Multi-Exchange Index”** means any Index for which the “Type of Index” is specified as such in the applicable Final Terms, or, if not specified, any Index the Calculation Agent determines as such.

**“Observation Cut-Off Date”** means the eighth Scheduled Trading Day (or, where the Index Linked Securities relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the eighth Common Scheduled Trading Day) immediately following the Scheduled Observation Date or, if earlier, the Scheduled Trading Day (or, where the Index Linked Securities relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the Common Scheduled Trading Day) falling on or immediately preceding the second Business Day (or, in respect of Swedish Securities, the sixth Business Day) immediately preceding the date on which payment of any amount or delivery of any assets may have to be made pursuant to any calculation or determination made on such Observation Date, provided that the Observation Cut-Off Date shall not fall prior to the original date on which such Observation Date was scheduled to fall.

**“Observation Date”** means each Observation Date specified in the applicable Final Terms, or if such date is not a Scheduled Trading Day the immediately following Scheduled Trading Day (or, where the Index Linked Securities relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the immediately following Common Scheduled Trading Day) or, if earlier, the Observation Cut-Off Date. If any such day is a Disrupted Day, then:

- (a) where the Index Linked Securities relate to a single Index, the Observation Date shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day, unless each of the Scheduled Trading Days immediately following the Scheduled Observation Date up to, and including, the Observation Cut-Off Date is a Disrupted Day. In that case, or if such Observation Date falls on the Observation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for the Index, (i) the Observation Cut-Off Date shall be deemed to be such Observation Date (notwithstanding the fact that



such day may be a Disrupted Day) and (ii) the Calculation Agent shall determine the relevant level or price in the manner set out in the applicable Final Terms or, if not set out or if not practicable, determine the relevant level or price by determining the level of the Index as of the Valuation Time on the Observation Cut-Off Date in accordance with (subject to Index Linked Condition 5 below) the formula for and method of calculating the Index last in effect prior to the occurrence of the first Disrupted Day (A) in respect of a Unitary Index or Multi-Exchange Index, using the Exchange traded or quoted price as of the Valuation Time on the Observation Cut-Off Date of each security comprised in the Index (or, if an event giving rise to a Disrupted Day (as defined in the Share Linked Conditions in relation to a share) has occurred in respect of the relevant security on the Observation Cut-Off Date, its good faith estimate of the value for the relevant security as of the Valuation Time on the Observation Cut-Off Date) , or (B) in respect of a Proprietary Index, using such levels or values as the Calculation Agent determines to be appropriate as of the Valuation Time on the Observation Cut-Off Date of each component comprised in the Index, or, if the value of any component cannot be determined at such time on such day, its good faith estimate of the value for the relevant component as of the Valuation Time on the Observation Cut-Off Date;

- (b) where the Index Linked Securities relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” shall not be applicable, the Observation Date for each Index not affected by the occurrence of a Disrupted Day shall be the Scheduled Observation Date (or, if earlier, the Observation Cut-Off Date) and the Observation Date for each Index affected (each an “**Affected Index**”) by the occurrence of a Disrupted Day shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day relating to the Affected Index, unless each of the Scheduled Trading Days immediately following the Scheduled Observation Date up to, and including, the Observation Cut-Off Date is a Disrupted Day relating to the Affected Index. In that case, or if such Observation Date falls on the Observation Cut-Off Date for an Index owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for such Index, (i) the Observation Cut-Off Date shall be deemed to be the Observation Date for such Index (notwithstanding the fact that such day may be a Disrupted Day) and (ii) the Calculation Agent shall determine the relevant level or price using, in relation to such Index, the level of such Index determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using the level of such Index as of the Valuation Time on the Observation Cut-Off Date in accordance with (subject to Index Linked Condition 5) the formula for and method of calculating such Index last in effect prior to the occurrence of the first Disrupted Day (A) in respect of a Unitary Index or Multi-Exchange Index, using the Exchange traded or quoted price as of the Valuation Time on the Observation Cut-Off Date of each security comprised in such Index (or, if an event giving rise to a Disrupted Day (as defined in the Share Linked Conditions in relation to a share) has occurred in respect of the relevant security on the Observation Cut-Off Date, its good faith estimate of the value for the relevant security as of the Valuation Time on the Observation Cut-Off Date) or (B) in respect of a Proprietary Index, using such levels or values as the Calculation Agent determines to be appropriate as of the Valuation Time on the Observation Cut-Off Date of each component comprised in the Index, or, if the value of any component cannot be determined at such time on such day, its good faith estimate of the value for the relevant component as of the Valuation Time on the Observation Cut-Off Date;
- (c) where the Index Linked Securities relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Individual Disrupted Days” shall be applicable, the Observation Date for each Index not affected by the occurrence of a Disrupted Day shall be the Scheduled Observation Date (or if the Scheduled Observation Date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day, or in either case, if earlier, the Observation Cut-Off Date) and the Observation Date for each Index affected (each an “**Affected Index**”) by the occurrence of a Disrupted Day shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day relating to the Affected Index, unless each of the Scheduled Trading Days immediately following the Scheduled Observation Date (or if such Scheduled Observation Date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day) up to, and including, the Observation Cut-Off Date is a Disrupted Day relating to the Affected Index. In that case, or if such Observation Date falls on the Observation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading



- Day, (i) the Observation Cut-Off Date shall be deemed to be the Observation Date for such Index (notwithstanding the fact that such day may be a Disrupted Day for an Index or not a Common Scheduled Trading Day) and (ii) the Calculation Agent shall determine the relevant level or price using, in relation to such Index, the level of such Index determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using the level of such Index as of the Valuation Time on the Observation Cut-Off Date in accordance with (subject to Index Linked Condition 5) the formula for and method of calculating such Index last in effect prior to the occurrence of the first Disrupted Day (A) in respect of a Unitary Index or Multi-Exchange Index, using the Exchange traded or quoted price as of the Valuation Time on the Observation Cut-Off Date of each security comprised in such Index (or, if an event giving rise to a Disrupted Day (as defined in the Share Linked Conditions in relation to a share) has occurred in respect of the relevant security on the Observation Cut-Off Date, its good faith estimate of the value for the relevant security as of the Valuation Time on the Observation Cut-Off Date), or (B) in respect of a Proprietary Index, using such levels or values as the Calculation Agent determines to be appropriate as of the Valuation Time on the Observation Cut-Off Date of each component comprised in the Index, or, if the value of any component cannot be determined at such time on such day, its good faith estimate of the value for the relevant component as of the Valuation Time on the Observation Cut-Off Date; or
- (d) where the Index Linked Securities relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Common Disrupted Days” shall be applicable, the Observation Date shall be the first succeeding Common Scheduled Trading Day that is not a Disrupted Day for any Index, unless each of the Common Scheduled Trading Days immediately following the Scheduled Observation Date up to, and including, the Observation Cut-Off Date is a Disrupted Day for one or more Indices. In that case, or if such Observation Date falls on the Observation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day, (i) the Observation Cut-Off Date shall be deemed to be the Observation Date (notwithstanding the fact that such day may be a Disrupted Day for an Index or not a Common Scheduled Trading Day) and (ii) the Calculation Agent shall determine the relevant level or price using, in relation to each Index for which the Observation Cut-Off Date is a Disrupted Day or is not a Common Scheduled Trading Day, the level of such Index determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using the level of such Index as of the Valuation Time on the Observation Cut-Off Date in accordance with (subject to Index Linked Condition 5) the formula for and method of calculating such Index last in effect prior to the occurrence of the first Disrupted Day (A) in respect of a Unitary Index or Multi-Exchange Index, using the Exchange traded or quoted price as of the Valuation Time on the Observation Cut-Off Date of each security comprised in each Index for which the Observation Cut-Off Date is a Disrupted Day or is not a Common Scheduled Trading Day (or, if an event giving rise to a Disrupted Day (as defined in the Share Linked Conditions in relation to a share) has occurred in respect of the relevant security on the Observation Cut-Off Date, its good faith estimate of the value for the relevant security as of the Valuation Time on the Observation Cut-Off Date), or (B) in respect of a Proprietary Index, using such levels or values as the Calculation Agent determines to be appropriate as of the Valuation Time on the Observation Cut-Off Date of each component comprised in the Index, or, if the value of any component cannot be determined at such time on such day, its good faith estimate of the value for the relevant component as of the Valuation Time on the Observation Cut-Off Date.

**“Observation Period”** means, in respect of an Index:

- (a) if the consequence of “Extension” is specified in the applicable Final Terms to be applicable, each period commencing on the Observation Period Start Date, following adjustment of such date pursuant to these Index Linked Conditions or as specified in the applicable Final Terms, if applicable (and including or excluding such Observation Period Start Date, as specified in the applicable Final Terms) and ending on the immediately following Observation Period End Date, following adjustment of such date pursuant to these Index Linked Conditions or as specified in the applicable Final Terms, if applicable (and including or excluding such Observation Period End Date, as specified in the applicable Final Terms); or
- (b) if the consequence of “No Extension” is specified in the applicable Final Terms to be applicable, each period commencing on the Observation Period Start Date, prior to any adjustment of such date pursuant to these Index Linked Conditions or as specified in the

applicable Final Terms, if applicable (and including or excluding such Observation Period Start Date, as specified in the applicable Final Terms) and ending on the immediately following Observation Period End Date, prior to any adjustment of such date pursuant to these Index Linked Conditions or as specified in the applicable Final Terms, if applicable (and including or excluding such Observation Period End Date, as specified in the applicable Final Terms).

**“Observation Period End Date”** means, in respect of an Index, each date specified as such in the applicable Final Terms, subject to adjustment in accordance with the provisions of “Observation Date”, “Valuation Date” or otherwise as specified in the applicable Final Terms, if applicable.

**“Observation Period Start Date”** means, in respect of an Index, each date specified as such in the applicable Final Terms, subject to adjustment in accordance with the provisions of “Observation Date”, “Valuation Date” or otherwise as specified in the applicable Final Terms, if applicable.

**“Proprietary Index”** means any Index for which the “Type of Index” is specified as such in the applicable Final Terms, or, if not specified, any Index the Calculation Agent determines as such.

**“Related Exchange”** means, in relation to any Unitary Index or Multi-Exchange Index, each exchange or quotation system specified as such for such Index in the applicable Final Terms, any successor to such exchange or quotation system or any substitute exchange or quotation system to which trading in futures or options contracts relating to such Index has temporarily relocated (provided that the Calculation Agent has determined that there is comparable liquidity relative to the futures or options contracts relating to such Index on such temporary substitute exchange or quotation system as on the original Related Exchange), provided, however, that where “All Exchanges” is specified as the Related Exchange in the applicable Final Terms, **“Related Exchange”** shall mean each exchange or quotation system where trading has a material effect (as determined by the Calculation Agent) on the overall market for futures or options contracts relating to the Index.

**“Scheduled Closing Time”** means, in respect of an Exchange or Related Exchange and a Scheduled Trading Day, the scheduled weekday closing time of such Exchange or Related Exchange on such Scheduled Trading Day, without regard to after hours or any other trading outside of the regular trading session hours.

**“Scheduled Observation Date”** means any original date that, but for the occurrence of an event causing a Disrupted Day, would have been an Observation Date.

**“Scheduled Trading Day”** means in respect of:

- (a) any Unitary Index, any day on which each Exchange and each Related Exchange for the Index are scheduled to be open for trading for their respective regular trading sessions;
- (b) any Multi-Exchange Index, any day on which (i) the Index Sponsor is scheduled to publish the level of the Index, and (ii) the Related Exchange for the Index is scheduled to be open for trading for its regular trading session; and
- (c) any Proprietary Index, any day on, or, as the case may be, in respect of, which the Index Sponsor is scheduled to publish the level of such Index.

**“Scheduled Valuation Date”** means any original date that, but for the occurrence of an event causing a Disrupted Day, would have been a Valuation Date.

**“Strike Date”** means the date specified as such in the applicable Final Terms.

**“Trade Date”** means the date specified as such in the applicable Final Terms.

**“Trading Disruption”** means:

- (a) in respect of any Unitary Index, any suspension of, or limitation imposed on, trading by any relevant Exchange or Related Exchange or otherwise and whether by reason of movements in price exceeding limits permitted by the relevant Exchange or Related Exchange or otherwise, (i) relating to securities that comprise 20 per cent. or more of the level of such Index on any relevant Exchange, or (ii) in futures or options contracts relating to such Index on any relevant Related Exchange; and
- (b) in respect of any Multi-Exchange Index, any suspension or limitation imposed on trading by any relevant Exchange or Related Exchange or otherwise, and whether by reason of

movements in price exceeding limits permitted by the relevant Exchange or Related Exchange or otherwise, (i) relating to any Component Security on the Exchange in respect of such Component Security, or (ii) in futures or options contracts relating to the Index on the Related Exchange.

“**Unitary Index**” means any Index for which the “Type of Index” is specified as such in the applicable Final Terms, or, if not specified, any Index the Calculation Agent determines as such.

“**Valuation Cut-Off Date**” means the eighth Scheduled Trading Day (or, where the Index Linked Securities relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the eighth Common Scheduled Trading Day) immediately following the Scheduled Valuation Date, or, if earlier, the Scheduled Trading Day (or, where the Index Linked Securities relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the Common Scheduled Trading Day) falling on or immediately preceding the second Business Day (or, in respect of Swedish Securities, the sixth Business Day) immediately preceding the date on which payment of any amount or delivery of any assets may have to be made pursuant to any calculation or determination made on such Valuation Date, provided that the Valuation Cut-Off Date shall not fall prior to the original date on which such Valuation Date was scheduled to fall.

“**Valuation Date**” means each Valuation Date specified in the applicable Final Terms, or if such date is not a Scheduled Trading Day, the immediately following Scheduled Trading Day (or, where the Index Linked Securities relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the immediately following Common Scheduled Trading Day) or, if earlier, the Valuation Cut-Off Date. If such day is a Disrupted Day, then:

- (a) where the Index Linked Securities relate to a single Index, the Valuation Date shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day, unless each of the Scheduled Trading Days immediately following the Scheduled Valuation Date up to, and including, the Valuation Cut-Off Date is a Disrupted Day. In that case, or if such Valuation Date falls on the Valuation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for the Index, (i) the Valuation Cut-Off Date shall be deemed to be the Valuation Date (notwithstanding the fact that such day may be a Disrupted Day) and (ii) the Calculation Agent shall determine the relevant level or price in the manner set out in the applicable Final Terms or, if not set out or if not practicable, determine the relevant level or price by determining the level of the Index as of the Valuation Time on the Valuation Cut-Off Date in accordance with (subject to Index Linked Condition 5 below) the formula for and method of calculating the Index last in effect prior to the occurrence of the first Disrupted Day (A) in respect of a Unitary Index or Multi-Exchange Index, using the Exchange traded or quoted price as of the Valuation Time on the Valuation Cut-Off Date of each security comprised in the Index (or, if an event giving rise to a Disrupted Day (as defined in the Share Linked Conditions in relation to a share) has occurred in respect of the relevant security on the Valuation Cut-Off Date, its good faith estimate of the value for the relevant security as of the Valuation Time on the Valuation Cut-Off Date), or (B) in respect of a Proprietary Index, using such levels or values as the Calculation Agent determines to be appropriate as of the Valuation Time on the Valuation Cut-Off Date of each component comprised in the Index, or, if the value of any component cannot be determined at such time on such day, its good faith estimate of the value for the relevant component as of the Valuation Time on the Valuation Cut-Off Date;
- (b) where the Index Linked Securities relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” shall not be applicable, the Valuation Date for each Index not affected by the occurrence of a Disrupted Day shall be the Scheduled Valuation Date (or, if earlier, the Valuation Cut-off Date) and the Valuation Date for each Index affected (each an “**Affected Index**”) by the occurrence of a Disrupted Day shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day relating to the Affected Index, unless each of the Scheduled Trading Days immediately following the Scheduled Valuation Date up to, and including, the Valuation Cut-Off Date is a Disrupted Day relating to the Affected Index. In that case, or if such Valuation Date falls on the Valuation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for such Index, (i) the Valuation Cut-Off Date shall be deemed to be the

Valuation Date for such Index (notwithstanding the fact that such day may be a Disrupted Day) and (ii) the Calculation Agent shall determine the relevant level or price using, in relation to such Index, the level of such Index determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using the level of such Index as of the Valuation Time on the Valuation Cut-Off Date in accordance with (subject to Index Linked Condition 5) the formula for and method of calculating such Index last in effect prior to the occurrence of the first Disrupted Day (A) in respect of a Unitary Index or Multi-Exchange Index, using the Exchange traded or quoted price as of the Valuation Time on the Valuation Cut-Off Date of each security comprised in that Index (or, if an event giving rise to a Disrupted Day (as defined in the Share Linked Conditions in relation to a share) has occurred in respect of the relevant security on the Valuation Cut-Off Date, its good faith estimate of the value for the relevant security as of the Valuation Time on the Valuation Cut-Off Date), or (B) in respect of a Proprietary Index, using such levels or values as the Calculation Agent determines to be appropriate as of the Valuation Time on the Valuation Cut-Off Date of each component comprised in the Index, or, if the value of any component cannot be determined at such time on such day, its good faith estimate of the value for the relevant component as of the Valuation Time on the Valuation Cut-Off Date;

- (c) where the Index Linked Securities relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Individual Disrupted Days” shall be applicable, the Valuation Date for each Index not affected by the occurrence of a Disrupted Day shall be the Scheduled Valuation Date (or if the Scheduled Valuation Date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day, or in either case, if earlier, the Valuation Cut-off Date) and the Valuation Date for each Index affected (each an “**Affected Index**”) by the occurrence of a Disrupted Day shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day relating to the Affected Index, unless each of the Scheduled Trading Days immediately following the Scheduled Valuation Date (or if the Scheduled Valuation Date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day) up to, and including, the Valuation Cut-Off Date is a Disrupted Day relating to the Affected Index. In that case, or if such Valuation Date falls on the Valuation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day, (i) the Valuation Cut-Off Date shall be deemed to be the Valuation Date for such Index (notwithstanding the fact that such day may be a Disrupted Day for an Index or not a Common Scheduled Trading Day) and (ii) the Calculation Agent shall determine the relevant level or price using, in relation to such Index, the level of such Index determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using the level of that Index as of the Valuation Time on the Valuation Cut-Off Date in accordance with (subject to Index Linked Condition 5) the formula for and method of calculating such Index last in effect prior to the occurrence of the first Disrupted Day (A) in respect of a Unitary Index or Multi-Exchange Index, using the Exchange traded or quoted price as of the Valuation Time on the Valuation Cut-Off Date of each security comprised in such Index (or, if an event giving rise to a Disrupted Day (as defined in the Share Linked Conditions in relation to a share) has occurred in respect of the relevant security on the Valuation Cut-Off Date, its good faith estimate of the value for the relevant security as of the Valuation Time on the Valuation Cut-Off Date), or (B) in respect of a Proprietary Index, using such levels or values as the Calculation Agent determines to be appropriate as of the Valuation Time on the Valuation Cut-Off Date of each component comprised in the Index, or, if the value of any component cannot be determined at such time on such day, its good faith estimate of the value for the relevant component as of the Valuation Time on the Valuation Cut-Off Date; or
- (d) where the Index Linked Securities relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Common Disrupted Days” shall be applicable, the Valuation Date shall be the first succeeding Common Scheduled Trading Day that is not a Disrupted Day for any Index, unless each of the Common Scheduled Trading Days immediately following the Scheduled Valuation Date up to, and including, the Valuation Cut-Off Date is a Disrupted Day for one or more Indices. In that case, or if the Valuation Date falls on the Valuation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day, (i) the Valuation Cut-Off Date shall be deemed to be the Valuation Date (notwithstanding the fact that such day may be a Disrupted Day for an Index or not a Common Scheduled Trading Day) and (ii) the Calculation Agent



shall determine the relevant level or price using, in relation to each Index for which the Valuation Cut-Off Date is a Disrupted Day or is not a Common Scheduled Trading Day, the level of such Index determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using the level of such Index as of the Valuation Time on the Valuation Cut-Off Date in accordance with (subject to Index Linked Condition 5) the formula for and method of calculating such Index last in effect prior to the occurrence of the first Disrupted Day (A) in respect of a Unitary Index or Multi-Exchange Index, using the Exchange traded or quoted price as of the Valuation Time on the Valuation Cut-Off Date of each security comprised in each Index for which the Valuation Cut-Off Date is a Disrupted Day or is not a Common Scheduled Trading Day (or, if an event giving rise to a Disrupted Day (as defined in the Share Linked Conditions in relation to a share) has occurred in respect of the relevant security on the Valuation Cut-Off Date, its good faith estimate of the value for the relevant security as of the Valuation Time on the Valuation Cut-Off Date), or (B) in respect of a Proprietary Index, using such levels or values as the Calculation Agent determines to be appropriate as of the Valuation Time on the Valuation Cut-Off Date of each component comprised in the Index, or, if the value of any component cannot be determined at such time on such day, its good faith estimate of the value for the relevant component as of the Valuation Time on the Valuation Cut-Off Date.

**“Valuation Time”** means:

- (a) in respect of any Unitary Index, (i) for the purposes of determining whether an Early Closure, an Exchange Disruption or a Trading Disruption has occurred in respect of (A) any Exchange, the Scheduled Closing Time of the Exchange (provided that, if the relevant Exchange closes prior to its Scheduled Closing Time, then the Valuation Time shall be such actual closing time), and (B) any options contracts or futures contracts on such Index, the close of trading on the Related Exchange, and (ii) in all other circumstances, the time at which the official closing level of the Index is calculated and published by the Index Sponsor;
- (b) in respect of any Multi-Exchange Index, (i) for the purposes of determining whether an Early Closure, an Exchange Disruption or a Trading Disruption has occurred in respect of (I) any Component Security, the Scheduled Closing Time on the Exchange in respect of such Component Security (provided that, if the relevant Exchange closes prior to its Scheduled Closing Time, then the Valuation Time shall be such actual closing time), and (II) any options contracts or futures contracts on the Index, the close of trading on the Related Exchange, and (ii) in all other circumstances, the time at which the official closing level of the Index is calculated and published by the Index Sponsor; and
- (c) in respect of any Proprietary Index, the time at which the Index Sponsor calculates and publishes the official closing level of the Index.

**“Worst Performing Index”** means, in respect of a Basket of Indices and the Valuation Date (unless otherwise specified in the applicable Final Terms), the Index with the lowest Index Performance on such day as determined by the Calculation Agent (provided that if two or more Indices have the same lowest Index Performance on such day, the Calculation Agent shall determine which Index shall be the Worst Performing Index in its sole and absolute discretion, and such Index shall be the Worst Performing Index).

### 3. **Market Disruption**

**“Market Disruption Event”** means:

- (a) in respect of any Unitary Index, the occurrence or existence of (i) a Trading Disruption, (ii) an Exchange Disruption, which in either case the Calculation Agent determines is material, at any time during the one hour period that ends at the relevant Valuation Time or (iii) an Early Closure.

For the purposes of determining whether a Market Disruption Event in respect of a Unitary Index exists at any time, if a Market Disruption Event (as defined in the Share Linked Conditions in relation to a share) occurs in respect of a Component Security included in the Index at any time, then the relevant percentage contribution of such Component Security to the level of the Index shall be based on a comparison of (A) the portion of the level of the Index attributable to such Component Security and (B) the overall level of the Index, in each case immediately before the occurrence of such Market Disruption Event;



- (b) in respect of any Multi-Exchange Index either:
  - (i) (A) the occurrence or existence, in respect of any Component Security, of:
    - (I) a Trading Disruption, which the Calculation Agent determines is material, at any time during the one hour period that ends at the relevant Valuation Time in respect of the Exchange on which such Component Security is principally traded;
    - (II) an Exchange Disruption, which the Calculation Agent determines is material, at any time during the one hour period that ends at the relevant Valuation Time in respect of the Exchange on which such Component Security is principally traded; or
    - (III) an Early Closure; and
  - (B) the aggregate of all Component Securities in respect of which a Trading Disruption, an Exchange Disruption or an Early Closure occurs or exists, comprises 20 per cent. or more of the level of the Index; or
  - (ii) the occurrence or existence, in respect of futures or options contracts relating to the Index, of (A) a Trading Disruption, (B) an Exchange Disruption which in either case the Calculation Agent determines is material, at any time during the one hour period that ends at the Valuation Time in respect of the Related Exchange or (C) an Early Closure.

For the purposes of determining whether a Market Disruption Event in respect of a Multi-Exchange Index exists at any time, if a Market Disruption Event (as defined in the Share Linked Conditions in relation to a share) occurs in respect of a Component Security at that time, then the relevant percentage contribution of such Component Security to the level of the Index shall be based on a comparison of (x) the portion of the level of the Index attributable to that Component Security and (y) the overall level of the Index, in each case using the official opening weightings as published by the Index Sponsor as part of the market “opening data”.

- (c) in respect of any Proprietary Index, the failure by the Index Sponsor to calculate and publish the level of the Index on any Scheduled Trading Day or in respect of such Scheduled Trading Day within the scheduled timeframe for publication.

#### 4. **Barrier Event**

- (a) A “**Barrier Event (intraday)**” means (and a Barrier Event (intraday) shall be deemed to occur if), in respect of an Index, the Calculation Agent determines that the Index Level of such Index as of the Barrier Event Valuation Time (intraday) on any Barrier Event Determination Day is less than or equal to the corresponding Barrier Level for such Index and such Barrier Event Determination Day.

For the purpose of determining whether a Barrier Event (intraday) has occurred on any day in respect of a Unitary Index and a Multi-Exchange Index, the definition of Market Disruption Event specified in Index Linked Condition 3 shall be amended such that (i) all references to “during the one-hour period that ends at the relevant Valuation Time” shall be deleted, and (ii) in the definition of “Early Closure” appearing in Index Linked Condition 2, each reference to “Valuation Time” and “Scheduled Closing Time” shall be construed as a reference to “Barrier Event Valuation Time (intraday)”.

- (b) A “**Barrier Event (closing)**” means (and a Barrier Event (closing) shall be deemed to occur if), in respect of an Index, the Calculation Agent determines that the Index Closing Level of such Index as of the Barrier Event Valuation Time (closing) on any Barrier Event Determination Day is less than or equal to the corresponding Barrier Level for such Index and such Barrier Event Determination Day.

#### 5. **Adjustments and Corrections to an Index**

- (a) Consequences of a Successor Index Sponsor or a Successor Index

If a relevant Index is (i) not calculated and announced by the Index Sponsor but is calculated and announced by a successor sponsor (the “**Successor Index Sponsor**”) acceptable to the Calculation Agent, or (ii) replaced by a successor index using, in the determination of the Calculation Agent, the same or a substantially similar formula for and method of calculation

as used in the calculation of that Index, then in each case that index (the “**Successor Index**”) will be deemed to be the Index.

(b) Modification and Cessation of Calculation of an Index

If (i) on or prior to a Valuation Date, an Observation Date or an Averaging Date (or other relevant date, as determined by the Calculation Agent), the relevant Index Sponsor makes or announces that it will make a material change in the formula for or the method of calculating a relevant Index or in any other way materially modifies that Index (other than a modification prescribed in that formula or method to maintain that Index in the event of changes in constituent stock and capitalisation or contracts and other routine events) (an “**Index Modification**”), or permanently cancels a relevant Index and no Successor Index exists (an “**Index Cancellation**”), or (ii) on a Valuation Date, an Observation Date or an Averaging Date (or other relevant date, as determined by the Calculation Agent), the Index Sponsor or, if applicable, the Successor Index Sponsor fails to calculate and announce a relevant Index, provided that, in respect of an Index which is specified in the applicable Final Terms as being a Multi-Exchange Index or a Proprietary Index, the Calculation Agent may, in its discretion, determine that such event instead results in the occurrence of a Disrupted Day (an “**Index Disruption**” and, together with an Index Modification and an Index Cancellation, each an “**Index Adjustment Event**”), then the Issuer may take the action described in (A) or (B) below:

- (A) require the Calculation Agent to determine if such Index Adjustment Event has a material effect on the Index Linked Securities and, if so, calculate the relevant level or price using, in lieu of a published level for such Index, the level for such Index as at the Valuation Time on that Valuation Date, Observation Date or Averaging Date, as the case may be, as determined by the Calculation Agent in accordance with the formula for and method of calculating such Index last in effect prior to the change, failure or cancellation, but using only those securities or components that comprised such Index immediately prior to that Index Adjustment Event; or
- (B) (I) in the case of Notes, on giving notice to the Noteholders in accordance with Note Condition 14, redeem all (but not less than all) of the Notes, each Note being redeemed at the Early Redemption Amount; or
- (II) in the case of W&C Securities, on giving notice to Holders in accordance with W&C Securities Condition 11, cancel the W&C Securities. If the W&C Securities are so cancelled the Issuer will pay an amount to each Holder in respect of each W&C Security or Unit, as the case may be, held by him which amount shall be the fair market value of a W&C Security or a Unit, as the case may be, taking into account the Index Adjustment Event, less the cost to the Issuer and/or any of its Affiliates of unwinding any underlying related hedging arrangements (including any cost of funding in respect of such hedging arrangements), all as determined by the Calculation Agent in its sole and absolute discretion. Payments will be made in such manner as shall be notified to the Holders in accordance with W&C Securities Condition 11.

Upon the occurrence of an Index Adjustment Event, the Issuer shall give notice as soon as reasonably practicable to the Holders in accordance with Note Condition 14 or Holders in accordance with W&C Securities Condition 11, as applicable, giving details of the action proposed to be taken in relation thereto, provided that any failure to give, or non-receipt of, such notice will not affect the validity of such action. The Issuer shall make available for inspection by Holders copies of any such determinations.

(c) Corrections to an Index

If the level of a relevant Index published on any Valuation Date, Observation Date or Averaging Date (or other relevant date, as determined by the Calculation Agent), as the case may be, by the relevant Index Sponsor or (if applicable) the relevant Successor Index Sponsor and which is utilised for any calculation or determination made for the purposes of the Index Linked Securities (a “**Relevant Calculation**”) is subsequently corrected and the correction (the “**Corrected Index Level**”) is published by the relevant Index Sponsor or (if applicable) the relevant Successor Index Sponsor no later than two Business Days prior to the date on

which payment of any amount or delivery of any assets may have to be made pursuant to such Relevant Calculation, then such Corrected Index Level shall be deemed to be the relevant level for such Index on such Averaging Date, Observation Date or Valuation Date (or other relevant date, as determined by the Calculation Agent), as the case may be, and the Calculation Agent shall use such Corrected Index Level in determining the relevant level or price and/or whether the Barrier Event (closing) or Barrier Event (intraday), as the case may be, has been triggered.

(d) Additional Index Adjustment Event

If, on or prior to a Strike Date, Valuation Date, an Observation Date or an Averaging Date (or other relevant date, as determined by the Calculation Agent), the Issuer has determined and notified the Calculation Agent that a U.S. Withholding Tax Event has occurred on or prior to such date, then:

- (i) regardless of whether an Index Substitution Event takes place pursuant to the below, the Calculation Agent may make such adjustments or reductions to the Index Closing Level (or any other relevant level) of the relevant Index in respect of the Strike Date, any Valuation Date, any Observation Date, any Averaging Date or any other relevant date, and/or any adjustment(s), if any, to one or more of any variables relevant to the redemption, cancellation, payment, calculation of any amount payable or other terms of the Securities, as the Calculation Agent determines appropriate to account for the economic effect of such U.S. Withholding Tax Event, including after giving effect to any Index Substitution Event (if any); and/or
- (ii) notwithstanding the Issuer's right to, in the case of Notes, redeem the Notes early at its option pursuant to Note Condition 7 or, in the case of W&C Securities, cancel the W&C Securities at its option pursuant to W&C Securities Condition 7, following the occurrence of such U.S. Withholding Tax Event, the Issuer may, at its option, upon notification by the Issuer to the Calculation Agent that it wishes to substitute a Successor Index for the relevant Index (such event, an "**Index Substitution Event**"), determine that the relevant Index shall be replaced by the Successor Index with effect from the date specified by the Issuer and not, in the case of Notes, redeem the Notes early at its option pursuant to Note Condition 6 nor, in the case of W&C Securities, cancel the W&C Securities at its option pursuant to W&C Securities Condition 7, and, following the Index Substitution Event coming into effect, the Calculation Agent may make such adjustments or reductions to the Index Closing Level (or any other relevant level) of the relevant Successor Index in respect of the Strike Date, any Valuation Date, any Observation Date, any Averaging Date or any other relevant date, and/or any adjustment(s), if any, to one or more of any variables relevant to the redemption, cancellation, payment, calculation of any amount payable, or other terms of the Notes or W&C Securities, as the Calculation Agent determines appropriate to account for the economic effect of such Index Substitution Event (if any). The Issuer will notify holders of the occurrence and terms of such Index Substitution Event, in the case of Notes, in accordance with Note Condition 14 and, in the case of W&C Securities, in accordance with W&C Securities Condition 11 (the date of such notification, in the case of Notes pursuant to Note Condition 14 and, in the case of W&C Securities pursuant to W&C Securities Condition 11, being the "**Index Substitution Event Notification Date**"). The Issuer's determination, in the case of Notes, not to redeem the Notes early and, in the case of W&C Securities, not to cancel the W&C Securities, following a U.S. Withholding Tax Event shall not affect its right to, in the case of Notes, redeem the Notes early for any other tax reasons pursuant to the Note Condition 6 or, in the case of W&C Securities, cancel the W&C Securities for any other tax reason pursuant to W&C Securities Condition 7, at any time during the term of the Notes or W&C Securities, as applicable (whether before, at the same time, or after the occurrence of the U.S. Withholding Tax Event which gave rise to such Index Substitution Event).

Following the occurrence of an Index Substitution Event: (a) in the case of Notes each Noteholder shall have the option, upon such Noteholder giving the Issuer, in accordance with Note Condition 14, not less than 10 nor more than 30 calendar days' notice from the Index Substitution Event Notification Date to redeem the Notes held by such Noteholder in whole (but not in part), and, the Issuer, upon the expiration of such notice, will redeem such Notes on the Index Substitution

Optional Redemption Date and at the Index Substitution Optional Redemption Amount; or (b) in the case of W&C Securities each Holder shall have the option, upon such Holder giving the Issuer, in accordance with W&C Securities Condition 11, not less than 10 nor more than 30 calendar days' notice from the Index Substitution Event Notification Date to cancel the W&C Securities held by such Holder in whole (but not in part), and, the Issuer, upon the expiration of such notice, will cancel such W&C Securities on the Index Substitution Optional Cancellation Date at the Index Substitution Optional Cancellation Amount.

In the case of (a) Notes, the procedures specified in the second, third and fourth paragraphs of Note Condition 7(E) shall apply to the election of the option described in paragraph (i) above, (b) Certificates, the procedures specified in the second paragraph of W&C Securities Condition 29(E) shall apply to the election of the option described in paragraph (ii) above, provided that for the purposes of this Index Condition 5(d) the words "In order to exercise the right to bring forward the Exercise Date" shall be deemed to be deleted, and (c) Warrants, the procedure specified in the relevant paragraph of W&C Securities Condition 23 shall apply to the election of the option described in paragraph (ii) above, provided that for the purposes of the this Index Condition 5(d) the words "Settlement Date" and "Actual Exercise Date" shall be deemed to be deleted and replaced with the words "Index Substitution Optional Cancellation Date".

**"Index Substitution Optional Cancellation Amount"** means, in respect of each W&C Security, the fair market value of the W&C Security less the cost to the Issuer and/or its Affiliates or agents of unwinding any underlying hedging arrangement (including any cost of funding in respect of such hedging arrangements) as determined by the Calculation Agent (determined on or after the Index Substitution Event Notification Date) (taking into account, if applicable, any and all adjustments made to the levels of the relevant Index or Successor Index and the terms of the W&C Securities made pursuant to paragraphs (i) and (ii) of Index Linked Condition 5(d)).

**"Index Substitution Optional Cancellation Date"** means, in respect of each W&C Security, a date selected by the Issuer, which shall be not earlier than the fifth Business Day following the Index Substitution Event Notification Date and not later than the 60th calendar day following the Index Substitution Event Notification Date.

**"Index Substitution Optional Redemption Amount"** means, in respect of each Note, the Market Value less Associated Costs (determined on or after the Index Substitution Event Notification Date) as provided in Condition 7(G) (taking into account, if applicable, any and all adjustments made to the levels of the relevant Index or Successor Index and the terms of the Notes made pursuant to paragraphs (i) and (ii) of Index Linked Condition 5(d)).

**"Index Substitution Optional Redemption Date"** means, in respect of each Note, a date selected by the Issuer, which shall be not earlier than the fifth Business Day following the Index Substitution Event Notification Date and not later than the 60th calendar day following the Index Substitution Event Notification Date.

**"U.S. Withholding Tax Event"** means an event with respect to the Notes, as defined in Note Condition 7(B) and, with respect to the W&C Securities, as defined in W&C Securities Condition 7(A).

## 6. Additional Disruption Events

(a) **"Additional Disruption Event"** means any of Change in Law, Hedging Disruption and/or Increased Cost of Hedging, in each case if specified in the applicable Final Terms.

**"Change in Law"** means that, on or after the Trade Date (as specified in the applicable Final Terms) (i) due to the adoption of or any change in any applicable law or regulation (including, without limitation, any tax law), or (ii) 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 or regulation (including any action taken by a taxing authority), the Calculation Agent determines in its sole and absolute discretion that (A) it has become illegal to hold, acquire or dispose of any relevant security comprised in an Index or (B) the Issuer will incur a materially increased cost in performing its obligations in relation to the Index Linked Securities (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on the tax position of the Issuer and/or any of its affiliates).

**“Hedging Disruption”** means that the Issuer and/or any of its Affiliates or agents is unable, after using commercially reasonable efforts, to (i) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the equity or other price risk of the Issuer issuing and performing its obligations with respect to the Index Linked Securities, or (ii) realise, recover or remit the proceeds of any such transaction(s) or asset(s).

**“Increased Cost of Hedging”** means that the Issuer and/or any of its Affiliates or agents acting on its behalf would incur a materially increased (as compared with circumstances existing on the Trade Date) amount of tax, duty, expense or fee (other than brokerage commissions) to (i) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the equity or other price risk of the Issuer issuing and performing its obligations with respect to the Index Linked Securities, or (ii) realise, recover or remit the proceeds of any such transaction(s) or asset(s), provided that any such materially increased amount that is incurred solely due to the deterioration of the creditworthiness of the Issuer and/or any of its Affiliates or agents shall not be deemed an Increased Cost of Hedging.

- (b) If Additional Disruption Events are specified as applicable in the applicable Final Terms, then if an Additional Disruption Event occurs, the Issuer in its sole and absolute discretion may take the action described in (i) or (ii) below:
  - (i) require the Calculation Agent to determine in its sole and absolute discretion the appropriate adjustment, if any, to be made to any one or more of the terms of these Terms and Conditions and/or the applicable Final Terms to account for the Additional Disruption Event and determine the effective date of that adjustment; or
  - (ii) give notice to Holders in accordance with Note Condition 14 or W&C Securities Condition 11, as applicable, and (A) in the case of Notes, redeem all, but not less than all, of the Notes, each nominal amount of Notes equal to the Calculation Amount being redeemed at the Early Redemption Amount; or (B) in the case of W&C Securities, cancel the W&C Securities and pay an amount to each Holder in respect of each W&C Security or Unit, as the case may be, held by him which amount shall be the fair market value of a W&C Security or a Unit, as the case may be, taking into account the Additional Disruption Event less the cost to the Issuer and/or any of its Affiliates or agents of unwinding any underlying related hedging arrangements (including any cost of funding in respect of such hedging arrangements) plus, in the case of Warrants, if already paid, the Exercise Price, all as determined by the Calculation Agent in its sole and absolute discretion, payment being made in such manner as shall be notified to the Holders in accordance with W&C Securities Condition 11.
- (c) Upon the occurrence of an Additional Disruption Event, the Issuer shall give notice as soon as practicable to the Holders stating the occurrence of the Additional Disruption Event, giving details thereof and the action proposed to be taken in relation thereto provided that any failure to give, or non-receipt of, such notice will not affect the validity of the Additional Disruption Event.



## ANNEX 2

## ADDITIONAL TERMS AND CONDITIONS FOR SHARE LINKED SECURITIES

## 1. Interpretation

If specified as applicable in the applicable Final Terms, the terms and conditions applicable to Share Linked Notes shall comprise the terms and conditions of the Notes (the “**Note Conditions**”) and the Additional Terms and Conditions for Share Linked Securities set out below (the “**Share Linked Conditions**”), in each case subject to completion and/or amendment in the applicable Final Terms. The terms and conditions applicable to Share Linked W&C Securities shall comprise the terms and conditions of the W&C Securities (the “**W&C Securities Conditions**”) and the Share Linked Conditions, in each case subject to completion and/or amendment in the applicable Final Terms. In the event of any inconsistency between the Note Conditions, in the case of Notes, and the W&C Securities Conditions, in the case of W&C Securities, and the Share Linked Conditions, the Share Linked Conditions shall prevail. In the event of any inconsistency between (a) the Note Conditions or the W&C Securities Conditions and the Share Linked Conditions and (b) the applicable Final Terms, the applicable Final Terms shall prevail. References in the Share Linked Conditions to “Security” and “Securities” shall be deemed to be references to “Note” and “Notes” or “W&C Security” and “W&C Securities” as the context admits.

## 2. Definitions

For the purposes of these Share Linked Conditions:

“**Averaging Cut-Off Date**” means the eighth Scheduled Trading Day (or, where the Share Linked Securities relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the eighth Common Scheduled Trading Day) immediately following the original date that, but for the occurrence of another Averaging Date or Disrupted Day, or on account of such date not being a Scheduled Trading Day (or, where the Share Linked Securities relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, a Common Scheduled Trading Day), would have been the final Averaging Date, or, if earlier, the Scheduled Trading Day (or, where the Share Linked Securities relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the Common Scheduled Trading Day) falling on or immediately preceding the second Business Day (or, in respect of Swedish Securities, the sixth Business Day) immediately preceding the date on which payment of any amount or delivery of any assets may have to be made pursuant to any calculation or determination made on the relevant Averaging Dates, provided that the Averaging Cut-Off Date shall not fall prior to the original date on which the final Averaging Date was scheduled to fall.

“**Averaging Date**” means each date specified as an Averaging Date in the applicable Final Terms or, if any such date is not a Scheduled Trading Day, the immediately following Scheduled Trading Day, (or, where the Share Linked Securities relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the immediately following Common Scheduled Trading Day), or, if earlier, the Averaging Cut-Off Date. If any such day is a Disrupted Day:

- (a) if “**Omission**” is specified as applying in the applicable Final Terms, then such date will be deemed not to be an Averaging Date for the purposes of determining the relevant price; provided that, if through the operation of this provision there would not be an Averaging Date, then the provisions of the definition of “Valuation Date” will apply for purposes of determining the relevant price on the final Averaging Date, as if such final Averaging Date were a Valuation Date that was a Disrupted Day; or
- (b) if “**Postponement**” is specified as applying in the applicable Final Terms, then the provisions of the definition of “Valuation Date” will apply for the purposes of determining the relevant price on that Averaging Date as if such Averaging Date were a Valuation Date that was a Disrupted Day irrespective of whether, pursuant to such determination, that deferred Averaging Date would fall on a day that already is or is deemed to be an Averaging Date; or
- (c) if “**Modified Postponement**” is specified as applying in the applicable Final Terms then:
  - (i) where the Share Linked Securities relate to a single Share, the Averaging Date shall be the first succeeding Valid Date. If the first succeeding Valid Date has not occurred as of

the Valuation Time on the Averaging Cut-Off Date or if such Averaging Date falls on the Averaging Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for the Share, then (A) the Averaging Cut-Off Date shall be deemed to be the Averaging Date (irrespective of whether the Averaging Cut-Off Date is already an Averaging Date), and (B) the Calculation Agent shall determine the relevant price for that Averaging Date in accordance with sub-paragraph (a)(ii) of the definition of “Valuation Date” below;

- (ii) where the Share Linked Securities relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” shall not be applicable, the Averaging Date for each Share not affected by the occurrence of a Disrupted Day shall be the originally designated Averaging Date (following adjustment of such date owing to the original date not being a Scheduled Trading Day, if applicable) (the “**Scheduled Averaging Date**”) and the Averaging Date for a Share affected by the occurrence of a Disrupted Day shall be the first succeeding Valid Date in relation to such Share. If the first succeeding Valid Date in relation to such Share has not occurred as of the Valuation Time on the Averaging Cut-Off Date or if such Averaging Date falls on the Averaging Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for such Share, then (A) the Averaging Cut-Off Date shall be deemed to be the Averaging Date (irrespective of whether the Averaging Cut-Off Date is already an Averaging Date) in relation to such Share, and (B) the Calculation Agent shall determine the relevant price for that Averaging Date in accordance with sub-paragraph (b)(ii) of the definition of “Valuation Date” below;
- (iii) where the Share Linked Securities relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Individual Disrupted Days” shall be applicable, the Averaging Date for each Share not affected by the occurrence of a Disrupted Day shall be the originally designated Averaging Date (following adjustment of such date owing to the original date not being a Common Scheduled Trading Day, if applicable) (the “**Scheduled Averaging Date**”) and the Averaging Date for a Share affected by the occurrence of a Disrupted Day shall be the first succeeding Valid Date in relation to such Share. If the first succeeding Valid Date in relation to such Share has not occurred as of the Valuation Time on the Averaging Cut-Off Date or if such Averaging Date falls on the Averaging Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day, then (A) the Averaging Cut-Off Date shall be deemed to be the Averaging Date (irrespective of whether the Averaging Cut-Off Date is already an Averaging Date) in relation to such Share, and (B) the Calculation Agent shall determine the relevant price for that Averaging Date in accordance with sub-paragraph (c)(ii) of the definition of “Valuation Date” below; or
- (iv) where the Share Linked Securities relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Common Disrupted Days” shall be applicable, the Averaging Date for each Share shall be the first succeeding Common Valid Date in relation to such Share. If the first succeeding Common Valid Date has not occurred as of the Valuation Time on the Averaging Cut-Off Date or if such Averaging Date falls on the Averaging Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day, then (A) the Averaging Cut-Off Date shall be deemed to be the Averaging Date (irrespective of whether the Averaging Cut-Off Date is already an Averaging Date), and (B) the Calculation Agent shall determine the relevant level or price for that Averaging Date in accordance with sub-paragraph (d)(ii) of the definition of “Valuation Date” below,

and, for the purposes of these Share Linked Conditions “**Valid Date**” means a Scheduled Trading Day that is not a Disrupted Day and on which another Averaging Date does not or is deemed not to occur, and “**Common Valid Date**” means a Common Scheduled Trading Day that is not a Disrupted Day for any Share and on which another Averaging Date does not or is deemed not to occur.

“**Barrier Event Determination Day**” means, in respect of each Share:

- (a) if the applicable Final Terms provides that the Barrier Event (intraday) provisions shall apply, unless otherwise specified in the Final Terms, each day on which the price of such Share is quoted on the relevant Exchange during the relevant Observation Period, regardless of whether or not such day is a Scheduled Trading Day for such Share (and, for the avoidance of doubt, if the Calculation Agent in its sole and absolute discretion determines that a Market Disruption Event is occurring at any time on any Barrier Event Determination Day, it shall disregard the period during which it determines in its sole and absolute discretion that such Market Disruption Event has occurred and is continuing for the purposes of determining whether or not a Barrier Event (intraday) has occurred); or
- (b) if the applicable Final Terms provides that the Barrier Event (closing) provisions shall apply, each day specified as such in the applicable Final Terms.

**“Barrier Event Valuation Time (closing)”** means, in respect of each Share to be valued, the Scheduled Closing Time on the relevant Exchange on the relevant Barrier Event Determination Day. If the relevant Exchange closes prior to its Scheduled Closing Time and the specified Barrier Event Valuation Time (closing) is after the actual closing time for its regular trading session, then the Barrier Event Valuation Time (closing) shall be such actual closing time.

**“Barrier Event Valuation Time (intraday)”** means any time during the regular trading session (without regard to any after hours or any other trading outside of the regular session) on the Exchange.

**“Barrier Price”** means, in respect of a Share, such price for such Share as is specified in the applicable Final Terms.

**“Basket of Shares”** means a basket composed of Shares in their relative proportions or number of Shares, as specified in the applicable Final Terms.

**“Cash Settled Securities”** means Securities that entitle the holder, upon due exercise and subject to certification of non-U.S. beneficial ownership, to receive from the Issuer, on the Settlement Date, the Cash Settlement Amount.

**“Common Scheduled Trading Day”** means, in respect of a Basket of Shares, each day which is a Scheduled Trading Day for all the Shares in the Basket of Shares.

**“Disrupted Day”** means any Scheduled Trading Day on which a relevant Exchange or any Related Exchange fails to open for trading during its regular trading session or on which a Market Disruption Event has occurred.

**“Early Closure”** means the closure on any Exchange Business Day of the relevant Exchange or any Related Exchange(s) prior to its Scheduled Closing Time unless such earlier closing time is announced by such Exchange(s) or Related Exchange(s) at least one hour prior to the earlier of (i) the actual closing time for the regular trading session on such Exchange(s) or Related Exchange(s) on such Exchange Business Day, and (ii) the submission deadline for orders to be entered into the Exchange or Related Exchange system for execution at the Valuation Time on such Exchange Business Day.

**“Exchange”** means, in relation to a Share, each exchange or quotation system specified as such for such Share in the applicable Final Terms, any successor to such exchange or quotation system or any substitute exchange or quotation system to which trading in the Share has temporarily relocated (provided that the Calculation Agent has determined that there is comparable liquidity relative to such Share on such temporary substitute exchange or quotation system as on the original Exchange).

**“Exchange Business Day”** means any Scheduled Trading Day on which each Exchange and each Related Exchange are open for trading during their respective regular trading sessions, notwithstanding any such Exchange or Related Exchange closing prior to its Scheduled Closing Time.

**“Exchange Disruption”** means any event (other than an Early Closure) that disrupts or impairs (as determined by the Calculation Agent) the ability of market participants in general (i) to effect transactions in, or obtain market values for, the Shares on the Exchange or (ii) to effect transactions in, or obtain market values for, futures or options contracts relating to the Share on any relevant Related Exchange.

“**Final Price**” means, in respect of a Share, unless otherwise specified in the applicable Final Terms, the Share Closing Price of such Share on the Valuation Date, subject to adjustment in accordance with these Share Linked Conditions.

“**Initial Price**” means, in respect of a Share, unless otherwise specified in the applicable Final Terms, the Share Closing Price of such Share on the Strike Date, subject to adjustment in accordance with these Share Linked Conditions.

“**Observation Cut-Off Date**” means the eighth Scheduled Trading Day (or, where the Share Linked Securities relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the eighth Common Scheduled Trading Day) immediately following the Scheduled Observation Date or, if earlier, the Scheduled Trading Day (or, where the Share Linked Securities relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the Common Scheduled Trading Day) falling on or immediately preceding the second Business Day (or, in respect of Swedish Securities, the sixth Business Day) immediately preceding the date on which payment of any amount or delivery of any assets may have to be made pursuant to any calculation or determination made on such Observation Date, provided that the Observation Cut-Off Date shall not fall prior to the original date on which such Observation Date was scheduled to fall.

“**Observation Date**” means each date specified as such in the applicable Final Terms, or if such date is not a Scheduled Trading Day the immediately following Scheduled Trading Day (or, where the Share Linked Securities relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the immediately following Common Scheduled Trading Day), or, if earlier, the Observation Cut-Off Date. If any such day is a Disrupted Day, then:

- (a) where the Share Linked Securities relate to a single Share, the Observation Date shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day, unless each of the Scheduled Trading Days immediately following the Scheduled Observation Date up to, and including, the Observation Cut-Off Date is a Disrupted Day. In that case, or if such Observation Date falls on the Observation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for such Share, (i) the Observation Cut-Off Date shall be deemed to be such Observation Date (notwithstanding the fact that such day may be a Disrupted Day) and (ii) the Calculation Agent shall determine the relevant price in the manner set out in the applicable Final Terms or, if not set out or if not practicable, determine the relevant price in accordance with its good faith estimate of the relevant price as of the Valuation Time on the Observation Cut-Off Date;
- (b) where the Share Linked Securities relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” shall not be applicable, the Observation Date for each Share not affected by the occurrence of a Disrupted Day shall be the Scheduled Observation Date (or, if earlier, the Observation Cut-Off Date) and the Observation Date for each Share affected (each an “**Affected Share**”) by the occurrence of a Disrupted Day shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day relating to the Affected Share, unless each of the Scheduled Trading Days immediately following the Scheduled Observation Date up to, and including, the Observation Cut-Off Date is a Disrupted Day relating to the Affected Share. In that case, or if such Observation Date falls on the Observation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for such Share, (i) the Observation Cut-Off Date shall be deemed to be the Observation Date for such Share (notwithstanding the fact that such day may be a Disrupted Day) and (ii) the Calculation Agent shall determine the relevant price using, in relation to such Share, a price determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using its good faith estimate of the price for such Share as of the Valuation Time on the Observation Cut-Off Date, and otherwise in accordance with the above provisions;
- (c) where the Share Linked Securities relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Individual Disrupted Days” shall be applicable, the Observation Date for each Share not affected by the occurrence of a Disrupted Day shall be the Scheduled Observation Date (or if the Scheduled Observation Date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day, or in either case, if earlier, the Observation Cut-Off Date) and the Observation Date for



each Share affected (each an “**Affected Share**”) by the occurrence of a Disrupted Day shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day relating to the Affected Share, unless each of the Scheduled Trading Days immediately following the Scheduled Observation Date (or if the Scheduled Observation Date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day) up to and including the Observation Cut-Off Date is a Disrupted Day relating to the Affected Share. In that case, or if such Observation Date falls on the Observation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day, (i) the Observation Cut-Off Date shall be deemed to be the Observation Date for such Share (notwithstanding the fact that such day may be a Disrupted Day for a Share or not a Common Scheduled Trading Day) and (ii) the Calculation Agent shall determine the relevant price using, in relation to such Share, a price determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using its good faith estimate of the price for such Share as of the Valuation Time on the Observation Cut-Off Date, and otherwise in accordance with the above provisions; or

- (d) where the Share Linked Securities relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Common Disrupted Days” shall be applicable, the Observation Date shall be the first succeeding Common Scheduled Trading Day that is not a Disrupted Day for any Share, unless each of the Common Scheduled Trading Days immediately following the Scheduled Observation Date up to, and including, the Observation Cut-Off Date is a Disrupted Day for one or more Shares. In that case, or if such Observation Date falls on the Observation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day, (i) the Observation Cut-Off Date shall be deemed to be the Observation Date (notwithstanding the fact that such day may be a Disrupted Day for a Share or not a Common Scheduled Trading Day) and (ii) the Calculation Agent shall determine the relevant price using, in relation to each Share for which the Observation Cut-Off Date is a Disrupted Day or is not a Common Scheduled Trading Day, a price determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using its good faith estimate of the price for such Share as of the Valuation Time on the Observation Cut-Off Date, and otherwise in accordance with the above provisions.

“**Observation Period**” means, in respect of a Share:

- (a) if the consequence of “Extension” is specified in the applicable Final Terms to be applicable, each period commencing on, the Observation Period Start Date, following adjustment of such date pursuant to these Share Linked Conditions or as specified in the applicable Final Terms, if applicable (and including or excluding such Observation Period Start Date, as specified in the applicable Final Terms) and ending on the immediately following Observation Period End Date, following adjustment of such date pursuant to these Share Linked Conditions or as specified in the applicable Final Terms, if applicable (and including or excluding such Observation Period End Date, as specified in the applicable Final Terms); or
- (b) if the consequence of “No Extension” is specified in the applicable Final Terms to be applicable, each period commencing on the Observation Period Start Date, prior to any adjustment of such date pursuant to these Share Linked Conditions or as specified in the applicable Final Terms, if applicable (and including or excluding such Observation Period Start Date, as specified in the applicable Final Terms) and ending on the immediately following Observation Period End Date, prior to any adjustment of such date pursuant to these Share Linked Conditions or as specified in the applicable Final Terms, if applicable (and including or excluding such Observation Period End Date, as specified in the applicable Final Terms).

“**Observation Period End Date**” means, in respect of a Share, each date specified as such in the applicable Final Terms, subject to adjustment in accordance with the provisions of “Observation Date”, “Valuation Date” or otherwise as specified in the applicable Final Terms, if applicable.

“**Observation Period Start Date**” means, in respect of a Share, each date specified as such in the applicable Final Terms, subject to adjustment in accordance with the provisions of “Observation Date”, “Valuation Date” or otherwise as specified in the applicable Final Terms, if applicable.

“**Physical Delivery Notes**” means Notes redeemed by physical delivery.



**“Related Exchange”** means, in relation to a Share, each exchange or quotation system specified as such for such Share in the applicable Final Terms, any successor to such exchange or quotation system or any substitute exchange or quotation system to which trading in futures or options contracts relating to such Share has temporarily relocated (provided that the Calculation Agent has determined that there is comparable liquidity relative to the futures or options contracts relating to such Share on such temporary substitute exchange or quotation system as on the original Related Exchange), provided, however, that where “All Exchanges” is specified as the Related Exchange in the applicable Final Terms, **“Related Exchange”** shall mean each exchange or quotation system where trading has a material effect (as determined by the Calculation Agent) on the overall market for futures or options contracts relating to such Share.

**“Scheduled Closing Time”** means, in respect of an Exchange or Related Exchange and a Scheduled Trading Day, the scheduled weekday closing time of such Exchange or Related Exchange on such Scheduled Trading Day, without regard to after hours or any other trading outside of the regular trading session hours.

**“Scheduled Observation Date”** means any original date that, but for the occurrence of an event causing a Disrupted Day, would have been an Observation Date.

**“Scheduled Trading Day”** means any day on which each Exchange and each Related Exchange are scheduled to be open for trading for their respective regular trading sessions.

**“Scheduled Valuation Date”** means any original date that, but for the occurrence of an event causing a Disrupted Day, would have been a Valuation Date.

**“Shares”** and **“Share”** mean, subject to adjustment in accordance with these Share Linked Conditions, the shares or a share specified in the applicable Final Terms and related expressions shall be construed accordingly.

**“Share Closing Price”** means, in respect of a Share and any relevant date, subject to these Share Linked Conditions, an amount equal to the official closing price of such Share quoted on the relevant Exchange as determined by the Calculation Agent on such date.

**“Share Company”** means, in respect of a Share, the company that has issued such Share.

**“Share Performance”** means unless otherwise specified in the applicable Final Terms, in respect of a Share and any relevant date, an amount (expressed as a percentage) determined by the Calculation Agent as being equal to (a) the Share Closing Price of such Share on such day, divided by (b) the Initial Price of such Share.

**“Share Price”** means, in respect of a Share and a time on any day and subject to these Share Linked Conditions, the price of such Share at such time on such day as determined by the Calculation Agent.

**“Share Substitution Criteria”** means (and the Share Substitution Criteria shall be deemed to be satisfied if), unless otherwise provided in the applicable Final Terms, in respect of a Share and any other relevant share:

- (a) the relevant issuer of such other relevant share belongs to a similar economic sector as the Share Company of such Share; and
- (b) the relevant issuer of such other relevant share has a comparable market capitalisation and international standing as the Share Company in respect of such Share.

**“Strike Date”** means the date specified as such in the applicable Final Terms.

**“Trade Date”** means the date specified as such in the applicable Final Terms.

**“Trading Disruption”** means any suspension of or limitation imposed on trading by the relevant Exchange or Related Exchange or otherwise and whether by reason of movements in price exceeding limits permitted by the relevant Exchange or Related Exchange or otherwise (a) relating to the Share on the Exchange or (b) in futures or options contracts relating to the Share on any relevant Related Exchange.

**“Valuation Cut-Off Date”** means the eighth Scheduled Trading Day (or, where the Share Linked Securities relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the eighth Common Scheduled Trading Day) immediately following the Scheduled Valuation Date or, if earlier, the Scheduled Trading Day (or,

where the Share Linked Securities relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the Common Scheduled Trading Day) falling on or immediately preceding the second Business Day (or, in respect of Swedish Securities, the sixth Business Day) immediately preceding the date on which payment of any amount or delivery of any assets may have to be made pursuant to any calculation or determination made on such Valuation Date, provided that the Valuation Cut- Off Date shall not fall prior to the original date on which such Valuation Date was scheduled to fall.

“**Valuation Date**” means each Valuation Date specified in the applicable Final Terms or if that is not a Scheduled Trading Day the immediately following Scheduled Trading Day, (or, where the Share Linked Securities relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the immediately following Common Scheduled Trading Day), or, if earlier, the Valuation Cut-off Date. If such day is a Disrupted Day, then:

- (a) where the Share Linked Securities relate to a single Share, the Valuation Date shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day, unless each of the Scheduled Trading Days up to, and including, the Valuation Cut-Off Date is a Disrupted Day. In that case, or if such Valuation Date falls on the Valuation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for such Share, (i) the Valuation Cut-Off Date shall be deemed to be the Valuation Date (notwithstanding the fact that such day may be a Disrupted Day) and (ii) the Calculation Agent shall determine the relevant price in the manner set out in the applicable Final Terms or, if not set out or if not practicable, determine the relevant price in accordance with its good faith estimate of the relevant price as of the Valuation Time on the Valuation Cut-Off Date;
- (b) where the Share Linked Securities relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” shall not be applicable, the Valuation Date for each Share not affected by the occurrence of a Disrupted Day shall be the Scheduled Valuation Date (or, if earlier, the Valuation Cut-Off Date) and the Valuation Date for each Share affected (each an “**Affected Share**”) by the occurrence of a Disrupted Day shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day relating to the Affected Share, unless each of the Scheduled Trading Days immediately following the Scheduled Valuation Date up to, and including, the Valuation Cut-Off Date is a Disrupted Day relating to the Affected Share. In that case, or if such Valuation Date falls on the Valuation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for such Share, (i) the Valuation Cut-Off Date shall be deemed to be the Valuation Date for such Share (notwithstanding the fact that such day may be a Disrupted Day) and (ii) the Calculation Agent shall determine the relevant price using, in relation to such Share, a price determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using its good faith estimate of the price for such Share as of the Valuation Time on the Valuation Cut-Off Date, and otherwise in accordance with the above provisions;
- (c) where the Share Linked Securities relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Individual Disrupted Days” shall be applicable, the Valuation Date for each Share not affected by the occurrence of a Disrupted Day shall be the Scheduled Valuation Date (or if the Scheduled Valuation Date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day, or in either case, if earlier, the Valuation Cut-Off Date) and the Valuation Date for each Share affected (each an “**Affected Share**”) by the occurrence of a Disrupted Day shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day relating to the Affected Share, unless each of the Scheduled Trading Days immediately following the Scheduled Valuation Date (or if the Scheduled Valuation Date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day) up to, and including, the Valuation Cut-Off Date is a Disrupted Day relating to the Affected Share. In that case, or if such Valuation Date falls on the Valuation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day, (i) the Valuation Cut-Off Date shall be deemed to be the Valuation Date for such Share (notwithstanding the fact that such day may be a Disrupted Day for a Share or not a Common Scheduled Trading Day) and (ii) the Calculation Agent shall determine the relevant price using, in relation to such Share, a price determined in the manner set out in the applicable Final Terms or, if not set out

or if not practicable, using its good faith estimate of the price for such Share as of the Valuation Time on the Valuation Cut-Off Date, and otherwise in accordance with the above provisions; or

- (d) where the Share Linked Securities relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Common Disrupted Days” shall be applicable, the Valuation Date shall be the first succeeding Common Scheduled Trading Day that is not a Disrupted Day for any Share, unless each of the Common Scheduled Trading Days immediately following the Scheduled Valuation Date up to, and including, the Valuation Cut-Off Date is a Disrupted Day for one or more Shares. In that case, or if the Valuation Date falls on the Valuation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day, (i) the Valuation Cut-Off Date shall be deemed to be the Valuation Date (notwithstanding the fact that such day may be a Disrupted Day for a Share or not a Common Scheduled Trading Day) and (ii) the Calculation Agent shall determine the relevant price using, in relation to each Share for which the Valuation Cut-Off Date is a Disrupted Day or is not a Common Scheduled Trading Day, a price determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using its good faith estimate of the price for such Share as of the Valuation Time on the Valuation Cut-Off Date, and otherwise in accordance with the above provisions.

“**Valuation Time**” means the Valuation Time specified in the applicable Final Terms or, if no Valuation Time is specified, the Scheduled Closing Time on the relevant Exchange on the relevant Valuation Date, Observation Date or Averaging Date, as the case may be, in relation to each Share to be valued. If the relevant Exchange closes prior to its Scheduled Closing Time and the specified Valuation Time is after the actual closing time for its regular trading session, then the Valuation Time shall be such actual closing time.

“**Worst Performing Share**” means, in respect of a Basket of Shares and the Valuation Date (unless otherwise specified in the applicable Final Terms), the Share with the lowest Share Performance on such day, as determined by the Calculation Agent (provided that if two or more Shares have the same lowest Share Performance on such day, the Calculation Agent shall determine which Share shall be the Worst Performing Share in its sole and absolute discretion, and such Share shall be the Worst Performing Share).

### 3. **Barrier Event**

- (a) A “**Barrier Event (intraday)**” means (and a Barrier Event (intraday) shall be deemed to occur if), in respect of a Share, the Calculation Agent determines that the Share Price of such Share as of the Barrier Event Valuation Time (intraday) on any Barrier Event Determination Day is less than or equal to the corresponding Barrier Level for such Share and such Barrier Event Determination Day.

For the purpose of determining whether a Barrier Event (intraday) has occurred on any day, the definition of Market Disruption Event specified in Share Linked Condition 4 shall be amended such that (i) all references to “during the one-hour period that ends at the relevant Valuation Time” shall be deleted, and (ii) in the definition of “Early Closure” appearing in Share Linked Condition 2, each reference to “Valuation Time” and “Scheduled Closing Time” shall be construed as a reference to “Barrier Event Valuation Time (intraday)”.

- (b) A “**Barrier Event (closing)**” means (and a Barrier Event (closing) shall be deemed to occur if), in respect of a Share, the Calculation Agent determines that the Share Closing Price of any Share as of the Barrier Event Valuation Time (closing) on any Barrier Event Determination Day is less than or equal to the corresponding Barrier Level for such Share and such Barrier Event Determination Day.

### 4. **Market Disruption**

“**Market Disruption Event**” means, in relation to a Share, the occurrence or existence of (a) a Trading Disruption, (b) an Exchange Disruption, which in either case the Calculation Agent determines is material, at any time during the one-hour period that ends at the Valuation Time for such Share or (c) an Early Closure.

## 5. **Correction to Share Prices**

If the price of a Share published on any Valuation Date, Observation Date, or an Averaging Date (or other relevant date, as determined by the Calculation Agent) as the case may be, by the relevant Exchange and which is utilised for any calculation or determination made for the purposes of the Notes (a “**Relevant Calculation**”) is subsequently corrected and the correction (the “**Corrected Share Price**”) published by the relevant Exchange no later than two Business Days prior to the date on which payment of any amount or delivery of any assets may have to be made pursuant to such Relevant Calculation, then such Corrected Share Price shall be deemed to be the relevant price for such Share on such Averaging Date, Observation Date or Valuation Date (or other relevant date, as determined by the Calculation Agent), as the case may be, and the Calculation Agent shall use such Corrected Share Price in determining the relevant price and/or whether the Barrier Event (closing) or Barrier Event (intraday), as the case may be, has been triggered.

## 6. **Potential Adjustment Events, Merger Event, Tender Offer, De-listing, Nationalisation and Insolvency**

(a) “**Potential Adjustment Event**” means any of the following:

- (i) a subdivision, consolidation or reclassification of relevant Shares (unless resulting in a Merger Event or, if Tender Offer is specified as applying in the applicable Final Terms, a Tender Offer) or a free distribution or dividend of any such Shares to existing holders by way of bonus, capitalisation or similar issue;
- (ii) a distribution, issue or dividend to existing holders of the relevant Shares of (A) such Shares or (B) other share capital or securities granting the right to payment of dividends and/ or the proceeds of liquidation of the Share Company equally or proportionately with such payments to holders of such Shares or (C) share capital or other securities of another issuer acquired or owned (directly or indirectly) by the Share Company as a result of a spin-off or other similar transaction or (D) any other type of securities, rights or warrants or other assets, in any case for payment (in cash or otherwise) at less than the prevailing market price as determined by the Calculation Agent;
- (iii) an extraordinary dividend as determined by the Calculation Agent;
- (iv) a call by a Share Company in respect of relevant Shares that are not fully paid;
- (v) a repurchase by the Share Company or any of its subsidiaries, as the case may be, of relevant Shares whether out of profits or capital and whether the consideration for such repurchase is cash, securities or otherwise; or
- (vi) in respect of a Share Company an event that results in any shareholder rights being distributed or becoming separated from shares of common stock or other shares of the capital stock of such Share Company pursuant to a shareholder rights plan or arrangement directed against hostile takeovers that provides upon the occurrence of certain events for a distribution of preferred stock, warrants, debt instruments or stock rights at a price below their market value as determined by the Calculation Agent, provided that any adjustment effected as a result of such an event shall be readjusted upon any redemption of such rights; or
- (vii) any other event having, in the opinion of the Calculation Agent, a diluting or concentrative effect on the theoretical value of the relevant Shares.

Following the declaration by the Share Company of the terms of any Potential Adjustment Event, the Calculation Agent will, in its sole and absolute discretion, determine whether such Potential Adjustment Event has a diluting or concentrative effect on the theoretical value of the Shares and, if so, will make the corresponding adjustment, if any, to any one or more of the terms of the Terms and Conditions and/or the applicable Final Terms as the Calculation Agent in its sole and absolute discretion determines appropriate to account for that diluting or concentrative effect (provided that no adjustments will be made to account solely for changes in volatility, expected dividends stock loan rate or liquidity relative to the relevant Share) and determine the effective date of that adjustment. The Calculation Agent may, but need not, determine the appropriate adjustment by reference to the adjustment in respect of such Potential Adjustment Event made by an options exchange to options on the Shares traded on that options exchange.

If “**Local Tax Adjustment**” is specified in the applicable Final Terms as being applicable, then, in its determinations of the existence and extent of any dilutive or concentrative effect on the theoretical value of the Shares of any Potential Adjustment Event, and any related adjustments to the terms of the Securities, the Calculation Agent shall take into account any amounts of Local Taxes that would, in the determination of the Calculation Agent, be withheld from or paid or otherwise incurred by an Offshore Investor in connection with such Potential Adjustment Event.

“**Local Taxes**” shall mean taxes, duties, and similar charges imposed by the taxing authority of the Local Jurisdiction as specified in the applicable Final Terms.

“**Offshore Investor**” shall mean a holder of Shares who is an institutional investor not resident in the Local Jurisdiction for the purposes of the tax laws and regulations of the Local Jurisdiction and, for the avoidance of doubt, whose jurisdiction of residence (a) shall be determined by the Calculation Agent and (b) may be the jurisdiction of residence of the Issuer or any of its affiliates or agents.

Upon the making of any such adjustment, the Calculation Agent shall give notice as soon as practicable to the Holders in accordance with Note Condition 14 or W&C Securities Condition 11, as applicable, stating the adjustment to the terms of the Terms and Conditions and/or the applicable Final Terms and giving brief details of the Potential Adjustment Event provided that any failure to give, or non-receipt of, such notice will not affect the validity of any such adjustment.

- (b) “**De-listing**” means, in respect of any relevant Shares:
- (i) in the case where the Exchange is not located in the United States, such Exchange announces that pursuant to the rules of such Exchange, such Shares cease (or will cease) to be listed, traded or publicly quoted on the Exchange for any reason (other than a Merger Event or, if Tender Offer is specified as applying in the applicable Final Terms, a Tender Offer) and are not immediately re-listed, re-traded or re-quoted on an exchange or quotation system located in the same country as the Exchange (or, where the Exchange is within the European Union, in a member state of the European Union); or
  - (ii) in the case where the Exchange is located in the United States, such Exchange announces that pursuant to the rules of such Exchange, such Shares cease (or will cease) to be listed, traded or publicly quoted on the Exchange for any reason (other than a Merger Event or, if Tender Offer is specified as applying in the applicable Final Terms, a Tender Offer) and are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, the American Stock Exchange, the NASDAQ Global Select Market or the NASDAQ Global Market (or their respective successors).

If the Shares are immediately re-listed, re-traded or re-quoted on any exchange or quotation system, such exchange or quotation system shall be deemed to be the Exchange in respect of such Shares.

“**Insolvency**” means that by reason of the voluntary or involuntary liquidation, bankruptcy, insolvency, dissolution or winding-up of or any analogous proceeding affecting the Share Company (i) all the Shares of that Share Company are required to be transferred to a trustee, liquidator or other similar official or (ii) holders of the Shares of that Share Company become legally prohibited from transferring them.

“**Merger Date**” means the closing date of a Merger Event or, where a closing date cannot be determined under the local law applicable to such Merger Event, such other date as determined by the Calculation Agent.

“**Merger Event**” means, in respect of any relevant Shares, any (i) reclassification or change of such Shares that results in a transfer of or an irrevocable commitment to transfer all of such Shares outstanding to another entity or person, (ii) consolidation, amalgamation, merger or binding share exchange of a Share Company with or into another entity or person (other than a consolidation, amalgamation, merger or binding share exchange in which such Share Company is the continuing entity and which does not result in a reclassification or change of all of such Shares outstanding), (iii) takeover offer, tender offer, exchange offer, solicitation, proposal or other event by any entity or person to purchase or otherwise obtain 100 per cent. of the outstanding Shares of the Share Company that results in a transfer of or an irrevocable



commitment to transfer all such Shares (other than such Shares owned or controlled by such other entity or person), or (iv) consolidation, amalgamation, merger or binding share exchange of the Share Company or its subsidiaries with or into another entity in which the Share Company is the continuing entity and which does not result in a reclassification or change of all such Shares outstanding but results in the outstanding Shares (other than Shares owned or controlled by such other entity) immediately prior to such event collectively representing less than 50 per cent. of the outstanding Shares immediately following such event, in each case if the Merger Date is on or before (A) in the case of Cash Settled Securities, the last occurring Valuation Date or Observation Date, as the case may be, or where Averaging is specified in the applicable Final Terms, the final Averaging Date in respect of the relevant Security or (B) in the case of Physical Delivery Notes, the Maturity Date and in the case of Physical Delivery W&C Securities the relevant Settlement Date.

“**Nationalisation**” means that all the Shares or all or substantially all the assets of the Share Company are nationalised, expropriated or are otherwise required to be transferred to any governmental agency, authority, entity or instrumentality thereof.

“**Tender Offer**” means a takeover offer, tender offer, exchange offer, solicitation, proposal or other event by any entity or person that results in such entity or person purchasing, or otherwise obtaining or having the right to obtain, by conversion or other means, greater than 10 per cent. and less than 100 per cent. of the outstanding voting shares of the Share Company as determined by the Calculation Agent, based upon the making of filings with governmental or self-regulatory agencies or such other information as the Calculation Agent deems relevant.

“**Tender Offer Date**” means, in respect of a Tender Offer, the date on which voting shares in the amount of the applicable percentage threshold are actually purchased or otherwise obtained (as determined by the Calculation Agent).

- (c) If (x) a Merger Event, De-listing, Nationalisation or Insolvency occurs in relation to a Share and/or (y) if Tender Offer is specified as applicable in the applicable Final Terms, a Tender Offer occurs, the Issuer in its sole and absolute discretion may take the action described in (i), (ii), (iii) or (iv) below:
  - (i) require the Calculation Agent to determine in its sole and absolute discretion the appropriate adjustment, if any, to be made to any terms of the Terms and Conditions and/or the applicable Final Terms to account for the De-listing, Merger Event, Tender Offer, Nationalisation or Insolvency, as the case may be, and determine the effective date of that adjustment. The Calculation Agent may (but need not) determine the appropriate adjustment by reference to the adjustment in respect of the Merger Event, Tender Offer, De-listing, Nationalisation or Insolvency made by any options exchange to options on the Shares traded on that options exchange and the relevant adjustments may in the case of adjustments following a Merger Event or Tender Offer include, without limitation, adjustments to account for changes in volatility, expected dividends, stock loan rate or liquidity relevant to the Shares; or
  - (ii) (A) in the case of Notes, give notice to the Noteholders in accordance with Note Condition 14 and redeem all, but not less than all, of the Notes, each nominal amount of Notes equal to the Calculation Amount being redeemed at the Early Redemption Amount; or
  - (B) in the case of W&C Securities, cancel the W&C Securities by giving notice to Holders in accordance with W&C Securities Condition 11. If the W&C Securities are so cancelled the Issuer will pay an amount to each Holder in respect of each W&C Security or Unit, as the case may be, held by him which amount shall be the fair market value of a W&C Security or a Unit, as the case may be, taking into account the Merger Event, Tender Offer, De-listing, Nationalisation or Insolvency, as the case may be, less the cost to the Issuer and/or any of its Affiliates or agents of unwinding any underlying related hedging arrangements (including any cost of funding in respect of such hedging arrangements) plus, in the case of Warrants, if already paid, the Exercise Price, all as determined by the Calculation Agent in its sole and absolute discretion. Payments will be made in such manner as shall be notified to the Holders in accordance with W&C Securities Condition 11; or

- (iii) following such adjustment to the settlement terms of options on the Shares traded on such exchange(s) or quotation system(s) as the Issuer in its sole discretion shall select (the “**Options Exchange**”), require the Calculation Agent to make a corresponding adjustment to any one or more of the terms of the Terms and Conditions and/or the applicable Final Terms which adjustment will be effective as of the date determined by the Calculation Agent to be the effective date of the corresponding adjustment made by the Options Exchange. If options on the Shares are not traded on the Options Exchange, the Calculation Agent will make such adjustment, if any, to any one or more of the terms of the Terms and Conditions and/or the applicable Final Terms as the Calculation Agent in its sole and absolute discretion determines appropriate, with reference to the rules and precedents (if any) set by the Options Exchange to account for the Merger Event, Tender Offer, De-listing, Nationalisation or Insolvency, as the case may be, that in the determination of the Calculation Agent would have given rise to an adjustment by the Options Exchange if such options were so traded; or
- (iv) unless the applicable Final Terms provides that “Share Substitution” shall not be applicable, then on or after the relevant Merger Date, Tender Offer Date, or the date of the Nationalisation, Insolvency or De-listing (as the case may be):
  - (A) Where the Share Linked Securities relate to a single Share, the Calculation Agent may substitute the share (the “**Substitute Share**”) selected by it in accordance with the Share Substitution Criteria in place of such Share (the “**Affected Share**”) which is affected by such Merger Event, Tender Offer, Nationalisation, Insolvency or De-listing and the Substitute Share will be deemed to be a “Share” and the relevant issuer of such shares, a “Share Company” for the purposes of the Securities, and the Calculation Agent will make such adjustment, if any, to any of the terms of the Terms and Conditions and/ or the applicable Final Terms as the Calculation Agent in its sole and absolute discretion determines appropriate, provided that in the event that any amount payable under the Securities was to be determined by reference to the price of the Affected Share on the Trade Date (or any such other historical date specified in the applicable Final Terms), the relevant price of each Substitute Share will be determined by the Calculation Agent in accordance with the following formula:

$$A \times (B/C)$$

Where:

“**A**” is the official closing price of the relevant Substitute Share on the relevant exchange, as determined by the Calculation Agent, on the date that the substitution is effected;

“**B**” is the price of the Affected Share on the Trade Date (or any such other historical date specified in the applicable Final Terms) where such price is defined in the applicable Final Terms for the purposes of calculating any value or determining any amount payable in respect of the Securities; and

“**C**” is the official closing price of the relevant Affected Share on the relevant Exchange on the date that the substitution is effected.

- (B) Where the Share Linked Securities relate to a Basket of Shares, the Calculation Agent may adjust the basket of Shares to include a share or shares (the “**Substitute Shares**”) selected by it in accordance with the Share Substitution Criteria in place of the Share(s) (the “**Affected Share(s)**”) which are affected by such Merger Event, Tender Offer, Nationalisation, Insolvency or De-listing and the Substitute Shares will be deemed to be “Shares” and the relevant issuer of each such share, a “Share Company” for the purposes of the Securities, and the Calculation Agent will make such adjustment, if any, to any of the terms of the Terms and Conditions and/or the applicable Final Terms as the Calculation Agent in its sole and absolute discretion determines appropriate, provided that in the event that any amount payable under the Securities was to be determined by reference to the price of the Affected Share on the Trade Date (or any such other historical date specified in the applicable Final Terms), the relevant price of each Substitute Share will be determined by the Calculation Agent in accordance with the following formula:

$$A \times (B/C)$$

Where:

“**A**” is the official closing price of the relevant Substitute Share on the relevant exchange, as determined by the Calculation Agent on the date that the substitution is effected;

“**B**” is the price of the Affected Share on the Trade Date (or any such other historical date specified in the applicable Final Terms) where such price is defined in the applicable Final Terms for the purposes of calculating any value or determining any amount payable in respect of the Securities; and

“**C**” is the official closing price of the relevant Affected Share on the relevant Exchange on the date that the substitution is effected.

The weighting of each Substitute Share in the basket will be equal to the weighting of the relevant Affected Share.

Upon the occurrence of a Merger Event, De-listing, Nationalisation, Insolvency or, if applicable, Tender Offer, the Issuer shall give notice as soon as practicable to the Holders in accordance with Note Condition 14 or W&C Securities Condition 11, as applicable, stating the occurrence of the Merger Event, Tender Offer, Nationalisation or Insolvency, as the case may be, giving details thereof and the action proposed to be taken in relation thereto provided that any failure to give, or non-receipt of, such notice will not affect the validity of any such Merger Event, Tender Offer, De-listing, Nationalisation or Insolvency, as the case may be.

## 7. Non-euro Quoted Shares

In respect of Share Linked Securities relating to Shares originally quoted, listed and/or dealt as of the Trade Date in a currency of a member state of the European Union that has not adopted the single currency in accordance with the Treaty, if such Shares are at any time after the Trade Date quoted, listed and/or dealt exclusively in euro on the relevant Exchange or, where no Exchange is specified in the applicable Final Terms, the principal market on which those Shares are traded, then the Calculation Agent will adjust any of the terms of the Terms and Conditions and/or the applicable Final Terms as the Calculation Agent determines in its sole and absolute discretion to be appropriate to preserve the economic terms of the Securities. The Calculation Agent will make any conversion necessary for purposes of any such adjustment as of the Valuation Time at an appropriate mid market spot rate of exchange determined by the Calculation Agent prevailing as of the Valuation Time. No adjustments under this provision will affect the currency denomination of any payment obligation arising out of the Securities.

## 8. Additional Disruption Events

- (a) “**Additional Disruption Event**” means any of Change in Law, Hedging Disruption, Increased Cost of Hedging, Increased Cost of Stock Borrow, Loss of Stock Borrow and/or Insolvency Filing, in each case if specified in the applicable Final Terms.

“**Change in Law**” means that, on or after the Trade Date (as specified in the applicable Final Terms) (i) due to the adoption of or any change in any applicable law or regulation (including, without limitation, any tax law), or (ii) 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 or regulation (including any action taken by a taxing authority), the Calculation Agent determines in its sole and absolute discretion that (A) it has become illegal to hold, acquire or dispose of any relevant Share or (B) the Issuer and/or any of its Affiliates will incur a materially increased cost in performing its obligations in relation to the Share Linked Securities (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on the tax position of the Issuer and/or any of its affiliates).

“**Hedging Disruption**” means that the Issuer and/or any of its Affiliates or agents is unable, after using commercially reasonable efforts, to (i) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the equity or other price risk of the Issuer issuing and performing its obligations with respect to the Share Linked Securities, or (ii) realise, recover or remit the proceeds of any such transaction(s) or asset(s).

“**Hedging Shares**” means the number of Shares that the Calculation Agent deems necessary to hedge the equity or other price risk of entering into and performing its obligations with respect to the Share Linked Securities.

“**Increased Cost of Hedging**” means that the Issuer and/or any of its Affiliates or agents would incur a materially increased (as compared with circumstances existing on the Trade Date) amount of tax, duty, expense or fee (other than brokerage commissions) to (i) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the equity or other price risk of the Issuer issuing and performing its obligations with respect to the Share Linked Securities, or (ii) realise, recover or remit the proceeds of any such transaction(s) or asset(s), provided that any such materially increased amount that is incurred solely due to the deterioration of the creditworthiness of the Issuer and/or any of its Affiliates or agents shall not be deemed an Increased Cost of Hedging.

“**Increased Cost of Stock Borrow**” means that the Issuer and/or any of its affiliates would incur a rate to borrow Shares that is greater than the Initial Stock Loan Rate.

“**Initial Stock Loan Rate**” means, in respect of a Share, the Initial Stock Loan Rate specified in relation to such Share in the applicable Final Terms.

“**Insolvency Filing**” means that a Share Company institutes or has instituted against it by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, or it consents to 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 by it or such regulator, supervisor or similar official or it consents to such a petition, provided that proceedings instituted or petitions presented by creditors and not consented to by the Share Company shall not be deemed an Insolvency Filing.

“**Loss of Stock Borrow**” means that the Issuer and/or any affiliate is unable, after using commercially reasonable efforts, to borrow (or maintain a borrowing of) any Share in an amount equal to the Hedging Shares at a rate equal to or less than the Maximum Stock Loan Rate.

“**Maximum Stock Loan Rate**” means in respect of a Share, the Maximum Stock Loan Rate specified in the applicable Final Terms.

- (b) If an Additional Disruption Event occurs, the Issuer in its sole and absolute discretion may take the action described in (i) or (ii) below:
  - (i) require the Calculation Agent to determine in its sole and absolute discretion the appropriate adjustment, if any, to be made to any of the other terms of the Terms and Conditions and/or the applicable Final Terms to account for the Additional Disruption Event and determine the effective date of that adjustment; or
  - (ii) (A) in the case of Notes, give notice to Holders in accordance with Note Condition 14 and redeem all, but not less than all, of the Notes, each nominal amount of Notes equal to the Calculation Amount being redeemed at the Early Redemption Amount; or
  - (B) in the case of W&C Securities, give notice to the Holders in accordance with W&C Securities Condition 11 and cancel the W&C Securities. If the W&C Securities are so cancelled the Issuer will pay an amount to each Holder in respect of each W&C Security or Unit, as the case may be, held by him which amount shall be the fair market value of a W&C Security or a Unit, as the case may be, taking into account the Additional Disruption Event less the cost to the Issuer and/or any of its Affiliates or agents of unwinding any underlying related hedging arrangements (including any cost of funding in respect of such hedging arrangements) plus, in the case of Warrants, if already paid, the Exercise Price, all as determined by the Calculation Agent in its sole and absolute discretion. Payments will be made in such manner as shall be notified to the Holders in accordance with W&C Securities Condition 11.

- (c) Upon the occurrence of an Additional Disruption Event, the Issuer shall give notice as soon as practicable to the Holders in accordance with Note Condition 14 or W&C Securities Condition 11, as applicable, stating the occurrence of the Additional Disruption Event giving details thereof and the action proposed to be taken in relation thereto provided that any failure to give, or non-receipt of, such notice will not affect the validity of the Additional Disruption Event.
- (d) If the applicable Final Terms provides that “Share Substitution” is applicable, upon the occurrence of an Additional Disruption Event the provisions of Share Linked Condition 6(c)(iv)(A) or 6(c)(iv)(B) (as is applicable) shall apply in respect of an Additional Disruption Event where any reference to “Merger Event, Tender Offer, Nationalisation, Insolvency or De-listing” in Share Linked Conditions 6(c)(iv)(A) and 6(c)(iv)(B) shall be replaced by “Additional Disruption Event”, and any other relevant references shall be construed accordingly.

## 9. **Application of Dividend Conditions**

Share Linked Conditions 10 and/or 11 (as specified in the applicable Final Terms) shall only apply to any Share Linked W&C Securities in respect of which the applicable Final Terms specifies that the “Dividend Conditions” shall be applicable.

## 10. **Definitions (Dividend Conditions)**

“**Dividend Period**” means, in respect of the Share and:

- (i) American Style Warrants, the period commencing on, but excluding, the Trade Date and ending on, and including, the Expiration Date or the Actual Exercise Date (if earlier) of such Warrant; or
- (ii) European Style Warrants and Certificates, the period commencing on, but excluding, the Trade Date and ending on, and including, the Exercise Date.

“**Dividend Taxes**” means, in respect of the Share and a Relevant Cash Dividend, any amounts that would have been withheld for or on account of tax if such cash dividend is paid to a Hypothetical Broker Dealer as the holder of one Share, and excluding any reduction of such tax that is available to a Hypothetical Broker Dealer pursuant to a double tax treaty or any other applicable domestic exemption, where each such tax is converted into the Settlement Currency using the relevant Exchange Rate on or around the date on which such tax is due, as determined by the Calculation Agent.

“**Ex-Dividend Date**” means, in respect of the Share and a Gross Cash Dividend in respect of such Share, the date that the Share commences trading ex-dividend in respect of such Gross Cash Dividend on the Exchange, as determined by the Calculation Agent.

“**Exchange Rate**” means the rate specified as such in the applicable Final Terms.

“**Gross Cash Dividend**” means, in respect of the Share, each sum declared by the relevant Share Company as a dividend for one such Share before the withholding or deduction of taxes at the source by or on behalf of any applicable authority having power to tax in respect of such a dividend, and shall exclude any imputation or other credits, refunds or deductions granted by any applicable authority having power to tax in respect of such dividend and any taxes, credits, refunds or benefits imposed, withheld, assessed or levied thereon.

“**Hypothetical Broker Dealer**” means a hypothetical broker dealer subject to the same securities laws and rules and regulations of any securities regulators, exchanges and self-regulating organisations as applicable to the Issuer or the Dealer, provided, however, that such hypothetical broker dealer is deemed not entitled to any benefits, exemption or reduction in tax pursuant to any double tax treaty or otherwise.

“**Relevant Cash Dividend**” means in respect of the Share, a Gross Cash Dividend per Share as declared by the relevant Share Company where the Ex-Dividend Date falls within the Dividend Period and the full payment in cash in respect of such Gross Cash Dividend would have been made to a Hypothetical Broker Dealer as the holder of one Share within the Dividend Period, as determined by the Calculation Agent.



**“Record Date”** means, in respect of any distribution or payment or the determination of the rights of any Holder of the W&C Securities pursuant to Share Linked Condition 12(b), such date as determined by the Calculation Agent in its sole and absolute discretion, which is utilised to determine the Holders who are entitled to such distribution, payment or rights, as the case may be.

#### 11. **Additional Amounts**

Unless the W&C Securities have previously been exercised, or purchased and cancelled in accordance with the Conditions (as supplemented and amended herein), the Issuer shall pay to the Holder of each W&C Security the Additional Amount in respect of such W&C Security on each Additional Amount Payment Date. W&C Securities Conditions 24(A) and (B) (in respect of Warrants) and W&C Securities Conditions 31(A) and (B) (in respect of Certificates) shall not apply.

**“Additional Amount”** means, in respect of the Share and a Relevant Cash Dividend, an amount calculated by the Calculation Agent as:

- (i) an amount equal to the difference between (a)(I) the aggregate of 100 per cent. (100%) of the Relevant Cash Dividend per Share that would have been received by a Hypothetical Broker Dealer as the holder of one Share, divided by (II) the relevant Exchange Rate on or around the date on which such Relevant Cash Dividend would have been received by a Hypothetical Broker Dealer from the relevant Share Company, minus (b) any Dividend Taxes; multiplied by
- (ii) the Number of Shares per W&C Security in respect of the Share.

**“Additional Amount Payment Date”** means, unless otherwise specified in the applicable Final Terms, in respect of each Additional Amount, the fifth Business Day following the date on which the corresponding Relevant Cash Dividend would have been received, from the relevant Share Company by a Hypothetical Broker Dealer as the holder of the relevant Share.

**“Number of Shares per W&C Security”** means the amount specified as such in the applicable Final Terms.

## ANNEX 3

## ADDITIONAL TERMS AND CONDITIONS FOR DEBT LINKED SECURITIES

1. **Interpretation**

If specified as applicable in the applicable Final Terms, the terms and conditions applicable to Debt Linked Notes shall comprise the terms and conditions of the Notes (the “**Note Conditions**”) and the Additional Terms and Conditions for Debt Linked Securities set out below (the “**Debt Linked Conditions**”), in each case subject to completion and/or amendment in the applicable Final Terms. The terms and conditions applicable to Debt Linked W&C Securities shall comprise the terms and conditions of the W&C Securities (the “**W&C Securities Conditions**”) and the Debt Linked Conditions, in each case subject to completion and/or amendment in the applicable Final Terms. In the event of any inconsistency between the Note Conditions, in the case of Notes, or the W&C Securities Conditions, in the case of W&C Securities, and the Debt Linked Conditions, the Debt Linked Conditions shall prevail. In the event of any inconsistency between (a) the Note Conditions or the W&C Securities Conditions and/or the Debt Linked Conditions and (b) the applicable Final Terms, the applicable Final Terms shall prevail. References in the Debt Linked Conditions to “Security” and “Securities” shall be deemed to be references to “Note” and “Notes” or “W&C Security” and “W&C Securities” as the context admits.

2. **Definitions**

“**Averaging Date**” means each date specified as an Averaging Date in the applicable Final Terms, or if any such day is not a Scheduled Trading Day the immediately following Scheduled Trading Day.

“**Basket of Debt Instruments**” means a basket composed of Debt Instruments in their relative proportions or number of Debt Instruments, as specified in the applicable Final Terms.

“**Debt Instrument**” means, subject to adjustment in accordance with these Debt Linked Conditions, the debt instrument specified in the applicable Final Terms and the related expressions shall be construed accordingly.

“**Debt Instrument Price**” means, in relation to each Security or Unit, as the case may be, the Debt Instrument Price specified in the applicable Final Terms, or if not so specified in the applicable Final Terms:

- (a) in the case of Debt Linked Securities relating to a Basket of Debt Instruments, an amount equal to the sum of the values calculated for each Debt Instrument at the bid price for such Debt Instrument as determined by or on behalf of the Calculation Agent by reference to the bid price for such Debt Instrument appearing on the Relevant Screen Page at the Valuation Time on (A) if Averaging is not specified in the applicable Final Terms, the Valuation Date or (B) if Averaging is specified in the applicable Final Terms, an Averaging Date, or if such price is not available, the arithmetic mean of the bid prices for such Debt Instrument at the Valuation Time on the Valuation Date or such Averaging Date, as the case may be, as received by it from two or more market-makers (as selected by the Calculation Agent) in such Debt Instrument, such bid prices to be expressed as a percentage of the nominal amount of such Debt Instrument, multiplied by the relevant Weighting; and
- (b) in the case of Debt Linked Securities relating to a single Debt Instrument, an amount equal to the bid price for the Debt Instrument as determined by or on behalf of the Calculation Agent by reference to the bid price for such Debt Instrument appearing on the Relevant Screen Page at the Valuation Time on (A) if Averaging is not specified in the applicable Final Terms, the Valuation Date or (B) if Averaging is specified in the applicable Final Terms, an Averaging Date, or if such price is not available, the arithmetic mean of the bid prices for such Debt Instrument at the Valuation Time on the Valuation Date or such Averaging Date, as the case may be, as received by it from two or more market-makers (as selected by the Calculation Agent) in such Debt Instrument, such bid prices to be expressed as a percentage of the nominal amount of the Debt Instrument.

“**Exchange**” means, in relation to Debt Linked Securities in relation to a Debt Instrument, each exchange or quotation system specified as such for such Debt Instrument in the applicable Final Terms, any successor to such exchange or quotation system or any substitute exchange or quotation system to which trading in the Debt Instrument has temporarily relocated (provided that the

Calculation Agent has determined that there is comparable liquidity relative to such Debt Instrument on such temporary substitute exchange or quotation system as on the original Exchange).

“**Scheduled Trading Day**” has the meaning given to it in the applicable Final Terms.

“**Valuation Date**” means each Valuation Date specified in the applicable Final Terms or if that is not a Scheduled Trading Day, the immediately succeeding Scheduled Trading Day.

“**Valuation Time**” means the Valuation Time specified in the applicable Final Terms.

“**Weighting**” means, in respect of a Debt Instrument, the weighting specified as such in the applicable Final Terms.

### 3. **Market Disruption**

“**Market Disruption Event**” shall mean the suspension of or limitation imposed on trading either on any exchange or quotation system on which the Debt Instruments or any of them (in the case of a Basket of Debt Instruments) are traded or on any exchange on which options contracts or futures contracts with respect to the Debt Instruments or any of them (in the case of a Basket of Debt Instruments) are traded if, in the determination of the Calculation Agent, such suspension or limitation is material.

### 4. **Correction of Debt Instrument Price**

If the price of a Debt Instrument published or provided on any Valuation Date or an Averaging Date which is utilised for any calculation or determination made for the purposes of the Notes (a “**Relevant Calculation**”) is subsequently corrected and the correction (the “**Corrected Debt Instrument Price**”) published or provided no later than two Business Days prior to the date of payment of any amount to be calculated by reference to the Relevant Calculation then such Corrected Debt Instrument Price shall be deemed to be the relevant price for such Debt Instrument on such Averaging Date or Valuation Date, as the case may be, and the Calculation Agent shall use such Corrected Debt Instrument Price in determining the relevant price.

## ANNEX 4

## ADDITIONAL TERMS AND CONDITIONS FOR GDR/ADR LINKED SECURITIES

## 1. Interpretation

If specified as applicable in the applicable Final Terms, the terms and conditions applicable to GDR/ADR Linked Notes shall comprise the terms and conditions of the Notes (the “**Note Conditions**”) and the Additional Terms and Conditions for GDR/ADR Linked Securities set out below (the “**GDR/ADR Linked Conditions**”), in each case subject to completion and/or amendment in the applicable Final Terms. The terms and conditions applicable to GDR/ADR Linked W&C Securities shall comprise the terms and conditions of the W&C Securities (the “**W&C Securities Conditions**”) and the GDR/ADR Linked Conditions, in each case subject to completion and/or amendment in the applicable Final Terms. In the event of any inconsistency between the Note Conditions, in the case of Notes, or the W&C Securities Conditions, in the case of W&C Securities and the GDR/ADR Linked Conditions, the GDR/ADR Linked Conditions shall prevail. In the event of any inconsistency between (a) the Note Conditions or the W&C Securities Conditions and/or the GDR/ADR Linked Conditions and (b) the applicable Final Terms, the applicable Final Terms shall prevail. References in the GDR/ADR Linked Conditions to “Security” and “Securities” shall be deemed to be references to “Note” and “Notes” or “W&C Security” and “W&C Securities” as the context admits.

## 2. General

The provisions of Annex 2 – “Additional Terms and Conditions for Share Linked Securities” – shall apply to GDR/ADR Linked Securities; and

- (a) where the applicable Final Terms specifies that “Partial Lookthrough” shall apply to a GDR or ADR as applicable, then the provisions set out in GDR/ADR Linked Condition 4 (*Partial Lookthrough*) shall apply, and, in relation to such GDR or ADR respectively, the provisions of the Share Linked Conditions shall be deemed to be amended and modified as set out in GDR/ADR Linked Condition 4 (*Partial Lookthrough*); or
- (b) where the applicable Final Terms specifies that “Full Lookthrough” shall apply to a GDR or ADR as applicable, then the provisions set out in GDR/ADR Linked Condition 5 (*Full Lookthrough*) shall apply, and, in relation to such GDR or ADR respectively, the provisions of the Share Linked Conditions shall be deemed to be amended and modified as set out in GDR/ADR Linked Condition 5 (*Full Lookthrough*).

## 3. Definitions

For the purposes of these GDR/ADR Linked Conditions:

“**Deposit Agreement**” means, in relation to the Shares, the agreements or other instruments constituting the Shares, as from time to time amended or supplemented in accordance with their terms.

“**Depository**” means:

- (a) if GDR/ADR Linked Condition 4 (*Partial Lookthrough*) is applicable, the Share Company of the Shares; or
- (b) if GDR/ADR Linked Condition 5 (*Full Lookthrough*) is applicable, the Share Company in respect of the Shares or any successor issuer of the Shares from time to time.

“**DR Amendment**” means, where specified as applicable to a definition or provision, that the following changes shall be made to such definition or provision: (a) all references to “Shares” shall be deleted and replaced with the words “Shares and/or the Underlying Shares”; and (b) all references to “Share Company” shall be deleted and replaced with the words “Share Company or Underlying Shares Issuer, as appropriate”.

“**Underlying Shares**” means the shares or other securities which are the subject of the Deposit Agreement.

“**Underlying Shares Issuer**” means the issuer of the Underlying Shares.

#### 4. Partial Lookthrough

- (a) The definition of “Potential Adjustment Event” in Share Linked Condition 6(a) shall be amended as follows:
  - (i) the DR Amendment shall be made, provided that an event under (i) to (vii) of the definition of “Potential Adjustment Event” in respect of the Underlying Shares shall not constitute a Potential Adjustment Event unless, in the opinion of the Calculation Agent, such event has a diluting or concentrative effect on the theoretical value of the Shares;
  - (ii) “.” shall be deleted where it appears at the end of (vii) in the definition of “Potential Adjustment Event” and replaced with “; or ”; and
  - (iii) the following shall be inserted as provision (viii): “(viii) the making of any amendment or supplement to the terms of the Deposit Agreement.”.
- (b) In making any adjustment following any Potential Adjustment Event, the Calculation Agent may (amongst other factors) have reference to any adjustment made by the Depository under the Deposit Agreement. If the Calculation Agent determines that no adjustment that it could make will produce a commercially reasonable result, it shall notify the Issuer and the Holders that the relevant consequence shall be the early redemption, exercise or settlement, as the case may be, of the Securities and the Issuer shall:
  - (i) in the case of Notes, on giving notice to the Noteholders in accordance with Note Condition 14, redeem all (but not less than all) of the Notes, each Note being redeemed at the Early Redemption Amount; or
  - (ii) in the case of W&C Securities, on giving notice to Holders in accordance with W&C Securities Condition 11, cancel the W&C Securities. If the W&C Securities are so cancelled the Issuer will pay an amount to each Holder in respect of each W&C Security or Unit, as the case may be, held by him which amount shall be the fair market value of a W&C Security or a Unit, as the case may be, taking into account the Potential Adjustment Event, less the cost to the Issuer and/or any of its Affiliates of unwinding any underlying related hedging arrangements (including any cost of funding in respect of such hedging arrangements), all as determined by the Calculation Agent in its sole and absolute discretion. Payments will be made in such manner as shall be notified to the Holders in accordance with W&C Securities Condition 11.
- (c) If a Potential Adjustment Event specified under (viii) of the definition of “Potential Adjustment Event” (as amended by (a) above) has occurred then the following amendments shall be deemed to be made to the Share Linked Conditions in respect of such Potential Adjustment Event:
  - (i) the words “has a diluting or concentrative effect on the theoretical value of the Shares” shall be deleted and replaced with the words “has an economic effect on the Securities”; and
  - (ii) the words “determines appropriate to account for that diluting or concentrative effect” shall be deleted and replaced with the words “determines appropriate to account for such economic effect on the Securities”.
- (d) The definitions of “Merger Event” and “Tender Offer” shall be amended in accordance with the DR Amendment.
- (e) If (i) a Merger Event occurs in relation to a Share and/or (ii) if Tender Offer is specified as applicable in the applicable Final Terms, a Tender Offer occurs, the Issuer in its sole and absolute discretion may take the action described in Share Linked Condition 6(c).
- (f) Following the declaration by the Underlying Shares Issuer of the terms of any Merger Event or Tender Offer, then in each case where the Calculation Agent makes an adjustment to the Securities the Calculation Agent may (amongst other factors) have reference to any adjustment made by the Depository under the Deposit Agreement.
- (g) The definitions of “Nationalisation”, “Insolvency” and “De-listing” shall be amended in accordance with the DR Amendment.



- (h) Notwithstanding anything to the contrary in the definition of “De-listing”, a De-listing shall not occur in respect of the Underlying Shares if the Underlying Shares are immediately re-listed, re-traded or re-quoted on an exchange or quotation system regardless of the location of such exchange or quotation system.
- (i) If a De-listing Nationalisation or Insolvency occurs in relation to the Underlying Shares or the Underlying Shares Issuer, the Issuer in its sole and absolute discretion may take the action described in Share Linked Condition 6(c).
- (j) The paragraph in Share Linked Condition 6(c) which provides as follows: “If (x) a Merger Event, De-listing, Nationalisation or Insolvency occurs in relation to a Share and/or (y) if Tender Offer is specified as applicable in the applicable Final Terms, a Tender Offer occurs, the Issuer in its sole and absolute discretion may take the action described in (i), (ii), (iii) or (iv) below:” shall be deemed to be replaced by “If (x) a Merger Event, the announcement by the Depository that the Deposit Agreement is (or will be) terminated, De-listing, Nationalisation or Insolvency occurs in relation to a Share and/or (y) if Tender Offer is specified as applicable in the applicable Final Terms, a Tender Offer occurs, the Issuer in its sole and absolute discretion may take the action described in (i), (ii), (iii) or (iv) below:”.
- (k) Each reference to “Merger Event” in Share Linked Condition 6(c)(i), (ii), (iii) and (iv) shall be deemed to be replaced with a reference to “Merger Event, the announcement by the Depository that the Deposit Agreement is (or will be) terminated,”.
- (l) If Hedging Disruption and Increased Cost of Hedging are specified as being applicable in the applicable Final Terms, the definitions of “Hedging Disruption” and “Increased Cost of Hedging” in Share Linked Condition 8(a) shall each be amended as follows:
  - (i) the words “any transaction(s) or asset(s) it deems necessary to hedge the equity or other price risk of the Issuer issuing and performing its obligations with respect to the Share Linked Securities” shall be deleted and replaced with the words “any Share(s)”; and
  - (ii) the words “any such transaction(s) or asset(s)” shall be deleted and replaced with the words “any Share(s)”.
- (m) If Insolvency Filing is specified as being applicable in the applicable Final Terms, the definition of “Insolvency Filing” in Share Linked Condition 8(a) shall be amended in accordance with the DR Amendment.
- (n) For the avoidance of doubt, where a provision is amended pursuant to this GDR/ADR Linked Condition 4 (Partial Lookthrough) in accordance with the DR Amendment, if the event described in such provision occurs in respect of the Underlying Shares or the Underlying Shares Issuer, then the consequence of such event shall be interpreted consistently with the DR Amendment and such event.

## 5. Full Lookthrough

- (a) The definition of “**Potential Adjustment Event**” in Share Linked Condition 6(a) shall be amended as follows:
  - (i) the DR Amendment shall be made, provided that an event under (i) to (vii) of the definition of “Potential Adjustment Event” in respect of the Underlying Shares shall not constitute a Potential Adjustment Event unless, in the opinion of the Calculation Agent, such event has a diluting or concentrative effect on the theoretical value of the Shares;
  - (ii) “.” shall be deleted where it appears at the end of (vii) in the definition of “Potential Adjustment Event” and replaced with “; or”; and
  - (iii) the following shall be inserted as provision (viii): “(viii) the making of any amendment or supplement to the terms of the Deposit Agreement.”.
- (b) In making any adjustment following any Potential Adjustment Event, the Calculation Agent may (amongst other factors) have reference to any adjustment made by the Depository under the Deposit Agreement. If the Calculation Agent determines that no adjustment that it could make will produce a commercially reasonable result, it shall notify the Issuer and the Holders that the relevant consequence shall be early redemption, exercise or settlement, as the case may be, of the Securities and the Issuer shall:

- (i) in the case of Notes, on giving notice to the Noteholders in accordance with Note Condition 14, redeem all (but not less than all) of the Notes, each Note being redeemed at the Early Redemption Amount; or
  - (ii) in the case of W&C Securities, on giving notice to Holders in accordance with W&C Securities Condition 11, cancel the W&C Securities. If the W&C Securities are so cancelled the Issuer will pay an amount to each Holder in respect of each W&C Security or Unit, as the case may be, held by him which amount shall be the fair market value of a W&C Security or a Unit, as the case may be, taking into account the Potential Adjustment Event, less the cost to the Issuer and/or any of its Affiliates of unwinding any underlying related hedging arrangements (including any cost of funding in respect of such hedging arrangements), all as determined by the Calculation Agent in its sole and absolute discretion. Payments will be made in such manner as shall be notified to the Holders in accordance with W&C Securities Condition 11.
- (c) If a Potential Adjustment Event specified under (viii) of the definition of “Potential Adjustment Event” (as amended by (a) above) then the following amendments shall be deemed to be made to Share Linked Condition 6 in respect of such Potential Adjustment Event:
- (i) the words “determine whether such Potential Adjustment Event has a diluting or concentrative effect on the theoretical value of the Shares” shall be deleted and replaced with the words “determine whether such Potential Adjustment Event has an economic effect on the Securities”; and
  - (ii) the words “determines appropriate to account for that diluting or concentrative effect” shall be deleted and replaced with the words “determines appropriate to account for such economic effect on the Securities”.
- (d) The definitions of “Merger Event” and “Tender Offer” shall be amended in accordance with the DR Amendment.
- (e) If (i) a Merger Event occurs in relation to a Share and/or (ii) if Tender Offer is specified as applicable in the applicable Final Terms, a Tender Offer occurs, the Issuer in its sole and absolute discretion may take the action described in Share Linked Condition 6(c).
- (f) Following the declaration by the Underlying Shares Issuer of the terms of any Merger Event or Tender Offer in relation to the Underlying Shares, then in each case where the Calculation Agent makes an adjustment to the Securities the Calculation Agent shall (amongst other factors) have reference to any adjustment made by the Depository under the Deposit Agreement.
- (g) The definitions of “Nationalisation”, “Insolvency” and “Delisting” shall be amended in accordance with the DR Amendment.
- (h) If a De-listing, Nationalisation or Insolvency occurs in relation to the Underlying Shares or the Underlying Shares Issuer, the Issuer in its sole and absolute discretion may take the action described in Share Linked Condition 6(c).
- (i) The paragraph in Share Linked Condition 6(c) which provides as follows: “If (x) a Merger Event, De-listing, Nationalisation or Insolvency occurs in relation to a Share and/or (y) if Tender Offer is specified as applicable in the applicable Final Terms, a Tender Offer occurs, the Issuer in its sole and absolute discretion may take the action described in (i), (ii), (iii) or (iv) below:” shall be deemed to be replaced by “ If (x) a Merger Event, the announcement by the Depository that the Deposit Agreement is (or will be) terminated, De-listing, Nationalisation or Insolvency occurs in relation to a Share and/or (y) if Tender Offer is specified as applicable in the applicable Final Terms, a Tender Offer occurs, the Issuer in its sole and absolute discretion may take the action described in (i), (ii), (iii) or (iv) below:”.
- (j) Each reference to “Merger Event” in Share Linked Condition 6(c) shall be deemed to be replaced with a reference to “Merger Event, the announcement by the Depository that the Deposit Agreement is (or will be) terminated,”.
- (k) The definition of any Additional Disruption Event specified as applicable in the applicable Final Terms shall be amended in accordance with the DR Amendment.

- (l) If applicable, the definition of “Hedging Shares” in Share Linked Condition 8(a) shall be amended in accordance with the DR Amendment.
- (m) For the purpose of determining whether a Market Disruption Event has occurred in respect of the Share, the following amendments shall be deemed to be made to the Share Linked Conditions:
  - (i) each reference to the “Exchange” in the definitions of “Exchange Business Day”, “Scheduled Closing Time”, “Scheduled Trading Day”, “Trading Disruption”, “Exchange Disruption” and “Early Closure” shall be deemed to include a reference to the primary exchange or quotation system on which the Underlying Shares are traded, as determined by the Calculation Agent; and
  - (ii) the definitions of “Market Disruption Event”, “Trading Disruption”, “Exchange Disruption” and “Related Exchange” shall be amended in accordance with the DR Amendment.
- (n) For the avoidance of doubt, where a provision is amended pursuant to this GDR/ADR Linked Condition 5 (Full Lookthrough) in accordance with the DR Amendment, if the event described in such provision occurs in respect of the Underlying Shares or the Underlying Shares Issuer, then the consequence of such event shall be interpreted consistently with the DR Amendment and such event.

## ANNEX 5

## ADDITIONAL TERMS AND CONDITIONS FOR FX LINKED SECURITIES

## 1. Interpretation

If specified as applicable in the applicable Final Terms, the terms and conditions applicable to FX Linked Notes shall comprise the terms and conditions of the Notes (the “**Note Conditions**”) and the Additional Terms and Conditions for FX Linked Securities set out below (the “**FX Linked Conditions**”), in each case subject to completion and/or amendment in the applicable Final Terms. The terms and conditions applicable to FX Linked W&C Securities shall comprise the terms and conditions of the W&C Securities (the “**W&C Securities Conditions**”) and the FX Linked Conditions, in each case subject to completion and/or amendment in the applicable Final Terms. In the event of any inconsistency between the Note Conditions, in the case of Notes, or the W&C Securities Conditions, in the case of W&C Securities and the FX Linked Conditions, the FX Linked Conditions shall prevail. In the event of any inconsistency between (a) the Note Conditions or the W&C Securities Conditions and/or the FX Linked Conditions and (b) the applicable Final Terms, the applicable Final Terms shall prevail. References in the FX Linked Conditions to “Security” and “Securities” shall be deemed to be references to “Note” and “Notes” or “W&C Security” and “W&C Securities” as the context admits.

## 2. Definitions

“**Averaging Cut-Off Date**” means, in respect of an Averaging Date, the fifth FX Business Day immediately following the original date on which the final Averaging Date was scheduled to fall, or, if earlier, the FX Business Day falling on or immediately preceding the second Business Day (or, in respect of Swedish Securities, the sixth Business Day) immediately preceding the date on which payment of any amount or delivery of any assets may have to be made pursuant to any calculation or determination made on such Averaging Date, provided that the Averaging Cut-Off Date shall not fall prior to the original date on which such final Averaging Date was scheduled to fall.

“**Averaging Date**” means each Averaging Date specified in the applicable Final Terms, or, if that is not an FX Business Day the first following day which is an FX Business Day, or, if earlier the Averaging Cut-Off Date (such day, the “**Scheduled Averaging Date**” corresponding to such Averaging Date). If an Averaging Date falls on the Averaging Cut-Off Date, then, subject to the applicable Final Terms, the next applicable Disruption Fallback specified as a consequence of an FX Market Disruption Event shall apply (as if an FX Market Disruption Event had occurred), or, if none is specified, Calculation Agent Determination shall be deemed to apply.

“**Base Currency**” means the currency specified as such in the applicable Final Terms.

“**Calculation Agent Determination**” means, in respect of a Currency Price and any relevant day, that such Currency Price for such relevant day (or a method for determining such Currency Price) will be determined by the Calculation Agent taking into consideration all available information that in good faith it deems relevant.

“**Currency Price**” means, in relation to each Security or Unit, as the case may be, the Currency Price specified in the applicable Final Terms, or if not so specified in the applicable Final Terms, in respect of each Subject Currency, an amount equal to the spot rate of exchange appearing on the FX Price Source at the Valuation Time on (a) if Averaging is not specified in the applicable Final Terms, the Valuation Date or (b) if Averaging is specified in the applicable Final Terms, an Averaging Date, for the exchange of such Subject Currency into the Base Currency (expressed as the number of units (or part units) of the Subject Currency for which one unit of the Base Currency can be exchanged).

“**Currency-Reference Dealers**” means, in respect of any relevant day, that the Calculation Agent will request each of the Reference Dealers to provide a quotation of its rate at which it will buy one unit of the Base Currency in units of the Subject Currency at the applicable Valuation Time on such relevant day. If, for any such rate, at least two quotations are provided, the relevant rate will be the arithmetic mean of the quotations. If fewer than two quotations are provided for any such rate, the relevant rate will be the arithmetic mean of the relevant rates quoted by major banks in the relevant market, selected by the Calculation Agent at or around the applicable Valuation Time on such relevant day.

**“Disruption Fallback”** means, in respect of a Currency Price, Calculation Agent Determination, Currency-Reference Dealers, EM Fallback Valuation Postponement, EM Valuation Postponement, Fallback Reference Price, Other Published Sources, Postponement and/or such other sources or methods specified as such or otherwise determined as an alternative basis for determining such Currency Price as may be provided in the applicable Final Terms. The applicable Disruption Fallback in respect of a Currency Price shall be as specified in the applicable Final Terms, and if two or more Disruption Fallbacks are specified, unless otherwise provided in the Final Terms, such Disruption Fallbacks shall apply in the order specified in the applicable Final Terms, such that if the Calculation Agent determines that the Currency Price cannot be determined by applying one Disruption Fallback, then the next Disruption Fallback specified shall apply.

**“Fallback Reference Price(s)”** means, in respect of a Currency Price, that the Currency Price for the relevant date will be the alternate price source(s) specified in the applicable Final Terms for such Currency Price, applied in the order specified in the applicable Final Terms.

**“FX Business Day”** means, in respect of a Currency Price, a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits), or but for the occurrence of an FX Market Disruption Event in respect of such Currency Price would have settled payments and been open for general business, in each of the Specified Financial Centres for such Currency Price, as specified in the applicable Final Terms.

**“FX Disrupted Day”** means any FX Business Day on which a FX Market Disruption Event occurs.

**“FX Market Disruption Event”** means:

- (a) in respect of a Currency Price, the occurrence or existence, as determined by the Calculation Agent in its sole and absolute discretion, of any FX Price Source Disruption and/or any FX Trading Suspension or Limitation and/or, if specified as applicable in the Final Terms, any Inconvertibility Event and/or any other event specified as applicable in the applicable Final Terms; and
- (b) if the applicable Final Terms provides that the EM Currency Provisions shall apply to a Currency Price, in respect of such Currency Price, the occurrence or existence, as determined by the Calculation Agent in its sole and absolute discretion, of any FX Price Source Disruption, Price Materiality Event and/or, if specified as applicable in the Final Terms, any Inconvertibility Event and/or Non-Transferability Event and/or any other event specified as applicable in the applicable Final Terms.

**“FX Price Source(s)”** means, in respect of a Currency Price, the price source(s) specified in the applicable Final Terms for such Currency Price, or if the relevant rate is not published or announced by such FX Price Source at the relevant time, the successor or alternative price source or page/publication for the relevant rate as determined by the Calculation Agent in its sole and absolute discretion.

**“FX Price Source Disruption”** means it becomes impossible or otherwise impracticable to obtain and/or execute the relevant rate(s) required to calculate the Currency Price on the Averaging Date or Valuation Date or other relevant date, or, if different, the day on which rates for that Averaging Date or Valuation Date or other relevant date, as the case may be, would in the ordinary course be published or announced by the relevant FX Price Source.

**“FX Trading Suspension or Limitation”** means the suspension of and/or limitation of trading in the rate(s) required to calculate the relevant Currency Price in the Interbank Market provided that such suspension or limitation of trading is material in the opinion of the Calculation Agent.

**“Inconvertibility Event”** means the occurrence, as determined by the Calculation Agent in its sole and absolute discretion, of any action, event or circumstance whatsoever which, from a legal or practical perspective:

- (a) has the direct or indirect effect of hindering, limiting or restricting (i) the convertibility of the relevant Subject Currency into the Base Currency, or (ii) the transfer of the Subject Currency or the Base Currency to countries other than the countries for which the Subject Currency or the Base Currency, as the case may be, is the lawful currency (including without limitation, by way of any delays, increased costs or discriminatory rates of exchange or any current or future restrictions); and/or



- (b) results in the unavailability of any relevant Base Currency or Subject Currency in the interbank foreign exchange market in any Specified Financial Centre(s) in accordance with normal commercial practice.

“**Interbank Market**” means the over-the-counter foreign exchange spot market open continuously from and including 5.00 a.m., Sydney time, on a Monday in any week to and including 5.00 p.m., New York time, on the Friday of such week.

“**Maximum Days of Postponement**” means five (5) FX Business Days or such other number of FX Business Days (or other type of days) as specified in the applicable Final Terms.

“**Non-Transferability Event**” means the occurrence, as determined by the Calculation Agent in its sole and absolute discretion, of any event that generally makes it impossible to deliver (a) the Base Currency from accounts inside the Subject Currency Jurisdiction to accounts outside the Subject Currency Jurisdiction or (b) the Subject Currency between accounts inside the Subject Currency Jurisdiction or to a party that is a non-resident of the Subject Currency Jurisdiction.

“**Other Published Sources**” means, in respect of any relevant day, that the Calculation Agent will determine the Currency Price on such relevant day on the basis of the exchange rate for one unit of the Base Currency in terms of the Subject Currency published by available recognised financial information vendors (as selected by the Calculation Agent) other than the applicable FX Price Source, at or around the applicable Valuation Time on such relevant day.

“**Postponement**” means, in respect of a Valuation Date or an Averaging Date, if such day (or, if applicable, if the original day on which such Valuation Date or an Averaging Date, as the case may be, is scheduled to fall (as specified in the applicable Final Terms) is postponed on account of such original day not being an FX Business Day, such postponed day) is an FX Disrupted Day, then:

- (a) where the FX Linked Securities relate to a single Currency Price, such Valuation Date or Averaging Date, as the case may be, shall be the first succeeding FX Business Day that is not an FX Disrupted Day, unless the Calculation Agent determines that each of the consecutive FX Business Days equal in number to the Maximum Days of Postponement immediately following such Scheduled Valuation Date or Scheduled Averaging Date, as the case may be, is an FX Disrupted Day. In that case, (i) that last consecutive FX Business Day shall be deemed to be the Valuation Date or the Averaging Date, as the case may be (notwithstanding the fact that such day may be an FX Disrupted Day) and (ii) the next applicable Disruption Fallback shall apply; or
- (b) where the FX Linked Securities relate to a Basket of Currency Prices, such Valuation Date or Averaging Date, as the case may be, for each Currency Price not affected by the occurrence of an FX Disrupted Day shall be the Scheduled Valuation Date or Scheduled Averaging Date, as the case may be, and the Valuation Date for each Currency Price affected (each an “**Affected Currency Price**”) by the occurrence of an FX Disrupted Day shall be the first succeeding FX Business Day that is not an FX Disrupted Day relating to the Affected Currency Price, unless the Calculation Agent determines that each of the consecutive FX Business Days equal in number to the Maximum Days of Postponement immediately following such Scheduled Valuation Date or Scheduled Averaging Date, as the case may be, is an FX Disrupted Day. In that case for each Affected Currency Price, (i) that last consecutive FX Business Day shall be deemed to be the Valuation Date or the Averaging Date, as the case may be (notwithstanding the fact that such day may be an FX Disrupted Day) and (ii) the next applicable Disruption Fallback shall apply.

“**Price Materiality Event**” means, in respect of a Currency Price and a Valuation Date, Averaging Date or other relevant date, that the FX Price Source differs from the Fallback Reference Price by at least the Price Materiality Percentage (and if both an FX Price Source Disruption and a Price Materiality Event occur or exist on any day, it shall be deemed that an FX Price Source Disruption and not a Price Materiality Event occurred or existed on such day).

“**Price Materiality Percentage**” means the percentage specified as such in the applicable Final Terms.

“**Reference Dealers**” means, in respect of each Subject Currency, four leading dealers in the relevant foreign exchange market, as determined by the Calculation Agent (or any other number of dealers as specified in the applicable Final Terms).

“**Specified Financial Centre(s)**” means the financial centre(s) specified in the applicable Final Terms.

“**Strike Date**” means the date specified as such in the applicable Final Terms.

“**Subject Currency**” means the currency specified as such in the applicable Final Terms.

“**Subject Currency Jurisdiction**” means the country for which the Subject Currency is the lawful currency.

“**Valuation Cut-Off Date**” means, in respect of a Valuation Date, the fifth FX Business Day immediately following the original date on which such Valuation Date was scheduled to fall, or, if earlier, the FX Business Day falling on or immediately preceding the second Business Day (or, in respect of Swedish Securities, the sixth Business Day) immediately preceding the date on which payment of any amount or delivery of any assets may have to be made pursuant to any calculation or determination made on such Valuation Date, provided that the Valuation Cut-Off Date shall not fall prior to the original date on which such Valuation Date was scheduled to fall.

“**Valuation Date**” means:

- (a) if the applicable Final Terms specifies that the EM Currency Provisions shall not apply to a Currency Price, each Valuation Date specified in the applicable Final Terms or if that is not an FX Business Day the first following day which is an FX Business Day, or, if earlier the Valuation Cut-Off Date (such day, the “**Scheduled Valuation Date**” corresponding to such Valuation Date). If a Valuation Date falls on the Valuation Cut-Off Date, then, subject to the applicable Final Terms, the first applicable Disruption Fallback specified as a consequence of an FX Market Disruption Event shall apply (as if an FX Market Disruption Event had occurred), or, if none is specified, Calculation Agent Determination shall be deemed to apply; or
- (b) if the applicable Final Terms specifies that the EM Currency Provisions shall apply to a Currency Price, each Valuation Date specified in the applicable Final Terms (the “**Scheduled Valuation Date**” in respect of such Currency Price, if such day is an FX Business Day for such Currency Price, or if such day is not an FX Business Day only by reason of being an Unscheduled Holiday for such Currency Price), or the immediately preceding FX Business Day for such Currency Price, as determined by the Calculation Agent (the “**Scheduled Valuation Date**” in respect of such Currency Price, if such day is not an FX Business Day and is not an Unscheduled Holiday for such Currency Price), provided that such Valuation Date shall be subject to adjustment in accordance with FX Linked Condition 3 (Consequences of an FX Disrupted Day) and FX Linked Condition 4 (EM Currency Provisions: Unscheduled Holiday) below.

“**Valuation Time**” means the Valuation Time specified in the applicable Final Terms.

### 3. **Consequences of an FX Disrupted Day**

If the Calculation Agent determines that any Valuation Date or Averaging Date is an FX Disrupted Day, then the Currency Price for such Valuation Date or Averaging Date will be determined in accordance with the terms of the first applicable Disruption Fallback. The applicable Final Terms may provide that one or more Disruption Fallbacks may apply to any Valuation Date or Averaging Date and that such applicable Disruption Fallbacks may apply concurrently or sequentially, in such manner as specified in the applicable Final Terms.

### 4. **EM Currency Provisions: Unscheduled Holiday**

- (a) If the applicable Final Terms provides that the EM Currency Provisions shall apply to a Currency Price or Fallback Reference Price, as applicable, and any Valuation Date or Averaging Date, and that Unscheduled Holidays shall be applicable, then, if the Calculation Agent determines that the relevant Scheduled Valuation Date or Scheduled Averaging Date, as applicable (each, a “**Scheduled Reference Date**”), is an Unscheduled Holiday for such Currency Price or Fallback Reference Price, then the Valuation Date or Averaging Date shall be postponed to the first FX Business Day falling after the Scheduled Reference Date (the “**Adjusted Scheduled Reference Date**”), provided that if such first FX Business Day has not occurred on or before the last day of the Maximum Days of Deferral, then the next day after

the Last Deferred Day that would have been an FX Business Day but for a Unscheduled Holiday shall be deemed to be the Adjusted Scheduled Reference Date.

- (b) The following terms and expressions shall have the following meanings:

**“Last Deferred Day”** means, in respect of any postponement by a number of days equal to the Maximum Days of Deferral, the last day to which such day is postponed.

**“Maximum Days of Deferral”** means such number of calendar days (or other type of days) as specified in the applicable Final Terms.

**“Unscheduled Holiday”** means, in respect of a Currency Price or Fallback Reference Price, as applicable, a day that is not an FX Business Day and the market was not aware of such fact (by means of a public announcement or by reference to other publicly available information) until a time later than 9.00 a.m., local time in the Specified Financial Centre in respect of such Currency Price or Fallback Reference Price, two FX Business Days prior to such day.

#### 5. **EM Currency Provisions: EM Valuation Postponement**

If the applicable Final Terms provides that the EM Currency Provisions shall apply to a Currency Price (which term shall include, where the Final Terms provides that the prior applicable Disruption Fallback is “Fallback Reference Price”, the Currency Price determined using the applicable Fallback Reference Price) and any Valuation Date or Averaging Date, and that EM Valuation Postponement shall be applicable, then, if the Calculation Agent determines that the relevant Scheduled Reference Date (if the Scheduled Reference Date is not an Unscheduled Holiday for the Currency Price) or the Adjusted Scheduled Reference Date (if the Scheduled Reference Date is an Unscheduled Holiday for the Currency Price) is an FX Disrupted Day, then such Valuation Date or Averaging Date shall be the first FX Business Day which is not an FX Disrupted Day unless an FX Market Disruption Event continues to exist (measured from such Scheduled Reference Date or Adjusted Scheduled Reference Rate, as applicable) for a consecutive number of calendar days equal to the Maximum Days of EM Valuation Postponement. In that case, the Currency Price will be determined on the next FX Business Day after the Maximum Days of EM Valuation Postponement in accordance with the next applicable Disruption Fallback as specified in the applicable Final Terms.

Where:

**“Maximum Days of EM Valuation Postponement”** means such number of calendar days (or other type of days) as specified in the applicable Final Terms.

#### 6. **EM Currency Provisions: EM Fallback Valuation Postponement**

If the applicable Final Terms provides that the EM Currency Provisions shall apply and that EM Fallback Valuation Postponement shall be applicable and where the Final Terms provides that the prior applicable Disruption Fallback is “Fallback Reference Price”, if the Calculation Agent determines that the Currency Price (as determined by reference to the applicable Fallback Reference Price) is not available on (a) the first FX Business Day following the end of the Maximum Days of EM Valuation Postponement (where an FX Market Disruption Event has occurred or exists in respect of the Currency Price throughout the Maximum Days of EM Valuation Postponement) or (b) on the Adjusted Scheduled Reference Date (where the Adjusted Scheduled Reference Date falls after the Last Deferred Day) then the Valuation Date or Averaging Date shall be the first succeeding FX Business Day which is not an FX Disrupted Day in respect of the Currency Price unless an FX Market Disruption Event continues to exist throughout the Fallback Maximum Period of Postponement. In that case, the Currency Price will be determined on the Last Fallback Postponement Date in accordance with the next applicable Disruption Fallback.

Where:

**“Fallback Maximum Period of Postponement”** means the period commencing on, and including:

- (a) if an FX Market Disruption Event has occurred or exists in respect of the Currency Price throughout the Maximum Days of EM Valuation Postponement, the first FX Business Day following the end of the Maximum Days of EM Valuation Postponement; or
- (b) if the Adjusted Scheduled Reference Date falls after the Last Deferred Day, the Adjusted Scheduled Reference Date,

and ending on, and including, the third FX Business Day (or such other day as specified in the applicable Final Terms) following such date as specified in paragraphs (a) and (b) above, as applicable (such date, the “**Last Fallback Postponement Date**”).

#### 7. **EM Currency Provisions: Cumulative Events**

If the applicable Final Terms provides that the EM Currency Provisions shall apply to a Currency Price and any Valuation Date or Averaging Date, and that Cumulative Events shall be applicable, then the total number of consecutive calendar days during which (a) such Valuation Date or Averaging Date is deferred due to an Unscheduled Holiday, (b) an EM Valuation Postponement shall occur in respect of such Valuation Date or Averaging Date, or (c) an EM Fallback Valuation Postponement shall occur in respect of such Valuation Date or Averaging Date (or any combination of (a), (b) and (c)), shall not exceed the Maximum Days of Cumulative Postponement in the aggregate. Accordingly, (i) if such Valuation Date or Averaging Date is postponed by the number of calendar days equal to the Maximum Days of Cumulative Postponement owing to an EM Valuation Postponement or EM Fallback Valuation Postponement (or both), and an Unscheduled Holiday shall have occurred or be continuing on the day following the relevant Last Postponed Day that otherwise would have been an FX Business Day, then such day shall be deemed to be such Valuation Date or Averaging Date and (ii) if such Valuation Date or Averaging Date is postponed by the number of calendar days equal to the Maximum Days of Cumulative Postponement owing to Unscheduled Holidays, and on the first day after the Last Postponed Day, an applicable FX Market Disruption Event shall have occurred or be continuing, then the Currency Price in respect of such Valuation Date or Averaging Date or other relevant date shall be determined in accordance with the next applicable Disruption Fallback.

Where:

“**Last Postponed Day**” means, in respect of any postponement by a number of days equal to the Maximum Days of Cumulative Postponement, the last day to which such day is postponed; and

“**Maximum Days of Cumulative Postponement**” means such number of calendar days (or other type of days) as specified in the applicable Final Terms.

#### 8. **Corrections to Published and Displayed Rates**

- (a) In any case where a Currency Price is based on information obtained from the Reuters Monitor Money Rates Service, or any other financial information service, the Currency Price will be subject to the corrections, if any, to that information subsequently displayed by that source within one hour of the time when such rate is first displayed by such source, unless the Calculation Agent determines in its sole and absolute discretion that it is not practicable to take into account such correction.
- (b) Notwithstanding FX Linked Condition 8(a), in any case where the Currency Price is based on information published or announced by any governmental authority in a relevant country, the Currency Price will be subject to the corrections, if any, to that information subsequently published or announced by that source within five calendar days of the relevant date, unless the Calculation Agent determines in its sole and absolute discretion that it is not practicable to take into account such correction.

#### 9. **Successor Currency**

Where the applicable Final Terms specifies that “Successor Currency” is applicable in respect of a Currency Price, then:

- (a) each Subject Currency and Base Currency will be deemed to include any lawful successor currency to the Subject Currency or Base Currency (the “**Successor Currency**”);
- (b) if the Calculation Agent determines that on or after the Issue Date (or such other date as specified in the applicable Final Terms) but on or before any relevant date under the Securities on which an amount may be payable, a country has lawfully eliminated, converted, redenominated or exchanged its currency in effect on the Issue Date or any Successor Currency, as the case may be (the “**Original Currency**”) for a Successor Currency, then for the purposes of calculating any amounts of the Original Currency or effecting settlement thereof, any Original Currency amounts will be converted to the Successor Currency by multiplying the amount of Original Currency by a ratio of Successor Currency to Original Currency, which

ratio will be calculated on the basis of the exchange rate set forth by the relevant country of the Original Currency for converting the Original Currency into the Successor Currency on the date on which the elimination, conversion, redenomination or exchange took place, as determined by the Calculation Agent. If there is more than one such date, the date closest to such relevant date will be selected (or such other date as may be selected by the Calculation Agent in its sole and absolute discretion);

- (c) notwithstanding paragraph (b) above but subject to paragraph (d) below, the Calculation Agent may (to the extent permitted by the applicable law), in good faith and in its sole and absolute discretion, select such other exchange rate or other basis for the conversion of an amount of the Original Currency to the Successor Currency and, will make such adjustment(s) that it determines to be appropriate, if any, to any variable, calculation methodology, valuation, settlement, payment terms or any other terms in respect of the Securities to account for such elimination, conversion, redenomination or exchange of the Subject Currency or Base Currency, as the case may be; and
- (d) notwithstanding the foregoing provisions, with respect to any Subject Currency or Base Currency that is substituted or replaced by the Euro, the consequences of such substitution or replacement will be determined in accordance with applicable law.

#### 10. **Rebasing of Securities**

If the applicable Final Terms specifies that “Rebasing” is applicable, then if, on or prior to any Valuation Date or Averaging Date or any other relevant date, the Calculation Agent is unable to obtain a value for a Subject Currency (because the Subject Currency and/or Base Currency ceases to exist, or for any other reason other than a temporary disruption, as determined by the Calculation Agent), the Calculation Agent may rebase the Securities against another foreign exchange rate determined by the Calculation Agent, in its sole and absolute discretion, to be a comparable foreign exchange rate. If the Calculation Agent determines in its sole and absolute discretion that there is not such a comparable foreign exchange rate, the Issuer may take the action described in FX Linked Condition 11(a)(ii)(A) or 11(a)(ii)(B) below, provided that the words “the Additional Disruption Event” in FX Linked Condition 11(a)(ii)(A) and FX Linked Condition 11(a)(ii)(B) shall be deemed to be replaced with the words “the inability of the Calculation Agent to obtain a value for the Subject Currency”.

#### 11. **Consequences of an Additional Disruption Event**

If the applicable Final Terms specifies that Additional Disruption Events shall be applicable, then:

- (a) following the determination by the Calculation Agent that an Additional Disruption Event has occurred, the Issuer in its sole and absolute discretion may take the action described in (i) or (ii) below:
  - (i) require the Calculation Agent to determine in its sole and absolute discretion the appropriate adjustment, if any, to be made to any of the other terms of the Terms and Conditions and/or the applicable Final Terms to account for the Additional Disruption Event and determine the effective date of that adjustment; or
  - (ii) (A) in the case of Notes, give notice to Holders in accordance with Note Condition 14 and redeem all, but not less than all, of the Notes, each nominal amount of Notes equal to the Calculation Amount being redeemed at the Early Redemption Amount; or
  - (B) in the case of W&C Securities, give notice to the Holders in accordance with W&C Securities Condition 11 and cancel the W&C Securities. If the W&C Securities are so cancelled the Issuer will pay an amount to each Holder in respect of each W&C Security or Unit, as the case may be, held by him which amount shall be the fair market value of a W&C Security or a Unit, as the case may be, taking into account the Additional Disruption Event less the cost to the Issuer and/or any of its Affiliates or agents of unwinding any underlying related hedging arrangements (including any cost of funding in respect of such hedging arrangements) plus, in the case of Warrants, if already paid, the Exercise Price, all as determined by the Calculation Agent in its sole and absolute discretion. Payments will be made in



such manner as shall be notified to the Holders in accordance with W&C Securities Condition 11;

- (b) upon the occurrence of an Additional Disruption Event, the Issuer shall give notice as soon as practicable to the Holders in accordance with Note Condition 14 or W&C Securities Condition 11, as applicable, stating the occurrence of the Additional Disruption Event giving details thereof and the action proposed to be taken in relation thereto provided that any failure to give, or non-receipt of, such notice will not affect the validity of the Additional Disruption Event; and
- (c) the following terms and expressions shall have the following meanings:

**“Additional Disruption Event”** means any of a Change in Law, a Hedging Disruption and/or an Increased Cost of Hedging.

**“Change in Law”** means that, on or after the Trade Date (or such other date as specified in the applicable Final Terms) of the Securities (i) due to the adoption of or any change in any applicable law or regulation (including, without limitation, any tax law), or (ii) 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 or regulation (including any action taken by a taxing authority), the Calculation Agent determines in good faith that (A) it has become illegal to hold, acquire or dispose of any relevant currency or asset, or (B) the Issuer or any affiliate(s) of the Issuer or any entity (or entities) acting on behalf of the Issuer engaged in any underlying or hedging transactions in respect of the Issuer’s obligations under the Securities will incur a materially increased cost in performing its obligations in relation to the Securities (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on its tax position).

**“Hedging Disruption”** means that the Issuer or any entity (or entities) acting on behalf of the Issuer engaged in any underlying or hedging transactions in respect of the Issuer’s obligations in relation to the Securities is unable, after using commercially reasonable efforts, to (i) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the currency or other price risk of the Issuer issuing and performing its obligations with respect to or in connection with the relevant Securities, or (ii) realise, recover or remit the proceeds of any such transaction(s) or asset(s).

**“Increased Cost of Hedging”** means that the Issuer and/or any of its Affiliates or agents would incur a materially increased (as compared with circumstances existing on the Trade Date) amount of tax, duty, expense or fee (other than brokerage commissions) to (i) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the currency or other price risk of the Issuer issuing and performing its obligations with respect to the relevant Securities, or (ii) realise, recover or remit the proceeds of any such transaction(s) or asset(s), provided that any such materially increased amount that is incurred solely due to the deterioration of the creditworthiness of the Issuer and/or any of its Affiliates or agents shall not be deemed an Increased Cost of Hedging.

## ANNEX 6

## ADDITIONAL TERMS AND CONDITIONS FOR COMMODITY LINKED SECURITIES

1. **Interpretation**

If specified as applicable in the applicable Final Terms, the terms and conditions applicable to Commodity Linked Notes shall comprise the terms and conditions of the Notes (the “**Note Conditions**”) and the Additional Terms and Conditions for Commodity Linked Securities set out below (the “**Commodity Linked Conditions**”), in each case subject to completion and/or amendment in the applicable Final Terms. The terms and conditions applicable to Commodity Linked W&C Securities shall comprise the terms and conditions of the W&C Securities (the “**W&C Securities Conditions**”) and the additional terms and conditions set out below in the Commodity Linked Conditions, in each case subject to completion and/or amendment in the applicable Final Terms. In the event of any inconsistency between the Note Conditions, in the case of Notes, or the W&C Securities Conditions, in the case of W&C Securities, and the Commodity Linked Conditions, the Commodity Linked Conditions shall prevail. In the event of any inconsistency between (a) the Note Conditions or the W&C Securities Conditions and/or the Commodity Linked Conditions and (b) the applicable Final Terms, the applicable Final Terms shall prevail. References in the Commodity Linked Conditions to “Security” and “Securities” shall be deemed to be references to “Note” and “Notes” or “W&C Security” and “W&C Securities” as the context admits.

2. **Definitions**

“**Basket of Commodities**” means a basket comprising Commodities in their relative proportions or numbers of Commodities, as specified in the applicable Final Terms.

“**Basket of Commodity Indices**” means a basket comprising Commodity Indices in their relative proportions or number of Commodity Indices.

“**Calculation Agent Determination**” means that the Calculation Agent will determine the Relevant Price (or method for determining the Relevant Price), taking into consideration the latest available quotation for the relevant Commodity Reference Price and any other information that in good faith it deems relevant.

“**Commodity**” and “**Commodities**” means, subject to adjustment in accordance with these Commodity Linked Conditions, the commodity or commodities specified as such in the applicable Final Terms and related expressions shall be construed accordingly.

“**Commodity Business Day**” means:

- (a) with respect to a single Commodity or a Basket of Commodities and:
  - (i) where the Commodity Reference Price for a Commodity is a price announced or published by an Exchange, a day that is (or, but for the occurrence of a Market Disruption Event, would have been) a day on which such Exchange is open for trading during its regular trading session, notwithstanding any such Exchange closing prior to its scheduled closing time; and
  - (ii) where the Commodity Reference Price for a Commodity is not a price announced or published by an Exchange, a day in respect of which the relevant Price Source published (or, but for the occurrence of a Market Disruption Event, would have published) a price;
- (b) with respect to a single Commodity Index or a Basket of Commodity Indices, as specified in the applicable Final Terms.

“**Commodity Cut-Off Date**” means, in respect of a Pricing Date (or, if different, the day on which the price for that Pricing Date would, in the ordinary course, be published by the Price Source) the date specified in the applicable Final Terms, or if not so specified, the day falling two Business Days (or, in respect of Swedish Securities, six Business Days) immediately preceding the date on which payment of any amount or delivery of any assets may have to be made pursuant to any calculation or determination made on such Pricing Date, provided that the Commodity Cut-Off Date shall not fall prior to the original date on which such Pricing Date was scheduled to fall (unless otherwise provided in the applicable Final Terms).

“**Commodity Index**” and “**Commodity Indices**” means, subject to adjustment in accordance with the Commodity Linked Conditions, the index or indices linked directly or indirectly to various

commodities, commodity prices or commodity futures contracts and specified as such in the applicable Final Terms.

**“Commodity Index Cut-Off Date”** means, in respect of a Pricing Date (or, if different, the day on which the price for such Pricing Date would, in the ordinary course, be published by the Price Source) the date specified in the applicable Final Terms, or if not so specified, the day falling two Business Days (or, in respect of Swedish Securities, six Business Days) immediately preceding the date on which payment of any amount may have to be made pursuant to any calculation or determination made on such Pricing Date, provided that the Commodity Index Cut-Off Date shall not fall prior to the original date on which such Pricing Date was scheduled to fall (unless otherwise provided in the applicable Final Terms).

**“Commodity Reference Price”** means (a) in respect of all Commodities, the Commodity Reference Price specified in the applicable Final Terms and (b) in respect of a Commodity Index, the Commodity Reference Price specified in the applicable Final Terms, or if not so specified, the official closing price of such Commodity Index.

**“Commodity Trading Disruption”** means the material suspension of, or the material limitation imposed on, trading in the Futures Contract or the Commodity on the Exchange or in any additional futures contract, options contract or commodity on any Exchange. For these purposes:

- (a) a suspension of the trading in the Futures Contract or the Commodity on any Commodity Business Day shall be deemed to be material only if:
  - (i) all trading in the Futures Contract or the Commodity is suspended for the entire Pricing Date; or
  - (ii) all trading in the Futures Contract or the Commodity is suspended subsequent to the opening of trading on the Pricing Date, trading does not recommence prior to the regularly scheduled close of trading in such Futures Contract or such Commodity on such Pricing Date and such suspension is announced less than one hour preceding its commencement; and
- (b) a limitation of trading in the Futures Contract or the Commodity on any Commodity Business Day shall be deemed to be material only if the relevant Exchange establishes limits on the range within which the price of the Futures Contract or the Commodity may fluctuate and the closing or settlement price of the Futures Contract or the Commodity on such day is at the upper or lower limit of that range.

**“Delayed Publication or Announcement”** means that the Relevant Price for a Pricing Date will be determined based on the Specified Price (or, if there is no Specified Price for a Commodity Reference Price, such Commodity Reference Price) in respect of the original day scheduled as such Pricing Date that is published or announced by the relevant Price Source retrospectively on the first succeeding Commodity Business Day on which the Market Disruption Event ceases to exist, unless that Market Disruption Event continues to exist (measured from and including the original day that would otherwise have been the Pricing Date (or, if applicable, if the Pricing Date as specified in the Final Terms is adjusted on account of such original date not being a Commodity Business Day, measured from and including the day that is the original date that would otherwise have been the Pricing Date, following any adjustment on account of such original date not being a Commodity Business Day)) or the Relevant Price continues to be unavailable for two (2) consecutive Commodity Business Days. In that case, the next Disruption Fallback (as defined below) specified in the applicable Final Terms will apply.

**“Delivery Date”** means the date specified in the applicable Final Terms.

**“Disappearance of Commodity Reference Price”** means:

- (a) the permanent discontinuation of trading, in the relevant Futures Contract on the relevant Exchange;
- (b) the disappearance of, or of trading in, the Commodity; or
- (c) the disappearance or permanent discontinuance or unavailability of a Commodity Reference Price,

notwithstanding the availability of the related Price Source or the status of trading in the relevant Futures Contract or the Commodity.

“**Exchange**” means, in relation to a Commodity, the exchange or principal trading market specified as such for such Commodity in the applicable Final Terms or Commodity Reference Price.

“**Fallback Reference Price**” means that the Calculation Agent will determine the Relevant Price based on the price for that Pricing Date of the first alternate Commodity Reference Price, if any, specified in the applicable Final Terms and not subject to a Market Disruption Event.

“**Futures Contract**” means, in respect of a Commodity Reference Price, the contract for future delivery of a contract size in respect of the relevant Delivery Date relating to the Commodity or Commodity Index referred to in that Commodity Reference Price.

“**Material Change in Content**” means the occurrence since the Trade Date of a material change in the content, composition or constitution of the relevant Commodity or relevant Futures Contract.

“**Material Change in Formula**” means the occurrence since the Trade Date of a material change in the formula for or method of calculating the relevant Commodity Reference Price.

“**Nearby Month**” when preceded by a numerical adjective, means, in respect of a Delivery Date and a Pricing Date, the month of expiration of the Futures Contract identified by the numerical adjective, so that, for example, (a) “**First Nearby Month**” means the month of expiration of the first Futures Contract to expire following that Pricing Date and (b) “**Second Nearby Month**” means the month of expiration of the second Futures Contract to expire following that Pricing Date, etc.

“**Postponement**” means that the Pricing Date will be deemed, for purposes of the application of this Disruption Fallback, to be the first succeeding Commodity Business Day on which the Market Disruption Event ceases to exist, unless that Market Disruption Event continues to exist for two consecutive Commodity Business Days (measured from and including the original day that would otherwise have been the Pricing Date (or, if applicable, if the Pricing Date as specified in the Final Terms is adjusted on account of such original date not being a Commodity Business Day, measured from and including the day that is the original date that would otherwise have been the Pricing Date, following any adjustment on account of such original date not being a Commodity Business Day)). In that case, the next Disruption Fallback specified in the definition of “Disruption Fallback” below will apply.

“**Price Source**” means the publication (or such other origin of reference, including an Exchange) containing (or reporting) the Specified Price (or prices from which the Specified Price is calculated) for the Commodity Reference Price (or, if there is no Specified Price for a Commodity Reference Price, such Commodity Reference Price) or otherwise in the applicable Final Terms (provided that in respect of a Commodity Index, if the relevant Commodity Reference Price is not published on such Price Source, the Calculation Agent may, in its sole and absolute discretion, (a) use a successor page or publication or alternative source as it considers appropriate, (b) determine that such non-publication amounts to a Market Disruption Event in respect of such Commodity Index in accordance with Commodity Linked Condition 4 (*Market Disruption and Disruption Fallback*), or (c) determine that such non-publication amounts to a Commodity Index Adjustment Event in respect of the Commodity Index, and proceed in accordance with Commodity Linked Condition 5 (*Adjustments to a Commodity Index*)).

“**Price Source Disruption**” means:

- (a) the failure of the Price Source to announce or publish the Specified Price (or the information necessary for determining the Specified Price) for the relevant Commodity Reference Price (or, if there is no Specified Price for a Commodity Reference Price, such Commodity Reference Price); or
- (b) the temporary or permanent discontinuance or unavailability of the Price Source.

“**Pricing Date**” means, with respect to a Commodity or a Commodity Index, each date specified as such or otherwise as provided in the applicable Final Terms (each such original date, a “**Scheduled Pricing Date**”), provided that if any Scheduled Pricing Date is not a Commodity Business Day for such Commodity or Commodity Index (as the case may be), then the Pricing Date for such Commodity or Commodity Index (as the case may be) will be the earlier of (a) the next following Commodity Business Day for such Commodity or Commodity Index (as the case may be), and (b) the Commodity Cut-Off Date or Commodity Index Cut-Off Date (as the case may be), and subject to adjustment as provided in Commodity Linked Condition 4 (*Market Disruption and Disruption Fallback*).

**“Relevant Price”** means for any Pricing Date, the price, expressed as a price per unit of the Commodity or the price of the Commodity Index, determined with respect to that day for the specified Commodity Reference Price calculated as provided in these Commodity Linked Conditions and the applicable Final Terms.

**“Specified Price”** means, in respect of a Commodity Reference Price, any of the following prices (which must be a price reported in or by, or capable of being determined from information reported in or by, the relevant Price Source) as specified in the applicable Final Terms (and, if applicable, as of the time so specified): (a) the high price; (b) the low price; (c) the average of the high price and the low price; (d) the closing price; (e) the opening price; (f) the bid price; (g) the asked price; (h) the average of the bid price and the asked price; (i) the settlement price; (j) the official settlement price; (k) the official price; (l) the morning fixing; (m) the afternoon fixing; (n) the spot price; or (o) any other price specified in the applicable Final Terms.

**“Strike Date”** means the date specified as such in the applicable Final Terms.

### 3. **Terms relating to Calculation of Prices**

#### (a) **Common Pricing**

If **“Common Pricing”** is specified in the applicable Final Terms to be:

- (i) **“Applicable”**, then, if any Scheduled Pricing Date is not a day on which all referenced Commodity Reference Prices (for which such date would otherwise be a Pricing Date) are scheduled to be published or announced, as determined on the Trade Date of the Securities, then the Pricing Date shall be the next following day on which all referenced Commodity Reference Prices (for which such date would otherwise be a Pricing Date) are scheduled to be published or announced, as determined on the Trade Date of the Securities; or
- (ii) **“Not Applicable”**, then this Commodity Linked Condition 3(a) shall not apply.

If the Calculation Agent determines that a Market Disruption Event has occurred or exists on any Pricing Date in respect of any relevant Commodity (an **“Affected Commodity”**) and/or Commodity Index (an **“Affected Commodity Index”**), the Relevant Price of each Commodity and/or Commodity Index within the basket which is not affected by the occurrence of a Market Disruption Event shall be determined on the Scheduled Pricing Date and the Relevant Price for each Affected Commodity or Affected Commodity Index shall be determined in accordance with the first applicable Disruption Fallback that provides a Relevant Price.

All determinations made by the Calculation Agent pursuant to this Condition will be conclusive and binding on the Holders, the Issuer and the Guarantor, except in the case of manifest error.

#### (b) **Correction to Published Prices**

For purposes of determining or calculating the Relevant Price (or any price or value published or announced on any date which is utilised for any calculation or determination in connection with the Commodity Linked Securities), if the price published or announced on a given day and used or to be used by the Calculation Agent to determine a Relevant Price (or any price or value published or announced on any date which is utilised for any calculation or determination in connection with the Commodity Linked Securities) is subsequently corrected and the correction is published or announced by the person responsible for that publication or announcement within 30 calendar days after the original publication or announcement (or, if earlier the day falling two Business Days preceding the date on which payment of any amount or delivery of any assets may have to be made, in each case calculated by reference to such Relevant Price (or any price or value published or announced on any date which is utilised for any calculation or determination in connection with the Commodity Linked Securities)), the Calculation Agent may, in its sole discretion, use such corrected price in such calculation.

### 4. **Market Disruption and Disruption Fallback**

If, in the opinion of the Calculation Agent, a Market Disruption Event (as defined below) has occurred and is continuing on any Pricing Date (or, if different, the day on which the price for that Pricing Date would, in the ordinary course, be published by the Price Source), the Relevant Price



for that Pricing Date will be determined by the Calculation Agent, in accordance with the first applicable Disruption Fallback (as set out below) that provides a Relevant Price:

(a) Market Disruption Event

“**Market Disruption Event**” means the occurrence of any of the following events:

- (i) with respect to all Commodities:
  - (A) Price Source Disruption;
  - (B) Commodity Trading Disruption;
  - (C) Disappearance of Commodity Reference Price; and
- (ii) with respect to all Commodities other than gold, silver, platinum or palladium:
  - (A) Material Change in Formula;
  - (B) Material Change in Content; and
  - (C) any additional Market Disruption Events as specified in the applicable Final Terms; and
- (iii) with respect to a Commodity Index:
  - (A) a temporary or permanent failure by the applicable exchange or other price source to announce or publish (I) the Commodity Reference Price (provided that the Calculation Agent may, in its sole and absolute discretion, determine that such failure (aa) shall not be a Market Disruption Event and shall instead be dealt with under paragraph (a) of the proviso to the definition of Price Source specified in Commodity Linked Condition 2 (*Definitions*), or (bb) shall instead amount to a Commodity Index Adjustment Event in respect of such Commodity Index, and proceed in accordance with Commodity Linked Condition 5 (*Adjustments to a Commodity Index*)) or (II) the closing price for any futures contract included in the Commodity Index;
  - (B) a material limitation, suspension or disruption of trading in one or more of the futures contracts included in the Commodity Index which results in a failure by the exchange on which each applicable futures contract is traded to report a closing price for such contract on the day on which such event occurs or any succeeding day on which it continues; or
  - (C) the closing price for any futures contract included in the Commodity Index is a “limit price”, which means that the closing price for such contract for a day has increased or decreased from the previous day’s closing price by the maximum amount permitted under applicable exchange rules.

(iv) Disruption Fallback

“**Disruption Fallback**” means a source or method that may give rise to an alternative basis for determining the Relevant Price in respect of a specified Commodity Reference Price when a Market Disruption Event occurs or exists on a day that is a Pricing Date in respect of the relevant Security. A Disruption Fallback is applicable if it is specified in the applicable Final Terms or, if no Disruption Fallback is specified in the applicable Final Terms, shall mean:

- (A) with respect to a relevant Commodity (in the following order):
  - (I) Fallback Reference Price (if applicable);
  - (II) Delayed Publication or Announcement and Postponement (each to operate concurrently with the other and each subject to a period of two consecutive Commodity Business Days (measured from and including the original day that would otherwise have been the Pricing Date (or, if applicable, measured from and including the day that is the original date that would otherwise have been the Pricing Date, following any adjustment on account of such original date not being a Commodity Business Day))), or, if shorter, the period commencing on, and including, the original day that would otherwise have

been the Pricing Date and ending on, and including, the Commodity Cut-Off Date) provided, however, that the price determined by Postponement shall be the Relevant Price only if Delayed Publication or Announcement does not yield a Relevant Price within those two consecutive Commodity Business Days (or, if applicable, the number of Commodity Business Days (if any) falling within the period ending on the Commodity Cut-Off Date); and

(III) Calculation Agent Determination;

(B) with respect to a Commodity Index, the Calculation Agent shall determine the Relevant Price using (unless otherwise specified in the applicable Final Terms):

(I) with respect to each futures contract included in the Commodity Index which is not affected by the Market Disruption Event, the closing prices of each such contract on the applicable determination date;

(II) with respect to each futures contract included in the Commodity Index which is affected by the Market Disruption Event, but for which a Market Disruption Event ceased to exist on or prior to the Commodity Index Cut-Off Date, the closing prices of each such contract on the first day following the applicable determination date on which no Market Disruption Event is occurring with respect to such contract; and

(III) with respect to each futures contract included in the Commodity Index which is affected by the Market Disruption Event, where a Market Disruption Event continues to exist as of the Commodity Index Cut-Off Date, the Calculation Agent's good faith estimate of the closing price of each such contract on the Commodity Index Cut-Off Date;

Subject as provided below, the Calculation Agent shall determine the Relevant Price by reference to the closing prices determined in (I), (II) and (III) above or as specified in the applicable Final Terms above using the then current method for calculating the Commodity Reference Price.

Where (A) the original date that would otherwise have been the Pricing Date is adjusted on account of such original date not being a Commodity Business Day, and the Pricing Date would fall on or after the Commodity Index Cut-Off Date following such adjustment, or (B) a Market Disruption Event with respect to one or more futures contracts included in the Commodity Index has occurred on an applicable determination date and continues to exist as of the relevant Commodity Index Cut-Off Date for such applicable determination date, the Calculation Agent shall determine the Relevant Price on such Commodity Index Cut-Off Date. In calculating the Relevant Price as set out herein, the Calculation Agent shall use the formula for calculating the Commodity Reference Price last in effect prior to the Market Disruption Event (if applicable).

## 5. Adjustments to a Commodity Index

### (a) Consequences of a Successor Index Sponsor or a Successor Index

If a relevant Commodity Index is (i) not calculated and announced by the Index Sponsor but is calculated and announced by a successor sponsor (the "**Successor Index Sponsor**") acceptable to the Issuer, or (ii) replaced by a successor index using, in the determination of the Calculation Agent, the same or a substantially similar formula for and method of calculation as used in the calculation of that Commodity Index, then in each case that index (the "**Successor Index**") will be deemed to be the Commodity Index.

### (b) Modification and Cessation of Calculation of a Commodity Index

If on or prior to a Pricing Date (i) the relevant Index Sponsor makes a material change in the formula for or the method of calculating a relevant Commodity Index or in any other way materially modifies that Commodity Index (other than a modification prescribed in that formula or method to maintain that Commodity Index in the event of changes in constituent commodities and weightings and other routine events), or (ii) the Index Sponsor permanently cancels a relevant Commodity Index or (iii) the Index Sponsor fails to calculate and announce a relevant Commodity Index and

there is no Successor Index Sponsor or Successor Index, then the Issuer may at its option (in the case of (i)) and shall (in the case of (ii) and (iii)) (such events (i), (ii) and (iii) to be collectively referred to as “**Commodity Index Adjustment Events**”) (provided that the Calculation Agent may, in its sole and absolute discretion, determine that event (iii) (y) shall not be a Commodity Index Adjustment Event and shall instead be dealt with under paragraph (a) of the proviso to the definition of Price Source specified in Commodity Linked Condition 2 (Definitions), or (z) shall instead amount to a Market Disruption Event in respect of such Commodity Index, and proceed in accordance with Commodity Linked Condition 4 (*Market Disruption and Disruption Fallback*)) take the action described in (A), (B) or (C) below:

- (A) calculate the Commodity Reference Price using in lieu of the published level for that Commodity Index, the level for that Commodity Index as at the relevant determination date as determined by the Calculation Agent in accordance with the formula for and method of calculating that Commodity Index last in effect prior to the relevant Commodity Index Adjustment Event, but using only those futures contracts that comprised that Commodity Index immediately prior to the relevant Commodity Index Adjustment Event (other than those futures contracts that have ceased to be listed on any relevant exchange);
- (B) if the Calculation Agent determines that it is not reasonably practicable (taking into account the costs involved) to calculate or continue to calculate such Commodity Index pursuant to (A) above, the Calculation Agent may rebase the Securities against another index or basket of indices, as applicable, determined by the Calculation Agent, in its sole and absolute discretion, to be comparable to such Commodity Index, and, following such rebasing, the Calculation Agent may make such adjustment(s) that it determines to be appropriate, if any, to any one or more of the terms of the Terms and Conditions and/or the applicable Final Terms as the Calculation Agent determines appropriate to account for such rebasing;
- (C) (I) in the case of Notes, on giving notice to the Noteholders in accordance with Note Condition 14, redeem all (but not less than all) of the Notes, each Note being redeemed at the Early Redemption Amount; or
- (D) (II) in the case of W&C Securities, on giving notice to Holders in accordance with W&C Securities Condition 11, cancel the W&C Securities. If the W&C Securities are so cancelled, the Issuer will pay an amount to each Holder in respect of each W&C Security or Unit, as the case may be, held by him, which amount shall be the fair market value of a Commodity W&C Security or a Unit, as the case may be, taking into account the Commodity Index Adjustment Event, less the cost to the Issuer and/or any of its Affiliates of unwinding any underlying related hedging arrangements (including any cost of funding in respect of such hedging arrangements), plus, in the case of Warrants, if already paid, the Exercise Price, all as determined by the Calculation Agent in its sole and absolute discretion. Payments will be made in such manner as shall be notified to the Holders in accordance with W&C Securities Condition 11.

Upon the occurrence of a Commodity Index Adjustment Event, the Issuer shall give notice as soon as reasonably practicable to the Holders in accordance with Note Condition 14 or Holders in accordance with W&C Securities Condition 11, as applicable, giving details of the action proposed to be taken in relation thereto, provided that any failure to give, or non-receipt of, such notice will not affect the validity of such action. The Issuer shall make available for inspection by Holders copies of any such determinations.

#### 6. **Consequences of an Additional Disruption Event in respect of a Commodity Index**

- (a) Following the determination by the Calculation Agent that an Additional Disruption Event has occurred in respect of a Commodity Index, the Issuer in its sole and absolute discretion may take the action described in (i) or (ii) below:
  - (i) require the Calculation Agent to determine in its sole and absolute discretion the appropriate adjustment, if any, to be made to any of the other terms of the Terms and Conditions and/or the applicable Final Terms to account for the Additional Disruption Event and determine the effective date of that adjustment; or
  - (ii) (A) in the case of Notes, give notice to Holders in accordance with Note Condition 14 and redeem all, but not less than all, of the Notes, each nominal amount of Notes equal to the Calculation Amount being redeemed at the Early Redemption Amount; or

- (B) in the case of W&C Securities, give notice to the Holders in accordance with W&C Securities Condition 11 and cancel the W&C Securities. If the W&C Securities are so cancelled the Issuer will pay an amount to each Holder in respect of each W&C Security or Unit, as the case may be, held by him which amount shall be the fair market value of a W&C Security or a Unit, as the case may be, taking into account the Additional Disruption Event less the cost to the Issuer and/or any of its Affiliates or agents of unwinding any underlying related hedging arrangements (including any cost of funding in respect of such hedging arrangements) plus, in the case of Warrants, if already paid, the Exercise Price, all as determined by the Calculation Agent in its sole and absolute discretion. Payments will be made in such manner as shall be notified to the Holders in accordance with W&C Securities Condition 11.
- (b) Upon the occurrence of an Additional Disruption Event, the Issuer shall give notice as soon as practicable to the Holders in accordance with Note Condition 14 or W&C Securities Condition 11, as applicable, stating the occurrence of the Additional Disruption Event giving details thereof and the action proposed to be taken in relation thereto provided that any failure to give, or non-receipt of, such notice will not affect the validity of the Additional Disruption Event.
- (c) The following terms and expressions shall have the following meanings:
- “Additional Disruption Event”** means any of a Change in Law, a Hedging Disruption, and/or an Increased Cost of Hedging (together the **“Additional Disruption Events”**).
- “Change in Law”** means that, on or after the Trade Date (i) due to the adoption of or any change in any applicable law or regulation (including, without limitation, any tax law), or (ii) 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 or regulation (including any action taken by a taxing authority), the Calculation Agent determines in good faith that (A) it has become illegal to hold, acquire or dispose of any relevant currency or asset, or (B) the Issuer or any affiliate(s) of the Issuer or any entity (or entities) acting on behalf of the Issuer engaged in any underlying or hedging transactions in respect of the Issuer’s obligations under the Securities will incur a materially increased cost in performing its obligations in relation to the Securities (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on its tax position).
- “Hedging Disruption”** means that the Issuer or any entity (or entities) acting on behalf of the Issuer engaged in any underlying or hedging transactions in respect of the Issuer’s obligations in relation to the Securities is unable, after using commercially reasonable efforts, to (i) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the commodity or other price risk of the Issuer issuing and performing its obligations with respect to or in connection with the relevant Securities, or (ii) realise, recover or remit the proceeds of any such transaction(s) or asset(s).
- “Increased Cost of Hedging”** means that the Issuer and/or any of its Affiliates or agents acting on its behalf would incur a materially increased (as compared with circumstances existing on the Trade Date) amount of tax, duty, expense or fee (other than brokerage commissions) to (i) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the commodity or other price risk of the Issuer issuing and performing its obligations with respect to the Securities, or (ii) realise, recover or remit the proceeds of any such transaction(s) or asset(s), provided that any such materially increased amount that is incurred solely due to the deterioration of the creditworthiness of the Issuer and/or any of its Affiliates or agents shall not be deemed an Increased Cost of Hedging.

## ANNEX 7

**ADDITIONAL TERMS AND CONDITIONS FOR FUND LINKED SECURITIES**

The terms and conditions applicable to Fund Linked Notes shall comprise the terms and conditions of the Notes (the “**Note Conditions**”) and the Additional Terms and Conditions for Fund Linked Securities set out below (the “**Fund Linked Conditions**”), in each case subject to completion and/or amendment in the applicable Final Terms. The terms and conditions applicable to Fund Linked W&C Securities shall comprise the terms and conditions of the W&C Securities (the “**W&C Securities Conditions**”) and the Fund Linked Conditions, in each case subject to completion and/or amendment in the applicable Final Terms. In the event of any inconsistency between the Note Conditions, in the case of Notes, or the W&C Securities Conditions, in the case of W&C Securities, and the Fund Linked Conditions, the Fund Linked Conditions shall prevail. In the event of any inconsistency between (a) the Note Conditions or the W&C Securities Conditions and/or the Fund Linked Conditions and (b) the applicable Final Terms, the applicable Final Terms shall prevail. References in the Fund Linked Conditions to “Security” and “Securities” shall be deemed to be references to “Note” and “Notes” or “W&C Security” and “W&C Securities” as the context admits.

1. **General Definitions**

“**Averaging Date**” means, in respect of an Actual Exercise Date, each date specified as an Averaging Date in the applicable Final Terms.

“**Valuation Date**” means each Valuation Date specified in the applicable Final Terms.

2. **Provisions relating to Funds other than Exchange Traded Funds**

Fund Linked Conditions 3, 4 and 5 apply in respect of Funds other than Exchange Traded Funds.

3. **Definitions (Funds other than Exchange Traded Funds)**

“**Basket of Funds**” means a basket composed of Funds in the relative proportions or number of Funds, as specified in the applicable Final Terms.

“**Fund**” means, subject to adjustment in accordance with these Fund Linked Securities Conditions, each fund specified in the applicable Final Terms and related expressions shall be construed accordingly.

“**Fund Administrator**” means the fund administrator, manager, trustee or similar person with the primary administrative responsibilities for a Fund according to the relevant Fund Documents.

“**Fund Adviser**” means any person appointed in the role of discretionary investment manager or non-discretionary investment adviser (including a non-discretionary investment adviser to a discretionary investment manager or to another non-discretionary investment adviser).

“**Fund Documents**” means the constitutive and governing documents, subscription agreements and other agreements of a Fund specifying the terms and conditions relating to the related Fund Interest, as amended from time to time.

“**Fund Interest**” means, subject to adjustment in accordance with these Fund Linked Conditions, each fund interest specified in the applicable Final Terms and related expressions shall be construed accordingly.

“**Fund Redemption Valuation Date**” means, in respect of a Fund Interest, the date as of which a Fund (or its Fund Service Provider that generally determines such value) would determine the net asset value of such Fund Interest for purposes of calculating the redemption proceeds to be paid to a Hypothetical Investor that has submitted a valid and timely notice for redemption of Fund Interests based on the value determined as of such date.

“**Fund Service Provider**” means any person who is appointed to provide services, directly or indirectly, to a Fund, whether or not specified in the relevant Fund Documents, including without limitation any Fund Administrator, Fund Adviser, operator, management company, depository, custodian, sub-custodian, prime broker, administrator, trustee, registrar and transfer agent or domiciliary agent.

“**Fund Valuation Date**” means a date as of which a Fund (or its Fund Service Provider that generally determines such value) determines the value of the related Fund Interest.



**“Hypothetical Investor”** means a hypothetical or actual investor (as determined by the Calculation Agent in the context of the relevant situation) in Fund Interests which is deemed to have the benefits and obligations, as provided in the relevant Fund Documents, of an investor holding Fund Interests at the relevant time. The Hypothetical Investor may be deemed by the Calculation Agent to be resident or organised in any jurisdiction, and to be, without limitation, the Issuer, the Calculation Agent or any of their affiliates (as determined by the Calculation Agent in the context of the relevant situation).

**“Removal Date”** means, in respect of an Affected Fund Interest, the date on which the Calculation Agent determines that a Hypothetical Investor would receive the Removal Value in respect of a redemption or realisation of such Affected Fund Interest effected as soon as reasonably practicable following the occurrence of the relevant Fund Event.

**“Removal Value”** means, in respect of an Affected Fund Interest, the amount that the Calculation Agent determines a Hypothetical Investor would receive in cash on the redemption or realisation of such Affected Fund Interest at the relevant time, provided that if any such redemption proceeds would comprise non-monetary assets the Removal Value may, at the sole and absolute discretion of the Calculation Agent, include only such amount (if any) that the Calculation Agent determines would be received by the Hypothetical Investor in respect of a realisation (in whatsoever manner the Calculation Agent determines appropriate) of such non-monetary assets as soon as reasonably practicable after their receipt.

**“Scheduled Fund Redemption Valuation Date”** means the date as of which a Fund (or its Fund Service Provider that generally determine such value) is scheduled, according to the relevant Fund Documents (without giving effect to any gating, deferral, suspension or other provisions permitting the Fund to delay or refuse redemption of Fund Interests), to determine the net asset value of the related Fund Interest for purposes of calculating the redemption proceeds to be paid to an investor that has submitted a valid and timely notice for redemption of Fund Interests based on the value determined as of such date.

**“Scheduled Fund Valuation Date”** means, in respect of a Fund Interest, a date as of which the related Fund (or its Fund Service Provider that generally determines such value) is scheduled, according to the relevant Fund Documents (without giving effect to any gating, deferral, suspension or other provisions permitting the Fund to delay or refuse redemption of Fund Interests), to determine the value of the related Fund Interest or, if the Fund only reports its aggregate net asset value, the date as of which such Fund is scheduled to determine its aggregate net asset value.

#### 4. Fund Events

**“Fund Event”** means the occurrence of each of an Additional Fund Disruption Event, a Fund Disruption Event and/or a Fund Extraordinary Event as determined by the Calculation Agent.

(a) **“Additional Fund Disruption Event”** means each of Change in Law, Fund Hedging Disruption or Increased Cost of Hedging.

**“Change in Law”** means that, on or after the Trade Date (i) due to the adoption of or any change in any applicable law or regulation (including, without limitation, any tax law), or (ii) 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 or regulation (including any action taken by a taxing authority), the Issuer or any of its affiliates or agents acting on its behalf determines in good faith that (A) it has become illegal to hold, acquire or dispose of any Fund Interests, or (B) the Issuer will incur a materially increased cost in performing its obligations under the Fund Linked Securities (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on its tax position).

**“Fund Hedging Disruption”** means that the Issuer or any of its Affiliates or agents is unable, or it is impractical for the Issuer or any of its Affiliates or agents, after using commercially reasonable efforts, to (i) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction or asset it deems necessary or appropriate to hedge the price risk relating to any Fund Interest of the Issuer issuing and performing its obligations with respect to the Fund Linked Securities, or (ii) realise, recover or remit the proceeds of any such transaction or asset, including, without limitation, where such inability or impracticability has arisen by reason of (A) any restrictions or increase in charges or fees imposed by a Fund on an investor’s ability to redeem the related Fund Interest, in whole or in part, or any existing or

new investor's ability to make new or additional investments in such Fund Interest, or (B) any mandatory redemption, in whole or in part, of a Fund Interest imposed by the related Fund (in each case other than any restriction in existence on the Trade Date or, in respect of a Replacement Fund Interest, the relevant replacement date).

**“Increased Cost of Hedging”** means that the Issuer or any of its Affiliates or agents would incur a materially increased (as compared with circumstances existing on the Issue Date) amount of tax, duty, expense or fee (other than brokerage commissions) to (i) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the price risk relating to any Fund Interest of the Issuer issuing and performing its obligations with respect to the Fund Linked Securities, or (ii) realise, recover or remit the proceeds of any transaction(s) or asset(s), provided that any such materially increased amount that is incurred solely due to the deterioration of the creditworthiness of the Issuer shall not be deemed an Increased Cost of Hedging.

- (b) **“Fund Disruption Event”** means at any time the occurrence or continuance of any of the following events, as determined by the Calculation Agent in its sole and absolute discretion, if the Calculation Agent determines any such event is material:
  - (i) Fund Valuation Disruption: **“Fund Valuation Disruption”** means (A) any continued postponement of any Scheduled Valuation Date due to such Scheduled Valuation Date not being a Scheduled Fund Redemption Valuation Date, (B) the failure of a Scheduled Fund Redemption Valuation Date in respect of a Fund Interest to be a Fund Redemption Valuation Date in respect of such Fund Interest or any continued postponement of such Fund Redemption Valuation Date, or (C) the failure of a Scheduled Fund Valuation Date in respect of a Fund Interest to be a Fund Valuation Date in respect of such Fund Interest or any continued postponement of such Fund Valuation Date;
  - (ii) Fund Settlement Disruption: **“Fund Settlement Disruption”** means a failure by a Fund on any day to pay the full amount (whether expressed as a percentage or otherwise) of any fund redemption proceeds with respect to any Fund Interest scheduled to have been paid on or by such day according to the relevant Fund Documents (without giving effect to any gating, deferral, suspension or other provisions permitting the Fund to delay or refuse redemption of Fund Interests).
- (c) **“Fund Extraordinary Event”** means each of the following events:
  - (i) Nationalisation: **“Nationalisation”** means that all the Fund Interests or all or substantially all the assets of a Fund are nationalised, expropriated or are otherwise required to be transferred to any governmental agency, authority, entity or instrumentality thereof;
  - (ii) Insolvency: **“Insolvency”** means that by reason of the voluntary or involuntary liquidation, bankruptcy, insolvency, dissolution or winding-up of or any analogous proceeding affecting a Fund, (A) all the Fund Interests of that Fund are required to be transferred to a trustee, liquidator or other similar official or (B) holders of the Fund Interests of that Fund become legally prohibited from transferring or redeeming them;
  - (iii) Fund Insolvency Event: **“Fund Insolvency Event”** means a Fund or relevant Fund Service Provider (A) is dissolved or has a resolution passed for its dissolution, winding-up or official liquidation (other than pursuant to a consolidation, amalgamation or merger); (B) makes a general assignment or arrangement with or for the benefit of its creditors; (C) (I) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, 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 by it or such regulator, supervisor or similar official, or (II) 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 such proceeding or petition is instituted or presented by a person or entity not described in clause (I) above and either (aa) 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 (bb) is not dismissed, discharged, stayed or restrained in each case within fifteen calendar days of the institution or presentation thereof; (D) 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; (E) 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 of its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within fifteen calendar days thereafter; or (F) 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 paragraphs (E) and (F) above;

- (iv) NAV Trigger Event: “**NAV Trigger Event**” means that (A) the aggregate net asset value of a Fund has decreased by an amount equal to or greater than 30 per cent. since the Trade Date or, in respect of a Replacement Fund Interest, the relevant replacement date; or (B) a Fund has violated any leverage restriction that is applicable to, or affecting, it or its assets by operation of any law, any order or judgment of any court or other agency of government applicable to it or any of its assets, the relevant Fund Documents or any contractual restriction binding on or affecting the Fund or any of its assets;
- (v) Adviser Resignation Event: “**Adviser Resignation Event**” means the resignation, termination of appointment, or replacement of a Fund’s Fund Adviser;
- (vi) Fund Modification: “**Fund Modification**” means any change or modification of the relevant Fund Documents that could reasonably be expected to affect the value of a Fund Interest or the rights or remedies of any holders thereof (in each case, as determined by the Calculation Agent) from those prevailing on the Trade Date or, in respect of a Replacement Fund Interest, the relevant replacement date; or the imposition of any fees or charges in relation to redemptions, subscriptions or transfers of Fund Interests;
- (vii) Strategy Breach: “**Strategy Breach**” means any breach or violation of any strategy or investment guidelines stated in the relevant Fund Documents that is reasonably likely to affect the value of a Fund Interest or the rights or remedies of any holders thereof (in each case, as determined by the Calculation Agent); or any change of the nature of a Fund, including but not limited to the type of investments, the duration, the credit risk and diversification of the investments to which that Fund is exposed, which, in the opinion of the Calculation Agent, results in a material deterioration of the risk profile of that Fund;
- (viii) Regulatory Action: “**Regulatory Action**” means (A) the cancellation, suspension or revocation of the registration or approval of a Fund Interest or the related Fund by any governmental, legal or regulatory entity with authority over such Fund Interest or Fund, (B) any change in the legal, tax, accounting, or regulatory treatments of a Fund or its Fund Adviser that is reasonably likely to have an adverse impact on the value of the related Fund Interest or on any investor therein (as determined by the Calculation Agent), or (C) a Fund or any of its Fund Administrator or Fund Adviser becoming subject to investigation, proceeding or litigation by any relevant governmental, legal or regulatory authority involving the alleged violation of applicable law for any activities relating to or resulting from the operation of such Fund, Fund Administrator or Fund Adviser;
- (ix) Reporting Disruption: “**Reporting Disruption**” means (A) the occurrence of any event affecting a Fund Interest that, in the determination of the Calculation Agent, would make it impossible or impracticable for the Calculation Agent to determine the value of such Fund Interest in respect of a Scheduled Fund Valuation Date or a Scheduled Fund Redemption Valuation Date, and such event continues for at least two consecutive Scheduled Fund Valuation Dates or Scheduled Fund Redemption Valuation Dates, as the case may be; (B) any failure of a Fund to deliver, or cause to be delivered, (I) information that such Fund has agreed to deliver, or cause to be delivered to the Calculation Agent, including, but not limited to, information to determine the

occurrence of a Fund Event and the annual audited financial report and semi-annual financial report, if any, in relation to the related Fund Interests, or (II) information that has been previously delivered to the Calculation Agent, in accordance with such Fund's, or its authorised representative's, normal practice and that the Calculation Agent deems necessary to monitor such Fund's compliance with any investment guidelines, asset allocation methodologies or any other similar policies relating to the related Fund Interests;

- (x) Fund Service Provider Cessation: “**Fund Service Provider Cessation**” means that one or more Fund Service Provider(s) in respect of a Fund ceases to provide the service as outlined in the relevant Fund Documents prevailing on the Trade Date or, where the related Fund Interest is a Replacement Fund Interest, the relevant replacement date, and any such Fund Service Provider is not immediately replaced by another service provider acceptable to the Calculation Agent;
- (xi) Fund Administrator Disruption: “**Fund Administrator Disruption**” means any event or circumstances compromising the independence of a Fund Administrator performing services for a Fund from the relevant Fund Adviser; or
- (xii) Related Agreement Termination: “**Related Agreement Termination**” means a Fund or any of its Fund Administrator or Fund Adviser is in breach of or has terminated any existing agreement with the Calculation Agent in respect of, but not limited to, retrocession, dealing fees, liquidity and licensing.

Following the occurrence of a Fund Event, the Issuer may take the action described in (i) or (ii) below such that the Calculation Agent, in its sole and absolute discretion, determines to be practicable, which may be determined by the Calculation Agent after all necessary information has been obtained and/ or released by the Fund:

- (i) require the Calculation Agent to make such determinations and/or adjustments to the Terms and Conditions and/or the applicable Final Terms as it determines appropriate to account for the Fund Event, which may include, without limitation,
  - (A) delaying any determination date (including any Valuation Date or Averaging Date) and/ or any date on which payment might otherwise have to be made under the terms of the applicable Final Terms until it determines that no Fund Event exists;
  - (B) determining that, in the sole and absolute discretion of the Calculation Agent, one or more Fund Events may continue until or after any scheduled determination dates and/or payment dates as set out in the applicable Final Terms, and thereafter determining to fix any determination date (including any Valuation or Averaging Date) and/ or date on which payment should be made, and making payment on such date of such amount as is appropriate, as determined in the sole and absolute discretion of the Calculation Agent, taking into account the Fund Event, and which may be based solely on any amounts of cash that a Hypothetical Investor in the Fund actually received from the Fund during the relevant period or periods (and which may be less than any relevant net asset value published for the Fund, and may be as low as zero);
  - (C) calculating the value of a Fund Interest and/or replacing a Fund Interest (the “**Affected Fund Interest**”) with a replacement fund interest (the “**Replacement Fund Interest**”) with a value as determined by the Calculation Agent equal to the Removal Value for the Affected Fund Interest and in a fund which in the determination of the Calculation Agent has similar characteristics, investment objectives and policies to those applicable to the Fund in respect of the Affected Fund Interest immediately prior to the occurrence of the Fund Event; or
- (ii) (A) in the case of Notes, on giving notice to the Holders in accordance with Note Condition 14, redeem all (but not less than all) of the Notes, each Note being redeemed at the Early Redemption Amount; or
- (B) in the case of W&C Securities, on giving notice to the Holders in accordance with W&C Securities Condition 11, cancel the W&C Securities. If the W&C Securities are so cancelled the Issuer will pay an amount to each Holder in respect of each W&C Security or Unit, as the case may be, held by him which amount shall be the fair market value of a W&C Security or Unit, as the case may be, taking into account the Fund Event, less the

cost to the Issuer and/or any of its affiliates or agents of unwinding any underlying related hedging arrangements) plus, in the case of Warrants, if already paid, the Exercise Price, all as determined by the Calculation Agent in its sole and absolute discretion.

If the Calculation Agent replaces an Affected Fund Interest with a Replacement Fund Interest, such replacement shall take effect on the first reasonably practicable date following the Removal Date for such Affected Fund Interest on which the Calculation Agent determines that a Hypothetical Investor could acquire the Replacement Fund Interest.

Upon the occurrence of a Fund Event, the Issuer shall give notice as soon as reasonably practicable to the Holders in accordance with Note Condition 14 or W&C Securities Condition 11, as applicable, giving details of the action proposed to be taken in relation thereto, provided that any failure to give, or non-receipt of, such notice will not affect the validity of such action.

## 5. **Fund Potential Adjustment Events**

“**Fund Potential Adjustment Event**” means any of the following:

- (a) a subdivision, consolidation or reclassification of relevant Fund Interests or a free distribution or dividend of any such Fund Interests to existing holders by way of bonus, capitalisation or similar issue;
- (b) a distribution, issue or dividend to existing holders of relevant Fund Interests of (I) such Fund Interests or (II) other share capital or securities granting the right to payment of dividends and/or the proceeds of liquidation of the related Fund equally or proportionately with such payments to holders of such Fund Interests or (III) share capital or other securities of another issuer acquired or owned (directly or indirectly) by the related Fund as a result of a spin-off or other similar transaction or (IV) any other type of securities, rights or warrants or other assets, in any case for payment (in cash or in other consideration) at less than the prevailing market price as determined by the Calculation Agent;
- (c) an extraordinary dividend as determined by the Calculation Agent;
- (d) a repurchase by a Fund of relevant Fund Interests whether out of profits or capital and whether the consideration for such repurchase is cash, securities or otherwise other than where such repurchase is a redemption of Fund Interests initiated by an investor in such Fund Interests and consistent with the relevant Fund Documents; or
- (e) any other event that may have, in the opinion of the Calculation Agent, a diluting, concentrative or other effect on the theoretical value of relevant Fund Interests.

Following the declaration by a Fund of the terms of any Fund Potential Adjustment Event, the Calculation Agent will, in its sole and absolute discretion, determine whether such Fund Potential Adjustment Event has a diluting, concentrative or other effect on the theoretical value of the relevant Fund Interest and, if so, will make the corresponding adjustment, if any, to any one or more of any of the terms of the Terms and Conditions and/or the applicable Final Terms as the Calculation Agent in its sole and absolute discretion, determines appropriate to account for that diluting, concentrative or other effect (provided that no adjustments will be made to account solely for changes in volatility, expected dividends or liquidity relative to the relevant Fund Interest) and determine the effective date of that adjustment.

Upon the making of any such adjustment by the Calculation Agent, the Issuer shall give notice as soon as reasonably practicable to the Holders in accordance with Note Condition 14 or W&C Securities Condition 11, as applicable, stating the adjustment to any of the terms of the Terms and Conditions, and/or the applicable Final Terms and giving brief details of the Fund Potential Adjustment Event, provided that any failure to give, or non receipt of, such notice will not affect the validity of any such adjustment.

## 6. **Provisions relating to Exchange Traded Funds**

Fund Linked Conditions 7, 8, 9 and 10 apply to Exchange Traded Funds.

## 7. **Definitions (Exchange Traded Funds)**

“**Averaging Cut-Off Date**” means the eighth Scheduled Trading Day (or, where the Fund Linked Securities relate to a Basket of Funds and the applicable Final Terms provides that “Common



Scheduled Trading Days” shall be applicable, the eighth Common Scheduled Trading Day) immediately following the original date that, but for the occurrence of another Averaging Date or Disrupted Day, or on account of such date not being a Scheduled Trading Day (or, where the Fund Linked Securities relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, a Common Scheduled Trading Day), would have been the final Averaging Date, or, if earlier, the Scheduled Trading Day (or, where the Fund Linked Securities relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the Common Scheduled Trading Day) falling on or immediately preceding the second Business Day (or, in respect of Swedish Securities, the sixth Business Day) immediately preceding the date on which payment of any amount or delivery of any assets may have to be made pursuant to any calculation or determination made on the relevant Averaging Dates, provided that the Averaging Cut-Off Date shall not fall prior to the original date on which the final Averaging Date was scheduled to fall.

“**Averaging Date**” means each date specified as an Averaging Date in the applicable Final Terms or, if any such date is not a Scheduled Trading Day, the immediately following Scheduled Trading Day, (or, where the Fund Linked Securities relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the immediately following Common Scheduled Trading Day), or, if earlier, the Averaging Cut-Off Date. If any such day is a Disrupted Day:

- (a) if “**Omission**” is specified as applying in the applicable Final Terms, then such date will be deemed not to be an Averaging Date for the purposes of determining the relevant price; provided that, if through the operation of this provision there would not be an Averaging Date, then the provisions of the definition of “Valuation Date” will apply for purposes of determining the relevant price on the final Averaging Date, as if such final Averaging Date were a Valuation Date that was a Disrupted Day; or
- (b) if “**Postponement**” is specified as applying in the applicable Final Terms, then the provisions of the definition of “Valuation Date” will apply for the purposes of determining the relevant price on that Averaging Date as if such Averaging Date were a Valuation Date that was a Disrupted Day irrespective of whether, pursuant to such determination, that deferred Averaging Date would fall on a day that already is or is deemed to be an Averaging Date; or
- (c) if “**Modified Postponement**” is specified as applying in the applicable Final Terms then:
  - (i) where the Fund Linked Securities relate to a single Fund, the Averaging Date shall be the first succeeding Valid Date. If the first succeeding Valid Date has not occurred as of the Valuation Time on the Averaging Cut-Off Date or if such Averaging Date falls on the Averaging Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for the Fund, then (A) the Averaging Cut-Off Date shall be deemed to be the Averaging Date (irrespective of whether the Averaging Cut-Off Date is already an Averaging Date), and (B) the Calculation Agent shall determine the relevant price for that Averaging Date in accordance with sub-paragraph (a)(ii) of the definition of “Valuation Date” below;
  - (ii) where the Fund Linked Securities relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” shall not be applicable, the Averaging Date for each Fund Share not affected by the occurrence of a Disrupted Day shall be the originally designated Averaging Date (following adjustment of such date owing to the original date not being a Scheduled Trading Day, if applicable) (the “**Scheduled Averaging Date**”) and the Averaging Date for a Fund Share affected by the occurrence of a Disrupted Day shall be the first succeeding Valid Date in relation to such Fund Share. If the first succeeding Valid Date in relation to such Fund Share has not occurred as of the Valuation Time on the Averaging Cut-Off Date or if such Averaging Date falls on the Averaging Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for such Fund Share, then (A) the Averaging Cut-Off Date shall be deemed to be the Averaging Date (irrespective of whether the Averaging Cut-Off Date is already an Averaging Date) in relation to such Fund Share, and (B) the Calculation Agent shall determine the relevant price for that Averaging Date in accordance with sub-paragraph (b)(ii) of the definition of “Valuation Date” below;

- (iii) where the Fund Linked Securities relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Individual Disrupted Days” shall be applicable, the Averaging Date for each Fund Share not affected by the occurrence of a Disrupted Day shall be the originally designated Averaging Date (following adjustment of such date owing to the original date not being a Common Scheduled Trading Day, if applicable) (the “**Scheduled Averaging Date**”) and the Averaging Date for a Fund Share affected by the occurrence of a Disrupted Day shall be the first succeeding Valid Date in relation to such Fund Share. If the first succeeding Valid Date in relation to such Fund Share has not occurred as of the Valuation Time on the Averaging Cut-Off Date or if such Averaging Date falls on the Averaging Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day, then (A) the Averaging Cut-Off Date shall be deemed to be the Averaging Date (irrespective of whether the Averaging Cut-Off Date is already an Averaging Date) in relation to such Fund Share, and (B) the Calculation Agent shall determine the relevant price for that Averaging Date in accordance with sub-paragraph (c)(ii) of the definition of “Valuation Date” below; or
- (iv) where the Fund Linked Securities relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Common Disrupted Days” shall be applicable, the Averaging Date for each Fund Share shall be the first succeeding Common Valid Date in relation to such Fund Share. If the first succeeding Common Valid Date has not occurred as of the Valuation Time on the Averaging Cut-Off Date or if such Averaging Date falls on the Averaging Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day, then (A) the Averaging Cut-Off Date shall be deemed to be the Averaging Date (irrespective of whether the Averaging Cut-Off Date is already an Averaging Date), and (B) the Calculation Agent shall determine the relevant level or price for that Averaging Date in accordance with sub-paragraph (d)(ii) of the definition of “Valuation Date” below,

and, for the purposes of these Fund Linked Conditions “**Valid Date**” means a Scheduled Trading Day that is not a Disrupted Day and on which another Averaging Date does not or is deemed not to occur, and “**Common Valid Date**” means a Common Scheduled Trading Day that is not a Disrupted Day for any Fund Share and on which another Averaging Date does not or is deemed not to occur.

“**Barrier Event Determination Day**” means, in respect of each Fund Share:

- (a) if the applicable Final Terms provides that the Barrier Event (intraday) provisions shall apply, unless otherwise specified in the applicable Final Terms, each day on which the price of such Fund Share is quoted on the relevant Exchange during the relevant Observation Period, regardless of whether or not such day is a Scheduled Trading Day for such Fund Share (and, for the avoidance of doubt, if the Calculation Agent in its sole and absolute discretion determines that a Market Disruption Event is occurring at any time on any Barrier Event Determination Day, it shall disregard the period during which it determines in its sole and absolute discretion that such Market Disruption Event has occurred and is continuing for the purposes of determining whether or not a Barrier Event (intraday) has occurred); or
- (b) if the applicable Final Terms provides that the Barrier Event (closing) provisions shall apply each day specified as such in the applicable Final Terms.

“**Barrier Event Valuation Time (closing)**” means, in respect of each Fund Share to be valued, the Scheduled Closing Time on the relevant Exchange on the relevant Barrier Event Determination Day. If the relevant Exchange closes prior to its Scheduled Closing Time and the specified Barrier Event Valuation Time (closing) is after the actual closing time for its regular trading session, then the Barrier Event Valuation Time (closing) shall be such actual closing time.

“**Barrier Event Valuation Time (intraday)**” means any time during the regular trading session (without regard to any after hours or any other trading outside of the regular session) on the Exchange.

“**Barrier Level**” means, in respect of a Fund Share, such price for such Fund Share as is specified in the applicable Final Terms.

**“Basket of Funds”** means a basket composed of Fund Shares in their relative proportions or number of Fund Shares, as specified in the applicable Final Terms.

**“Common Scheduled Trading Day”** means, in respect of a Basket of Funds, each day which is a Scheduled Trading Day for all the Fund Shares in the Basket of Funds.

**“Disrupted Day”** means any Scheduled Trading Day on which a relevant Exchange or any Related Exchange fails to open for trading during its regular trading session or on which a Market Disruption Event has occurred.

**“ETF”** means any fund which is an exchange traded fund as specified in the applicable Final Terms, or if not so specified, any fund which the Calculation Agent determines to be an Exchange Traded Fund.

**“Exchange”** means, in relation to a Fund Share, the exchange or principal trading market for such ETF specified in the applicable Final Terms, any successor to such exchange or quotation system or any substitute exchange or quotation system to which trading in the Fund Shares in respect of such ETF has temporarily relocated.

**“Exchange Business Day”** means any Scheduled Trading Day on which each Exchange and each Related Exchange are open for trading during their respective regular trading sessions, notwithstanding any such Exchange or Related Exchange closing prior to its Scheduled Closing Time.

**“Final Price”** means, in respect of a Fund Share, unless otherwise specified in the applicable Final Terms, the Fund Share Closing Price of such Fund Share on the Valuation Date, subject to adjustment in accordance with these Fund Linked Conditions.

**“Fund Performance”** means unless otherwise specified in the applicable Final Terms, in respect of a Fund Share and any relevant date, an amount (expressed as a percentage) determined by the Calculation Agent equal to (a) the Fund Share Closing Price of such Fund Share on such day, divided by (b) the Initial Price of such Fund Share.

**“Fund Share”** means a share of each ETF, and references to **“holder of Fund Shares”** and **“Fund Shareholder”** shall be construed accordingly.

**“Fund Share Closing Price”** means, in respect of a Fund Share and any relevant date, subject to these Fund Linked Conditions, an amount equal to the official closing price of such Fund Share quoted on the relevant Exchange as determined by the Calculation Agent on such date.

**“Fund Share Price”** means, in respect of a Fund Share and a time on a Scheduled Trading Day and subject to these Fund Linked Conditions, the price of such Fund Share at such time on such day as determined by the Calculation Agent.

**“Initial Price”** means, in respect of a Fund Share, unless otherwise specified in the applicable Final Terms, the Fund Share Closing Price of such Fund Share on the Strike Date, subject to adjustment in accordance with these Fund Linked Conditions.

**“Observation Cut-Off Date”** means the eighth Scheduled Trading Day (or, where the Fund Linked Securities relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the eighth Common Scheduled Trading Day) immediately following the Scheduled Observation Date or, if earlier, the Scheduled Trading Day (or, where the Fund Linked Securities relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the Common Scheduled Trading Day) falling on or immediately preceding the second Business Day (or, in respect of Swedish Securities, the sixth Business Day) immediately preceding the date on which payment of any amount or delivery of any assets may have to be made pursuant to any calculation or determination made on such Observation Date, provided that the Observation Cut-Off Date shall not fall prior to the original date on which such Observation Date was scheduled to fall.

**“Observation Date”** means each date specified as such in the applicable Final Terms, or if such date is not a Scheduled Trading Day the immediately following Scheduled Trading Day (or, where the Fund Linked Securities relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the immediately following Common Scheduled Trading Day), or, if earlier, the Observation Cut-Off Date. If any such day is a Disrupted Day, then:

- (a) where the Fund Linked Securities relate to a single Fund, the Observation Date shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day, unless each of the Scheduled Trading Days immediately following the Scheduled Observation Date up to, and including, the Observation Cut-Off Date is a Disrupted Day. In that case, or if such Observation Date falls on the Observation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for such Fund Share, (i) the Observation Cut-Off Date shall be deemed to be the Observation Date (notwithstanding the fact that such day may be a Disrupted Day) and (ii) the Calculation Agent shall determine the relevant price in the manner set out in the applicable Final Terms or, if not set out or if not practicable, determine the relevant price in accordance with its good faith estimate of the relevant price as of the Valuation Time on the Observation Cut-Off Date;
- (b) where the Fund Linked Securities relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” shall not be applicable, the Observation Date for each Fund Share not affected by the occurrence of a Disrupted Day shall be the Scheduled Observation Date (or, if earlier, the Observation Cut-Off Date) and the Observation Date for each Fund Share affected (each an “**Affected Fund Share**”) by the occurrence of a Disrupted Day shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day relating to the Affected Fund Share, unless each of the Scheduled Trading Days immediately following the Scheduled Observation Date up to, and including, the Observation Cut-Off Date is a Disrupted Day relating to the Affected Fund Share. In that case, or if such Observation Date falls on the Observation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for such Fund Share, (i) the Observation Cut-Off Date shall be deemed to be the Observation Date for such Fund Share (notwithstanding the fact that such day may be a Disrupted Day) and (ii) the Calculation Agent shall determine the relevant price using, in relation to such Fund Share, a price determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using its good faith estimate of the price for such Fund Share as of the Valuation Time on the Observation Cut-Off Date, and otherwise in accordance with the above provisions;
- (c) where the Fund Linked Securities relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Individual Disrupted Days” shall be applicable, the Observation Date for each Fund Share not affected by the occurrence of a Disrupted Day shall be the Scheduled Observation Date (or if the Scheduled Observation Date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day, or in either case, if earlier, the Observation Cut-Off Date) and the Observation Date for each Fund Share affected (each an “**Affected Fund Share**”) by the occurrence of a Disrupted Day shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day relating to the Affected Fund Share, unless each of the Scheduled Trading Days immediately following the Scheduled Observation Date (or if the Scheduled Observation Date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day) up to, and including, the Observation Cut-Off Date is a Disrupted Day relating to the Affected Fund Share. In that case, or if such Observation Date falls on the Observation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day, (i) the Observation Cut-Off Date shall be deemed to be the Observation Date for such Fund Share (notwithstanding the fact that such day may be a Disrupted Day for a Fund Share or not a Common Scheduled Trading Day) and (ii) the Calculation Agent shall determine the relevant price using, in relation to such Fund Share, a price determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using its good faith estimate of the price for such Fund Share as of the Valuation Time on the Observation Cut-Off Date, and otherwise in accordance with the above provisions; or
- (d) where the Fund Linked Securities relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Common Disrupted Days” shall be applicable, the Observation Date shall be the first succeeding Common Scheduled Trading Day that is not a Disrupted Day for any Fund Share, unless each of the Common Scheduled Trading Days immediately following the Scheduled Observation Date up to, and including, the Observation Cut-Off Date is a Disrupted Day for one or more Fund Shares. In that case, or if such Observation Date falls on the Observation Cut-Off Date owing to the original date



on which it was scheduled to fall not being a Common Scheduled Trading Day, (i) the Observation Cut-Off Date shall be deemed to be the Observation Date (notwithstanding the fact that such day may be a Disrupted Day for a Fund Share or not a Common Scheduled Trading Day) and (ii) the Calculation Agent shall determine the relevant price using, in relation to each Fund Share for which the Observation Cut-Off Date is a Disrupted Day or is not a Common Scheduled Trading Day, a price determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using its good faith estimate of the price for such Fund Share as of the Valuation Time on the Observation Cut-Off Date, and otherwise in accordance with the above provisions.

**“Observation Period”** means, in respect of a Fund Share:

- (a) if the consequence of “Extension” is specified in the applicable Final Terms to be applicable, each period commencing on, the Observation Period Start Date, following adjustment of such date pursuant to these Fund Linked Conditions or as specified in the applicable Final Terms, if applicable (and including or excluding such Observation Period Start Date, as specified in the applicable Final Terms) and ending on the immediately following Observation Period End Date, following adjustment of such date pursuant to these Fund Linked Conditions or as specified in the applicable Final Terms, if applicable (and including or excluding such Observation Period End Date, as specified in the applicable Final Terms); or
- (b) if the consequence of “No Extension” is specified in the applicable Final Terms to be applicable, each period commencing on the Observation Period Start Date, prior to any adjustment of such date pursuant to these Fund Linked Conditions or as specified in the applicable Final Terms, if applicable (and including or excluding such Observation Period Start Date, as specified in the applicable Final Terms) and ending on the immediately following Observation Period End Date, prior to any adjustment of such date pursuant to these Fund Linked Conditions or as specified in the applicable Final Terms, if applicable (and including or excluding such Observation Period End Date, as specified in the applicable Final Terms).

**“Observation Period End Date”** means, in respect of a Fund Share, each date specified as such in the applicable Final Terms, subject to adjustment in accordance with the provisions of “Observation Date”, “Valuation Date” or otherwise as specified in the applicable Final Terms, if applicable.

**“Observation Period Start Date”** means, in respect of a Fund Share, each date specified as such in the applicable Final Terms, subject to adjustment in accordance with the provisions of “Observation Date”, “Valuation Date” or otherwise as specified in the applicable Final Terms, if applicable.

**“Related Exchange”** means, in relation to a Fund Share, each exchange or principal trading market specified as such for such Fund Share in the applicable Final Terms, any successor to such exchange or quotation system or any substitute exchange or quotation system to which trading in the Fund Shares in respect of such Fund Share has temporarily relocated (provided the Calculation Agent has determined that there is comparable liquidity relative to such Fund Shares on such temporary substitute exchange or quotation system as on the original Related Exchange), provided however, that where “All Exchanges” is specified as the Related Exchange in the applicable Final Terms, “Related Exchange” shall mean each exchange or principal trading market where trading has a material effect (as determined by the Calculation Agent) on the overall market for such Fund Shares.

**“Scheduled Closing Time”** means, in respect of an Exchange or Related Exchange and a Scheduled Trading Day, the scheduled weekday closing time of such Exchange or Related Exchange on such Scheduled Trading Day, without regard to after hours or any other trading outside of the regular trading session hours.

**“Scheduled Observation Date”** means any original date that, but for the occurrence of an event causing a Disrupted Day, would have been an Observation Date.

**“Scheduled Trading Day”** means any day on which each Exchange and each Related Exchange are scheduled to be open for trading for their respective regular trading sessions.

**“Scheduled Valuation Date”** means any original date that, but for the occurrence of an event causing a Disrupted Day, would have been a Valuation Date.

**“Strike Date”** means the date specified as such in the applicable Final Terms.



“**Underlying Index**” means the underlying index specified in the applicable Final Terms.

“**Valuation Cut-Off Date**” means the eighth Scheduled Trading Day (or, where the Fund Linked Securities relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the eighth Common Scheduled Trading Day) immediately following the Scheduled Valuation Date, or, if earlier, the Scheduled Trading Day (or, where the Fund Linked Securities relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the Common Scheduled Trading Day) falling on or immediately preceding the second Business Day (or, in respect of Swedish Securities, the sixth Business Day) immediately preceding the date on which payment of any amount or delivery of any assets may have to be made pursuant to any calculation or determination made on such Valuation Date, provided that the Valuation Cut-Off Date shall not fall prior to the original date on which such Valuation Date was scheduled to fall.

“**Valuation Date**” means each Valuation Date specified in the applicable Final Terms, or if that is not a Scheduled Trading Day the immediately following Scheduled Trading Day (or, where the Fund Linked Securities relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the immediately following Common Scheduled Trading Day), or, if earlier, the Valuation Cut-Off Date. If such day is a Disrupted Day, then:

- (a) where the Fund Linked Securities relate to a single Fund, the Valuation Date shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day, unless each of the Scheduled Trading Days up to, and including, the Valuation Cut-Off Date is a Disrupted Day. In that case, or if such Valuation Date falls on the Valuation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for such Fund Share, (i) the Valuation Cut-Off Date shall be deemed to be the Valuation Date (notwithstanding the fact that such day may be a Disrupted Day) and (ii) the Calculation Agent shall determine the relevant price in the manner set out in the applicable Final Terms or, if not set out or if not practicable, determine the relevant price in accordance with its good faith estimate of the relevant price as of the Valuation Time on the Valuation Cut-Off Date; or
- (b) where the Fund Linked Securities relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” shall not be applicable, the Valuation Date for each Fund Share not affected by the occurrence of a Disrupted Day shall be the Scheduled Valuation Date (or, if earlier, the Valuation Cut-Off Date) and the Valuation Date for each Fund Share affected (each an “**Affected Fund Share**”) by the occurrence of a Disrupted Day shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day relating to the Affected Fund Share, unless each of the Scheduled Trading Days immediately following the Scheduled Valuation Date up to and including the Valuation Cut-Off Date is a Disrupted Day relating to the Affected Fund Share. In that case, or if such Valuation Date falls on the Valuation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for such Fund Share, (i) the Valuation Cut-Off Date shall be deemed to be the Valuation Date for such Fund Share (notwithstanding the fact that such day may be a Disrupted Day) and (ii) the Calculation Agent shall determine the relevant price using, in relation to such Fund Share, a price determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using its good faith estimate of the price for the Affected Fund Share as of the Valuation Time on the Valuation Cut-Off Date, and otherwise in accordance with the above provisions;
- (c) where the Fund Linked Securities relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Individual Disrupted Days” shall be applicable, the Valuation Date for each Fund Share not affected by the occurrence of a Disrupted Day shall be the Scheduled Valuation Date (or if the Scheduled Valuation Date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day, or in either case, if earlier, the Valuation Cut-Off Date) and the Valuation Date for each Fund Share affected (each an “**Affected Fund Share**”) by the occurrence of a Disrupted Day shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day relating to the Affected Fund Share, unless each of the Scheduled Trading Days immediately following the Scheduled Valuation Date (or if the Scheduled Valuation Date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day) up to, and including, the Valuation Cut-Off Date is a Disrupted Day relating to

the Affected Fund Share. In that case, or if such Valuation Date falls on the Valuation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day, (i) the Valuation Cut-Off Date shall be deemed to be the Valuation Date for such Fund Share (notwithstanding the fact that such day may be a Disrupted Day for a Fund Share or not a Common Scheduled Trading Day) and (ii) the Calculation Agent shall determine the relevant price using, in relation to such Fund Share, a price determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using its good faith estimate of the price for such Fund Share as of the Valuation Time on the Valuation Cut-Off Date, and otherwise in accordance with the above provisions; or

- (d) where the Fund Linked Securities relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Common Disrupted Days” shall be applicable, the Valuation Date shall be the first succeeding Common Scheduled Trading Day that is not a Disrupted Day for any Fund Share, unless each of the Common Scheduled Trading Days immediately following the Scheduled Valuation Date up to, and including, the Valuation Cut-Off Date is a Disrupted Day for one or more Fund Shares. In that case, or if the Valuation Date falls on the Valuation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day, (i) the Valuation Cut-Off Date shall be deemed to be the Valuation Date (notwithstanding the fact that such day may be a Disrupted Day for a Fund Share or not a Common Scheduled Trading Day) and (ii) the Calculation Agent shall determine the relevant price using, in relation to each Fund Share for which the Valuation Cut-Off Date is a Disrupted Day or is not a Common Scheduled Trading Day, a price determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using its good faith estimate of the price for such Fund Share as of the Valuation Time on the Valuation Cut-Off Date, and otherwise in accordance with the above provisions.

“**Valuation Time**” means the Valuation Time specified in the applicable Final Terms or, if no Valuation Time is specified, the Scheduled Closing Time on the relevant Exchange on the relevant Valuation Date in relation to each Fund Share to be valued. If the relevant Exchange closes prior to its Scheduled Closing Time and the specified Valuation Time is after the actual closing time for its regular trading session, then the Valuation Time shall be such actual closing time.

“**Worst Performing Fund Share**” means, in respect of a Basket of Funds and the Valuation Date (unless otherwise specified in the applicable Final Terms), the Fund Share with the lowest Fund Performance on such day, as determined by the Calculation Agent (provided that if two or more Fund Shares have the same lowest Fund Performance on such day, the Calculation Agent shall determine which Fund Share shall be the Worst Performing Fund Share in its sole and absolute discretion, and such Fund Share shall be the Worst Performing Fund Share).

## 8. **Barrier Event**

- (a) A “**Barrier Event (intraday)**” means (and a Barrier Event (intraday) shall be deemed to occur if), in respect of a Fund Share, the Calculation Agent determines that the Fund Share Price of such Fund Share as of the Barrier Event Valuation Time (intraday) on any Barrier Event Determination Day is less than or equal to the corresponding Barrier Level for such Fund Share and such Barrier Event Determination Day.

For the purpose of determining whether a Barrier Event (intraday) has occurred on any day, the definition of Market Disruption Event specified in Fund Linked Condition 9 shall be amended such that (i) all references to “during the one-hour period that ends at the relevant Valuation Time” shall be deleted, and (ii) in sub-paragraph (b) each reference to “Valuation Time” and “Scheduled Closing Time” shall be construed as a reference to “Barrier Event Valuation Time (intraday)”.

- (b) A “**Barrier Event (closing)**” means (and a Barrier Event (closing) shall be deemed to occur if), in respect of a Fund Share, the Calculation Agent determines that the Fund Share Closing Price of any Fund Share as of the Barrier Event Valuation Time (closing) on any Barrier Event Determination Day is less than or equal to the corresponding Barrier Level for such Fund Share and such Barrier Event Determination Day.

## 9. **Market Disruption**

“**Market Disruption Event**” means, in respect of a Fund Share:

- (a) the occurrence or existence at any time during the one-hour period that ends at the relevant Valuation Time:
  - (i) of any suspension of or limitation imposed on trading by the relevant Exchange or Related Exchange or otherwise and whether by reason of movements in price exceeding limits permitted by the relevant Exchange or Related Exchange or otherwise:
    - (A) relating to the relevant Fund Share on such Exchange; or
    - (B) relating to securities that comprise 20 per cent. or more of the level of the relevant Underlying Index or any relevant successor index; or
    - (C) in futures or options contracts relating to such Fund Shares or the relevant Underlying Index on any relevant Related Exchange, or
  - (ii) of any event (other than an event described in (b) below) that disrupts or impairs (as determined by the Calculation Agent) the ability of market participants in general to (A) effect transactions in, or obtain market values for, the Fund Shares on the Exchange, (B) effect transactions in, or obtain market values for securities that comprise 20 per cent. or more of the level of the relevant Underlying Index, or (C) to effect transactions in, or obtain market values for, futures or options contracts relating to such Fund Shares or the relevant Underlying Index on any relevant Related Exchange; or
- (b) the closure on any Exchange Business Day of any relevant Exchange(s) or any Related Exchange(s) prior to its Scheduled Closing Time unless such earlier closing time is announced by such Exchange(s) or such Related Exchange(s), as the case may be, at least one hour prior to (i) the actual closing time for the regular trading session on such Exchange(s) or such Related Exchange on such Exchange Business Day or, if earlier, (ii) the submission deadline for orders to be entered into such Exchange or Related Exchange system for execution at the Valuation Time on such Exchange Business Day,

which in any such case the Calculation Agent determines is material.

For the purpose of determining whether a Market Disruption Event exists in respect of a Fund Share at any time, if an event giving rise to a Market Disruption Event occurs in respect of a security included in the relevant Underlying Index at that time, then the relevant percentage contribution of that security, to the level of the relevant Underlying Index shall be based on a comparison of (a) the portion of the level of the relevant Underlying Index attributable to that security, and (b) the overall level of the relevant Underlying Index immediately before the occurrence of such Market Disruption Event.

The Issuer shall give notice as soon as practicable to the Holders in accordance with Note Condition 14 in the case of Notes, or W&C Securities Condition 11 in the case of W&C Securities of the occurrence of a Disrupted Day on any day that, but for the occurrence of a Disrupted Day, would have been a Valuation Date provided that any failure to give, or non-receipt of, such notice will not affect the validity of any such Disrupted Day.

#### 10. **Potential Adjustment Event**

“**Potential Adjustment Event**” means any of the following:

- (a) a subdivision, consolidation or reclassification of relevant Fund Shares (unless resulting in a Merger Event or Tender Offer), or a free distribution or dividend of any such Fund Shares to existing holders by way of bonus, capitalisation or similar issue;
- (b) a distribution, issue or dividend to existing holders of the relevant Fund Shares of (i) such Fund Shares or (ii) other share capital or securities granting the right to payment of dividends and/ or the proceeds of liquidation of the ETF equally or proportionately with such payments to holders of such Fund Shares or (iii) share capital or other securities of another issuer acquired or owned (directly or indirectly) by the ETF as a result of a spin-off or other similar transaction, or (iv) any other type of securities, rights or warrants or other assets in any case for payment (cash or other consideration) at less than the prevailing market price as determined by the Calculation Agent;
- (c) an extraordinary dividend as determined by the Calculation Agent;
- (d) a call by the ETF in respect of relevant Fund Shares that are not fully paid;

- (e) a repurchase by the ETF or any of its subsidiaries of relevant Fund Shares, whether out of profits or capital and whether the consideration for such repurchase is cash, securities or otherwise;
- (f) in respect of an ETF, an event that results in any shareholder rights being distributed or becoming separated from Fund Shares of common stock or other shares of the capital stock of the ETF pursuant to a shareholder rights plan or arrangement directed against hostile takeovers that provides upon the occurrence of certain events for a distribution of preferred stock, warrants, debt instruments or stock rights at a price below their market value, as determined by the Calculation Agent, provided that any adjustment effected as a result of such an event shall be readjusted upon any redemption of such rights; or
- (g) any other event that may have a diluting or concentrative effect on the theoretical value of the relevant Fund Shares.

Following a Potential Adjustment Event, the Calculation Agent will, in its sole and absolute discretion, determine whether such Potential Adjustment Event has a diluting or concentrative effect on the theoretical value of the relevant Fund Shares and, if so, will (a) make the corresponding adjustment(s), if any, to any one or more of the terms of the Terms and Conditions of the Securities and/or the applicable Final Terms as the Calculation Agent determines appropriate to account for that diluting or concentrative effect and (b) determine the effective date(s) of that adjustment(s). The Calculation Agent may, but need not, determine the appropriate adjustment(s) by reference to the adjustment(s) in respect of such Potential Adjustment Event made by an options exchange to options on the relevant Fund Shares traded on such options exchange.

Upon the making of any such adjustment, the Calculation Agent shall as soon as is reasonably practicable under the circumstances give notice to the Holders in accordance with Note Condition 14 in the case of Notes or W&C Securities Condition 11 in the case of W&C Securities, as applicable, stating the adjustment made and giving brief details of the Potential Adjustment Event, provided that any failure to give, or non-receipt of, such notice will not affect the validity of any such adjustment.

**11. De-Listing, Insolvency, Material Underlying Event, Merger Date, Merger Event, Nationalisation, Tender Offer**

**“De-Listing”** means, in respect of a Fund Share, that the relevant Exchange announces that pursuant to the rules of such Exchange, such Fund Share ceases (or will cease) to be listed, traded or publicly quoted on such Exchange for any reason (other than a Merger Event or Tender Offer) and is not immediately re-listed, re-traded or re-quoted on an exchange or quotation system located in the same country as the Exchange (or, where the Exchange is within the European Union, in a member state of the European Union).

**“Insolvency”** means that by reason of the voluntary or involuntary liquidation, bankruptcy, insolvency, dissolution or winding-up of or any analogous proceeding affecting an ETF, (a) all the Fund Shares of that ETF are required to be transferred to a trustee, liquidator or other similar official or (b) holders of the Fund Shares of that ETF become legally prohibited from transferring them.

**“Material Underlying Event”** means any of the following:

- (a) the investment objectives and/or policies in respect of the ETF are materially changed;
- (b) an illegality occurs or a relevant authorisation or licence is revoked in respect of the ETF and/or the ETF is required by a competent authority (other than any holder of the Fund Shares) to redeem any Fund Shares;
- (c) there is a change in any relevant jurisdiction in respect of any payments made by the ETF in respect of any Fund Share as a result of which the amounts paid or to be paid by the Issuer in connection with hedging arrangements relating to the Securities are materially reduced or otherwise adversely affected; and/or
- (d) any other event occurs in relation to the ETF and/or the Fund Shares which is materially prejudicial to the Issuer in connection with the issue of the Securities or any hedging arrangements relating to the Securities,

as determined by the Calculation Agent.

**“Merger Date”** means the closing date of a Merger Event or, where a closing date cannot be determined under the local law applicable to such Merger Event, such other date as determined by the Calculation Agent.

**“Merger Event”** means, in respect of any relevant Fund Shares, any (a) reclassification or change of such Fund Shares that results in a transfer of or an irrevocable commitment to transfer all of such Fund Shares outstanding to another entity or person, (b) consolidation, amalgamation, merger or binding share exchange of the ETF with or into another entity or person (other than a consolidation, amalgamation, merger or binding share exchange in which such ETF is the continuing entity and which does not result in any such reclassification or change of all such Fund Shares outstanding) or (c) takeover offer, tender offer, exchange offer, solicitation, proposal or other event by any entity or person to purchase or otherwise obtain 100 per cent. of the outstanding Fund Shares of the relevant ETF that results in a transfer of or an irrevocable commitment to transfer all such Fund Shares (other than such Fund Shares owned or controlled by such other entity or person), or (d) consolidation, amalgamation, merger or binding share exchange of the ETF or its subsidiaries with or into another entity in which the ETF is the continuing entity and which does not result in a reclassification or change of all such Fund Shares outstanding but results in the outstanding Fund Shares (other than Fund Shares owned or controlled by such other entity) immediately prior to such event collectively representing less than 50 per cent. of the outstanding Fund Shares immediately following such event (a **“Reverse Merger”**), in each case if the Merger Date is on or before the Valuation Date (or such other date as is specified in the applicable Final Terms).

**“Nationalisation”** means that all the Fund Shares or all or substantially all the assets of an ETF are nationalised, expropriated or are otherwise required to be transferred to any governmental agency, authority, entity or instrumentality thereof.

**“Tender Offer”** means a takeover offer, tender offer, exchange offer, solicitation, proposal or other event by any entity or person that results in such entity or person purchasing, or otherwise obtaining or having the right to obtain, by conversion or other means, greater than 10 per cent. and less than 100 per cent. of the outstanding voting shares of the relevant ETF, as determined by the Calculation Agent, based upon the making of filings with governmental or self-regulatory agencies or such other information as the Calculation Agent deems relevant.

**“Tender Offer Date”** means, in respect of a Tender Offer, the date on which voting shares in the amount of the applicable percentage threshold are actually purchased or otherwise obtained (as determined by the Calculation Agent).

If a De-Listing, Merger Event, Tender Offer, Nationalisation, Insolvency or Material Underlying Event occurs in relation to any Fund Share, the Issuer in its sole and absolute discretion may take the action described in (a), (b) or (c) below:

- (a) require the Calculation Agent, in its sole and absolute discretion, to determine the appropriate adjustment(s), if any, to be made to any one or more of the terms of the Terms and Conditions and/ or the applicable Final Terms to account for the De-Listing, Merger Event, Tender Offer, Nationalisation, Insolvency or Material Underlying Event, as the case may be, and determine the effective date(s) of that adjustment(s). The Calculation Agent may (but need not) determine the appropriate adjustment(s) by reference to the adjustment(s) in respect of the De-Listing, Merger Event, Tender Offer, Nationalisation, Insolvency or Material Underlying Event made by any options exchange to options on the relevant Fund Share traded on that options exchange;
- (b)
  - (i) in the case of Notes give notice to the Noteholders in accordance with Note Condition 14, and redeem all, but not less than all, of the Notes, each nominal amount of Notes equal to the Calculation Amount being redeemed at the Early Redemption Amount, or
  - (ii) in the case of W&C Securities cancel the W&C Securities by giving notice to Holders in accordance with W&C Securities Condition 11. If the W&C Securities are so cancelled the Issuer will pay an amount to each Holder in respect of each W&C Security, or Unit, as the case may be, held by him which amount shall be the fair market value of a W&C Security, or Unit, as the case may be, taking into account the Merger Event, Tender Offer, De-listing, Nationalisation, Insolvency or Material Underlying Event, as the case may be, less the cost to the Issuer and/or any of its Affiliates or agents of unwinding any underlying related hedging arrangements (including any cost of funding in respect of



such hedging arrangements) plus, in the case of Warrants, if already paid, the Exercise Price, all as determined by the Calculation Agent in its sole and absolute discretion. Payments will be made in such manner as shall be notified to the Holders in accordance with W&C Securities Condition 11; or

- (c) following such adjustment to the settlement terms of options on the Fund Shares traded on such exchange(s) or quotation system(s) as the Issuer in its sole discretion shall select (the “**Options Exchange**”), require the Calculation Agent to make a corresponding adjustment to any one or more of the terms of the Terms and Conditions and/or the applicable Final Terms, which adjustment will be effective as of the date determined by the Calculation Agent to be the effective date of the corresponding adjustment made by the Options Exchange. If options on the Fund Shares are not traded on the Options Exchange, the Calculation Agent will make such adjustment, if any, to any one or more of the terms of the Terms and Conditions and/or the applicable Final Terms as the Calculation Agent in its sole and absolute discretion determines appropriate, with reference to the rules and precedents (if any) set by the Options Exchange to account for the Merger Event, Tender Offer, De-listing, Nationalisation, Insolvency or Material Underlying Event, as the case may be, that in the determination of the Calculation Agent would have given rise to an adjustment by the Options Exchange if such options were so traded.

Upon the occurrence of a Merger Event, Tender Offer, De-listing, Nationalisation, Insolvency or Material Underlying Event, the Issuer shall give notice as soon as practicable to the Holders in accordance with Note Condition 14 (in the case of Notes) or W&C Securities Condition 11 (in the case of W&C Securities) stating the occurrence of the Merger Event, Tender Offer, Nationalisation, De-listing, Insolvency or Material Underlying Event, as the case may be, giving details thereof and the action proposed to be taken in relation thereto provided that any failure to give, or non-receipt of, such notice will not affect the validity of any such Merger Event, Tender Offer, De-listing, Nationalisation, Insolvency or Material Underlying Event, as the case may be.

## 12. **Additional Disruption Events**

- (a) “**Additional Disruption Event**” means any of Change in Law, Hedging Disruption and/or Increased Cost of Hedging, in each case if specified in the applicable Final Terms.

“**Change in Law**” means that, on or after the Trade Date, (i) due to the adoption of or any change in any applicable law or regulation (including, without limitation, any tax law), or (ii) 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 or regulation (including any action taken by a taxing authority), the Calculation Agent determines in its sole and absolute discretion that (A) it has become illegal to hold, acquire or dispose of any relevant Fund Share or (B) it will incur a materially increased cost in performing its obligations in relation to the Fund Linked Securities (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on the tax position of the Issuer and/or any of its affiliates).

“**Hedging Disruption**” means that the Issuer and/or any of its Affiliates or agents is unable, after using commercially reasonable efforts, to (i) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the equity or other price risk of the Issuer issuing and performing its obligations with respect to the Fund Linked Securities, or (ii) realise, recover or remit the proceeds of any such transaction(s) or asset(s).

“**Increased Cost of Hedging**” means that the Issuer and/or any of its Affiliates or agents would incur a materially increased (as compared with circumstances existing on the Trade Date) amount of tax, duty, expense or fee (other than brokerage commissions) to (i) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the equity or other price risk of the Issuer issuing and performing its obligations with respect to the Fund Linked Securities, or (ii) realise, recover or remit the proceeds of any such transaction(s) or asset(s), provided that any such materially increased amount that is incurred solely due to the deterioration of the creditworthiness of the Issuer and/or any of its Affiliates or agents shall not be deemed an Increased Cost of Hedging.

- (b) If an Additional Disruption Event occurs, the Issuer in its sole and absolute discretion may take the action described in (i) or (ii) below:
  - (i) require the Calculation Agent to determine in its sole and absolute discretion the appropriate adjustment, if any, to be made to any of the other terms of the Terms and Conditions and/or the applicable Final Terms to account for the Additional Disruption Event and determine the effective date of that adjustment; or
  - (ii) (A) in the case of Notes, give notice to Holders in accordance with Note Condition 14 and redeem all, but not less than all, of the Notes, each nominal amount of Notes equal to the Calculation Amount being redeemed at the Early Redemption Amount; or
  - (B) in the case of W&C Securities, give notice to the Holders in accordance with W&C Securities Condition 11 and cancel the W&C Securities. If the W&C Securities are so cancelled the Issuer will pay an amount to each Holder in respect of each W&C Security or Unit, as the case may be, held by him which amount shall be the fair market value of a W&C Security or a Unit, as the case may be, taking into account the Additional Disruption Event less the cost to the Issuer and/or any of its Affiliates or agents of unwinding any underlying related hedging arrangements (including any cost of funding in respect of such hedging arrangements) plus, in the case of Warrants, if already paid, the Exercise Price, all as determined by the Calculation Agent in its sole and absolute discretion. Payments will be made in such manner as shall be notified to the Holders in accordance with W&C Securities Condition 11.
- (c) Upon the occurrence of an Additional Disruption Event, the Issuer shall give notice as soon as practicable to the Holders in accordance with Note Condition 14 or W&C Securities Condition 11, as applicable, stating the occurrence of the Additional Disruption Event giving details thereof and the action proposed to be taken in relation thereto provided that any failure to give, or non-receipt of, such notice will not affect the validity of the Additional Disruption Event.

## ANNEX 8

## ADDITIONAL TERMS AND CONDITIONS FOR INFLATION LINKED SECURITIES

1. **Interpretation**

If specified as applicable in the applicable Final Terms, the terms and conditions applicable to Inflation Linked Notes shall comprise the terms and conditions of the Notes (the “**Note Conditions**”) and the Additional Terms and Conditions for Inflation Linked Securities set out below (the “**Inflation Linked Conditions**”), in each case subject to completion and/or amendment in the applicable Final Terms. The terms and conditions applicable to Inflation Linked W&C Securities shall comprise the terms and conditions of the W&C Securities (the “**W&C Securities Conditions**”) and the Inflation Linked Conditions, in each case subject to completion and/or amendment in the applicable Final Terms. In the event of any inconsistency between the Note Conditions, in the case of Notes, or the W&C Securities Conditions, in the case of W&C Securities, and the Inflation Linked Conditions, the Inflation Linked Conditions shall prevail. In the event of any inconsistency between (a) the Note Conditions or the W&C Securities Conditions and/or the Inflation Linked Conditions and (b) the applicable Final Terms, the applicable Final Terms shall prevail. References in the Inflation Linked Conditions to “Security” and “Securities” shall be deemed to be references to “Note” and “Notes” or “W&C Security” and “W&C Securities” as the context admits.

2. **Definitions**

For the purpose of the Inflation Linked Securities:

“**Cut-Off Date**” means, in respect of a Determination Date, five Business Days prior to such Determination Date, unless otherwise stated in the applicable Final Terms.

“**Delayed Index Level Event**” means, in respect of any Determination Date and an Inflation Index, that the relevant Inflation Index Sponsor fails to publish or announce the level of such Inflation Index (the “**Relevant Level**”) in respect of any Reference Month which is to be utilised in any calculation or determination to be made by the Issuer in respect of such Determination Date, at any time on or prior to the Cut-Off Date.

“**Determination Date**” means each date specified as such in the applicable Final Terms.

“**End Date**” means each date specified as such in the applicable Final Terms.

“**Fallback Bond**” means, in respect of an Inflation Index, a bond selected by the Calculation Agent and issued by the government of the country to whose level of inflation the relevant Inflation Index relates, and which pays a coupon or redemption amount which is calculated by reference to such Inflation Index, with a maturity date which falls on (a) the same day as the End Date as specified in the applicable Final Terms, (b) the next longest maturity after the End Date if there is no such bond maturing on the End Date, or (c) the next shortest maturity before the End Date if no bond defined in (a) or (b) is selected by the Calculation Agent. If the relevant Inflation Index relates to the level of inflation across the European Monetary Union, the Calculation Agent will select an inflation-linked bond that is a debt obligation of one of the governments (but not any government agency) of France, Italy, Germany or Spain and which pays a coupon or redemption amount which is calculated by reference to the level of inflation in the European Monetary Union. In each case, the Calculation Agent will select the Fallback Bond from those inflation linked bonds issued on or before the Issue Date and, if there is more than one inflation-linked bond maturing on the same date, the Fallback Bond shall be selected by the Calculation Agent from those bonds. If the Fallback Bond redeems, the Calculation Agent will select a new Fallback Bond on the same basis, but selected from all eligible bonds in issue at the time the original Fallback Bond redeems (including any bond for which the redeemed bond is exchanged).

“**Inflation Index**” means each inflation index specified in the applicable Final Terms and related expressions shall be construed accordingly.

“**Inflation Index Sponsor**” means, in relation to an Inflation Index, the entity that publishes or announces (directly or through an agent) the level of such Inflation Index which, as of the Issue Date, is the Inflation Index Sponsor specified in the applicable Final Terms.

“**Reference Month**” means the calendar month for which the level of the Inflation Index was reported, regardless of when this information is published or announced. If the period for which the

level of the Inflation Index was reported is a period other than a month, the Reference Month shall be the period for which the level of the Inflation Index was reported.

“**Related Bond**” means, in respect of an Inflation Index, the bond specified as such in the applicable Final Terms. If the Related Bond specified in the applicable Final Terms is “Fallback Bond”, then, for any Related Bond determination, the Calculation Agent shall use the Fallback Bond. If no bond is specified in the applicable Final Terms as the Related Bond and “Fallback Bond: Not Applicable” is specified in the applicable Final Terms there will be no Related Bond. If a bond is selected as the Related Bond in the applicable Final Terms and that bond redeems or matures before the End Date, unless “Fallback Bond: Not Applicable” is specified in the applicable Final Terms, the Calculation Agent shall use the Fallback Bond for any Related Bond determination.

### 3. **Inflation Index Adjustments**

#### (a) Delay in Publication

Subject to Inflation Linked Condition 3(b), if the Calculation Agent determines that a Delayed Index Level Event in respect of an Inflation Index has occurred with respect to any Determination Date, then the Relevant Level for such Inflation Index the subject of such Delayed Index Level Event (the “**Substitute Index Level**”) shall be determined by the Calculation Agent as follows:

- (i) if Related Bond is specified as applicable for such Inflation Index in the applicable Final Terms, the Calculation Agent shall determine the Substitute Index Level by reference to the corresponding index level determined under the terms and conditions of the relevant Related Bond; or
- (ii) if (A) Related Bond is not specified as applicable for such Inflation Index in the applicable Final Terms, or (B) the Calculation Agent is not able to determine a Substitute Index Level under (i) above, the Calculation Agent shall determine the Substitute Index Level by reference to the following formula:

$$\text{Substitute Index Level} = \text{Base Level} \times (\text{Latest Level}/\text{Reference Level})$$

where:

“**Base Level**” means, in respect of an Inflation Index, the level of such Inflation Index (excluding any “flash” estimates) published or announced by the relevant Inflation Index Sponsor in respect of the month which is 12 calendar months prior to the month for which the Substitute Index Level is being determined.

“**Latest Level**” means, in respect of an Inflation Index, the latest level of such Inflation Index (excluding any “flash” estimates) published or announced by the relevant Inflation Index Sponsor prior to the month in respect of which the Substitute Index Level is being determined.

“**Reference Level**” means, in respect of an Inflation Index, the level of such Inflation Index (excluding any “flash” estimates) published or announced by the relevant Inflation Index Sponsor in respect of the month that is 12 calendar months prior to the month in respect of the Latest Level.

The Issuer shall give notice to Holders in accordance with Note Condition 14, or W&C Securities Condition 11, as applicable, of any Substitute Index Level calculated pursuant to this Inflation Linked Condition 3.

#### (b) Cessation of Publication

If a level for the Inflation Index has not been published or announced for two consecutive months or the Inflation Index Sponsor announces that it will no longer continue to publish or announce the Inflation Index then the Calculation Agent shall determine a successor index (in lieu of any previously applicable Inflation Index) for the purposes of the Inflation Linked Securities by using the following methodology:

- (i) if, at any time, a successor index has been designated by the Calculation Agent pursuant to the terms and conditions of the Related Bond, such successor index shall be designated a “Successor Index” notwithstanding that any other Successor Index may previously have been determined under paragraphs (ii), (iii) or (iv) below; or
- (ii) if a Successor Index has not been determined pursuant to Inflation Linked Condition 3(b)(i) and a notice has been given or an announcement has been made by the Inflation Index

Sponsor, specifying that the Inflation Index will be superseded by a replacement Inflation Index specified by the Inflation Index Sponsor, and the Calculation Agent determines that such replacement index is calculated using the same or substantially similar formula or method of calculation as used in the calculation of the previously applicable Inflation Index, such replacement index shall be the Inflation Index for purposes of the Inflation Linked Securities from the date that such replacement Inflation Index comes into effect; or

- (iii) if a Successor Index has not been determined pursuant to Inflation Linked Condition 3(b)(i) or Inflation Linked Condition 3(b)(ii), the Calculation Agent shall ask five leading independent dealers to state what the replacement index for the Inflation Index should be. If between four and five responses are received, and of those four or five responses, three or more leading independent dealers state the same index, this index will be deemed the “Successor Inflation Index”. If three responses are received, and two or more leading independent dealers state the same index, this index will be deemed the “Successor Inflation Index”. If fewer than three responses are received, the Calculation Agent will proceed to Inflation Linked Condition 3(b)(iv); or
- (iv) if no replacement index or Successor Inflation Index has been deemed under Inflation Linked Conditions 3(b)(i), 3(b)(ii) or 3(b)(iii), by the next occurring Cut-Off Date the Calculation Agent will determine an appropriate alternative index from such Cut-Off Date, and such index will be deemed a “Successor Inflation Index”; or
- (v) (A) if the Calculation Agent determines that there is no appropriate alternative index, in relation to Notes, the Issuer shall give notice to the Holders in accordance with Note Condition 14 and redeem all (but not less than all) of the Notes, each nominal amount of Notes equal to the Calculation Amount being redeemed at the Early Redemption Amount; or
- (B) in relation to W&C Securities, the Issuer shall give notice to the Holders in accordance with W&C Securities Condition 11 and cancel the W&C Securities. If the W&C Securities are so cancelled the Issuer will pay an amount to each Holder in respect of each W&C Security or Unit, as the case may be, held by him which amount shall be the fair market value of a W&C Security or a Unit, as the case may be, less the cost to the Issuer and/or any of its Affiliates or agents of unwinding any underlying related hedging arrangements (including any cost of funding in respect of such hedging arrangements), all as determined by the Calculation Agent in its sole and absolute discretion. Payments will be made in such manner as shall be notified to the Holders in accordance with W&C Securities Condition 11.

(c) Rebasing of the Inflation Index

If the Calculation Agent determines that the Inflation Index has been or will be rebased at any time, the Inflation Index as so rebased (the “Rebased Index”) will be used for purposes of determining the level of the Inflation Index from the date of such rebasing; provided, however, that the Calculation Agent shall make adjustments as are made by the calculation agent pursuant to the terms and conditions of the Related Bond, if Related Bond is specified as applicable in the applicable Final Terms, to the levels of the Rebased Index so that the Rebased Index levels reflect the same rate of inflation as the Inflation Index before it was rebased, or, if Related Bond is not specified as applicable in the applicable Final Terms the Calculation Agent shall make adjustments to the levels of the Rebased Index so that the Rebased Index levels reflect the same rate of inflation as the Inflation Index before it was rebased.

(d) Material Modification Prior to Last Occurring Cut-Off

If, on or prior to the last occurring Cut-Off Date, the Inflation Index Sponsor announces that it will make a material change to the Inflation Index then the Calculation Agent shall make any such adjustments, if Related Bond is specified as applicable in the applicable Final Terms, consistent with adjustments made to the Related Bond, or, if Related Bond is not specified as applicable in the applicable Final Terms, only those adjustments to the Inflation Index necessary for the modified Inflation Index to continue as the Inflation Index.



## ANNEX 9A

## ADDITIONAL TERMS AND CONDITIONS FOR CREDIT LINKED NOTES

1. **Interpretation**

If specified as applicable in the applicable Final Terms, the terms and conditions applicable to Credit Linked Notes shall comprise the terms and conditions of the Notes (the “**Note Conditions**”) and the Additional Terms and Conditions for Credit Linked Notes set out below (the “**Credit Linked Note Conditions**”), in each case subject to completion and/or amendment in the applicable Final Terms. In the event of any inconsistency between the Note Conditions and the Credit Linked Note Conditions, the Credit Linked Note Conditions shall prevail. In the event of any inconsistency between (a) the Note Conditions and/or the Credit Linked Note Conditions and (b) the applicable Final Terms, the applicable Final Terms shall prevail. References in the Credit Linked Note Conditions to “Security” and “Securities” shall be deemed to be references to “Note” and “Notes”.

2. **Definitions**

“**Accreted Amount**” means, with respect to an Accreting Obligation, an amount equal to (a) the sum of (i) the original issue price of such obligation and (ii) the portion of the amount payable at maturity that has accreted in accordance with the terms of the obligation (or as otherwise described below), less (b) any cash payments made by the obligor thereunder that, under the terms of such obligation, reduce the amount payable at maturity (unless such cash payments have been accounted for in (a)(ii) above), in each case calculated as of the earlier of (A) the date on which any event occurs that has the effect of fixing the amount of a claim in respect of principal and (B) the Delivery Date or applicable Valuation Date, as the case may be. Such Accreted Amount shall include any accrued and unpaid periodic cash interest payments (as determined by the Calculation Agent in its sole and absolute discretion) only if “Include Accrued Interest” is specified as applicable in the applicable Final Terms. If an Accreting Obligation is expressed to accrete pursuant to a straight-line method or if such Obligation’s yield to maturity is not specified in, nor implied from, the terms of such Obligation, then, for the purposes of (a)(ii) above, the Accreted Amount shall be calculated using a rate equal to the yield to maturity of such Obligation. Such yield shall be determined on a semi-annual bond equivalent basis using the original issue price of such obligation and the amount payable at the scheduled maturity of such obligation, and shall be determined as of the earlier of (A) the date on which any event occurs that has the effect of fixing the amount of a claim in respect of principal and (B) the Delivery Date or applicable Valuation Date, as the case may be. The Accreted Amount shall exclude, in the case of an Exchangeable Obligation, any amount that may be payable under the terms of such obligation in respect of the value of the Equity Securities for which such obligation is exchangeable.

“**Accreting Obligation**” means any obligation (including, without limitation, a Convertible Obligation or an Exchangeable Obligation), the terms of which expressly provide for an amount payable upon acceleration equal to the original issue price (whether or not equal to the face amount thereof) plus an additional amount or amounts (on account of original issue discount or other accruals of interest or principal not payable on a periodic basis) that will or may accrete, whether or not (a) payment of such additional amounts is subject to a contingency or determined by reference to a formula or index, or (b) periodic cash interest is also payable.

“**Aggregate Loss Amount**” means with respect to Tranche Portfolio CLNs and any date, the aggregate of all Loss Amounts calculated with respect to all Reference Entities up to and including such date.

“**Attachment Point**” in relation to Tranche Portfolio CLNs, has the value given in the Final Terms.

“**Auction**” has the meaning set forth in the Transaction Auction Settlement Terms.

“**Auction Cancellation Date**” means the date on which an Auction is deemed to be cancelled pursuant to the Transaction Auction Settlement Terms with respect to the relevant Reference Entity, or, if the Issuer has delivered a Notice to Exercise Movement Option to the Holders, the date on which a Parallel Auction is deemed to be cancelled pursuant to the Parallel Auction Settlement Terms identified by the Issuer in such notice.

“**Auction Covered Transaction**” has the meaning set forth in the Transaction Auction Settlement Terms.

“**Auction Final Price**” has the meaning given to it in the Transaction Auction Settlement Terms or the Parallel Auction Settlement Terms identified by the Issuer in its Notice to Exercise Movement Option (in the latter case, provided that such Notice to Exercise Movement Option has been delivered to the Holders on or prior to the date falling 15 Business Days following the Auction Final Price Determination Date for such Parallel Auction Settlement Terms).

“**Auction Final Price Determination Date**” means the day, if any, on which the Auction Final Price is determined pursuant to the Transaction Auction Settlement Terms or, if the Calculation Agent has delivered a Notice to Exercise Movement Option to the Issuer, the Parallel Auction Settlement Terms identified by the Calculation Agent in such notice, in each case with respect to the relevant Reference Entity.

“**Auction Settlement Amount**” means the amount specified as such in the applicable Final Terms or if no such amount is specified in the applicable Final Terms, an amount calculated by the Calculation Agent equal to:

$$(A \times B) - C$$

where:

A is the Calculation Amount;

B is the Auction Final Price; and

C is Unwind Costs,

provided that in no event shall the Auction Settlement Amount be less than zero.

“**Auction Settlement Date**” means the date which is the number of Business Days specified in the applicable Final Terms after the Auction Final Price Determination Date, or if no such number of Business Days is specified in the applicable Final Terms, eight Business Days after the Auction Final Price Determination Date.

“**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 in a judicial, regulatory or administrative proceeding or filing 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 calendar 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 calendar days thereafter; or

- (h) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has any analogous effect to any of the events specified in clauses (a) to (g) (inclusive).

**“Best Available Information”** means:

- (a) in the case of a Reference Entity which files information with its primary securities regulator or primary stock exchange that includes unconsolidated *pro forma* financial information which assumes that the relevant Succession Event has occurred or which provides such information to its shareholders, creditors or other persons whose approval of the Succession Event is required, that unconsolidated *pro forma* financial information and, if provided subsequently to the provision of unconsolidated *pro forma* financial information but before the Calculation Agent makes its determination for the purposes of the definition of “Successor”, other relevant information that is contained in any written communication provided by the Reference Entity to its primary securities regulator, primary stock exchange, shareholders, creditors or other persons whose approval of the Succession Event is required; or
- (b) in the case of a Reference Entity which does not file with its primary securities regulators or primary stock exchange, or which does not provide to shareholders, creditors or other persons whose approval of the Succession Event is required, the information contemplated in (i) above, the best publicly available information at the disposal of the Calculation Agent to allow it to make a determination for the purposes of the definition of “Successor”.

Information which is made available more than 14 calendar days after the legally effective date of the Succession Event shall not constitute “Best Available Information”.

**“Cancellation Notice”** means:

- (a) a notice given by the Calculation Agent to the Issuer upon making a determination in respect of a Reference Entity that:
  - (i) no Credit Event or (if Grace Period Extension Date is applicable) Potential Failure to Pay or (if Potential Repudiation/Moratorium is applicable) Potential Repudiation/Moratorium has occurred on or prior to the Scheduled Maturity Notice Date;
  - (ii) if a Potential Failure to Pay has occurred on or prior to the Scheduled Maturity Notice Date promptly upon making a determination that no Failure to Pay has occurred with respect to the relevant obligation; or
  - (iii) if a Potential Repudiation/Moratorium has occurred on or prior to the Scheduled Maturity Notice Date promptly upon making a determination that no Repudiation/Moratorium has occurred with respect to the relevant obligation (such determination being made prior to the Repudiation/Moratorium Evaluation Date); or
- (b) if a Convened DC resolves that a Credit Event of the type referenced in the relevant DC Question has not occurred, in which case a Cancellation Notice shall be deemed to be given by the Calculation Agent to the Issuer and the Conditions shall be construed accordingly (provided that if “Calculation Agent Determination” is specified as being applicable in the applicable Final Terms, no Cancellation Notice shall be deemed to be given unless the Calculation Agent notifies the Issuer that such DC Resolution shall apply to the relevant Securities).

**“CLN Maturity Date”** means the later of:

- (a) the Scheduled Maturity Date; or
- (b) where the Calculation Agent delivers an Extension Notice to the Issuer on or prior to the Scheduled Maturity Date (or, if later, the second Business Day following the Scheduled Maturity Notice Date):
  - (i) the date falling 15 Business Days (or such other date as may be specified in the applicable Final Terms) after the expiry of the Notice Delivery Period (and only where the Conditions to Settlement have not been satisfied during such period);
  - (ii) if a Credit Event Resolution Request Date has occurred on or prior to the expiry of the Notice Delivery Period in relation to a Reference Entity and unless otherwise elected by the Issuer by written notice to the Holders, the date falling 15 Business Days (or such

other date as may be specified in the applicable Final Terms) following any date on which the Credit Derivatives Determinations Committee Resolves that the relevant event does not constitute a Credit Event, or Resolves not to make such determination (provided that if “Calculation Agent Determination” is specified as being applicable in the applicable Final Terms, this sub- paragraph (ii) shall not apply to the relevant Securities unless the Calculation Agent notifies the Issuer that such DC Resolution shall apply to the relevant Credit Linked Notes); or

- (iii) three Business Days following the date the Cancellation Notice is delivered by the Calculation Agent to the Issuer.

**“Conditionally Transferable Obligation”** means a Deliverable Obligation that is either Transferable, in the case of Bonds, or capable of being assigned or novated to all Modified Eligible Transferees without the consent of any person being required, in the case of any Deliverable Obligation other than Bonds, provided, however, that a Deliverable Obligation other than Bonds will be a Conditionally Transferable Obligation notwithstanding that consent of the Reference Entity or the guarantor, if any, of a Deliverable Obligation other than Bonds (or the consent of the relevant obligor if a Reference Entity is guaranteeing such Deliverable Obligation) or any agent is required for such novation, assignment or transfer so long as the terms of such Deliverable Obligation provide that such consent may not be unreasonably withheld or delayed. Any requirement that notification of novation, assignment or transfer of a Deliverable Obligation be provided to a trustee, fiscal agent, administrative agent, clearing agent or paying agent for a Deliverable Obligation shall not be considered to be a requirement for consent for purposes of this definition of “Conditionally Transferable Obligation”. In addition:

- (a) where “Physical Settlement” is specified as the Settlement Method in the related Confirmation (or where Physical Settlement is applicable as the Fallback Settlement Method pursuant to a Fallback Settlement Event), Modified Restructuring Maturity Limitation is applicable (or deemed applicable) under the applicable Final Terms and a Deliverable Obligation is a Conditionally Transferable Obligation with respect to which consent is required to novate, assign or transfer, then if the requisite consent is refused (whether or not a reason is given for such refusal and, where a reason is given for such refusal, regardless of that reason), or is not received by the Final Delivery Date (in which case it shall be deemed to have been refused), the Issuer shall promptly notify the Holders of such refusal (or deemed refusal) and may redeem or cancel (as applicable) the Securities in accordance with Credit Linked Note Condition 9 as if such obligation were an Undeliverable Obligation; and
- (b) for purposes of determining whether a Deliverable Obligation satisfies the requirements of the definition of Conditionally Transferable Obligation, such determination shall be made as of the Delivery Date for the Deliverable Obligation, taking into account only the terms of the Deliverable Obligation and any related transfer or consent documents which have been obtained by the Issuer or the Guarantor, as the case may be.

**“Conditions to Settlement”** shall be deemed to be satisfied by the occurrence of an Event Determination Date provided that where **“Calculation Agent Determination”** is not applicable, no DC No Credit Event Announcement has occurred prior to the Auction Final Price Determination Date, a Valuation Date, the Credit Settlement Date (or, if earlier, a Delivery Date) or the Scheduled Maturity Notice Date (or if an Extension Notice has been delivered to the Issuer, the dates specified in sub-paragraphs (i) to (iii) of the definitions of “CLN Maturity Date”, as applicable).

Where the Securities are Nth-to-Default CLNs and the Conditions to Settlement are satisfied with respect to more than one Reference Entity on the same day, the Calculation Agent shall determine in its sole discretion the order in which such Conditions to Settlement were satisfied.

**“Convened DC”** has the meaning given to that term in the Rules.

**“Convertible Obligation”** means any obligation that is convertible, in whole or in part, into Equity Securities solely at the option of holders of such obligation or a trustee or similar agent acting for the benefit only of holders of such obligation (or the cash equivalent thereof, whether the cash settlement option is that of the issuer or of (or for the benefit of) the holders of such obligation).

**“Credit Derivatives Auction Settlement Terms”** means in relation to any Reference Entity, the credit derivatives auction settlement terms published by ISDA, in accordance with the Rules, with respect to the relevant Reference Entity and the relevant Credit Event, which may be amended in accordance with the Rules from time to time.

**“Credit Derivatives Definitions”** means the 2003 ISDA Credit Derivatives Definitions as supplemented by (i) the 2005 Matrix Supplement to the 2003 ISDA Credit Derivatives Definitions; and (ii) the 2009 ISDA Credit Derivatives Determinations Committees, Auction Settlement and Restructuring Supplement to the 2003 ISDA Credit Derivatives Definitions, each as published by ISDA.

**“Credit Derivatives Determinations Committees”** means the committees established by ISDA for purposes of reaching certain DC Resolutions in connection with credit derivative transactions traded in the over the counter market, as more fully described in the Rules.

**“Credit Event”** means the occurrence of any one or more of the Credit Events specified in the applicable Final Terms which may include Bankruptcy, Failure to Pay, Obligation Acceleration, Obligation Default, Repudiation/Moratorium, Restructuring, or any additional Credit Event specified in the applicable Final Terms, as determined by the Calculation Agent.

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, or is subject to a defence based upon:

- (a) any lack or alleged lack of authority or capacity of a Reference Entity to enter into any Obligation or, as applicable, an Underlying Obligor to enter into any Underlying Obligation;
- (b) any actual or alleged unenforceability, illegality, impossibility or invalidity with respect to any Obligation or, as applicable, any Underlying 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.

**“Credit Event Backstop Date”** means (a) for purposes of any DC Resolution by the relevant Credit Derivatives Determinations Committee as to whether an event that constitutes a Credit Event (or with respect to Repudiation/Moratorium, the event described in sub-paragraph (b) of the definition of Repudiation/Moratorium) has occurred with respect to the relevant Reference Entity or Obligation thereof, the date that is 60 calendar days prior to the Credit Event Resolution Request Date or (b) otherwise, the date that is 60 calendar days prior to the earlier of (i) the first date on which both the Credit Event Notice and, if Notice of Publicly Available Information is specified as a Condition to Settlement, the Notice of Publicly Available Information or Officer’s Certificate are delivered by the Calculation Agent to the Issuer and are effective during the Notice Delivery Period and (ii) in circumstances where (A) the conditions to convening a Credit Derivatives Determinations Committee to Resolve the matters described in sub-paragraphs (a) and (b) of the definition of Credit Event Resolution Request Date are satisfied in accordance with the Rules, (B) the relevant Credit Derivatives Determinations Committee has Resolved not to determine such matters and (C) the Credit Event Notice and the Notice of Publicly Available Information or Officer’s Certificate are delivered by the Calculation Agent to the Issuer and are effective not more than 15 Business Days after the day on which ISDA publicly announces that the relevant Credit Derivatives Determinations Committee has Resolved not to determine such matters, the Credit Event Resolution Request Date. The Credit Event Backstop Date shall not be subject to adjustment unless otherwise provided for in the applicable Final Terms.

**“Credit Event Notice”** means an irrevocable notice from the Calculation Agent to the Issuer that describes a Credit Event that occurred on or after the Credit Event Backstop Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign (as such terms are defined in the Physical Settlement Matrix), Tokyo time)) or (where “Calculation Agent Determination” is specified as being applicable in the applicable Final Terms) the Credit Observation Start Date specified in the Final Terms (or if none is so specified, the date falling 60 calendar days prior to the Trade Date) and on or prior to the



Extension Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign (as such terms are defined in the Physical Settlement Matrix), Tokyo time)).

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.

“**Credit Event Redemption Amount**” means the amount specified as such in the applicable Final Terms or if no such amount is specified in the applicable Final Terms, an amount calculated by the Calculation Agent equal to:

$$(A \times B) - C$$

where:

A is the Calculation Amount;

B is the Final Price; and

C is Unwind Costs,

provided that in no event shall the Credit Event Redemption Amount be less than zero.

“**Credit Event Redemption Date**” means the day falling the number of Business Days specified in the applicable Final Terms after the calculation of the Final Price, or if no such number of Business Days is specified in the applicable Final Terms, eight Business Days after the Final Price is determined.

“**Credit Event Resolution Request Date**” means, with respect to a notice to ISDA, delivered in accordance with the ISDA Credit Derivatives Determinations Committee Rules, requesting that a Credit Derivatives Determinations Committee be convened to Resolve:

- (a) whether an event that constitutes a Credit Event has occurred with respect to the relevant Reference Entity or Obligation thereof; and
- (b) if the relevant Credit Derivatives Determinations Committee Resolves that such event has occurred, the date of the occurrence of such event,

the date, as publicly announced by ISDA to be the date that the relevant Credit Derivatives Determinations Committee Resolves to be the first date on which such notice was effective and on which the relevant Credit Derivatives Determinations Committee was in possession, in accordance with the Rules, of Publicly Available Information with respect to the DC Resolutions referred to in sub-clauses (a) and (b) above.

“**Credit Observation Start Date**” means the date described as such in the applicable Final Terms or if no date is so specified, the date falling 60 calendar days prior to the Trade Date.

“**Credit Settlement Date**” means the last day of the longest Physical Settlement Period following the date the Notice of Physical Settlement is delivered by the Calculation Agent to the Issuer (the “Scheduled Credit Settlement Date”) provided that if in the determination of the Calculation Agent (acting in its sole discretion) a Hedge Disruption Event has occurred and is continuing on the second Business Day immediately preceding the Scheduled Credit Settlement Date, the Credit Settlement Date shall be the earlier of (i) the second Business Day following the date on which the Calculation Agent determines (acting in its sole discretion) that no Hedge Disruption Event subsists and (ii) the day falling 60 Business Days following the Scheduled Credit Settlement Date.

“**Currency Amount**” means with respect to (a) a Deliverable Obligation specified in a Notice of Physical Settlement that is denominated in a currency other than the Settlement Currency, an amount converted to the relevant Settlement Currency using a conversion rate determined by reference to the Currency Rate and (b) a Replacement Deliverable Obligation specified in a KNOPS Amendment Notice, an amount converted to the Settlement Currency (or, if applicable, back into the Settlement Currency) using a conversion rate determined by reference to the Currency Rate, if any, and each Revised Currency Rate used to convert the outstanding Amount of each Deliverable Obligation so replaced by a KNOPS Amendment Notice into the currency of denomination of the relevant Replacement Deliverable Obligation.

**“Currency Rate”** means with respect to (a) a Deliverable Obligation specified in the Notice of Physical Settlement, the rate of conversion between the Settlement Currency and the currency in which the Outstanding Amount of such Deliverable Obligation is denominated that is either (i) determined by reference to the Currency Rate Source as at the Next Currency Fixing Time or (ii) if such rate is not available at such time, determined by the Calculation Agent and (b) a Replacement Deliverable Obligation specified in a KNOPS Amendment Notice, the Revised Currency Rate.

**“Currency Rate Source”** means the mid-point rate of conversion published by WM/Reuters at 4:00 p.m. (London time), or any successor rate source approved by the relevant Credit Derivatives Determinations Committee.

**“DC Credit Event Announcement”** means with respect to a Reference Entity, a public announcement by ISDA that the relevant Credit Derivatives Determinations Committee has Resolved that (a) an event that constitutes a Credit Event has occurred with respect to such Reference Entity (or an Obligation thereof) and (b) such event occurred on or after the Credit Event Backstop Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)) and on or prior to the Extension Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)). A DC Credit Event Announcement will be deemed not to have occurred unless (i) the Credit Event Resolution Request Date with respect to such Credit Event occurred on or prior to the end of the last day of the Notice Delivery Period (including prior to the Trade Date); (ii) the Trade Date occurs on or prior to the Auction Final Price Determination Date, the Auction Cancellation Date, or the date that is 21 calendar days following the No Auction Announcement Date, if any, as applicable; and (iii) (if “Calculation Agent Determination” is specified as being applicable in the applicable Final Terms) the Calculation Agent has notified the Issuer that such announcement shall apply to the relevant Securities.

**“DC No Credit Event Announcement”** means, with respect to a Reference Entity, a public announcement by ISDA that the relevant Credit Derivatives Determinations Committee has Resolved, following a Credit Event Resolution Request Date, that the event that is the subject of the notice to ISDA resulting in the occurrence of such Credit Event Resolution Request Date does not constitute a Credit Event with respect to such Reference Entity (or an Obligation thereof) provided that if “Calculation Agent Determination” is specified as being applicable in the applicable Final Terms, a DC No Credit Event Announcement shall be deemed not to have occurred unless the Calculation Agent notifies the Issuer that such announcement shall apply to the relevant Securities.

**“DC Question”** has the meaning given to that term in the Rules.

**“DC Resolution”** has the meaning given to that term in the Rules.

**“Default Requirement”** means the amount specified as such in the applicable Final Terms, or its equivalent in the relevant Obligation Currency or, if a Default Requirement is not specified in the applicable Final Terms, U.S.\$10,000,000, or its equivalent as calculated by the Calculation Agent in the relevant Obligation Currency, in either case, as of the occurrence of the relevant Credit Event.

**“Deferred Coupon Adjustment Amount”** means in respect of Tranche Portfolio CLNs and each Interest Period, where one or more preceding Interest Periods is an Unsettled Event Determination Interest Period, an amount equal to:

- (a) the interest that would have been paid in respect of such Unsettled Event Determination Interest Period(s), had the Calculation Agent, in respect of the relevant Undetermined Reference Entity Date(s), made its determination(s) that no Event Determination Date has occurred or, as the case may be, the Final Price Calculation Date has occurred, in each case, on such Undetermined Reference Entity Date(s); minus
- (b) the interest paid in respect of such Unsettled Event Determination Interest Period(s).

**“Deliver”** means to deliver, novate, transfer (including, in the case of a Qualifying Guarantee, transfer of the benefit of the Qualifying Guarantee), assign or sell, as appropriate, in the manner customary for the settlement of the applicable Deliverable Obligations (which shall include executing all necessary documentation and taking any other necessary actions), in order to convey all right, title and interest in the Entitlement to the relevant Holder free and clear of any and all liens, charges, claims or encumbrances (including without limitation any counterclaim, defence

(other than a counterclaim or defence based on the factors set out in (a) to (d) in the definition of “Credit Event” above or right of set-off by or of the Reference Entity or, as applicable, an Underlying Obligor) provided that if all or a portion of the Entitlement consists of Direct Loan Participations, “Deliver” means to create (or procure the creation of) a participation in favour of the relevant Holder and to the extent that the Deliverable Obligations consist of Qualifying Guarantees, “Deliver” means to Deliver both the Qualifying Guarantee and the Underlying Obligation. “Delivery” and “Delivered” will be construed accordingly.

In the case of a Loan, Delivery shall be effected using documentation substantially in the form of the documentation customarily used in the relevant market for Delivery of such Loan at that time. Notwithstanding the previous sentence, in the case of a Loan, Delivery may be effected using the provisions of any documentation (which term shall be deemed to include any market advisory that the relevant Credit Derivatives Determinations Committee Resolves to approve or the Calculation Agent determines is appropriate for such purpose) that the relevant Credit Derivatives Determinations Committee Resolves or the Calculation Agent determines constitutes documentation customarily used in the relevant market for Delivery of such Loan at that time, as such documentation may be amended to the extent the relevant Credit Derivatives Determinations Committee Resolves or the Calculation Agent determines is appropriate. Notwithstanding the previous sentence, in the case of a Loan, the Issuer shall be under no obligation to Deliver such Loan or designate a Replacement Deliverable Obligation to a Holder unless the relevant Holder executes, and/or complies with the provisions of any documentation (which term shall be deemed to include any market advisory that the relevant Credit Derivatives Determinations Committee Resolves to approve or the Calculation Agent determines is appropriate for such purpose) that the relevant Credit Derivatives Determinations Committee Resolves or the Calculation Agent determines constitutes documentation customarily used in the relevant market for Delivery of such Loan at that time, as such documentation may be amended to the extent the relevant Credit Derivatives Determinations Committee Resolves or the Calculation Agent determines is appropriate. If any Holder does not execute and/or do not comply with the provisions of such documentation, the Issuer shall redeem the relevant proportion of the Securities in accordance with Credit Linked Note Condition 9.

**“Deliverable Obligation”** means, subject as provided in Credit Linked Note Condition 5:

- (a) any obligation of a Reference Entity (either directly, as provider of a Qualifying Affiliate Guarantee or, if All Guarantees is specified as applicable in the applicable Final Terms, as provider of any Qualifying Guarantee) determined pursuant to the method described in “(A) Method for Determining Deliverable Obligations” below (but excluding any Excluded Deliverable Obligation specified in the applicable Final Terms) that (i) is payable in an amount equal to its Outstanding Principal Balance or Due and Payable Amount, as applicable, (ii) is not subject to any counterclaim, defence (other than a counterclaim or defence based on the factors set forth in paragraphs (a) to (d) of the definition of “Credit Event” above) or right of set-off by or of a Reference Entity or, as applicable, an Underlying Obligor and (iii) in the case of a Qualifying Guarantee other than a Qualifying Affiliate Guarantee, is capable, at the date on which the Notice of Physical Settlement is deemed given, of immediate assertion or demand by or on behalf of the holder or holders against the Reference Entity for an amount at least equal to the Outstanding Principal Balance or Due and Payable Amount being Delivered apart from the giving of any notice of non-payment or similar procedural requirement, it being understood that acceleration of an Underlying Obligation shall not be considered a procedural requirement;
- (b) subject to the second paragraph of the definition of “Not Contingent” in “(A) Method for Determining Deliverable Obligations” below, each Reference Obligation, unless specified in the applicable Final Terms as an Excluded Deliverable Obligation;
- (c) solely in relation to a Restructuring Credit Event applicable to a Sovereign Reference Entity, any Sovereign Restructured Deliverable Obligation (but excluding any Excluded Deliverable Obligation) that (i) is payable in an amount equal to its Outstanding Principal Balance or Due and Payable Amount, as applicable, (ii) is not subject to any counterclaim, defence (other than a counterclaim or defence based on the factors set forth in paragraphs (a)-(d) of the definition of “Credit Event” above) or right of set-off by or of a Reference Entity or, as applicable, an Underlying Obligor and (iii) in the case of a Qualifying Guarantee other than a Qualifying Affiliate Guarantee, is capable, at the date on which the Notice of Physical Settlement is

deemed given, of immediate assertion or demand by or on behalf of the holder or holders against the Reference Entity for an amount at least equal to the Outstanding Principal Balance or Due and Payable Amount being Delivered apart from the giving of any notice of non-payment or similar procedural requirement, it being understood that acceleration of an Underlying Obligation shall not be considered a procedural requirement; and

- (d) any Additional Deliverable Obligation of a Reference Entity specified as such in the applicable Final Terms.

- (i) **Method for Determining Deliverable Obligations.** For the purposes of this definition of “Deliverable Obligation”, the term “Deliverable Obligation” may be defined as each obligation of each Reference Entity described by the Deliverable Obligation Category specified (or deemed to be specified) in the applicable Final Terms, and, subject to (B)(3) below, having each of the Deliverable Obligation Characteristics, if any, specified (or deemed to be specified) in the applicable Final Terms, in each case, as of the Delivery Date thereof. The following terms shall have the following meanings:

- (A) **“Deliverable Obligation Category”** means one of Payment, Borrowed Money, Reference Obligations Only, Bond, Loan, or Bond or Loan (each as defined in the definition of “Obligation” below, except that, for the purpose of determining Deliverable Obligations, the definition of “Reference Obligations Only” shall be amended to state that no Deliverable Obligation Characteristics shall be applicable to Reference Obligations Only).

- (B) **“Deliverable Obligation Characteristics”** means any one or more of Not Subordinated, Specified Currency, Not Sovereign Lender, Not Domestic Currency, Not Domestic Law, Listed, Not Domestic Issuance (each as defined in the definition of “Obligation” below), Not Contingent, Assignable Loan, Consent Required Loan, Direct Loan Participation, Transferable, Maximum Maturity, Accelerated or Matured and Not Bearer where:

- (I) **“Not Contingent”** means any obligation having as of the Delivery Date and all times thereafter an Outstanding Principal Balance or, in the case of obligations that are not Borrowed Money, a Due and Payable Amount, that pursuant to the terms of such obligation may not be reduced as a result of the occurrence or non-occurrence of an event or circumstance (other than payment). A Convertible Obligation, an Exchangeable Obligation and an Accreting Obligation shall constitute Deliverable Obligations that are Not Contingent if such Deliverable Obligation otherwise meets the requirements of the preceding sentence so long as, in the case of a Convertible Obligation or an Exchangeable Obligation, the right (x) to convert or exchange such obligation or (y) to require the issuer to purchase or redeem such obligation (if the issuer has exercised or may exercise the right to pay the purchase or redemption price, in whole or in part, in Equity Securities) has not been exercised (or such exercise has been effectively rescinded) on or before the Delivery Date.

If a Reference Obligation is a Convertible Obligation or an Exchangeable Obligation, then such Reference Obligation may be included as a Deliverable Obligation only if the rights referred to in clauses (x) and (y) of the preceding paragraph have not been exercised (or such exercise has been effectively rescinded) on or before the Delivery Date;

- (II) **“Assignable Loan”** means a Loan that is capable of being assigned or novated to, at a minimum, commercial banks or financial institutions (irrespective of their jurisdiction of organisation) that are not then a lender or a member of the relevant lending syndicate, without the consent of the relevant Reference Entity or the guarantor, if any, of such Loan (or the consent of the applicable borrower if a Reference Entity is guaranteeing such Loan) or any agent;

- (III) **“Consent Required Loan”** means a Loan that is capable of being assigned or novated with the consent of the relevant Reference Entity or the guarantor, if

any, of such Loan (or the consent of the relevant borrower if a Reference Entity is guaranteeing such loan) or any agent;

- (IV) **“Direct Loan Participation”** means a Loan in respect of which, pursuant to a participation agreement, the Issuer is capable of creating, or procuring the creation of, a contractual right in favour of each Holder that provides each Holder with recourse to the participation seller for a specified share in any payments due under the relevant Loan which are received by such participation seller, any such agreement to be entered into between each Holder and either (A) the Issuer or the Guarantor (as applicable) (in either case, to the extent that the Issuer or the Guarantor, as applicable, is then a lender or a member of the relevant lending syndicate), or (B) a Qualifying Participation Seller (if any) (to the extent such Qualifying Participation Seller is then a lender or a member of the relevant lending syndicate);
- (V) **“Transferable”** means an obligation that is transferable to institutional investors without any contractual, statutory or regulatory restriction, provided that none of the following shall be considered contractual, statutory or regulatory restrictions:
  - (aa) contractual, statutory or regulatory restrictions that provide for eligibility for resale pursuant to Rule 144A or Regulation S promulgated under the United States Securities Act of 1933, as amended (and any contractual, statutory or regulatory restrictions promulgated under the laws of any jurisdiction having a similar effect in relation to the eligibility for resale of an obligation); or
  - (bb) restrictions on permitted investments such as statutory or regulatory investment restrictions on insurance companies and pension funds;
- (VI) **“Maximum Maturity”** means an obligation that has a remaining maturity from the Settlement Date of not greater than the period specified in the applicable Final Terms;
- (VII) **“Accelerated or Matured”** means an obligation under which the total amount owed, whether at maturity, by reason of acceleration, upon termination or otherwise (other than amounts in respect of default interest, indemnities, tax gross-ups and other similar amounts), is, or on or prior to the Delivery Date will be, due and payable in full in accordance with the terms of such obligation, or would have been but for, and without regard to, any limitation imposed under any applicable insolvency laws; and
- (VIII) **“Not Bearer”** means any obligation that is not a bearer instrument unless interests with respect to such bearer instrument are cleared via Euroclear, Clearstream, Luxembourg or any other internationally recognised clearing system.

(ii) **Interpretation of Provisions**

- (A) If the Obligation Characteristic “Listed” is specified in the applicable Final Terms, the Final Terms shall be construed as though Listed had been specified as an Obligation Characteristic only with respect to Bonds and shall only be relevant if Bonds are covered by the selected Obligation Category;
- (B) if (i) either of the Deliverable Obligation Characteristics “Listed” or “Not Bearer” is specified in the applicable Final Terms, the Final Terms shall be construed as though such Deliverable Obligation Characteristic had been specified as a Deliverable Obligation Characteristic only with respect to Bonds and shall only be relevant if Bonds are covered by the selected Deliverable Obligation Category; (ii) the Deliverable Obligation Characteristic “Transferable” is specified in the applicable Final Terms, the Final Terms shall be construed as though such Deliverable Obligation Characteristic had been specified as a Deliverable Obligation Characteristic only with respect to Deliverable Obligations that are not Loans (and shall only be relevant to the extent that obligations other than



Loans are covered by the selected Deliverable Obligation Category); or (iii) any of the Deliverable Obligation Characteristics “Assignable Loan”, “Consent Required Loan” or “Direct Loan Participation” is specified in the applicable Final Terms, the Final Terms shall be construed as though such Deliverable Obligation Characteristic had been specified as a Deliverable Obligation Characteristic only with respect to Loans and shall only be relevant if Loans are covered by the selected Deliverable Obligation Category;

- (C) if any of Payment, Borrowed Money, Loan or Bond or Loan is specified as the Deliverable Obligation Category and more than one of Assignable Loan, Consent Required Loan and Direct Loan Participation are specified as Deliverable Obligation Characteristics, the Deliverable Obligations may include any Loan that satisfies any one of such Deliverable Obligation Characteristics specified and need not satisfy all such Deliverable Obligation Characteristics; and
- (D) in the event that an Obligation or a Deliverable Obligation is a Qualifying Guarantee, the following will apply:
  - (I) For purposes of the application of the Obligation Category or the Deliverable Obligation Category, the Qualifying Guarantee shall be deemed to be described by the same category or categories as those that describe the Underlying Obligation.
  - (II) For purposes of the application of the Obligation Characteristics or the Deliverable Obligation Characteristics, both the Qualifying Guarantee and the Underlying Obligation must satisfy on the relevant date each of the applicable Obligation Characteristics or Deliverable Obligation Characteristics, if any, specified in the applicable Final Terms from the following list: Not Subordinated, Specified Currency, Not Sovereign Lender, Not Domestic Currency and Not Domestic Law. For these purposes, unless otherwise specified in the applicable Final Terms, (A) the lawful currency of any of Canada, Japan, Switzerland, the United Kingdom or the United States of America or the euro shall not be a Domestic Currency and (B) the laws of England and the laws of the State of New York shall not be a Domestic Law.
  - (III) For purposes of the application of the Obligation Characteristics or the Deliverable Obligation Characteristics, only the Underlying Obligation must satisfy on the relevant date each of the applicable Obligation Characteristics or the Deliverable Obligation Characteristics, if any, specified in the applicable Final Terms from the following list: Listed, Not Contingent, Not Domestic Issuance, Assignable Loan, Consent Required Loan, Direct Loan Participation, Transferable, Maximum Maturity, Accelerated or Matured and Not Bearer.
  - (IV) For purposes of the application of the Obligation Characteristics or the Deliverable Obligation Characteristics to an Underlying Obligation, references to the Reference Entity shall be deemed to refer to the Underlying Obligor.
  - (V) The terms “Outstanding Principal Balance” and “Due and Payable Amount” (as they are used in the Terms and Conditions, including without limitation, the definitions of “Partial Cash Settlement Amount” and “Quotation Amount” in Credit Linked Note Condition 9, when used in connection with Qualifying Guarantees are to be interpreted to be the then “Outstanding Principal Balance” or “Due and Payable Amount”, as applicable, of the Underlying Obligation which is supported by a Qualifying Guarantee.

For the avoidance of doubt the provisions of this paragraph (ii) apply in respect of the definitions of Obligation and Deliverable Obligation as the context admits.

**“Delivery Date”** means, with respect to a Deliverable Obligation, the date such Deliverable Obligation is Delivered.

**“Domestic Currency”** means the currency specified as such in the applicable Final Terms and any successor currency. If no currency is specified in the applicable Final Terms, the Domestic Currency

shall be the lawful currency and any successor currency of (a) the relevant Reference Entity, if the Reference Entity is a Sovereign, or (b) the jurisdiction in which the relevant Reference Entity is organised, if the Reference Entity is not a Sovereign. In no event shall Domestic Currency include any successor currency if such successor currency is the lawful currency of any of Canada, Japan, Switzerland, the United Kingdom or the United States of America or the euro (or any successor currency to any such currency).

**“Downstream Affiliate”** means an entity whose outstanding Voting Shares were, at the date of issuance of the Qualifying Guarantee, more than 50 per cent. owned, directly or indirectly, by the Reference Entity.

**“Due and Payable Amount”** means, subject as provided in sub-paragraph (D)(V) of paragraph (ii) (Interpretation of Provisions) in the definition of “Deliverable Obligation”, the amount that is due and payable under (and in accordance with the terms of) a Deliverable Obligation on the Delivery Date, whether by reason of acceleration, maturity, termination or otherwise (excluding sums in respect of default interest, indemnities, tax gross-ups and other similar amounts).

**“Eligible Transferee”** means each of the following:

- (a) (i) any bank or other financial institution;
- (ii) an insurance or reinsurance company;
- (iii) a mutual fund, unit trust or similar collective investment vehicle (other than an entity specified in sub-paragraph (c)(i) below); and
- (iv) a registered or licensed broker or dealer (other than a natural person or proprietorship), provided, however, in each case that such entity has total assets of at least U.S.\$500 million;
- (b) an Affiliate of an entity specified in the preceding sub-paragraph (a);
- (c) each of a corporation, partnership, proprietorship, organisation, trust or other entity:
  - (i) that is an investment vehicle (including, without limitation, any hedge fund, issuer of collateralised debt obligations, commercial paper conduit or other special purpose vehicle) that (1) has total assets of at least U.S.\$100 million or (2) is one of a group of investment vehicles under common control or management having, in the aggregate, total assets of at least U.S.\$100 million; or
  - (ii) that has total assets of at least U.S.\$500 million; or
  - (iii) the obligations of which under an agreement, contract or transaction are guaranteed or otherwise supported by a letter of credit or keepwell, support, or other agreement by an entity described in sub-paragraphs (a), (b), (c)(ii) or (d); and
- (d) a Sovereign, Sovereign Agency or Supranational Organisation.

All references in this definition to U.S.\$ include equivalent amounts in other currencies;

**“Enabling Obligation”** means an outstanding Deliverable Obligation that (a) is a Fully Transferable Obligation or a Conditionally Transferable Obligation, as applicable, and (b) has a final maturity date occurring on or prior to the Scheduled Maturity Notice Date and following the Limitation Date immediately preceding the Scheduled Maturity Notice Date (or, in circumstances where the Scheduled Maturity Notice Date occurs prior to the 2.5-year Limitation Date, following the final maturity date of the Latest Maturity Restructured Bond or Loan, if any).

**“Entitlement”** means, in respect of each nominal amount of Credit Linked Notes equal to the Calculation Amount, Deliverable Obligations, as selected by the Calculation Agent in its sole and absolute discretion, with:

- (a) in the case of Deliverable Obligations that are Borrowed Money, an Outstanding Principal Balance (including accrued but unpaid interest (as determined by the Calculation Agent) if “Include Accrued Interest” is specified as applying in the applicable Final Terms, but excluding accrued but unpaid interest if “Exclude Accrued Interest” is specified as applying in the applicable Final Terms, and if neither “Include Accrued Interest” nor “Exclude Accrued Interest” is specified as applying in the applicable Final Terms, excluding accrued but unpaid interest); or

- (b) in the case of Deliverable Obligations that are not Borrowed Money, a Due and Payable Amount,

(or, in the case of either (a) or (b), the equivalent Currency Amount of any such amount), in an aggregate amount as of the relevant Delivery Date equal to the Calculation Amount less Deliverable Obligations with a market value determined by the Calculation Agent in its sole and absolute discretion on the Business Day selected by the Calculation Agent falling during the period from and including the Event Determination Date to and including the Delivery Date equal to the relevant amount of Unwind Costs, if Unwind Costs are specified as applicable in the applicable Final Terms, rounded down to the nearest specified denomination or permitted transfer amount of the Deliverable Obligations comprised in such Entitlement.

Where the Entitlement is rounded down as described above, the Holders will also receive, in respect of each nominal amount of Credit Linked Notes equal to the Calculation Amount, the value of the amount of that fraction of the Deliverable Obligations obtained in calculating the Entitlement after rounding down (as determined by the Calculation Agent), as calculated by the Calculation Agent in its sole discretion from such source(s) as it may select (converted if necessary into the Specified Currency by reference to such exchange rate as the Calculation Agent deems appropriate).

If an obligation by its terms represents or contemplates an obligation to pay an amount greater than the Outstanding Principal Balance of such obligation as of the Delivery Date as a result of the occurrence or non-occurrence of an event or circumstance, the Outstanding Principal Balance of such obligation shall not include any additional amount that would be payable upon the occurrence or non-occurrence of such event or circumstance.

**“Equity Securities”** means:

- (a) in the case of a Convertible Obligation, equity securities (including options and warrants) of the issuer of such obligation or depositary receipts representing equity securities of the issuer of such obligation together with any other property distributed to or made available to holders of those equity securities from time to time; and
- (b) in the case of an Exchangeable Obligation, equity securities (including options and warrants) of a person other than the issuer of such obligation or depositary receipts representing those equity securities of a person other than the issuer of such obligation together with any other property distributed to or made available to holders of those equity securities from time to time;

**“Event Determination Date”** means, in respect of any Credit Event:

- (a) if either (x), subject to (b) below, “Calculation Agent Determination” is specified as being applicable in the applicable Final Terms or (y) no DC Credit Event Announcement and/or DC No Credit Event Announcement has occurred, the first date on which both the (A) the Credit Event Notice and (B) either a Notice of Publicly Available Information or an Officer’s Certificate are delivered by the Calculation Agent to the Issuer and are effective during (I) the Notice Delivery Period or (II) the period from, and including, the day on which ISDA publicly announces that the relevant Credit Derivatives Determinations Committee has Resolved not to determine the matters described in sub-paragraphs (a) and (b) of the definition of “Credit Event Resolution Request Date” to the date which is 15 Business Days thereafter (provided that the relevant Credit Event Resolution Request Date occurred on or prior to the end of the last day of the Notice Delivery Period (including prior to the Trade Date)); or
- (b) if (A) (x) “Calculation Agent Determination” is not specified as being applicable in the Final Terms or (y) “Calculation Agent Determination” is specified as being applicable in the Final Terms but the Calculation Agent notifies the Issuer that this sub-paragraph (b) shall apply to the relevant Securities and (B) a DC Credit Event Announcement has occurred, the Credit Event Resolution Request Date, provided that if the relevant Credit Event is a Restructuring, the Event Determination Date shall be the Credit Event Resolution Request Date only if the Calculation Agent has delivered a Credit Event Notice to the Issuer on or prior to the Exercise Cut-off Date provided further that:
  - (i) no Credit Settlement Date has occurred on or prior to the date on which the DC Credit Event Announcement occurs;

- (ii) if any Valuation Date or Delivery Date, as applicable, has occurred as of the date on which the DC Credit Event Announcement occurs, an Event Determination Date shall be deemed to have occurred only with respect to the portion of the outstanding principal amount, if any, with respect to which no Valuation Date or Delivery Date, as applicable, has occurred;
- (iii) no Credit Event Notice specifying a Restructuring as the only Credit Event has been delivered by the Issuer to the Holders (x) unless the Restructuring stated in such Credit Event Notice is also the subject of the notice to ISDA resulting in the occurrence of the Credit Event Resolution Request Date or (y) unless, and to the extent that, the Partial Redemption Amount or the Partial Cancellation Amount (as applicable) specified in any such Credit Event Notice was less than the then outstanding principal amount; and
- (iv) no Event Determination Date will occur, and any Event Determination Date previously determined with respect to an event shall be deemed not to have occurred, if, or to the extent that, a DC No Credit Event Announcement in respect of the relevant Reference Entity and Credit Event occurs prior to the Auction Final Price Determination Date, a Valuation Date, the Credit Settlement Date (or, if earlier, a Delivery Date), or the CLN Maturity Date or CLC Exercise Date, as applicable.

If, in accordance with the provisions above, (x) following the determination of an Event Determination Date, such Event Determination Date is deemed (A) to have occurred on a date that is different from the date that was originally determined to be the Event Determination Date or (B) not to have occurred, the Calculation Agent will determine in its sole discretion (i) the adjustment payment, if any, that is payable to reflect any change that may be necessary to the amounts or the Entitlement, as applicable, previously calculated and/or paid or delivered, as applicable under the Securities, (ii) the date on which such adjustment payment is payable, if any, and (iii) whether the Issuer is required to make such adjustment payment. For the avoidance of doubt, no accruals of interest shall be taken into account when calculating any such adjustment payment.

**“Exhaustion Point”** in respect of Tranche Portfolio CLNs has the value given in the Final Terms.

**“Exhaustion Threshold Amount”** in respect of Tranche Portfolio CLNs means Implicit Portfolio Size multiplied by Exhaustion Point.

**“Exercise Cut-off Date”** means, in respect of a Reference Entity and a Credit Event, the first to occur of:

- (a) the Auction Final Price Determination Date;
- (b) the Auction Cancellation Date; or
- (c) a No Auction Announcement Date,

each in respect of such Reference Entity and Credit Event.

**“Exchangeable Obligation”** means any obligation that is exchangeable, in whole or in part, for Equity Securities solely at the option of holders of such obligation or a trustee or similar agent acting for the benefit only of holders of such obligation (or the cash equivalent thereof, whether the cash settlement option is that of the issuer or of (or for the benefit of) the holders of such obligation).

**“Excluded Deliverable Obligation”** means any obligation of a Reference Entity specified as such or of a type described in the applicable Final Terms.

**“Excluded Obligation”** means any obligation of a Reference Entity specified as such or of a type described as such in the applicable Final Terms.

**“Extension Date”** means the latest of:

- (a) the Scheduled Maturity Notice Date;
- (b) the Grace Period Extension Date if (i) Grace Period Extension is specified (or deemed specified) to apply in the applicable Final Terms, (ii) the Credit Event that is the subject of the Credit Event Notice or Credit Event Resolution Request Date, as applicable, is a Failure to Pay that occurs after the Scheduled Maturity Notice Date (in each case determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference

Entity is Japan Corporate or Japan Sovereign, Tokyo time)) and (iii) the Potential Failure to Pay with respect to such Failure to Pay occurs on or prior to the Scheduled Maturity Notice Date (in each case determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)); and

- (c) the Repudiation/Moratorium Evaluation Date if (i) the Credit Event that is the subject of the Credit Event Notice or Credit Event Resolution Request Date, as applicable, is a Repudiation/ Moratorium for which a Failure to Pay (determined without regard to the Payment Requirement) or a Restructuring (determined without regard to the Default Requirement) occurs after the Scheduled Maturity Notice Date (in each case determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)), (ii) the Potential Repudiation/ Moratorium with respect to such Repudiation/Moratorium occurs on or prior to the Scheduled Maturity Notice Date (in each case determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)) and (iii) the Repudiation/Moratorium Extension Condition is satisfied.

**“Extension Notice”** means a notice from the Calculation Agent to the Issuer on or prior to the Scheduled Maturity Date (or, if later, the second Business Day following the Scheduled Maturity Notice Date) giving notice of the following in relation to a Reference Entity:

- (i) without prejudice to sub-paragraphs (iii) and (iv) below, that a Credit Event has occurred or may occur on or prior to the Scheduled Maturity Notice Date; or
- (ii) without prejudice to sub-paragraph (iii) and (iv) below, that a Credit Event Resolution Request Date has occurred or may occur on or prior to the last day of the longest Notice Delivery Period; or
- (iii) that a Potential Failure to Pay has occurred or may occur on or prior to the Scheduled Maturity Notice Date; or
- (iv) that a Potential Repudiation/Moratorium has occurred or may occur on or prior to the Scheduled Maturity Notice Date. For the purposes of this sub-paragraph (iv), the giving of a Repudiation/Moratorium Extension Notice on or prior to the Scheduled Maturity Notice Date shall be deemed to satisfy the requirement to give notice under this definition of “Extension Notice”. However, the giving of an Extension Notice in accordance with this sub-paragraph (iv) shall not in any way preclude the subsequent giving of a Repudiation/ Moratorium Extension Notice so long as the Repudiation/Moratorium Extension Condition is satisfied.

**“Failure to Pay”** means after the expiration of any applicable 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 in accordance with the terms of such Obligations at the time of such failure.

**“Fallback Settlement Event”** means any of the following:

- (a) an Auction Cancellation Date occurs;
- (b) a No Auction Announcement Date occurs and in circumstances where such No Auction Announcement Date occurs pursuant to sub-paragraph (b) of the definition of “No Auction Announcement Date”, a Notice to Exercise Movement Option has not been delivered by the Issuer to the Holders on or prior to the Auction Final Price Determination Date;
- (c) ISDA publicly announces that the relevant Credit Derivatives Determinations Committee has Resolved, following a Credit Event Resolution Request Date, not to determine whether or not an event constitutes a Credit Event;
- (d) an Event Determination Date has occurred pursuant to sub-paragraph (a) of the definition of “Event Determination Date”, and no Credit Event Request Resolution Date has occurred within three Business Days of such Event Determination Date; or
- (e) an Event Determination Date has occurred pursuant to sub-paragraph (c) of the definition of “Event Determination Date”.



**“Fallback Settlement Method”** means the fallback settlement method specified (or deemed specified) in the applicable Final Terms.

**“Final Delivery Date”** has the meaning given to it in Physical Delivery Note Condition 6.

**“Final Price”** means the price of the Reference Obligation, expressed as a percentage, determined in accordance with the Valuation Method specified in the applicable Final Terms. The Calculation Agent shall, upon written request by a Holder to the Issuer and the Calculation Agent, make available for inspection by such Holder at the specified office of the Principal Paying Agent (i) a list showing the Quotation that it receives in connection with the calculation of the Final Price and (ii) a written computation showing its calculation of the Final Price as soon as practicable after obtaining all Quotations for a Valuation Date. For the avoidance of doubt, the Issuer shall not be required to identify the Quotation Dealer, from whom the Quotations have been obtained.

**“Final Price Calculation Date”** means an Auction Final Price Determination Date or, as the case may be, the date on which the Final Price can be determined in respect of a particular Credit Event and the relevant Reference Entity.

**“Final Redemption Date”** means the later of:

- (a) the CLN Maturity Date; and
- (b) if the Conditions to Settlement have been satisfied, the last Settlement Date to occur.

**“Full Quotation”** means, in accordance with the Quotation Method each firm quotation obtained from a Quotation Dealer at the Valuation Time, to the extent reasonably practicable, for an amount of the Reference Obligation with an Outstanding Principal Balance equal to the Quotation Amount.

**“Fully Transferable Obligation”** means a Deliverable Obligation that is either Transferable, in the case of Bonds, or capable of being assigned or novated to all Eligible Transferees without the consent of any person being required in the case of any Deliverable Obligation other than Bonds. Any requirement that notification of novation, assignment or transfer of a Deliverable Obligation be provided to a trustee, fiscal agent, administrative agent, clearing agent or paying agent for a Deliverable Obligation shall not be considered as a requirement for consent for purposes of this definition of “Fully Transferable Obligation”. For purposes of determining whether a Deliverable Obligation satisfies the requirements of this definition of “Fully Transferable Obligation”, such determination shall be made as of the Delivery Date for the relevant Deliverable Obligation, taking into account only the terms of the Deliverable Obligation and any related transfer or consent documents which have been obtained by the Issuer or the Guarantor, as the case may be.

**“Governmental Authority”** means any *de facto* or *de jure* government (or any agency, instrumentality, ministry or department thereof), court, tribunal, administrative or other governmental authority or any other entity (private or public) charged with the regulation of the financial markets (including the central bank) of a Reference Entity or of the jurisdiction of organisation of a Reference Entity.

**“Grace Period”** means, subject to sub-clause (i) and (ii) below, the applicable grace period with respect to payments under the relevant Obligation under the terms of such Obligation in effect as of the date as of which such Obligation is issued or incurred, provided that (i) if Grace Period Extension is specified in the Final Terms as applicable, a Potential Failure to Pay has occurred on or prior to the Scheduled Maturity Notice Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)) and the applicable grace period cannot, by its terms, expire on or prior to the Scheduled Maturity Notice Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)), the Grace Period shall be deemed to be the lesser of such grace period and the period specified as such in the Final Terms or, if no period is specified, 30 calendar days; and (ii) if, as of the date as of which an Obligation is issued or incurred, no grace period with respect to payments or a grace period with respect to payments of less than 3 Grace Period Business Days is applicable under the terms of such Obligation, a Grace Period of 3 Grace Period Business Days shall be deemed to apply to such Obligation; provided that, unless Grace Period Extension is specified (or deemed specified) as applicable in the Final Terms, such deemed Grace Period shall expire no later than the Scheduled Maturity Notice Date.

**“Grace Period 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 Obligation and if a place or places are not so specified, in the jurisdiction of the Obligation Currency.

**“Grace Period Extension Date”** means, if (a) Grace Period Extension is specified as applicable in the Final Terms and (b) a Potential Failure to Pay occurs on or prior to the Scheduled Maturity Notice Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)), the date that is the number of days in the Grace Period after the date of such Potential Failure to Pay. If Grace Period Extension is not specified (or deemed specified) as applicable in the Final Terms, Grace Period Extension shall not apply.

**“Hedge Disruption Event”** means in the opinion of the Calculation Agent any event as a result of which the Issuer and/or any of its Affiliates and/or its agents has not received or is unable to receive (for any reason, including without limitation, due to market conditions) the relevant Deliverable Obligations and/or any cash settlement amount and/or any other amount under the terms of any Hedge Transaction (or any other transaction (including without limitation, has not sourced or not been able to source, or it is not practical to source, Deliverable Obligations in an Auction in relation to the Credit Event and Reference Entity or in the market at a price less than or equal to the Auction Final Price or otherwise at the Auction Final Price) and/or funding arrangement entered into for the purpose of hedging the Issuer’s obligations (whether in whole or in part) in respect of the Credit Linked Notes.

**“Hedge Disruption Obligation”** means a Deliverable Obligation included in the Entitlement which, on the Delivery Date for such Deliverable Obligation, the Calculation Agent determines in its sole and absolute discretion is impossible, illegal, impracticable or is otherwise unable to or cannot be Delivered as a result of a Hedge Disruption Event.

**“Hedge Transaction”** means any transaction or trading position entered into or held by the Issuer and/or any of its Affiliates to hedge, directly or indirectly, the Issuer’s obligations or positions (whether in whole or in part) in respect of the Credit Linked Notes.

**“Implicit Portfolio Size”** means an amount equal to the Aggregate Nominal Amount as at the Issue Date divided by the Tranche Size.

**“Incurred Loss Amount”** means, with respect to a Reference Entity and a Final Price Calculation Date, an amount calculated on such Final Price Calculation Date equal to the lesser of:

- (a) the Loss Amount;
- (b) the Aggregate Loss Amount (including the related Loss Amount for that Reference Entity and Final Price Calculation Date) minus the Loss Threshold Amount on such Final Price Calculation Date (following any adjustments thereto on such date), subject to a minimum of zero; and
- (c) the Outstanding Principal Amount (prior to any reduction thereto in respect of that Reference Entity and Final Price Calculation Date).

**“Interest Calculation Amount”** means in respect of an Interest Payment Date, either:

- (a) the Outstanding Principal Amount as at the relevant Interest Determination Date; or
- (b) if “Weighted Average” is specified as the applicable “Interest Calculation Method” in the Final Terms, an amount equal to the aggregate of the Outstanding Principal Amounts determined with respect to each day during the relevant Interest Period divided by the number of days in such Interest Period.

For such purposes, the Outstanding Principal Amount shall be calculated as though the Undetermined Reference Entity Notional Amount were taken into account as a Loss Amount for the purposes of determining the Aggregate Loss Amount and, accordingly the Writedown Amount.

**“Interest Determination Date”** means, in respect of an Interest Payment Date, the second Business Day preceding such Interest Payment Date.

**“ISDA”** means International Swaps and Derivatives Association, Inc.

**“Latest Maturity Restructured Bond or Loan”** means, in respect of a Reference Entity and a Credit Event that is a Restructuring, the Restructured Bond or Loan with the latest final maturity date.

**“Limitation Date”** means the first of March 20, June 20, September 20 or December 20 in any year to occur on or immediately following the date that is one of the following numbers of years after the Restructuring Date: 2.5 years (the **“2.5-year Limitation Date”**), 5 years (the **“5-year Limitation Date”**), 7.5 years, 10 years, 12.5 years, 15 years, or 20 years (the **“20-year Limitation Date”**), as applicable. Limitation Dates shall not be subject to adjustment unless otherwise provided in the applicable Final Terms.

**“Linear Basket CLNs”** means any Security identified as such in the Final Terms.

**“Loss Amount”** means with respect to Tranche Portfolio CLNs, a Reference Entity and a Final Price Calculation Date, an amount calculated on that Final Price Calculation Date equal to:

- (a) 100 per cent. minus either (i) the Auction Final Price or (ii) if Cash Settlement applies, the Final Price for that Reference Entity as of such Final Price Calculation Date; multiplied by
- (b) the Reference Entity Notional Amount for that Reference Entity, as at the relevant Event Determination Date, subject to a minimum of zero.

**“Loss Threshold Amount”** means, with respect to Tranche Portfolio CLNs, an amount equal to the Implicit Portfolio Size multiplied by the Attachment Point.

**“Market Value”** means, with respect to a Reference Obligation on a Valuation Date:

- (a) if more than three Full Quotations are obtained, the arithmetic mean of such Full Quotations, disregarding the Full Quotations having the highest and lowest values (and, if more than one such Full Quotations have the same highest value or lowest value, then one of such highest or lowest Full Quotations shall be disregarded);
- (b) if exactly three Full Quotations are obtained, the Full Quotation remaining after disregarding the highest and lowest Full Quotations (and, if more than one such Full Quotations have the same highest value or lowest value, then one of such highest or lowest Full Quotations shall be disregarded);
- (c) if exactly two Full Quotations are obtained, the arithmetic mean of such Full Quotations;
- (d) if fewer than two Full Quotations and a Weighted Average Quotation is obtained, such Weighted Average Quotation;
- (e) if fewer than two Full Quotations are obtained and no Weighted Average Quotation is obtained, subject as provided in the definition of Quotation, an amount as determined by the Calculation Agent on the next Business Day on which two or more Full Quotations or a Weighted Average Quotation is obtained; and
- (f) if two or more Full Quotations or a Weighted Average Quotation are not obtained on or prior to the tenth Business Day following the applicable Valuation Date, the Market Value shall be any Full Quotation obtained from a Quotation Dealer at the Valuation Time on such tenth Business Day, or if no Full Quotation is obtained, the weighted average of any firm quotations for the Reference Obligation obtained from Quotation Dealers at the Valuation Time on such tenth Business Day with respect to the aggregate portion of the Quotation Amount for which such quotations were obtained and a quotation deemed to be zero for the balance of the Quotation Amount for which firm quotations were not obtained on such day.

**“Merger Event”** means that at any time during the period from (and including) the Trade Date to (but excluding) the Scheduled Maturity Notice Date, the Issuer, the Guarantor (if applicable) or a Reference Entity (any such entity, the **“Mergor”**) consolidates or amalgamates with, or merges into, or transfers all or substantially all of its assets to (i) where the Mergor is the Issuer or the Guarantor, a Reference Entity or (ii) where the Mergor is a Reference Entity, the Issuer or the Guarantor, or, the Guarantor and a Reference Entity or the Issuer and a Reference Entity become Affiliates.

**“Minimum Quotation Amount”** means the amount specified as such in the applicable Final Terms (or its equivalent in the relevant Obligation Currency) or, if no amount is so specified, the lower of (a) U.S.\$1,000,000 (or its equivalent in the relevant Obligation Currency) and (b) the Quotation Amount.

**“Modified Eligible Transferee”** means any bank, financial institution or other entity which is regularly engaged in and established for the purpose of making, purchasing or investing in loans, securities and other financial assets.

**“Modified Restructuring Maturity Limitation Date”** means, with respect to a Deliverable Obligation, the Limitation Date occurring on or immediately following the Scheduled Maturity Notice Date, provided that, in circumstances where the Scheduled Maturity Notice Date is later than the 2.5-year Limitation Date, at least one Enabling Obligation exists. With respect to a Credit Linked Note for which “Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable” is specified in the applicable Final Terms and for which the Scheduled Maturity Notice Date is later than the 2.5-year Limitation Date and prior to the 5-year Limitation Date, a Restructured Bond or Loan will not constitute an Enabling Obligation. Notwithstanding the foregoing, if the Scheduled Maturity Notice Date is either (i) on or prior to the 2.5-year Limitation Date or (ii) later than the 2.5-year Limitation Date and on or prior to the 5-year Limitation Date and no Enabling Obligation exists, the Modified Restructuring Maturity Limitation Date will be the 5-year Limitation Date in the case of a Restructured Bond or Loan only.

Subject to the foregoing, in the event that the Scheduled Maturity Notice Date is later than (A) the 2.5-year Limitation Date and no Enabling Obligation exists or (B) the 20-year Limitation Date, the Modified Restructuring Maturity Limitation Date will be the Scheduled Maturity Notice Date.

**“N”** or **“Nth”** means, where the applicable Final Terms specifies that “Nth-to-Default CLNs” is applicable, such number as may be specified in such Final Terms.

**“Nth-to-Default CLNs”** means any nth-to-default Credit Linked Notes (where applicable) where the Issuer purchases credit protection from the Holders in respect of two or more Reference Entities on the basis that the Securities will be redeemed in whole following the satisfaction of the Conditions to Settlement in respect of the Nth Reference Entity.

**“Next Currency Fixing Time”** means 4:00 p.m. (London time) on the London Business Day immediately following the date on which the Notice of Physical Settlement or relevant NOPS Amendment Notice, as applicable, is effective.

**“No Auction Announcement Date”** means, with respect to a Credit Event, the date on which ISDA first publicly announces that:

- (a) no Transaction Auction Settlement Terms will be published;
- (b) following the occurrence of a Restructuring and either “Restructuring Maturity Limitation and Fully Transferable Obligation Applicable” or “Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable” is specified (or deemed specified) in the applicable Final Terms, no Transaction Auction Settlement Terms will be published, but Parallel Auction Settlement Terms will be published; or
- (c) the relevant Credit Derivatives Determinations Committee has Resolved that no Auction will be held following a prior public announcement by ISDA to the contrary.

**“NOPS Amendment Notice”** has the meaning given to it in Credit Linked Note Condition 5.

**“Notice Delivery Period”** means the period from and including the Issue Date to and including the date that is 15 Business Days (or such other number of days as may be specified in the applicable Final Terms) after the Extension Date.

**“Notice of Publicly Available Information”** means an irrevocable notice from the Calculation Agent to the Issuer that cites Publicly Available Information confirming the occurrence of the Credit Event or Potential Repudiation/Moratorium, as applicable, described in the Credit Event Notice or Repudiation/Moratorium Extension Notice. In relation to a Repudiation/Moratorium Credit Event, the Notice of Publicly Available Information must cite Publicly Available Information confirming the occurrence of both clauses (a) and (b) of the definition of Repudiation/Moratorium. The notice given must contain a copy or description in reasonable detail, of the relevant Publicly Available Information. If Notice of Publicly Available Information is specified (or deemed to be specified) as applying in the applicable Final Terms and a Credit Event Notice or Repudiation/Moratorium Extension Notice, as applicable, contains Publicly Available Information, such Credit Event Notice or Repudiation/Moratorium Extension Notice will also be deemed to be a Notice of Publicly Available Information.

**“Notice of Physical Settlement”** has the meaning given to it in Credit Linked Note Condition 5.

**“Notice to Exercise Movement Option”** means, if the relevant Credit Event is a Restructuring and either “Restructuring Maturity Limitation and Fully Transferable Obligation” or “Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable” is specified (or deemed specified) in the applicable Final Terms and with respect to which a No Auction Announcement Date has occurred pursuant to sub-paragraph (b) of the definition thereof, a notice by the Issuer to the Holders to apply, for the purposes of the Securities, the Parallel Auction Settlement Terms, if any, for the purposes of which the Deliverable Obligations under the Parallel Auction Settlement Terms are more limited than the Deliverable Obligations under the Transaction Auction Settlement Terms (provided that the Issuer may apply the Parallel Auction Settlement Terms for purposes of which all Deliverable Obligations on the Final List (as defined in the Rules) will be Permissible Deliverable Obligations (as defined in the Credit Derivatives Definitions) if the Parallel Auction Settlement Terms so elected apply to one or more Hedge Transactions in respect of the relevant Securities). The Issuer shall in such notice identify the specific Parallel Auction Settlement Terms which it wishes to apply for the purposes of the Securities.

**“Notional Credit Derivative Transaction”** means, with respect to any Credit Linked Note, a hypothetical market standard credit default swap transaction entered into by the Issuer, as Buyer (as defined in the Credit Derivatives Definitions), incorporating the terms of the Credit Derivatives Definitions and under the terms of which (a) the “Trade Date” is the Trade Date; (b) the “Scheduled Termination Date” is the Scheduled Maturity Notice Date; (c) the “Reference Entity” thereunder is the Reference Entity for the purposes of such Security; and (d) the “Transaction Type” thereunder is the Transaction Type for the purposes of such Security.

**“Obligation”** means:

- (a) any obligation of a Reference Entity (either directly, as a provider of a Qualifying Affiliate Guarantee or, if All Guarantees is specified as applicable in the applicable Final Terms, as provider of any Qualifying Guarantee) determined pursuant to the method described in “Method for Determining Obligations” below (but excluding any Excluded Obligation);
- (b) each Reference Obligation specified (or deemed to be specified) in the applicable Final Terms, unless specified as an Excluded Obligation; and
- (c) any Additional Obligation of a Reference Entity specified as such (or deemed to be specified) in the applicable Final Terms;

**Method for Determining Obligations.** For the purposes of paragraph (a) of this definition of “Obligation”, the term “Obligation” may be defined as each obligation of each Reference Entity described by the Obligation Category specified in the applicable Final Terms, and having each of the Obligation Characteristics (if any) specified in the applicable Final Terms, in each case, as of the date of the event which constitutes the Credit Event which is the subject of either the Credit Event Notice or the notice to ISDA resulting in the Credit Event Resolution Request Date, as applicable. 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 applicable Final Terms, where:
  - (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 (excluding an obligation under a revolving credit arrangement for which there are no outstanding unpaid drawings in respect of principal) for the payment or repayment 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 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;

- (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; 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 Not Subordinated, Specified Currency, Not Sovereign Lender, Not Domestic Currency, Not Domestic Law, Listed and Not Domestic Issuance specified in the applicable Final Terms, where:
  - (i) (A) “**Not Subordinated**” means an obligation that is not Subordinated to (i) the most senior Reference Obligation in priority of payment or (ii) if no Reference Obligation is specified in the Issue Terms, any unsubordinated Borrowed Money obligation of the Reference Entity; provided that, if any of the events set forth under the definition of “**Substitute Reference Obligation**” has occurred with respect to all of the Reference Obligations or if, pursuant to the definition of “**Successor**” a Substitute Reference Obligation will be determined in accordance with the definition of “**Substitute Reference Obligation**” with respect to the Reference Obligation (each, in each case, a “**Prior Reference Obligation**”) and no Substitute Reference Obligation has been identified for any of the Prior Reference Obligations at the time of the determination of whether an obligation satisfies the “**Not Subordinated**” Obligation Characteristic or Deliverable Obligation Characteristic, as applicable, “**Not Subordinated**” shall mean an obligation that would not have been Subordinated to the most senior such Prior Reference Obligation in priority of payment. For purposes of determining whether an obligation satisfies the “**Not Subordinated**” Obligation Characteristic or Deliverable Obligation Characteristic, the ranking in priority of payment of each Reference Obligation or each Prior Reference Obligation, as applicable, shall be determined as of the date as of which the relevant Reference Obligation or Prior Reference Obligation, as applicable, was issued or incurred and shall not reflect any change to such ranking in priority of payment after such date.
  - (B) “**Subordination**” means, with respect to an obligation (the “**Subordinated Obligation**”) and another obligation of the Reference Entity to which such obligation is being compared (the “**Senior Obligation**”), a contractual, trust or other similar arrangement providing that (i) upon the liquidation, dissolution, reorganisation or winding up of the Reference Entity, claims of the holders of the Senior Obligation will be satisfied prior to the claims of the holders of the Subordinated Obligation or (ii) the holders of the Subordinated Obligation will not be entitled to receive or retain payments in respect of their claims against the Reference Entity at any time that the Reference Entity is in payment arrears or is otherwise in default under the Senior Obligation. “**Subordinated**” will be construed accordingly. For purposes of determining whether Subordination exists or whether an obligation is Subordinated with respect to another obligation to which it is being compared, the existence of preferred creditors arising by operation of law or of collateral, credit support or other credit enhancement arrangements shall not be taken into account, except that, notwithstanding the foregoing, priorities arising by operation of law shall be taken into account where the Reference Entity is a Sovereign;
  - (C) “**Credit Linked Specified Currency**” means an obligation that is payable in the currency or currencies specified as such in the applicable Final Terms (or, if Credit Linked Specified Currency is specified in the applicable Final Terms and no currency is so specified, any of the lawful currencies of Canada, Japan, Switzerland, the United Kingdom and the United States of America and the euro and any successor currency to any of the aforementioned currencies, which currencies shall be referred to collectively in the applicable Final Terms as the “**Standard Specified Currencies**”).

- (c) **“Not Sovereign Lender”** means any obligation that is not primarily owed to a Sovereign or Supranational Organisation, including, without limitation, obligations generally referred to as “Paris Club debt”.
- (d) **“Not Domestic Currency”** means any obligation that is payable in any currency other than the Domestic Currency.
- (e) **“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 organisation of the relevant Reference Entity, if such Reference Entity is not a Sovereign.
- (f) **“Listed”** means an obligation that is quoted, listed or ordinarily purchased and sold on an exchange.
- (g) **“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. Any obligation that is registered or qualified for sale outside the domestic market of the relevant Reference Entity (regardless of whether such obligation is also registered or qualified for sale within the domestic market of the relevant Reference Entity) shall be deemed not to be intended for sale primarily in the domestic market of the Reference Entity.

**“Obligation Acceleration”** means one or more Obligations in an aggregate amount of not less than the Default Requirement 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.

**“Obligation Currency”** means the currency or currencies in which the Obligation is denominated.

**“Obligation Default”** means one or more Obligations in an aggregate amount of not less than the Default Requirement 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.

**“Officer’s Certificate”** means, a certificate signed by a managing director (or other substantively equivalent title) of the Calculation Agent or one of its Affiliates which is delivered to the Issuer together with a Credit Event Notice and which sets out the following information:

- (a) the Calculation Agent or one of its Affiliates reasonably believes that Publicly Available Information is not available in respect of the relevant Credit Event;
- (b) identification by the Calculation Agent or one of its Affiliates of the specific Credit Event that has occurred;
- (c) a description of the manner in which the Credit Event described in a Credit Event Notice was determined to have occurred; and
- (d) identification of the source of the information that reasonably confirms the occurrence of a Credit Event described in a Credit Event Notice and upon which information the determination that a Credit Event has occurred was made (and subject to any applicable law, regulation or duty of confidentiality, attaching copies of such information).

**“Outstanding Principal Amount”** means with respect to Tranch Portfolio CLNs on any day, the Aggregate Nominal Amount as at the Issue Date minus the sum of all Writedown Amounts determined up to and including such day.

**“Outstanding Principal Balance”** means, subject as provided in sub-paragraph (4)(e) of paragraph (B) (Interpretation of Provisions) in the definition of Deliverable Obligation:

- (a) with respect to any Accreting Obligation, the Accreted Amount thereof; and
  - (b) with respect to any other obligation, the outstanding principal balance of such obligation,
- provided that with respect to any Exchangeable Obligation that is not an Accreting Obligation, **“Outstanding Principal Balance”** shall exclude any amount that may be payable under the terms of

such obligation in respect of the value of the Equity Securities for which such obligation is exchangeable.

**“Parallel Auction”** means “Auction” as defined in the relevant Parallel Auction Settlement Terms.

**“Parallel Auction Settlement Terms”** means following the occurrence of DC Credit Event Announcement (and where the relevant Credit Event is a Restructuring) in respect of any Credit Linked Note for which either “Restructuring Maturity Limitation and Fully Transferable Obligation Applicable” or “Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable” is specified (or deemed specified) in the applicable Final Terms, any Credit Derivatives Auction Settlement Terms published by ISDA with respect to such Restructuring in accordance with the Rules, and for which the Deliverable Obligation provisions for the purposes of such Auction are the same as the Deliverable Obligation provisions applicable to the Notional Credit Derivative Transaction and for which such Notional Credit Derivative Transaction would not be an Auction Covered Transaction.

**“Payment Requirement”** means the amount specified as such in the applicable Final Terms or its equivalent in the relevant Obligation Currency or, if a Payment Requirement is not specified in the applicable Final Terms, U.S.\$1,000,000, or its equivalent as calculated by the Calculation Agent in the relevant Obligation Currency, in either case, as of the occurrence of the relevant Failure to Pay or Potential Failure to Pay, as applicable.

**“Permitted Currency”** means (i) the legal tender of any Group of 7 country (or any country that becomes a member of the Group of 7 if such Group of 7 expands its membership), or (ii) the legal tender of any country which, as of the date of such change, is a member of the Organisation for Economic Co-operation and Development and has a local currency long term debt rating of either AAA or higher assigned to it by Standard & Poor’s Rating Services, a division of The McGraw-Hill Companies, Inc. or any successor to the rating business thereof, Aaa or higher assigned to it by Moody’s Investors Service’s Limited, or any successor to the rating business thereof or AAA or higher assigned to it by Fitch Ratings Ltd or any successor to the rating business thereof.

**“Physical Settlement Matrix”** means the Credit Derivatives Physical Settlement Matrix Supplement to the Credit Derivatives Definitions, as most recently amended or supplemented as at the Trade Date (unless otherwise specified in relation to a Reference Entity) and as published by ISDA, currently at <http://www.isda.org>, provided that any reference therein to (a) “Confirmation” shall be deemed to be a reference to the applicable Final Terms; (b) “Floating Rate Payer Calculation Amount” shall be deemed to be a reference to the Specified Currency, (c) “Section 3.3 of the Definitions” shall be deemed to be a reference to “Credit Event Notice”, (d) “Section 3.9” shall be deemed to be a reference to Credit Linked Note Condition 11 and (e) “Section 8.6” shall be deemed to be a reference to “Physical Settlement Period”.

**“Physical Settlement Period”** means the number of Business Days specified as such in the applicable Final Terms or, if a number of Business Days is not so specified, then, with respect to a Deliverable Obligation comprising the Entitlement, the longest number of Business Days for settlement in accordance with then current market practice of such Deliverable Obligation, as determined by the Calculation Agent in its sole discretion provided that the Physical Settlement Period shall not be less than ten Business Days (unless otherwise notified by the Calculation Agent to the Issuer).

**“Potential Failure to Pay”** means 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, without regard to any grace period or any conditions precedent to the commencement of any grace period applicable to such Obligations, in accordance with the terms of such Obligations at the time of such failure.

**“Potential Repudiation/Moratorium”** means the occurrence of an event described in paragraph (a) of the definition of Repudiation/Moratorium.

**“Publicly Available Information”** means:

- (a) information that reasonably confirms any of the facts relevant to the determination that the Credit Event or a Potential Repudiation/Moratorium, as applicable, described in a Credit Event Notice or Repudiation/Moratorium Extension Notice has occurred and which:

- (i) has been published in or on not less than the Specified Number of Public Sources, regardless of whether the reader or user thereof pays a fee to obtain such information provided that, if either the Calculation Agent or the Issuer, the Guarantor (if applicable) or any of their respective Affiliates and/or agents is cited as the sole source of such information, then such information shall not be deemed to be Publicly Available Information unless either the Calculation Agent or the Issuer, the Guarantor (if applicable) or any of their Affiliates and/or agents is acting in its capacity as trustee, fiscal agent, administrative agent, clearing agent, paying agent, facility agent or agent bank for an Obligation; or
  - (ii) is information received from or published by (A) a Reference Entity or, as the case may be, a Sovereign Agency in respect of a Reference Entity which is a Sovereign or (B) a trustee, fiscal agent, administrative agent, clearing agent, paying agent, facility agent or agent bank for an Obligation; or
  - (iii) is information contained in any petition or filing instituting a proceeding described in paragraph (d) of the definition of “Bankruptcy” against or by a Reference Entity; or
  - (iv) is information contained in any order, decree, notice or filing, however described, of or filed with a court, tribunal, exchange, regulatory authority or similar administrative, regulatory or judicial body;
- (b) in the event that the Calculation Agent is (i) the sole source of information in its capacity as trustee, fiscal agent, administrative agent, clearing agent, paying agent, facility agent or agent bank for an Obligation and (ii) a holder of the Obligation with respect to which a Credit Event has occurred, the Calculation Agent shall be required to deliver to the Issuer a certificate signed by a Managing Director (or other substantially equivalent title) of the Calculation Agent, which shall certify the occurrence of a Credit Event with respect to such Obligation;
- (c) in relation to any information of the type described in paragraphs (a)(ii), (iii) and (iv) above, the Calculation Agent may assume that such information has been disclosed to it without violating any law, agreement or understanding regarding the confidentiality of such information and that the entity disclosing such information has not taken any action or entered into any agreement or understanding with the Reference Entity or any Affiliate of the Reference Entity that would be breached by, or would prevent, the disclosure of such information to the party receiving the information;
- (d) Publicly Available Information need not state:
- (i) in relation to the definition of “Downstream Affiliate”, the percentage of Voting Shares owned, directly or indirectly, by the Reference Entity; and
  - (ii) that such occurrence:
    - (A) has met the Payment Requirement or Default Requirement;
    - (B) is the result of exceeding any applicable Grace Period; or
    - (C) has met the subjective criteria specified in certain Credit Events;

“**Public Source**” means each source of Publicly Available Information specified (or deemed specified) as such in the applicable Final Terms (or if a source is not specified in the applicable Final Terms, each of Bloomberg Service, Dow Jones Telerate Service, Reuter Monitor Money Rates Services, Dow Jones News Wire, Wall Street Journal, New York Times, Nihon Keizai Shinbun, Asahi Shinbun, Yomiuri Shinbun, Financial Times, La Tribune, Les Echos and The Australian Financial Review (and successor publications), the main source(s) of business news in the country in which the Reference Entity is organised and any other internationally recognised published or electronically displayed news sources).

“**Qualifying Affiliate Guarantee**” means a Qualifying Guarantee provided by a Reference Entity in respect of an Underlying Obligation of a Downstream Affiliate of that Reference Entity.

“**Qualifying Guarantee**” means an arrangement evidenced by a written instrument pursuant to which a Reference Entity irrevocably agrees (by guarantee of payment or equivalent legal arrangement) to pay all amounts due under an obligation (the “Underlying Obligation”) for which another party is the obligor (the “Underlying Obligor”). Qualifying Guarantees shall exclude any arrangement (i) structured as a surety bond, financial guarantee insurance policy, letter of credit or

equivalent legal arrangement or (ii) pursuant to the terms of which the payment obligations of the Reference Entity can be discharged, reduced or otherwise altered or assigned (other than by operation of law) as a result of the occurrence or non-occurrence of an event or circumstance (other than payment). The benefit of a Qualifying Guarantee must be capable of being Delivered together with the Delivery of the Underlying Obligation.

**“Qualifying Participation Seller”** means any participation seller that meets the requirements specified in the applicable Final Terms. If no such requirements are specified, there shall be no Qualifying Participation Seller.

**“Quotation”** means each Full Quotation and the Weighted Average Quotation obtained and expressed as a percentage with respect to a Valuation Date in the manner that follows:

- (a) The Calculation Agent shall attempt to obtain Full Quotations with respect to each Valuation Date from five or more Quotation Dealers. If the Calculation Agent is unable to obtain two or more such Full Quotations on the same Business Day within three Business Days of a Valuation Date, then on the next following Business Day (and, if necessary, on each Business Day thereafter until the tenth Business Day following the relevant Valuation Date) the Calculation Agent shall attempt to obtain Full Quotations from five or more Quotation Dealers and, if two or more Full Quotations are not available, a Weighted Average Quotation. If the Calculation Agent is unable to obtain two or more Full Quotations or a Weighted Average Quotation on the same Business Day on or prior to the tenth Business Day following the applicable Valuation Date, the Quotations shall be deemed to be any Full Quotation obtained from a Quotation Dealer at the Valuation Time on such tenth Business Day. If no Full Quotation is obtained, the weighted average of any firm quotations for the Reference Obligation obtained from Quotation Dealers at the Valuation Time on such tenth Business Day with respect to the aggregate portion of the Quotation Amount for which such quotations were obtained and a quotation deemed to be zero for the balance of the Quotation Amount for which firm quotations were not obtained on such day.
- (b) (i) “Include Accrued Interest” is specified in the applicable Final Terms in respect of Quotations, such Quotations shall include accrued but unpaid interest.
- (ii) If “Exclude Accrued Interest” is specified in the applicable Final Terms in respect of Quotations, such Quotations shall not include accrued but unpaid interest.
- (iii) If neither “Include Accrued Interest” nor “Exclude Accrued Interest” is specified in the applicable Final Terms in respect of Quotations, the Calculation Agent shall determine, based on the then current market practice in the market of the Reference Obligation, whether such Quotations shall include or exclude accrued but unpaid interest. All Quotations shall be obtained in accordance with this specification or determination.
- (c) If any Quotation obtained with respect to an Accreting Obligation is expressed as a percentage of the amount payable in respect of such obligation at maturity, such Quotation will instead be expressed as a percentage of the Outstanding Principal Balance for the purposes of determining the Final Price.

**“Quotation Amount”** means the amount specified as such in the applicable Final Terms (which may be specified by reference to an amount in a currency or by reference to a Representative Amount) or, if no amount is specified in the applicable Final Terms, the Aggregate Nominal Amount (or, in either case, its equivalent in the relevant Obligation Currency converted by the Calculation Agent in a commercially reasonable manner by reference to exchange rates in effect at the time that the relevant Quotation is being obtained).

**“Quotation Dealer”** means a dealer in obligations of the type of Obligation(s) for which Quotations are to be obtained including each Quotation Dealer specified in the applicable Final Terms. If no Quotation Dealers are specified in the applicable Final Terms, the Calculation Agent shall select the Quotation Dealers in its sole and absolute discretion. Upon a Quotation Dealer no longer being in existence (with no successors), or not being an active dealer in the obligations of the type for which Quotations are to be obtained, the Calculation Agent may substitute any other Quotation Dealer(s) for such Quotation Dealer(s). For the avoidance of doubt, the Calculation Agent and/or any of its affiliates may be selected as a Quotation Dealer.

**“Quotation Method”** means the applicable Quotation Method specified in the applicable Final Terms by reference to one of the following terms:



“**Bid**” means that only bid quotations shall be requested from Quotation Dealers;

“**Offer**” means that only offer quotations shall be requested from Quotation Dealers; or

“**Mid-market**” means that bid and offer quotations shall be requested from Quotation Dealers and shall be averaged for the purposes of determining a relevant Quotation Dealer’s quotation.

If a Quotation Method is not specified in the applicable Final Terms, Bid shall apply.

“**Reference Entity**” means the reference entity or entities described as such in the Final Terms or Reference Portfolio (as applicable). Any Successor to a Reference Entity either (a) identified by the Calculation Agent pursuant to the definition of “Successor” on or following the Trade Date or (b) in respect of which ISDA publicly announces on or following the Trade Date that the relevant Credit Derivatives Determinations Committee has Resolved, in respect of a Succession Event Resolution Request Date, a Successor in accordance with the Rules shall, in each case, be the Reference Entity for the purposes of the relevant Series (provided that if “Calculation Agent Determination” is specified as being applicable in the applicable Final Terms, the Successor identified by the relevant Credit Derivatives Determinations Committee shall not be the Reference Entity for the relevant Securities unless the Calculation Agent notifies the Issuer that such announcement shall apply to such Securities).

“**Reference Entity Notional Amount**” means, in respect of any Reference Entity:

- (a) with respect to Linear Basket CLNs, unless otherwise specified in the Final Terms, the Aggregate Nominal Amount of the Notes divided by the number of Reference Entities; or
- (b) with respect to Tranche Portfolio CLNs, the Implicit Portfolio Size multiplied by the Reference Entity Weighting for such Reference Entity,

subject to the Successor Provisions.

“**Reference Entity Weighting**” means, in respect of a Reference Entity, the weighting as set out in the Reference Portfolio for such Reference Entity.

“**Reference Portfolio**” means either:

- (a) the portfolio of Reference Entities and related Reference Obligations as specified in the Final Terms; or
- (b) if a Relevant Annex is specified in the Final Terms, the portfolio of Reference Entities and related Reference Obligations referred to in that annex.

“**Reference Obligation**” means each obligation specified or of a type described as such in the applicable Final Terms (if any are so specified or described) and any Substitute Reference Obligation.

“**Relevant Obligations**” means the Obligations constituting Bonds and Loans of the Reference Entity outstanding immediately prior to the effective date of the Succession Event, excluding any debt obligations outstanding between the Reference Entity and any of its Affiliates and/or its agents, as determined by the Calculation Agent. The Calculation Agent will determine the entity which succeeds to such Relevant Obligations on the basis of the Best Available Information. If the date on which the Best Available Information becomes available (or is filed) precedes the legally effective date of the relevant Succession Event, any assumptions as to the allocation of obligations between or among entities contained in the Best Available Information will be deemed to have been fulfilled as of the legally effective date of the Succession Event, whether or not this is in fact the case.

“**Replacement Deliverable Obligation**” means each replacement Deliverable Obligation that the Issuer has specified in the relevant NOPS Amendment Notice.

“**Replacement Reference Entity**” means an entity identified by the Calculation Agent which is the “Replacement Reference Entity” under the relevant Hedge Transaction and/or:

- (a) that is in the same industry classification group as the Surviving Reference Entity as determined by the Calculation Agent with reference to the industry classification groups as published by Moody’s Investors Service, Inc. or Standard & Poor’s Rating Services, a division

of the McGraw-Hill Companies, Inc. or any successors thereto or any other rating agency as the Calculation Agent shall determine;

- (b) that has a bid-side credit spread (at the time the Calculation Agent identifies such entity) no greater than 110% or (as otherwise specified in the Final Terms) of the relevant Surviving Reference Entity at the same time (the “**Credit Spread Requirement**”), in each case based on a credit default swap:
  - (i) on market standard terms for the relevant entity as at the time of such determination;
  - (ii) in respect of a floating rate payer calculation amount equal to at least 50 per cent. but not more than 100 per cent. of the Calculation Amount; and
  - (iii) with a term equal to the period from and including the date of determination to and including the Scheduled Termination Date (the “**Remaining Term**”), provided that the Calculation Agent, having used reasonable endeavours, cannot obtain quotations from at least three Quotation Dealers, in respect of the Remaining Term, the term for the purposes of this paragraph (iii) shall be five years,

The bid-side credit spreads for the purpose of the Credit Spread Requirement shall be the unweighted arithmetic mean of the spread quotations obtained by the Calculation Agent from at least three Quotation Dealers, as determined by the Calculation Agent acting in good faith and a commercially reasonable manner;

- (c) that is principally traded in the credit derivative market in respect of the same geographical region as the relevant Surviving Reference Entity, as determined by the Calculation Agent acting in good faith and a commercially reasonable manner; and
- (d) that is not an Affiliate of any other Reference Entity under the Securities, the Issuer or the Calculation Agent both immediately prior to and following the relevant Succession Event.

“**Representative Amount**” means an amount that is representative for a single transaction in the relevant market and at the relevant time, such amount to be determined by the Calculation Agent.

“**Repudiation/Moratorium**” means the occurrence of both of the following events:

- (a) an authorised officer of a Reference Entity or a Governmental Authority:
  - (x) 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
  - (y) declares or imposes a moratorium, standstill, roll-over 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; and
- (b) a Failure to Pay, determined without regard to the Payment Requirement, or a Restructuring, determined without regard to the Default Requirement, with respect to any such Obligation occurs on or prior to the Repudiation/Moratorium Evaluation Notice Date.

“**Repudiation/Moratorium Evaluation Date**” means, if a Potential Repudiation/Moratorium occurs on or prior to the Scheduled Maturity Notice Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)):

- (a) if the Obligations to which such Potential Repudiation/Moratorium relates include Bonds, the date that is the later of:
  - (i) the date that is 60 days after the date of such Potential Repudiation/Moratorium; and
  - (ii) the first payment date under any such Bond after the date of such Potential Repudiation/Moratorium (or, if later, the expiration date of any applicable Grace Period in respect of such payment date); and
- (b) if the Obligations to which such Potential Repudiation/Moratorium relates do not include Bonds, the date that is 60 days after the date of such Potential Repudiation/Moratorium.

“**Repudiation/Moratorium Extension Condition**” is satisfied (i) if ISDA publicly announces, pursuant to a valid request that was delivered in accordance with the Rules and effectively received

on or prior to the date that is 15 Business Days after the Scheduled Maturity Notice Date, that the relevant Credit Derivatives Determinations Committee has Resolved that an event that constitutes a Potential Repudiation/Moratorium for the purposes of the Securities has occurred with respect to an Obligation of the relevant Reference Entity and that such event occurred on or prior to the Scheduled Maturity Notice Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)) (and provided that, if “Calculation Agent Determination” is specified as being applicable in the applicable Final Terms, the Repudiation/Moratorium Extension Condition shall not be satisfied unless the Calculation Agent notifies the Issuer that such announcement shall apply to the Securities) or (ii) otherwise, by the delivery of a (x) Repudiation/Moratorium Extension Notice and, if specified as applicable in the Final Terms, Notice of Publicly Available Information by the Calculation Agent to the Issuer are each effective on or prior to the date that is 15 Business Days after the Scheduled Maturity Notice Date; or (y) an Extension Notice giving notice of the circumstances set out in sub-paragraph (d) of the definition thereof on or prior to the Scheduled Maturity Date (or, if later, the second Business Day following the Scheduled Maturity Notice Date).

In all cases, the Repudiation/Moratorium Extension Condition will be deemed either not to have been satisfied, or not capable of being satisfied, if, or to the extent that, ISDA publicly announces, pursuant to a valid request that was delivered in accordance with the Rules and effectively received on or prior to the date that is 15 Business Days after the Scheduled Maturity Notice Date, that the relevant Credit Derivatives Determinations Committee has Resolved that either (A) an event does not constitute a Potential Repudiation/Moratorium with respect to an Obligation of the relevant Reference Entity or (B) an event that constitutes a Potential Repudiation/Moratorium has occurred with respect to an Obligation of the relevant Reference Entity but that such event occurred after the Scheduled Maturity Notice Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)) provided that, if “Calculation Agent Determination” is specified as being applicable in the applicable Final Terms, such announcement by ISDA shall be deemed not to have been made (and the Securities shall be construed accordingly) unless the Calculation Agent notifies the Issuer that such announcement shall apply to the Securities.

**“Repudiation/Moratorium Extension Notice”** means an irrevocable notice (which may be in writing and/or by telephone) from the Issuer to the Holders that describes a Potential Repudiation/Moratorium that occurred on or prior to the Scheduled Maturity Notice Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)). A Repudiation/Moratorium Extension Notice must contain a description in reasonable detail of the facts relevant to the determination that a Potential Repudiation/Moratorium has occurred and indicate the date of the occurrence. The Potential Repudiation/Moratorium that is the subject of the Repudiation/Moratorium Extension Notice need not be continuing on the date the Repudiation/Moratorium Extension Notice is effective.

**“Resolve”** has the meaning given to that term in the Rules, and **“Resolved”** and **“Resolves”** shall be interpreted accordingly.

**“Restructured Bond or Loan”** means an Obligation which is a Bond or Loan and in respect of which the relevant Restructuring has occurred.

**“Restructuring”** means, with respect to one or more Obligations and in relation to an aggregate amount of not less than the Default Requirement, any one or more of the following events occurs in a form that binds all holders of such Obligation, is agreed between a Reference Entity or a Governmental Authority and a sufficient number of holders of the Obligation to bind all the holders of such Obligation or is announced (or otherwise decreed) by a Reference Entity or a Governmental Authority in a form that binds all holders of such Obligation, and such event is not expressly provided for under the terms of such Obligation in effect as of the later of the Credit Event Backstop Date and the date as of which such Obligation is issued or incurred:

- (a) a reduction in the rate or amount of interest payable or the amount of scheduled interest accruals;
- (b) a reduction in the amount of principal or premium payable at maturity or at scheduled redemption dates;

- (c) a postponement or other deferral of a date or dates for either (a) the payment or accrual of interest or (b) the payment of principal or premium;
- (d) a change in the ranking in priority of payment of any Obligation, causing the Subordination of such Obligation to any other Obligation; or
- (e) any change in the currency or composition of any payment of interest or principal to any currency which is not a Permitted Currency;

Notwithstanding the above provisions, none of the following shall constitute a Restructuring:

- (a) the payment in euro of interest or principal in relation to an Obligation denominated in a currency of a Member State of the European Union that adopts or has adopted the single currency in accordance with the Treaty establishing the European Community, as amended by the Treaty on European Union;
- (b) the occurrence of, agreement to or announcement of any of the events described in (i) to (v) above due to an administrative adjustment, accounting adjustment or tax adjustment or other technical adjustment occurring in the ordinary course of business; and
- (c) the occurrence of, agreement to or announcement of any of the events described in (i) to (v) above in circumstances where such event does not directly or indirectly result from a deterioration in the creditworthiness or financial condition of the Reference Entity.

For the purposes of the definition of Restructuring and Credit Linked Note Condition 15, the term Obligation shall be deemed to include Underlying Obligations for which the Reference Entity is acting as provider of a Qualifying Affiliate Guarantee or, if All Guarantees is specified as applicable in the applicable Final Terms, as provider of any Qualifying Guarantee. In the case of a Qualifying Guarantee and an Underlying Obligation, references to the Reference Entity in the initial paragraph and sub-paragraphs (i) to (v) above of the definition of Restructuring shall be deemed to refer to the Underlying Obligor and the reference to the Reference Entity in the second paragraph of this definition of Restructuring shall continue to refer to the Reference Entity.

**“Restructuring Date”** means, with respect to a Restructured Bond or Loan, the date on which a Restructuring is legally effective in accordance with the terms of the documentation governing such Restructuring.

**“Restructuring Maturity Limitation Date”** means, with respect to a Deliverable Obligation, the Limitation Date occurring on or immediately following the Scheduled Maturity Notice Date, provided that, in circumstances where the Scheduled Maturity Notice Date is later than the 2.5-year Limitation Date, at least one Enabling Obligation exists. Notwithstanding the foregoing, if the final maturity date of the Latest Maturity Restructured Bond or Loan and the Scheduled Maturity Notice Date occurs prior to the final maturity date of such Latest Maturity Restructured Bond or Loan, then the Restructuring Maturity Limitation Date will be the final maturity date of such Latest Maturity Restructured Bond or Loan.

In the event that the Scheduled Maturity Notice Date is later than (i)(A) the final maturity date of the Latest Maturity Restructured Bond or Loan, if any, or (B) the 2.5-year Limitation Date, and, in either case, no Enabling Obligation exists or (ii) the 20-year Limitation Date, the Restructuring Maturity Limitation Date will be the Scheduled Maturity Notice Date.

**“Rules”** means the Credit Derivatives Determinations Committees Rules as published by ISDA on its website at [www.isda.org](http://www.isda.org) (or any successor website thereto) from time to time and as amended from time to time in accordance with the terms thereof.

**“Scheduled Maturity Notice Date”** means the date specified as such in the applicable Final Terms or if no date is so specified, the Scheduled Maturity Date.

**“Settlement Currency”** means the currency specified as such in the applicable Final Terms, or if no currency is specified in the applicable Final Terms, the Specified Currency of the Credit Linked Notes.

**“Settlement Date”** means, in relation to Tranche Portfolio CLNs, the date that is five Business Days after each relevant Final Price Calculation Date.

**“Settlement Method”** means the settlement method specified (or deemed specified) in the applicable Final Terms.

**“Sovereign”** means any state, political subdivision or government, or any agency, instrumentality, ministry, department or other authority (including without limiting the foregoing, the central bank) thereof.

**“Sovereign Agency”** means any agency, instrumentality, ministry, department or other authority (including, without limiting the foregoing, the central bank) of a Sovereign.

**“Sovereign Restructured Deliverable Obligation”** means an Obligation of a Sovereign Reference Entity (a) in respect of which a Restructuring that is the subject of the relevant Credit Event Notice has occurred and (b) described by the Deliverable Obligation Category specified in the applicable Final Terms, and, subject to sub-paragraph (3) of paragraph (B) “Interpretation of Provisions” in the definition of “Deliverable Obligation”, having each of the Deliverable Obligation Characteristics, if any, specified in the applicable Final Terms, in each case, immediately preceding the date on which such Restructuring is legally effective in accordance with the terms of the documentation governing such Restructuring without regard to whether the Obligation would satisfy such Deliverable Obligation Category or Deliverable Obligation Characteristics after such Restructuring.

**“Specified Number”** means the number of Public Source(s) specified in the applicable Final Terms, or if no number is specified in the applicable Final Terms, two, provided that where “Calculation Agent Determination” is specified as applicable in the applicable Final Terms, the “Specified Number” shall be one.

**“Substitute Reference Obligation”** means one or more obligations of the Reference Entity (either directly or as provider of a Qualifying Affiliate Guarantee or, if All Guarantees is specified (or deemed to be specified) as applicable in the applicable Final Terms, as provider of any Qualifying Guarantee) that will replace one or more Reference Obligations, identified by the Calculation Agent in accordance with the following procedures:

- (a) In the event that:
  - (i) a Reference Obligation is redeemed in whole; or
  - (ii) in the opinion of the Calculation Agent (A) the aggregate amounts due under any Reference Obligation have been materially reduced by redemption or otherwise (other than due to any scheduled redemption, amortisation or prepayments), (B) any Reference Obligation is an Underlying Obligation with a Qualifying Guarantee of a Reference Entity and, other than due to the existence or occurrence of a Credit Event, the Qualifying Guarantee is no longer a valid and binding obligation of such Reference Entity enforceable in accordance with its terms or (C) for any other reason, other than due to the existence or occurrence of a Credit Event, any Reference Obligation is no longer an obligation of a Reference Entity, the Calculation Agent shall identify one or more Obligations to replace such Reference Obligation.
- (b) Any Substitute Reference Obligation or Substitute Reference Obligations shall be an Obligation that (i) ranks *pari passu* in priority of payment with the ranking in priority of payment of each of the Substitute Reference Obligation and such Reference Obligation (with the ranking in priority of payment of such Reference Obligation being determined as of the date as of which such Reference Obligation was issued or incurred and not reflecting any change to such ranking in priority of payment after such date), (ii) preserves the economic equivalent, as closely as practicable as determined by the Calculation Agent, of the Issuer’s delivery and payment obligations under the Securities and (iii) is an obligation of the relevant Reference Entity (either directly or as provider of a Qualifying Affiliate Guarantee or, if All Guarantees is specified (or deemed to be specified) as applicable in the applicable Final Terms, as provider of a Qualifying Guarantee). The Substitute Reference Obligation or Substitute Reference Obligations identified by the Calculation Agent shall, without further action, replace such Reference Obligation or Reference Obligations.
- (c) If more than one specific Reference Obligation is identified as a Reference Obligation in relation to a Series, any of the events set forth in paragraph (a) above has occurred with respect to one or more but not all of the Reference Obligations, and the Calculation Agent determines that no Substitute Reference Obligation is available for one or more of such Reference Obligations, each Reference Obligation for which no Substitute Reference Obligation is available shall cease to be a Reference Obligation.



- (d) If more than one specific Reference Obligation is identified as a Reference Obligation in relation to a Series, any of the events set forth in paragraph (a) above has occurred with respect to all of the Reference Obligations, and the Calculation Agent determines that at least one Substitute Reference Obligation is available for any such Reference Obligation, then each such Reference Obligation shall be replaced by a Substitute Reference Obligation and each Reference Obligation for which no Substitute Reference Obligation is available will cease to be a Reference Obligation.
- (e) If:
- (i) more than one specific Reference Obligation is identified as a Reference Obligation in relation to a Series, any of the events set forth in paragraph (a) above has occurred with respect to all of the Reference Obligations and the Calculation Agent determines that no Substitute Reference Obligation is available for any of the Reference Obligations; or
  - (ii) only one specific Reference Obligation is identified as a Reference Obligation in relation to a Series, any of the events set forth in paragraph (a) above has occurred with respect to such Reference Obligation and the Calculation Agent determines that no Substitute Reference Obligation is available for that Reference Obligation,
- then the Calculation Agent shall continue to attempt to identify a Substitute Reference Obligation until the later of (A) the Scheduled Maturity Notice Date, (B) the Grace Period Extension Date (if any) and (C) the Repudiation/Moratorium Evaluation Date (if any). If (I) either (i) Cash Settlement is specified in the applicable Final Terms and the Credit Event Redemption Amount (or, in the case of Tranching Portfolio CLNs, the Loss Amount) is determined by reference to a Reference Obligation or (ii) Physical Settlement is specified in the applicable Final Terms and the Reference Obligation is the only Deliverable Obligation and (II) on or prior to the later of (aa) the Scheduled Maturity Notice Date, (bb) the Grace Period Extension Date or (cc) the Repudiation/ Moratorium Evaluation Date, a Substitute Reference Obligation has not been identified, the Issuer's obligations under the Securities shall cease as of the later of (A) the Scheduled Maturity Notice Date, (B) the Grace Period Extension Date or (C) the Repudiation/Moratorium Evaluation Date.
- (f) For the purposes of identification of a Reference Obligation, any change in the Reference Obligation's CUSIP or ISIN or other similar identifier will not, in and of itself, convert such Reference Obligation into a different Obligation.

**“Succession Event”** means (a) with respect to a Reference Entity that is not a Sovereign, an event such as a merger, consolidation, amalgamation, transfer of assets or liabilities, demerger, spin off or other similar event in which one entity succeeds to the obligations of another entity, whether by operation of law or pursuant to any agreement or (b) with respect to a Reference Entity that is a Sovereign, an event such as an annexation, unification, secession, partition, dissolution, consolidation, reconstitution or other event that results in any direct or indirect successor(s) to such Reference Entity. Notwithstanding the foregoing, “Succession Event” shall not include an event (A) in which the holders of obligations of the Reference Entity exchange such obligations for the obligations of another entity, unless such exchange occurs in connection with a merger, consolidation, amalgamation, transfer of assets or liabilities, demerger, spin off or other similar event or (B) with respect to which the legally effective date (or, in the case of a Reference Entity that is a Sovereign, the date of occurrence) has occurred prior to the Succession Event Backstop Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)) or (where “Calculation Agent Determination” is specified as being applicable in the applicable Final Terms) the date that is 90 calendar days prior to the Trade Date or the Succession Event Backstop Date if the Calculation Agent notifies the Issuer that the Succession Event Backstop Date shall apply.

**“Succession Event Backstop Date”** means (a) for purposes of any event that constitutes a Succession Event as determined by the relevant DC Resolution, the date that is 90 calendar days prior to the Succession Event Resolution Request Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)) or (b) otherwise, the date that is 90 calendar days prior to the earlier of (i) the date on which the Succession Event Notice is effective and (ii) in circumstances where (A) the Conditions to convening a Credit Derivatives Determinations Committee to Resolve the matters described in sub-paragraphs (I) and (II) of the definition of “Succession Event Resolution

Request Date” are satisfied in accordance with the Rules, (aa) the relevant Credit Derivatives Determinations Committee has Resolved not to determine such matters and (bb) the Succession Event Notice is delivered by the Calculation Agent to the Issuer not more than fourteen calendar days after the day on which ISDA publicly announces that the relevant Credit Derivatives Determinations Committee has Resolved not to determine such matters, the Succession Event Resolution Request Date. The Succession Event Backstop Date shall not be subject to adjustment unless otherwise provided for in the applicable Final Terms.

“**Succession Event Notice**” means an irrevocable notice from the Calculation Agent to the Issuer that describes a Succession Event that occurred on or after the Succession Event Backstop Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)) or (if Calculation Agent Determination is specified as applicable in the applicable Final Terms and the Calculation Agent has not notified the Issuer that the Succession Event Backstop Date shall apply) the date that is 90 calendar days prior to the Trade Date. A Succession Event Notice must contain a description in reasonable detail of the facts relevant to the determination of, pursuant to sub-paragraphs (a) or (b) of the definition of “Successor”, (i) whether a Succession Event has occurred and (ii) if relevant, the identity of any Successor(s).

“**Succession Event Resolution Request Date**” means, with respect to a notice to ISDA delivered in accordance with the Rules requesting that a Credit Derivatives Determinations Committee be convened to Resolve:

- (a) whether an event that constitutes a Succession Event has occurred with respect to the relevant Reference Entity; and
- (b) if the relevant Credit Derivatives Determinations Committee Resolves that such event has occurred, (A) with respect to a Reference Entity that is not a Sovereign, the legally effective date of such event or (B) with respect to a Reference Entity that is a Sovereign, the date of the occurrence of such event,

the date, as publicly announced by ISDA, that the relevant Credit Derivatives Determinations Committee Resolves to be the date on which such notice is effective.

“**Successor**” means:

- (a) in relation to a Reference Entity that is not a Sovereign, the entity or entities, if any, determined as set out below:
  - (i) if one entity directly or indirectly succeeds to 75 per cent. or more of the Relevant Obligations of the Reference Entity by way of a Succession Event, that entity will be the sole Successor;
  - (ii) if only one entity directly or indirectly succeeds to more than 25 per cent. (but less than 75 per cent.) of the Relevant Obligations of the Reference Entity by way of a Succession Event, and not more than 25 per cent. of the Relevant Obligations of the Reference Entity remain with the Reference Entity, the entity that succeeds to more than 25 per cent. of the Relevant Obligations will be the sole Successor;
  - (iii) if more than one entity each directly or indirectly succeeds to more than 25 per cent. of the Relevant Obligations of the Reference Entity by way of a Succession Event, and not more than 25 per cent. of the Relevant Obligations of the Reference Entity remain with the Reference Entity, the entities that succeed to more than 25 per cent. of the Relevant Obligations will each be a Successor, and the Credit Linked Notes will be divided in accordance with Credit Linked Note Condition 13;
  - (iv) if one or more entities each directly or indirectly succeeds to more than 25 per cent. of the Relevant Obligations of the Reference Entity by way of a Succession Event, and more than 25 per cent. of the Relevant Obligations of the Reference Entity remain with the Reference Entity, each such entity and the Reference Entity will each be a Successor, and the Credit Linked Notes will be divided in accordance with Credit Linked Note Condition 13;
  - (v) if one or more entities directly or indirectly succeed to a portion of the Relevant Obligations of the Reference Entity by way of a Succession Event, but no entity succeeds to more than 25 per cent. of the Relevant Obligations of the Reference Entity and the

Reference Entity continues to exist, there will be no Successor and the Reference Entity and the Credit Linked Notes will not be changed in any way as a result of the Succession Event; and

- (vi) if one or more entities directly or indirectly succeed to a portion of the Relevant Obligations of the Reference Entity by way of a Succession Event, but no entity succeeds to more than 25 per cent. of the Relevant Obligations of the Reference Entity and the Reference Entity ceases to exist, the entity which succeeds to the greatest percentage of Relevant Obligations (or, if 2 or more entities succeed to an equal percentage of Relevant Obligations, the entity from among those entities which succeeds to the greatest percentage of obligations of the Reference Entity) will be the sole Successor;
- (b) with respect to a Sovereign Reference Entity, “Successor” means each entity which becomes a direct or indirect successor to such Reference Entity by way of Succession Event, irrespective of whether any such successor assumes any of the obligations of such Reference Entity; or
- (c) notwithstanding sub-paragraphs (a) and (b) above, where “Calculation Agent Determination” is specified as being applicable in the applicable Final Terms, the Successor shall be either (as selected by the Calculation Agent in its sole discretion) (a) the current obligor in respect of the Reference Obligation, (b) the successor(s) determined in accordance with sub- paragraphs (a) or (b) above, as applicable, or (c) any successor(s) identified by the relevant Credit Derivatives Determinations Committee pursuant to a DC Resolution if the Calculation Agent notifies the Issuer that a DC Resolution in relation to a Reference Entity and a Succession Event shall apply.

The Calculation Agent will be responsible for determining, as soon as reasonably practicable after it becomes aware of the relevant Succession Event (but no earlier than fourteen calendar days after the date of the occurrence of the relevant Succession Event), and with effect from the date of the occurrence of the Succession Event, each Sovereign and/or entity, if any, that qualifies under (b) above; provided that if “Calculation Agent Determination” is not specified as being applicable in the applicable Final Terms, the Calculation Agent will not make such determination if, at such time, either (A) ISDA has publicly announced that the conditions to convening a Credit Derivatives Determinations Committee to Resolve the matters described in (b) above, and subparagraphs (a) and (b)(B) of the definition of Succession Event Resolution Request Date are satisfied in accordance with the Rules (until such time, if any, as ISDA subsequently publicly announces that the relevant Credit Derivatives Determinations Committee has Resolved not to determine a Successor) or (B) ISDA has publicly announced that the relevant Credit Derivatives Determinations Committee has Resolved that no event that constitutes a Succession Event for purposes of the Credit Default Swap has occurred.

In the case of (a) above, the Calculation Agent will be responsible for determining, as soon as reasonably practicable after it becomes aware of the relevant Succession Event (but no earlier than 14 calendar days after the legally effective date of the relevant Succession Event), and with effect from the legally effective date of the Succession Event, whether the relevant thresholds set out in (a)(i) to (vi) above have been met, or which entity qualifies under (a)(vi) above, as applicable; provided that if “Calculation Agent Determination” is not specified as being applicable in the applicable Final Terms, the Calculation Agent will not make such determination if, at such time, either (A) ISDA has publicly announced that the conditions to convening a Credit Derivatives Determinations Committee to Resolve the matters described in (a) above, and subparagraphs (a) and (b)(A) of the definition of Succession Event Resolution Request Date are satisfied in accordance with the Rules (until such time, if any, as ISDA subsequently publicly announces that the relevant Credit Derivatives Determinations Committee has Resolved not to determine a Successor) or (B) ISDA has publicly announced that the relevant Credit Derivatives Determinations Committee has Resolved that no event that constitutes a Succession Event has occurred. In calculating the percentages used to determine whether the relevant thresholds set out in (a) above have been met, or which entity qualifies under (a)(vi) above, as applicable, the Calculation Agent shall use, with respect to each applicable Relevant Obligation included in such calculation, the amount of the liability with respect to such Relevant Obligation listed in the Best Available Information and shall notify the Issuer and the Holders of such calculation.

For the purposes of this definition of “**Successor**”, “**succeed**” means, with respect to a Reference Entity and its Relevant Obligations (or, as applicable, obligations), that a party other than such Reference Entity (i) assumes or becomes liable for such Relevant Obligations (or, as applicable,

obligations) whether by operation of law or pursuant to any agreement or (ii) issues Bonds that are exchanged for Relevant Obligations (or, as applicable, obligations), and in either case such Reference Entity is no longer an obligor (primarily or secondarily) or guarantor or insurer with respect to such Relevant Obligations (or, as applicable, obligations).

Where:

- (a) a Reference Obligation with respect to a Reference Entity is specified in the applicable Final Terms; and
- (b) one or more Successors to the Reference Entity have been identified; and
- (c) any one or more such Successors have not assumed the Reference Obligation,

a Substitute Reference Obligation will be determined in accordance with the definition of **“Substitute Reference Obligation”**.

**“Supranational Organisation”** means any entity or organisation established by treaty or other arrangement between two or more Sovereigns or the Sovereign Agencies of two or more Sovereigns, and includes, without limiting the foregoing, the International Monetary Fund, European Central Bank, International Bank for Reconstruction and Development and the European Bank for Reconstruction and Development.

**“Trade Date”** means the date specified as such in the applicable Final Terms.

**“Tranche Size”** means in respect of Tranching Portfolio CLNs, the Exhaustion Point minus the Attachment Point.

**“Tranching Portfolio CLNs”** means any Security identified as such in the Final Terms.

**“Transaction Auction Settlement Terms”** means either:

- (a) (if the relevant Credit Event is not a Restructuring) the Credit Derivatives Auction Settlement Terms published by ISDA in respect of such Credit Event; and
- (b) (if the relevant Credit Event is a Restructuring), the Credit Derivatives Auction Settlement Terms published by ISDA in respect of such Credit Event and for which the Notional Credit Derivative Transaction would be an Auction Covered Transaction.

If multiple Transaction Auction Settlement Terms are published in relation to senior Obligations and subordinated Obligations of the Reference Entity, the Calculation Agent shall select the Transaction Auction Settlement Terms which are relevant for the purposes of the Notes.

**“Transaction Type”** means in respect of a Reference Entity, the transaction type specified in respect of such Reference Entity in the applicable Final Terms corresponding to the “Transaction Type” specified as such in the Physical Settlement Matrix.

**“Undeliverable Obligation”** means a Deliverable Obligation included in the Entitlement which, on the Final Delivery Date for such Deliverable Obligation, the Calculation Agent determines (in its sole discretion) for any reason (including without limitation, failure of the relevant clearance system or due to any law, regulation, court order, contractual restrictions, statutory restrictions, a Hedge Disruption Event or market conditions or the non-receipt of any requisite consents with respect to the Delivery of Loans) it is either:

- (a) impossible, illegal, impracticable or is otherwise unable to Deliver for any reason on the Final Delivery Date; or
- (b) unable or impracticable to Deliver on the Final Delivery Date because (i) the relevant Holder(s) has not taken any action that is deemed necessary by the Calculation Agent (acting in its sole discretion) to enable the Issuer to Deliver and/or for the Holder(s) to take delivery of all or a portion of the Deliverable Obligations; or (ii) the Holder(s) has failed to provide know-your-customer information, sign and deliver relevant transfer documentation and/or confidentiality agreement, pay a fee to the agent to effect the transfer and/or provide any other information or documentation or make any other payment (including any taxes) as is specified under the terms of the relevant Deliverable Obligations or as is customary to provide in respect of such Deliverable Obligations, each as may be required pursuant to the definition of “Deliver” herein.

**“Undetermined Reference Entity”** means in respect of Tranche Portfolio CLNs each Reference Entity in respect of which:

- (a) an Event Determination Date has occurred but in respect of which the Final Price Calculation Date has not occurred; or
- (b) the Calculation Agent has determined that a Potential Failure to Pay, Potential Repudiation/Moratorium or a potential Credit Event (including without limitation, a Credit Event Resolution Request Date in respect of which a DC Announcement (as defined in Credit Linked Note Condition 7) has not occurred) as determined by the Calculation Agent in its sole discretion, has occurred or may occur on or prior to the next Interest Payment Date,

(any such Event Determination Date or date of such determination by the Calculation Agent, the **“Undetermined Reference Entity Date”**).

**“Undetermined Reference Entity Notional Amount”** means on any day, the aggregate of the Reference Entity Notional Amounts for all Undetermined Reference Entities on such day.

**“Unsettled Event Determination Interest Period”** means an Interest Period during which one or more Undetermined Reference Entity Date(s) have occurred, where after such Interest Period, the Calculation Agent determines in respect of such Undetermined Reference Entity Date(s) that no Event Determination Date has occurred or, as the case may be, the Final Price Calculation Date has occurred.

**“Unwind Costs”** means the amount specified in the applicable Final Terms or if “Standard Unwind Costs” are specified in the applicable Final Terms, an amount determined by the Calculation Agent in its sole discretion equal to the sum of (without duplication) all costs, expenses (including, without limitation, loss of funding and break funding charges and fees), tax and duties incurred by the Issuer and/or any of its Affiliates and/or agents in connection with the redemption or cancellation, as applicable, of the Securities and the related termination, settlement or re-establishment of any hedge or related trading position (and any cost incurred by the Issuer and/or any of its Affiliates and/or agents in sourcing the Deliverable Obligations delivered if the Issuer is unable to do so by way of a transaction entered into pursuant to the relevant Auction and to the extent that the same exceeds the Auction Final Price (if any) determined in relation to the relevant Reference Entity) (or which would have been so incurred had the Issuer and/or its Affiliates entered into and/or elected to unwind one or more such transactions, positions or arrangements), such amount to be apportioned *pro rata* amongst each nominal amount of Credit Linked Notes equal to the Calculation Amount set out in the applicable Final Terms.

**“Valuation Date”** means (i) where Physical Settlement is specified as applying in the applicable Final Terms, the day falling five Business Days after the Final Delivery Date, or (ii) where Cash Settlement is specified as applying in the applicable Final Terms, if “Single Valuation Date” is specified in the applicable Final Terms, the date that is the number of Business Days specified in the Final Terms after the Event Determination Date or, if the number of Business Days is not so specified, any day falling on or before the 122<sup>nd</sup> Business Day after the Event Determination Date or (following any Auction Cancellation Date or No Auction Announcement Date) after such Auction Cancellation Date or No Auction Announcement Date (in each case, as selected by the Calculation Agent in its sole discretion), and if “Multiple Valuation Dates” is specified in the applicable Final Terms, each of the following dates:

- (a) the date that is the number of Business Days specified in the applicable Final Terms after the Event Determination Date, Auction Cancellation Date or No Auction Announcement Date (or, if the number of Business Days is not specified, five Business Days); and
- (b) each successive date that is the number of Business Days specified in the applicable Final Terms (or if the number of Business Days is not so specified, five Business Days) after the date on which the Calculation Agent obtains a Market Value with respect to the immediately preceding Valuation Date.

When “Multiple Valuation Dates” is specified in the applicable Final Terms, the total number of Valuation Dates shall be equal to the number of Valuation Dates specified in the applicable Final Terms (or, if the number of Valuation Dates is not so specified, five Valuation Dates).

If neither Single Valuation Date nor Multiple Valuation Dates is specified in the applicable Final Terms, Single Valuation Date shall apply.



**“Valuation Method”:**

- (a) The following Valuation Methods may be specified in the applicable Final Terms for a Series with only one Reference Obligation and only one Valuation Date:

“**Market**” means the Market Value determined by the Calculation Agent with respect to the Valuation Date; or

“**Highest**” means the highest Quotation obtained by the Calculation Agent with respect to the Valuation Date.

- (b) If no such Valuation Method is specified in the applicable Final Terms, the Valuation Method shall be Highest.

- (c) The following Valuation Methods may be specified in the applicable Final Terms for a Series with only one Reference Obligation and more than one Valuation Date:

“**Average Market**” means the unweighted arithmetic mean of the Market Values determined by the Calculation Agent with respect to each Valuation Date; or

“**Highest**” means the highest Quotation obtained by the Calculation Agent with respect to any Valuation Date; or

“**Average Highest**” means the unweighted arithmetic mean of the highest Quotations obtained by the Calculation Agent with respect to each Valuation Date.

- (d) If no such Valuation Method is specified in the applicable Final Terms, the Valuation Method shall be Average Highest.

- (e) The following Valuation Methods may be specified in the applicable Final Terms for a Series with more than one Reference Obligation and only one Valuation Date:

“**Blended Market**” means the unweighted arithmetic mean of the Market Value for each Reference Obligation determined by the Calculation Agent with respect to the Valuation Date; or

“**Blended Highest**” means the unweighted arithmetic mean of the highest Quotations obtained by the Calculation Agent for each Reference Obligation with respect to the Valuation Date.

- (f) If no such Valuation Method is specified in the applicable Final Terms, the Valuation Method shall be Blended Highest.

- (g) The following Valuation Methods may be specified in the applicable Final Terms for a Series with more than one Reference Obligation and more than one Valuation Date:

“**Average Blended Market**” means, using values with respect to each Valuation Date determined by the Calculation Agent in accordance with the Blended Market Valuation Method, the unweighted arithmetic mean of the values so determined with respect to each Valuation Date; or

“**Average Blended Highest**” means, using values with respect to each Valuation Date determined by the Calculation Agent in accordance with the Blended Highest Valuation Method, the unweighted arithmetic mean of the values so determined with respect to each Valuation Date.

- (h) If no such Valuation Method is specified in the applicable Final Terms, the Valuation Method shall be Average Blended Highest.

- (i) Notwithstanding paragraphs (i) to (viii) above, if Quotations include Weighted Average Quotations or fewer than two Full Quotations, the Valuation Method shall be Market, Average Market, Blended Market or Average Blended Market, as the case may be.

“**Valuation Time**” means the time specified as such in the applicable Final Terms or, if no time is so specified, 11.00 a.m. in the principal trading market for the Reference Obligation.

“**Voting Shares**” shall mean those shares or other interests that have the power to elect the board of directors or similar governing body of an entity.

**“Weighted Average Quotation”** means, in accordance with the Quotation Method, the weighted average of firm quotations obtained from Quotation Dealers at the Valuation Time, to the extent reasonably practicable, each for an amount of the Reference Obligation with an Outstanding Principal Balance of as large a size as available but less than the Quotation Amount (but, if a Minimum Quotation Amount is specified in the applicable Final Terms, of a size equal to the Minimum Quotation Amount or, if quotations of a size equal to the Minimum Quotation Amount are not available, quotations as near in size as practicable to the Minimum Quotation Amount) that in aggregate are approximately equal to the Quotation Amount.

**“Writedown Amount”** means, with respect to a Reference Entity, the aggregate of the Incurred Loss Amounts (if any) for the related Final Price Calculation Date and any related Unwind Costs.

### 3. **Final Redemption of Credit Linked Notes**

Unless previously redeemed or purchased and cancelled, and subject to Credit Linked Conditions 4 to 6 below, each Credit Linked Note will be redeemed by the Issuer at its Final Redemption Amount specified in, or determined in the manner specified in, the applicable Final Terms in the relevant Specified Currency on the CLN Maturity Date (or if no such provision is made in the applicable Final Terms at the outstanding principal amount thereof).

### 4. **Conditions to Settlement – Cash Settlement**

Unless the Securities have been previously redeemed or purchased and cancelled, if the Conditions to Settlement are satisfied (in the case of Nth-to-Default CLNs, in relation to the Nth Reference Entity in respect of which the Conditions to Settlement have been satisfied) and the applicable Settlement Method is “Cash Settlement” (or a Fallback Settlement Event has occurred and the Fallback Settlement Method is “Cash Settlement”), the Calculation Agent shall give notice (such notice a **“Settlement Notice”**) to the Issuer and the Issuer shall redeem or cancel, as applicable, all of the Securities and pay in respect of each Security the Credit Event Redemption Amount on the Credit Event Redemption Date.

*If the Conditions to Settlement are satisfied and the Notes are redeemed in accordance with this Credit Linked Note Condition 4, upon payment of the Credit Event Redemption Amount the Issuer shall have discharged its obligations in respect of the Securities and shall have no other liability or obligation whatsoever in respect thereof. The Credit Event Redemption Amount may be less than the Issue Price or nominal amount of a Security. Any shortfall shall be borne by the Holder and no liability shall attach to the Issuer and/or the Guarantor.*

### 5. **Conditions to Settlement – Physical Settlement**

Unless the Securities have been previously redeemed or purchased and cancelled, if the Conditions to Settlement are satisfied (in the case of Nth-to-Default CLNs, in relation to the Nth Reference Entity in respect of which the Conditions to Settlement have been satisfied) and the applicable Settlement Method is **“Physical Settlement”** (or a Fallback Settlement Event has occurred and the Fallback Settlement Method is **“Physical Settlement”**), the Calculation Agent shall give notice (such notice a **“Notice of Physical Settlement”**) to the Issuer by the latest of (a) the thirtieth Business Day after the Event Determination Date; (b) the tenth Business Day following the date of the relevant DC Credit Event Announcement; (c) the tenth Business Day after the date ISDA publicly announces that the relevant Credit Derivatives Determinations Committee has Resolved not to determine the matters that were the subject of the relevant DC Question; (d) the thirtieth Business Day after the Auction Cancellation Date or No Auction Announcement Date, as applicable, and (e) the thirtieth Business Day following the Auction Settlement Date (if any) and the Issuer shall redeem or cancel, as applicable, all of the Securities, by Delivering (or procuring the Delivery) in respect of each Security the Deliverable Obligations comprising the Entitlement, subject to and in accordance with the Note Conditions and the Credit Linked Note Conditions (and in particular, Credit Linked Note Condition 9).

In the Notice of Physical Settlement, the Calculation Agent shall (a) specify the Deliverable Obligations comprising the Entitlement that the Issuer shall endeavour to Deliver and (b) where the Credit Event is a Restructuring and either “Restructuring Maturity Limitation and Fully Transferable Obligation Applicable” or “Modified Restructuring Limitation and Conditionally Transferable Obligation Applicable” is specified (or deemed to be specified) in the applicable Final Terms and the Scheduled Maturity Notice Date is later than (i) the final maturity date of the Latest

Maturity Restructured Bond or Loan, if any, or (ii) the 2.5-year Limitation Date, details of at least one Enabling Obligation. For the avoidance of doubt, the Calculation Agent shall be entitled to select any of the Deliverable Obligations to constitute the Entitlement, irrespective of their market value. The Calculation Agent may at any time prior to any Delivery Date by delivery of a notice to the Issuer (the “**NOPS Amendment Notice**”) amend the Notice of Physical Settlement and the Issuer shall endeavour to, pursuant to such NOPS Amendment Notice, Deliver to the Holders Replacement Deliverable Obligations that are different than the Deliverable Obligations originally specified.

If “Restructuring Maturity Limitation and Fully Transferable Obligation” is specified as applicable in the applicable Final Terms and Restructuring is the only Credit Event specified in a Credit Event Notice, then a Deliverable Obligation may be included in the Entitlement only if it (i) is a Fully Transferable Obligation and (ii) has a final maturity date not later than the Restructuring Maturity Limitation Date.

If “Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable” is specified as applying in the applicable Final Terms and Restructuring is the only Credit Event specified in a Credit Event Notice, then a Deliverable Obligation may be included in the Entitlement only if it (i) is a Conditionally Transferable Obligation and (ii) has a final maturity date not later than the applicable Modified Restructuring Maturity Limitation Date.

Where the relevant Credit Event is a Restructuring and either “Restructuring Maturity Limitation and Fully Transferable Obligation” or “Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable” is specified (or deemed specified) in the applicable Final Terms and the Scheduled Maturity Notice Date is later than (A) the final maturity date of the Latest Maturity Restructured Bond or Loan, if any, or (B) the 2.5-year Limitation Date, the Notice of Physical Settlement shall also contain details of at least one Enabling Obligation.

Unless otherwise specified in the applicable Final Terms, the Guaranteed Cash Settlement Amount in respect of each Credit Linked Note shall be an amount calculated in accordance with the definition of “Partial Cash Settlement Amount”, provided that the Guarantor shall designate in its sole and absolute discretion which portion of the Entitlement shall be an Undeliverable Obligation, and provided that the Valuation Date, shall be the date notified as such by the Guarantor to the Issuer and the Calculation Agent.

*If the Conditions to Settlement are satisfied and the Securities are redeemed or are cancelled in accordance with this Credit Linked Note Condition 5, upon Delivery of the Deliverable Obligations comprising the Entitlement and/or payment of the Partial Cash Settlement Amount, as the case may be, the Issuer shall have discharged its obligations in respect of the Securities and shall have no other liability or obligation whatsoever in respect thereof. The value of such Deliverable Obligations and/or the Partial Cash Settlement Amount in respect of the Securities to be redeemed may be less than the Issue Price, nominal amount or notional amount, as applicable, of a Security. Any shortfall shall be borne by the Holder and no liability shall attach to the Issuer and/or the Guarantor.*

## 6. Conditions to Settlement – Auction Settlement

Unless the Securities have been previously redeemed or purchased and cancelled, if the Conditions to Settlement are satisfied (in the case of Nth-to-Default CLNs, in relation to the Nth Reference Entity in respect of which the Conditions to Settlement have been satisfied) and the applicable Settlement Method is “Auction Settlement”, the Calculation Agent shall give notice (such notice a “**Settlement Notice**”) to the Issuer and the Issuer shall redeem or cancel as applicable, all of the Securities and pay in respect of each Security the Auction Settlement Amount on the Auction Settlement Date unless a Fallback Settlement Event occurs (for the avoidance of doubt, in relation to the same Credit Event), in which case the Issuer shall redeem or cancel, as the case may be, the Securities in accordance with the applicable Fallback Settlement Method.

*If the Conditions to Settlement are satisfied and the Notes are redeemed or are cancelled in accordance with this Credit Linked Note Condition 6, upon payment of the Auction Settlement Amount the Issuer shall have discharged its obligations in respect of the Securities and shall have no other liability or obligation whatsoever in respect thereof. The Auction Settlement Amount may be less than the Issue Price or nominal amount of a Security. Any shortfall shall be borne by the Holder and no liability shall attach to the Issuer and/ or the Guarantor.*

## 7. **Suspension of Obligations**

If a Credit Event Resolution Request Date occurs in relation to any Reference Entity, then, unless the Issuer otherwise elects by notice to the Holders, any obligation of the Issuer to redeem or cancel (as the case may be) or otherwise settle any Credit Linked Note or pay any amount of interest or Additional Amount (as the case may be) which would otherwise be due thereon shall, to the extent that it relates to such Reference Entity, be and remain suspended until (a) the occurrence of a DC Credit Event Announcement; (b) the occurrence of a DC No Credit Event Announcement; or (c) the relevant Credit Derivatives Determinations Committee has Resolved with respect to such Reference Entity to dismiss the relevant DC Question (each of the events set out in (a), (b) or (c), a **“DC Announcement”**).

Following a DC Announcement, any obligations so suspended shall resume on the second Business Day immediately following the date of such DC Announcement (regardless of when the suspension began). Any amount of interest or any Additional Amount so suspended shall, subject to Note Condition 5(E) become due and payable on the date determined by the Calculation Agent in its sole discretion provided that such date shall not be later than 20 Business Days after the date of such DC Announcement.

No interest shall accrue on any amount of interest, any Final Redemption Amount or any other payment obligation of the Issuer so suspended.

Where the applicable Final Terms specifies that “Calculation Agent Determination” is applicable, this Credit Linked Note Condition 7 shall not apply to the relevant Securities unless the Calculation Agent notifies the Issuer that this Credit Linked Note Condition 7 shall apply.

## 8. **Interest and Additional Amounts**

Following the delivery of an Extension Notice, in the case of interest bearing Credit Linked Notes and provided that the Conditions to Settlement have not been satisfied, the Issuer shall be obliged to pay interest calculated as provided in Note Condition 5 accruing from (and including) the Interest Payment Date immediately preceding the Scheduled Maturity Date (or, if none the Interest Commencement Date) to (but excluding) the Scheduled Maturity Date but shall only be obliged to make such payment of interest on the CLN Maturity Date and no further or other amount in respect of interest shall be payable and no additional amount shall be payable in respect of such delay.

Without prejudice to Credit Linked Note Condition 7, if “Accrual of Interest upon Credit Event” or, as the case may be, “Accrual of Additional Amounts upon Credit Event” is specified as Not Applicable in the applicable Final Terms and the Calculation Agent determines that a Credit Event, a Potential Failure to Pay or a Potential Repudiation/Moratorium has occurred or may occur on or prior to an Interest Payment Date, the Calculation Agent may notify the Issuer and where the Calculation Agent delivers any such notice (a **“Postponement Notice”**) to the Issuer on or prior to such Interest Payment Date (in either case, the **“Postponed Payment Date”**), any obligation of the Issuer to pay any interest amount shall be suspended for a period of 15 Business Days following such Postponed Payment Date (or, in respect of any Postponed Payment Date scheduled to fall on the Scheduled Maturity Date, up to the CLN Maturity Date (or such shorter period as the Calculation Agent may notify the Issuer) to enable the Calculation Agent to determine whether a Credit Event has occurred.

Where the Calculation Agent delivers a Postponement Notice to the Issuer, the Issuer shall give notice thereof as soon as practicable to the Holders in accordance with Note Condition 14, provided that any failure to give, or non-receipt of, such notice will not affect the validity of any postponement of an Interest Payment Date.

If the Conditions to Settlement are not satisfied on or prior to such 15<sup>th</sup> Business Day or CLN Maturity Date, the interest amount shall be payable on such 15<sup>th</sup> Business Day or CLN Maturity Date (for the avoidance of doubt, no interest shall accrue on any amount of interest so suspended). If the Conditions to Settlement are satisfied on or prior to such 15<sup>th</sup> Business Day or CLN Maturity Date, then notwithstanding Note Condition 5(E)(a), each Note shall cease to bear interest from the Interest Payment Date immediately preceding the Postponed Payment Date or, if the Postponed Payment Date falls on the first Interest Payment Date, no interest shall accrue on the Notes (and Note Condition 5(E) shall be deemed to be amended accordingly).



## 9. **Partial Cash Settlement**

If all or a portion of the Undeliverable Obligations or Hedge Disruption Obligations comprising the Entitlement are not Delivered for whatever reason by the Final Delivery Date, the Calculation Agent shall give notice (a **“Partial Cash Settlement Notice”**) to the Issuer, as applicable, and the Issuer shall pay in respect of each Undeliverable Obligation or Hedge Disruption Obligation, as the case may be, the Partial Cash Settlement Amount on the Partial Cash Settlement Date. For the avoidance of doubt, the failure by the Issuer to Deliver all or such portion of the Undeliverable Obligations comprising the Entitlement on or prior to the Final Delivery Date shall not constitute an Event of Default.

Unless otherwise specified in the applicable Final Terms, for the purposes of this Credit Linked Condition Note 9 the following terms are deemed to have the following meanings:

**“Indicative Quotation”** means, in accordance with the Quotation Method, each quotation obtained from a Quotation Dealer at the Valuation Time for (to the extent reasonably practicable) an amount of the Undeliverable Obligation or Hedge Disruption Obligation, as the case may be, equal to the Quotation Amount, which reflects such Quotation Dealer’s reasonable assessment of the price of such Undeliverable Obligation or Hedge Disruption Obligation, as the case may be, based on such factors as such Quotation Dealer may consider relevant, which may include historical prices and recovery rates.

**“Market Value”** means, with respect to an Undeliverable Obligation or Hedge Disruption Obligation, as the case may be, on a Valuation Date, (a) if more than three Full Quotations are obtained, the arithmetic mean of such Full Quotations, disregarding the Full Quotations having the same highest and lowest values (and, if more than one such Full Quotations have the same highest or lowest value, then one of such highest or lowest Full Quotations shall be disregarded); (b) if exactly three Full Quotations are obtained, the Full Quotations remaining after disregarding the highest and lowest Full Quotations (and, if more than one such Full Quotations have the same highest value or lowest value, then one of such highest or lowest Full Quotations shall be disregarded); (c) if exactly two Full Quotations are obtained, the arithmetic mean of such Full Quotations; (d) if fewer than two Full Quotations are obtained and a Weighted Average Quotation is obtained, such Weighted Average Quotation; (e) if Indicative Quotations are specified as applying in the applicable Final Terms and exactly three Indicative Quotations are obtained, the Indicative Quotation remaining after disregarding the highest and lowest Indicative Quotations (and, if more than one such Indicative Quotations have the same highest or lowest value, then one of such highest or lowest Indicative Quotations shall be disregarded); (f) if fewer than two Full Quotations are obtained and no Weighted Average Quotation is obtained (and, if Indicative Quotations are applicable, fewer than three Indicative Quotations are obtained) then, subject to paragraph (ii) of the definition of “Quotation” below, an amount as determined by the Calculation Agent on the next Business Day on which two or more Full Quotations or a Weighted Average Quotation or, if applicable, three Indicative Quotations are obtained; and (vii) if fewer than two Full Quotations are obtained and no Weighted Average Quotation is obtained (and, if Indicative Quotations are applicable, fewer than three Indicative Quotations are obtained) on the same Business Day on or prior to the tenth Business Day following the Valuation Date, the Market Value shall be any Full Quotation obtained from a Quotation Dealer at the Valuation Time on such tenth Business Day or, if no Full Quotation is obtained, the weighted average of any firm quotations (or, if applicable, Indicative Quotations) for the Undeliverable Obligation or Hedge Disruption Obligation, as the case may be, obtained from Quotation Dealers at the Valuation Time on such tenth Business Day with respect to the aggregate portion of the Quotation Amount for which such quotations were obtained and a quotation deemed to be zero for the balance of the Quotation Amount for which firm quotations (or, if applicable, Indicative Quotations) were not obtained on such day.

**“Partial Cash Settlement Amount”** is deemed to be, for each Undeliverable Obligation or Hedge Disruption Obligation, as the case may be, an amount calculated by the Calculation Agent equal to the greater of (a) (i) the Outstanding Principal Balance, the Due and Payable Amount or the Currency Amount, as applicable, of each Undeliverable Obligation or Hedge Disruption Obligation, as the case may be, multiplied by (ii) either (A) if one or more Auctions are held by the Credit Derivatives Determinations Committee in respect of the Reference Entity, the Auction Final Price or (B) if the Calculation Agent decides (in its sole and absolute discretion), the Final Price with respect to such Undeliverable Obligation or Hedge Disruption Obligation, as the case



may be, less (iii) Unwind Costs, if any (but excluding any Unwind Costs already taken into account in calculating the relevant Entitlement), and (b) zero.

**“Partial Cash Settlement Date”** is deemed to be the date falling three Business Days after the calculation of the Final Price or, as applicable, the date falling fifteen Business Days after the later of (a) the Final Delivery Date and (b) the Auction Final Price Determination Date.

**“Quotation”** means each Full Quotation, the Weighted Average Quotation and, if Indicative Quotations are specified as applying in the applicable Final Terms, each Indicative Quotation obtained and expressed as a percentage with respect to a Valuation Date in the manner that follows:

- (a) The Calculation Agent shall attempt to obtain Full Quotations with respect to each Valuation Date from five or more Quotation Dealers. If the Calculation Agent is unable to obtain two or more such Full Quotations on the same Business Day within three Business Days of a Valuation Date, then on the next following Business Day (and, if necessary, on each Business Day thereafter until the tenth Business Day following the relevant Valuation Date) the Calculation Agent shall attempt to obtain Full Quotations from five or more Quotation Dealers, and, if two or more Full Quotations are not available, a Weighted Average Quotation. If two or more such Full Quotations or a Weighted Average Quotation are not available on any such Business Day and Indicative Quotations are specified as applying in the applicable Final Terms, the Calculation Agent shall attempt to obtain three Indicative Quotations from five or more Quotation Dealers.
- (b) If the Calculation Agent is unable to obtain two or more Full Quotations or a Weighted Average Quotation (or, if Indicative Quotations are specified as applying in the applicable Final Terms, three Indicative Quotations) on the same Business Day on or prior to the tenth Business Day following the Valuation Date, the Quotations shall be deemed to be any Full Quotation obtained from a Quotation Dealer at the Valuation Time on such tenth Business Day or, if no Full Quotation is obtained, the weighted average of any firm quotations (or, if applicable, Indicative Quotations) for the Undeliverable Obligation or Hedge Disruption Obligation, as the case may be, obtained from Quotation Dealers at the Valuation Time on such tenth Business Day with respect to the aggregate portion of the Quotation Amount for which such quotations were obtained and a quotation deemed to be zero for the balance of the Quotation Amount for which firm quotations (or, if applicable, Indicative Quotations) were not obtained on such day.
- (c) The Calculation Agent shall determine, based on the then current market practice in the market of the relevant Undeliverable Obligation or Hedge Disruption Obligations, as the case may be, whether such Quotations shall include or exclude accrued but unpaid interest. All Quotations shall be obtained in accordance with this specification or determination.
- (d) If any Quotation obtained with respect to an Accreting Obligation is expressed as a percentage of the amount payable in respect of such obligation at maturity, such Quotation will instead be expressed as a percentage of the Outstanding Principal Balance for the purposes of determining the Final Price.

**“Quotation Amount”** is deemed to be, with respect to each type or issue of Undeliverable Obligation or Hedge Disruption Obligations, as the case may be, an amount equal to the Outstanding Principal Balance or Due and Payable Amount (or, in either case, its equivalent in the relevant Obligation Currency converted by the Calculation Agent in a commercially reasonable manner by reference to exchange rates in effect at the time that the relevant Quotation is being obtained), as applicable, of such Undeliverable Obligation or Hedge Disruption Obligations, as the case may be. The Calculation Agent may in its sole discretion round up or down the Quotation Amount for the purposes of seeking a Quotation.

**“Quotation Method”** is deemed to be Bid.

**“Reference Obligation”** is deemed to be each Undeliverable Obligation or Hedge Disruption Obligation, as the case may be.

**“Valuation Method”** is deemed to be Highest unless fewer than two Full Quotations are obtained or a Weighted Average Quotation applies (or, if applicable, Indicative Quotations), in which case “Valuation Method” is deemed to be Market Value.

“**Valuation Time**” is the time specified as such in the applicable Final Terms, or, if no time is so specified, 11:00 a.m. in the principal trading market for the Undeliverable Obligation or Hedge Disruption Obligation, as the case may be.

“**Weighted Average Quotation**” means, in accordance with the Quotation Method, the weighted average of firm quotations obtained from Quotation Dealers at the Valuation Time, to the extent reasonably practicable, each for an amount of the Undeliverable Obligation or Hedge Disruption Obligations, as the case may be, with an Outstanding Principal Balance of as large a size as available but less than the Quotation Amount that in aggregate are approximately equal to the Quotation Amount.

#### 10. **Redemption following a Merger Event**

If this Credit Linked Note Condition 10 is specified as applicable in the applicable Final Terms, in the event that in the determination of the Calculation Agent a Merger Event has occurred, the Issuer may give notice to the Holders in accordance with Note Condition 14, and redeem or cancel, as applicable, all but not less than all of the Securities on a date selected by the Issuer and not later than 30 calendar days following the effective date of such notice at the Early Redemption Amount.

#### 11. **Credit Event Notice after Restructuring Credit Event**

If this Credit Linked Note Condition 11 is specified as applicable in the applicable Final Terms, then, notwithstanding anything to the contrary in the Terms and Conditions, upon satisfaction of the Conditions to Settlement during the Notice Delivery Period in respect of a Restructuring Credit Event in respect of which “Restructuring Maturity Limitation and Fully Transferable Obligation Applicable” or “Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation” is specified as applicable (or deemed to be applicable) in the applicable Final Terms:

- (a) the Calculation Agent may deliver a Credit Event Notice in respect of an amount (the “**Partial Redemption Amount**”) that is less than the principal amount outstanding of each Note immediately prior to the delivery of such Credit Event Notice. In such circumstances the Credit Linked Note Conditions and related provisions shall be deemed to apply to the Partial Redemption Amount only and each such Note shall be redeemed in part (such redeemed part being equal to the Partial Redemption Amount).
- (b) For the avoidance of doubt (A) the principal amount of each such Note not so redeemed in part shall remain outstanding and interest shall accrue on the principal amount outstanding of such Note as provided in Note Condition 5 (adjusted in such manner as the Calculation Agent in its sole and absolute discretion determines to be appropriate), (B) the Credit Linked Note Conditions and related provisions shall apply to such principal amount outstanding of such Note in the event that subsequent Credit Event Notices are delivered in respect of the Reference Entity that was the subject of the Restructuring Credit Event and (C) once a Credit Event Notice with respect to a Restructuring Credit Event has been delivered in respect of a Reference Entity, no further Credit Event Notices may be delivered in respect of any Reference Entity other than the Reference Entity that was the subject of the Restructuring Credit Event.
- (c) If the provisions of this Credit Linked Note Condition 11(a) apply in respect of the Credit Linked Notes, on redemption of part of each such Credit Linked Note the relevant Credit Linked Note or, if the Credit Linked Notes are represented by a Global Note, such Global Note, shall be endorsed to reflect such part redemption.

#### 12. **Multiple Holder Obligation**

If this Credit Linked Note Condition 12 is specified as applicable (or deemed to be applicable) in the applicable Final Terms, notwithstanding anything to the contrary in the definition of Restructuring and related provisions, the occurrence of, agreement to, or announcement of, any of the events described in sub-paragraphs (i) to (v) of the definition of “Restructuring” in Credit Linked Note Condition 2 shall not be a Restructuring unless the Obligation in respect of any such events is a Multiple Holder Obligation provided that any Obligation that is a Bond shall be deemed to satisfy the requirement in part (ii) of the definition of “**Multiple Holder Obligation**” below.

“**Multiple Holder Obligation**” means an Obligation that (a) at the time of the event which constitutes a Restructuring Credit Event, is held by more than three holders that are not Affiliates

of each other and (b) with respect to which a percentage of holders (determined pursuant to the terms of the Obligation as in effect on the date of such event) at least equal to sixty-six and two-thirds is required to consent to the event which constitutes a Restructuring Credit Event.

### 13. Successors

- (a) Where a Succession Event has occurred and more than one Successor has been identified, the Credit Linked Notes will be equally divided into such number of notional Credit Linked Notes as there are Successors and each Successor will be the Reference Entity for the purposes of such Credit Linked Note. These Credit Linked Note Conditions shall be deemed to apply to such Credit Linked Notes and shall be construed accordingly.
- (b) Where a Credit Event occurs in respect of a Reference Entity after such a Succession Event, the provisions of these Credit Linked Note Conditions shall be deemed to apply to the nominal amount represented by that Reference Entity only (the “**Partial Principal Amount**”) and all the provisions shall be construed accordingly. Each Security shall thereafter be redeemed in part (such redeemed part being equal to its *pro rata* share of the Partial Principal Amount).
- (c) The Securities shall remain outstanding in an amount equal to the outstanding principal amount of the Credit Linked Notes minus the Partial Principal Amount (such amount, the “**Remaining Amount**”) and interest shall accrue on the Remaining Amount as provided for in Note Condition 5 (adjusted in such manner as the Calculation Agent in its sole and absolute discretion determines to be appropriate).
- (d) Any determinations (including (without limitation) as to the division of the Credit Linked Notes) and any adjustment to the applicable Final Terms relating to, connected with or as a result of a Succession Event shall be made by the Calculation Agent in its sole discretion (provided that if such determinations have been made by the relevant Credit Derivatives Determinations Committee, then the Calculation Agent shall, unless (x) otherwise provided for in the applicable Final Terms or (y) “Calculation Agent Determination” is specified as applicable in the applicable Final Terms, be bound by such determinations) and, in the absence of manifest error, shall be conclusive and binding on all Holders. The applicable Final Terms may be amended and restated from time to time to reflect the effect of a Succession Event without the consent of the Holders and the Holders are deemed to agree to this provision by the purchase of the Securities.
- (e) In respect of Linear Basket CLNs and Tranche Portfolio CLNs, where a Succession Event has occurred in respect of a Reference Entity and more than one Successor has been identified, the Reference Entity Notional Amount of the relevant Reference Entity will be equally divided by reference to the number of Successors and each Successor will be a Reference Entity for the purposes of the Notes.

### 14. Provisions taken from the ISDA supplement titled “Additional Provisions for Physically Settled Default Swaps – Monoline Insurer as Reference Entity (January 2005)”

If Credit Linked Note Condition 14 is specified as applicable in the applicable Final Terms, the following provisions will apply:

- (a) **Obligation and Deliverable Obligation.** Paragraph (a) of the definition of “Obligation” in Credit Linked Note Condition 2 and paragraph (a) of the definition of “Deliverable Obligation” in Credit Linked Note Condition 2 are hereby amended by adding “or Qualifying Policy” after “or as a provider of a Qualifying Affiliate Guarantee”.
- (b) **Interpretation of Provisions.** In the event that an Obligation or a Deliverable Obligation is a Qualifying Policy, paragraph (B) of the definition of “Deliverable Obligation” in Credit Linked Note Condition 2 will apply, with references to the “Qualifying Guarantee”, the “Underlying Obligation” and the “Underlying Obligor” deemed to include the “Qualifying Policy”, the “Insured Instrument” and the “Insured Obligor”, respectively, except that:
  - (i) the Obligation Category Borrowed Money and the Obligation Category and Deliverable Obligation Category Bond shall be deemed to include distributions payable under an Insured Instrument in the form of a pass-through certificate or similar funded beneficial interest, the Deliverable Obligation Category Bond shall be deemed to include such an Insured Instrument, and the terms “obligation” and “obligor” as used in the Credit

Linked Note Conditions in respect of such an Insured Instrument shall be construed accordingly;

- (ii) references in the definitions of “Assignable Loan” and “Consent Required Loan” to “the “guarantor” and “guaranteeing” shall be deemed to include “the “insurer” and “insuring”, respectively;
  - (iii) neither the Qualifying Policy nor the Insured Instrument must satisfy on the relevant date the Deliverable Obligation Characteristic of Accelerated or Matured, whether or not that characteristic is otherwise specified as applicable in the applicable Final Terms;
  - (iv) if the Assignable Loan, Consent Required Loan, Direct Loan Participation or Transferable Deliverable Obligation Characteristics are specified in the applicable Final Terms and if the benefit of the Qualifying Policy is not transferred as part of any transfer of the Insured Instrument, the Qualifying Policy must be transferable at least to the same extent as the Insured Instrument; and
  - (v) with respect to an Insured Instrument in the form of a pass-through certificate or similar funded beneficial interest, the term “Outstanding Principal Balance” shall mean the outstanding Certificate Balance and “maturity”, as such term is used in the Maximum Maturity Deliverable Obligation Characteristic, shall mean the specified date by which the Qualifying Policy guarantees or insures, as applicable, that the ultimate distribution of the Certificate Balance will occur.
- (c) **Not Contingent.** An Insured Instrument will not be regarded as failing to satisfy the Not Contingent Deliverable Obligation Characteristic solely because such Insured Instrument is subject to provisions limiting recourse in respect of such Insured Instrument to the proceeds of specified assets (including proceeds subject to a priority of payments) or reducing the amount of any Instrument Payments owing under such Insured Instrument, provided that such provisions are not applicable to the Qualifying Policy by the terms thereof and the Qualifying Policy continues to guarantee or insure, as applicable, the Instrument Payments that would have been required to be made absent any such limitation or reduction. By specifying that this Credit Linked Note Condition 14 is applicable, no inference should be made as to the interpretation of the “Not Contingent” Deliverable Obligation Characteristic in the context of limited recourse or similar terms applicable to Deliverable Obligations other than Qualifying Policies.
- (d) **Deliver.** For the purposes of the definition of “Deliver” in Credit Linked Note Condition 2, “Deliver” with respect to an obligation that is a Qualifying Policy means to Deliver both the Insured Instrument and the benefit of the Qualifying Policy (or a custodial receipt issued by an internationally recognised custodian representing an interest in such an Insured Instrument and the related Qualifying Policy), and “Delivery” and “Delivered” will be construed accordingly.
- (e) **Provisions for Determining a Successor.** The paragraph commencing “For the purposes of this definition of “Successor” . . . “ in the definition of “Successor” in Credit Linked Note Condition 2 is hereby amended by adding “or insurer” after “or guarantor”.
- (f) **Substitute Reference Obligation.** The first paragraph of the definition of “Substitute Reference Obligation” and paragraph (b) thereof in Credit Linked Note Condition 2 is hereby amended by adding “or Qualifying Policy” after “or as provider of a Qualifying Affiliate Guarantee”. For the purposes of sub-paragraph (a)(ii)(B) of the definition of “Substitute Reference Obligation”, references to “the Qualifying Guarantee” and the “Underlying Obligation” shall be deemed to include “the Qualifying Policy” and “the Insured Instrument” respectively.
- (g) **Restructuring**
- (i) With respect to an Insured Instrument that is in the form of a pass-through certificate or similar funded beneficial interest or a Qualifying Policy with respect thereto, paragraphs (i) to (v) inclusive of the definition of “Restructuring” in Credit Linked Note Condition 2 are hereby amended to read as follows:
    - “(i) a reduction in the rate or amount or the Instrument Payments in clause (A)(x) of the definition thereof that are guaranteed or insured by the Qualifying Policy;

- (ii) a reduction in the amount of the Instrument Payments described in clause (A)(y) of the definition thereof that are guaranteed or insured by the Qualifying Policy;
  - (iii) a postponement or other deferral of a date or dates for either (x) the payment or accrual of the Instrument Payments described in clause (A)(x) of the definition thereof or (y) the payment of the Instrument Payments described in clause (A)(y) of the definition thereof, in each case that are guaranteed or insured by the Qualifying Policy;
  - (iv) a change in the ranking in priority of payment of (x) any Obligation under a Qualifying Policy in respect of Instrument Payments, causing the Subordination of such Obligation to any other Obligation or (y) any Instrument Payments, causing the Subordination of such Insured Instrument to any other instrument in the form of a pass-through certificate or similar funded beneficial interest issued by the Insured Obligor, it being understood that, for this purpose, Subordination will be deemed to include any such change that results in a lower ranking under a priority of payments provision applicable to the relevant Instrument Payments; or
  - (v) any change in the currency or composition of any payment of Instrument Payments that are guaranteed or insured by the Qualifying Policy to any currency which is not a Permitted Currency.”
- (ii) Paragraph (c) of the definition of “Restructuring” in Credit Linked Note Condition 2 is hereby amended by adding “or, in the case of a Qualifying Policy and an Insured Instrument, where (A) the Qualifying Policy continues to guarantee or insure, as applicable, that the same Instrument Payments will be made on the same dates on which the Qualifying Policy guaranteed or insured that such Instrument Payments would be made prior to such event and (B) such event is not a change in the ranking in the priority of payment of the Qualifying Policy” after “Reference Entity”.
- (iii) The definition of “Restructuring” in Credit Linked Note Condition 2 is hereby amended by the insertion of the following paragraph after the final paragraph thereof:
- ”For purposes of the definition of “Restructuring” in Credit Linked Note Condition 2 and if Credit Linked Note Condition 14 is specified as applying in the applicable Final Terms, for the purposes of the Credit Linked Note Conditions the term Obligation shall be deemed to include Insured Instruments for which the Reference Entity is acting as provider of a Qualifying Policy. In the case of a Qualifying Policy and an Insured Instrument, references to the Reference Entity in the definition of “Restructuring” shall be deemed to refer to the Insured Obligor and the reference to the Reference Entity in paragraphs (a) to (c) inclusive in the definition of “Restructuring” shall continue to refer to the Reference Entity.”
- (h) **Fully Transferable Obligation and Conditionally Transferable Obligation.** In the event that “Restructuring Maturity Limitation and Fully Transferable Obligation” and/or “Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation” is specified as applying in the applicable Final Terms and a Fully Transferable Obligation or Conditionally Transferable Obligation is a Qualifying Policy, the Insured Instrument must meet the requirements of the relevant definition. References in the definition of “Conditionally Transferable Obligation” to the “guarantor” and “guaranteeing” shall be deemed to include “the “insurer” and “insuring” respectively. With respect to an Insured Instrument in the form of a pass-through certificate or similar funded beneficial interest, the term “final maturity date”, as such term is used in Credit Linked Note Condition 5 and the definition of “Restructuring Maturity Limitation Date”, shall mean the specified date by which the Qualifying Policy guarantees or insures, as applicable, that the ultimate distribution of the Certificate Balance will occur.
- (i) **Other Provisions.** For purposes of paragraph (a)(ii) of the definition of “Deliverable Obligation” and the definitions of “Credit Event” and “Deliver” in Credit Linked Note Condition 2, references to the “Underlying Obligation” and the “Underlying Obligor” shall be deemed to include “Insured Instruments” and the “Insured Obligor” respectively.



(j) **Additional Definitions.**

“**Qualifying Policy**” means a financial guaranty insurance policy or similar financial guarantee pursuant to which a Reference Entity irrevocably guarantees or insures all Instrument Payments of an instrument that constitutes Borrowed Money (modified as set forth in this Credit Linked Note Condition 14) (the “**Insured Instrument**”) for which another party (including a special purpose entity or trust) is the obligor (the “**Insured Obligor**”). Qualifying Policies shall exclude any arrangement (i) structured as a surety bond, letter of credit or equivalent legal arrangement or (ii) pursuant to the express contractual terms of which the payment obligations of the Reference Entity can be discharged or reduced as a result of the occurrence or non-occurrence of an event or circumstance (other than the payment of Instrument Payments);

“**Instrument Payments**” means (i) in the case of any Insured Instrument that is in the form of a pass-through certificate or similar funded beneficial interest, (x) the specified periodic distributions in respect of interest or other return on the Certificate Balance on or prior to the ultimate distribution of the Certificate Balance and (y) the ultimate distribution of the Certificate Balance on or prior to a specified date and (ii) in the case of any other Insured Instrument, the scheduled payments of principal and interest, in the case of both (i) and (ii) (A) determined without regard to limited recourse or reduction provisions of the type described in Credit Linked Note Condition 14(c) above and (B) excluding sums in respect of default interest, indemnities, tax gross-ups, make-whole amounts, early redemption premiums and other similar amounts (whether or not guaranteed or insured by the Qualifying Policy).

“**Certificate Balance**” means, in the case of an Insured Instrument that is in the form of a pass-through certificate or similar funded beneficial interest, the unit principal balance, certificate balance or similar measure of unreimbursed principal investment.

15. **Provisions taken from the ISDA supplement titled Additional Provisions for LPN Reference Entities (published on 3<sup>rd</sup> October, 2006)**

If Credit Linked Note Condition 15 is specified as applicable in the applicable Final Terms, notwithstanding anything to the contrary in the Credit Linked Note Conditions, the following provisions will apply:

- (a) Provisions relating to Multiple Holder Obligation will be deemed to be Not Applicable with respect to any Reference Obligation (and any Underlying Loan);
- (b) each Reference Obligation will be an Obligation, notwithstanding anything to the contrary in the Credit Linked Note Conditions including, but not limited to the definition of “Obligation” in Credit Linked Note Condition 2, and in particular, notwithstanding that the obligation is not an obligation of the Reference Entity;
- (c) each Reference Obligation will be a Deliverable Obligation notwithstanding anything to the contrary in the Credit Linked Note Conditions including, but not limited to the definition of “Deliverable Obligation” in Credit Linked Note Condition 2 and in particular, notwithstanding that the obligation is not an obligation of the Reference Entity.

For the avoidance of doubt with respect to any LPN Reference Obligation that specifies an Underlying Loan or an Underlying Finance Instrument, the outstanding principal balance shall be determined by reference to the Underlying Loan or Underlying Finance Instrument (as applicable) relating to such LPN Reference Obligation.

The Not Subordinated Obligation Characteristic and Deliverable Obligation Characteristic shall be construed as if no Reference Obligation was specified in respect of the Reference Entity;

- (d) the definition of “Reference Obligation” shall be deleted and the following substituted therefor:

“**Reference Obligation**” means, as of the Trade Date, each of the obligations listed as a Reference Obligation of the Reference Entity in the applicable Final Terms and set forth on the relevant LPN Reference Obligations List (each a “**Markit Published LPN Reference Obligation**”), as published by Markit Group Limited, or any successor thereto, which list is as of the Trade Date available at <http://www.markit.com/marketing/services.php>, any Additional LPN and each Additional Obligation; and

- (e) the following additional definitions shall apply:

**“Additional LPN”** means any bond issued in the form of a loan participation note (a **“LPN”**) by an entity (the **“LPN Issuer”**) for the sole purpose of providing funds for the LPN Issuer to (a) finance a loan to the Reference Entity (the **“Underlying Loan”**) or (b) provide finance to the Reference Entity by way of a deposit, loan or other Borrowed Money instrument (the **“Underlying Finance Instrument”**), provided that (i) either (x) in the event that there is an Underlying Loan with respect to such LPN the Underlying Loan satisfies the Obligation Characteristics specified in respect of the Reference Entity or (y) in the event that there is an Underlying Finance Instrument with respect to such LPN the Underlying Finance Instrument satisfies the Not Subordinated, Not Domestic Law and Not Domestic Currency Obligation Characteristics; (ii) the LPN satisfies the following Deliverable Obligation Characteristics: Transferable, Not Bearer, Credit Linked Specified Currency – Standard Specified Currencies, Not Domestic Law, Not Domestic Issuance; and (iii) the LPN Issuer has, as of the issue date of such obligation, granted a First Ranking Interest over or in respect of certain of its rights in relation to the relevant Underlying Loan or Underlying Finance Instrument (as applicable) for the benefit of the holders of the LPNs.

**“Additional Obligation”** means each of the obligations listed as an Additional Obligation of the Reference Entity in the applicable Final Terms or set forth on the relevant LPN Reference Obligations List, as published by Markit Group Limited, or any successor thereto, as of the Trade Date, which list is currently available at <http://www.markit.com/marketing/services.php>.

**“First Ranking Interest”** means a charge, security interest (or other type of interest having similar effect) (an **“Interest”**), which is expressed as being **“first ranking”**, **“first priority”**, or similar (**“First Ranking”**) in the document creating such Interest (notwithstanding that such Interest may not be First Ranking under any insolvency laws of any related insolvency jurisdiction of the LPN Issuer).

**“LPN Reference Obligation”** means each Reference Obligation other than any Additional Obligation.

For the avoidance of doubt, any change to the issuer of an LPN Reference Obligation in accordance with its terms shall not prevent such LPN Reference Obligation constituting a Reference Obligation.

Each LPN Reference Obligation is issued for the sole purpose of providing funds for the Issuer to finance a loan to the Reference Entity. For the purposes of the Credit Linked Note Conditions each such loan shall be an Underlying Loan.

## 16. Deliverable Obligations Portfolio Valuation

If Credit Linked Note Condition 16 is specified as applicable in the applicable Final Terms:

- (a) notwithstanding anything to the contrary in the Credit Linked Note Conditions, **“Reference Obligation”** shall mean:
- (i) any obligation of a Reference Entity (either directly, as provider of a Qualifying Affiliate Guarantee or, if All Guarantees is specified as applicable in the applicable Final Terms, as provider of any Qualifying Guarantee) determined pursuant to the method described in **“(A) Method for Determining Deliverable Obligations”** above (but excluding any Excluded Deliverable Obligation specified in the applicable Final Terms) that (A) is payable in an amount equal to its Outstanding Principal Balance or Due and Payable Amount, as applicable, (B) is not subject to any counterclaim, defence (other than a counterclaim or defence based on the factors set forth in paragraphs (a) to (d) of the definition of **“Credit Event”** above) or right of set-off by or of a Reference Entity or, as applicable, an Underlying Obligor and (C) in the case of a Qualifying Guarantee other than a Qualifying Affiliate Guarantee, is capable, at the Valuation Date, of immediate assertion or demand by or on behalf of the holder or holders against the Reference Entity for an amount at least equal to the Quotation Amount apart from the giving of any notice of non-payment or similar procedural requirement, it being understood that acceleration of an Underlying Obligation shall not be considered a procedural requirement;
  - (ii) each Benchmark Obligation specified in the applicable Final Terms; and

(iii) any Substitute Benchmark Obligation,

as selected by the Calculation Agent in its sole and absolute discretion and notified to the Issuer (a “**Reference Obligation Notification**”) on or prior to the relevant Valuation Date.

In each case the Reference Obligation Notification shall describe the selected Reference Obligation in reasonable detail and shall specify the title or designation, maturity date and coupon rate. The Calculation Agent may at any time after delivering a Reference Obligation Notification but prior to the Valuation Time on the Valuation Date deliver a further Reference Obligation Notification which shall replace all prior Reference Obligation Notifications in relation to any additional or replacement Reference Obligation specified therein.

For the avoidance of doubt the Calculation Agent shall be entitled to select any of the Reference Obligations for the purposes of calculating the Final Price irrespective of their market value and, provided that the selected obligation(s) satisfy the Deliverable Obligation Category and Deliverable Obligation Characteristics on the date of selection, such obligation(s) may constitute the Reference Obligation for the purposes hereof notwithstanding that this is not the case subsequent to such date.

(b) The definition of “Substitute Reference Obligation” in Credit Linked Note Condition 2 shall be amended so that each reference to “Substitute Reference Obligation” and “Reference Obligation” is replaced by reference to a “Substitute Benchmark Obligation” and a “Benchmark Obligation” respectively, provided that once a Benchmark Obligation has been specified as a Reference Obligation the definition of “Substitute Reference Obligation” shall not apply with respect to such Benchmark Obligation.

(c) Paragraph (B)(1)(a) of the definition of “Obligation” in Credit Linked Note Condition 2 shall be deleted and the following substituted therefor:

“**Not Subordinated**” means an obligation that is not Subordinated to (i) any unsubordinated Borrowed Money obligation of the Reference Entity or (ii) the Benchmark Obligation. For purposes of determining whether an obligation satisfies the “Not Subordinated” Obligation Characteristic or Deliverable Obligation Characteristic, the ranking in priority of payment of each Benchmark Obligation shall be determined as of the later of (A) the Trade Date specified in the applicable Final Terms and (B) the date on which such Benchmark Obligation was issued or incurred and shall not reflect any change to such ranking in priority of payment after such later date.

(d) For purposes of the Credit Linked Note Conditions:

(i) each reference in the Credit Linked Note Conditions to “a Deliverable Obligation” and “the Deliverable Obligation” shall be deemed to be a reference to “a Reference Obligation” and “the Reference Obligation” respectively; and

(ii) each reference in the Credit Linked Note Conditions to “a Delivery Date” and “the Delivery Date” shall be deemed to be a reference to the date of selection of the relevant Reference Obligation, except that the words “the Delivery Date or” shall be deleted in the definition of “Accreted Amount” Credit Linked Note Condition 2.

(e) For the avoidance of doubt, if Credit Linked Note Condition 16 is specified as applicable in the applicable Final Terms Credit Linked Note Condition 5 is not applicable and the Securities shall, following the satisfaction of the Conditions to Settlement during the Notice Delivery Period, be settled in accordance with Credit Linked Note Condition 4, and these Credit Linked Notes Conditions shall be construed accordingly.

(f) If the Calculation Agent selects more than one Reference Obligation, such Reference Obligations shall have an Outstanding Principal Balance or Due and Payable Amount (or the equivalent Currency Amount of any such amount) that, in aggregate, shall not exceed the Reference Entity Notional Amount in respect of the relevant Reference Entity.

(g) With respect to a Reference Entity and the related Final Price Calculation Date, the “Final Price” shall be the weighted average of the Final Prices determined for each Reference Obligation in respect of the relevant Reference Entity, weighted by reference to the Reference Portfolio of each such Reference Obligation.

- (h) For the purposes of Credit Linked Note Condition 16(a)(ii), Benchmark Obligation means each Reference Obligation specified in respect of the relevant Reference Entity.

#### 17. **Nth-to-Default CLNs**

Where the Securities are Nth-to-Default CLNs:

- (a) where a Succession Event has occurred in respect of a Reference Entity (other than a Reference Entity in respect of which an Event Determination Date has occurred) and more than one Successor has been identified, the applicable Securities will be equally divided into a number of notional Credit Linked Notes as there are Successors. Each such notional Credit Linked Notes shall include a Successor and each and every one of the Reference Entities unaffected by such Succession Event shall apply thereto;
- (b) if “Substitution” is specified as not being applicable in the applicable Final Terms, where any Reference Entity (the “**Surviving Reference Entity**”) (other than a Reference Entity that is subject to the Succession Event) would be a Successor to any other Reference Entity (the “**Legacy Reference Entity**”) pursuant to a Succession Event, such Surviving Reference Entity shall be deemed to be a Successor to the Legacy Reference Entity; and
- (c) if “Substitution” is specified as being applicable in the Final Terms, where any Reference Entity (the “**Surviving Reference Entity**”) (other than a Reference Entity that is subject to the Succession Event) would be a Successor to any other Reference Entity (the “**Legacy Reference Entity**”) pursuant to a Succession Event:
  - (i) such Surviving Reference Entity shall be deemed not to be a Successor to the Legacy Reference Entity; and
  - (ii) the Replacement Reference Entity shall be deemed to be a Successor to the Legacy Reference Entity.

#### 18. **Linear Basket CLNs**

Where the Notes are Linear Basket CLNs, then the provisions of these Credit Linked Note Conditions relating to redemption of Credit Linked Notes following satisfaction of Conditions to Settlement, extension of maturity of Credit Linked Notes on delivery of an Extension Notice, cessation or suspension of accrual of interest or accrual and payment of interest following the Scheduled Maturity Date shall apply separately with respect to each Reference Entity and a principal amount of each Credit Linked Note corresponding to its pro rata proportion of the related Reference Entity Notional Amount. The remaining provisions of these Credit Linked Conditions shall be construed accordingly.

Accordingly:

- (a) the Calculation Amount of each Note shall be reduced with effect from the occurrence of an Event Determination Date by a pro rata proportion of the Reference Entity Notional Amount or, as applicable, the Partial Redemption Amount;
- (b) following satisfaction of Conditions to Settlement in respect of any Reference Entity, the Notes shall be partially redeemed and the Noteholders shall receive an amount equal to a Credit Event Redemption Amount (if Credit Linked Note Condition 4 applies) or an Auction Settlement Amount (if Credit Linked Note Condition 6 applies) or shall be entitled to receive an Entitlement, or, as appropriate, Partial Cash Settlement Amount (if Credit Linked Note Condition 5 applies), in each case calculated in respect of the Reference Entity as though references to the Calculation Amount in such definitions were references to such amount divided by the number of Reference Entities as at the relevant Event Determination Date;
- (c) the definition of “CLN Maturity Date” shall operate separately in respect of each Reference Entity and a portion of the Calculation Amount of each Note corresponding to a pro rata proportion of the related Reference Entity Notional Amount, or, as applicable, the Partial Redemption Amount; and
- (d) the provisions of Credit Linked Note Condition 8 shall apply separately in respect of each Reference Entity and a portion of the Calculation Amount of each Note corresponding to a pro rata proportion of the related Reference Entity Notional Amount or, as applicable, the related Reference Entity Notional Amount.

**19. Tranching Portfolio CLNs**

Where the Securities are Tranching Portfolio CLNs:

- (a) The interest amount payable per Calculation Amount on each Interest Payment Date in respect of each Note and each Interest Period shall be a *pro rata* proportion per Calculation Amount of an amount determined on the relevant Interest Determination Date, equal to the sum of:
  - (i) the product of: (A) the Interest Calculation Amount, (B) the Rate of Interest, and (C) the Day Count Fraction (and rounding the resultant figure to the nearest sub-unit of the relevant Specified Currency, half of any such sub-unit being rounded upwards or otherwise in accordance with applicable market convention); and
  - (ii) the Deferred Coupon Adjustment Amount, if any.
- (b) If the Calculation Agent determines at any time that the Undetermined Reference Entity Notional Amount on any Interest Payment Date is greater than the Undetermined Reference Entity Notional Amount on the corresponding Interest Determination Date, the Calculation Agent may in its sole discretion make any adjustment: (i) if the determination is made on or prior to such Interest Payment Date and to the extent operationally practicable, to the interest amount payable on such Interest Payment Date, or otherwise (ii) to the interest amount payable on any subsequent Interest Payment Date or, if the relevant interest amount is less than such shortfall, the Outstanding Principal Amount of the Notes, to account for such shortfall.
- (c) In the event that a Credit Event occurs in respect of one of the Reference Entities within the Reference Portfolio, the amount of the Aggregate Principal Amount remaining will be reduced by the Writedown Amount (itself calculated with reference to the Loss Amount), all as set out in the definitions of the Outstanding Principal Amount, Incurred Loss Amount, Loss Amount, Writedown Amount and any other relevant definitions.
- (d) Unless the Notes have been previously redeemed or purchased and cancelled, each Note will be redeemed at its Final Redemption Amount on the Final Redemption Date. Credit Linked Note Conditions 4 and 6 shall not apply.
- (e) If the Outstanding Principal Amount of the Notes is reduced to zero, the Notes will thereupon be deemed to have been redeemed in full and, without prejudice to any obligations incurred due and payable on or prior to such date, the Issuer shall have no further obligations in relation to the Notes.
- (f) Paragraph (b) of the definition of “CLN Maturity Date” shall apply if an Extension Notice is given in respect of any Reference Entity.
- (g) If any day is a Final Price Calculation Date with respect to more than one Reference Entity, the Loss Amount, the Recovery Amount, the Incurred Loss Amount and the Incurred Recovery Amount (if applicable) with respect to each Reference Entity shall be calculated in the order of delivery of the relevant Credit Event Notices or (if applicable) the order of the relevant Credit Event Resolution Request Dates or, if any of the relevant Credit Event Notices are delivered at the same time or the Credit Event Resolution Request Dates occur at the same time, in a sequential order determined by the Calculation Agent.
- (h) In relation to Tranching Portfolio CLNs where the Reference Portfolio is determined by reference to a Relevant Annex, then notwithstanding Credit Linked Note Condition 13, the Reference Portfolio from time to time (together with, in respect of each relevant Reference Entity, the elected Reference Entity weighting) shall be as determined and published from time to time by the relevant Index Sponsor, as specified in the Final Terms.

**20. Physical Settlement Matrix**

Where a Transaction Type is specified in the applicable Final Terms in respect of any Reference Entity, then the provisions of such Final Terms shall apply with respect to such Reference Entity in accordance with the Physical Settlement Matrix as it applies to such Transaction Type, as though such Physical Settlement Matrix were set out in full in such Final Terms.



**21. Notices to Holders**

The Issuer shall, upon receiving any of the following notices from the Calculation Agent, as soon as practicable forward a copy of such notice(s) to the Holders of the relevant Securities:

- (a) an Extension Notice;
- (b) a Cancellation Notice;
- (c) a Credit Event Notice;
- (d) a Notice of Publicly Available Information;
- (e) an Officer's Certificate;
- (f) a determination by the Calculation Agent of a Successor or a Succession Event (including any Succession Event Notice);
- (g) a Notice of Physical Settlement;
- (h) a NOPS Amendment Notice;
- (i) a Partial Cash Settlement Notice;
- (j) any notification by the Calculation Agent to the Issuer that the Physical Settlement Period shall be less than ten Business Days;
- (k) any notification by the Calculation Agent to the Issuer following the determination of any Loss Amount or Incurred Loss Amount;
- (l) a Notice to Exercise Movement Option; and
- (m) (where "Calculation Agent Determination" is specified as being applicable in the applicable Final Terms) any notification from the Calculation Agent that it will apply a DC Resolution for the purposes of the relevant Securities.

**22. Calculation Agent**

Any determination by the Calculation Agent of any amount or of any state of affairs, circumstance, event or other matter, or the formation of any opinion or the exercise of any discretion required or permitted to be determined, formed or exercised by the Calculation Agent pursuant to the Credit Linked Note Conditions and related provisions shall (in the absence of manifest error) be final and binding on the Issuer, the Guarantor and the Holders and shall be without liability on the part of the Calculation Agent and without the Calculation Agent being obliged to consider the interests of the Issuer, the Guarantor or the Holders. In performing its duties pursuant to the Credit Linked Note Conditions, the Calculation Agent shall act in its sole and absolute discretion. Any delay, deferral or forbearance by the Calculation Agent in the performance or exercise of any of its obligations or its discretion under the Credit Linked Note Conditions including, without limitation, the giving of any notice by it to any person, shall not affect the validity or binding nature of any later performance or exercise of such obligation or discretion, and none of the Calculation Agent, the Issuer and the Guarantor shall, in the absence of wilful misconduct and gross negligence, bear any liability in respect of, or consequent upon, any such delay, deferral or forbearance.

For the avoidance of doubt, if the applicable Final Terms specifies that "Calculation Agent Determination" is applicable, then notwithstanding any provision in these Credit Linked Note Conditions, the Issuer and the Calculation Agent shall not be bound to (although they may in their sole discretion) apply any DC Resolution to the Securities and unless the Calculation Agent notifies the Issuer that any DC Resolution shall apply to the Securities, the Credit Linked Note Conditions and the relevant Securities shall be construed as if the relevant DC Resolution and the relevant DC Question was not made. If the Calculation Agent notifies the Issuer that any DC Resolution shall apply to the Securities, the Calculation Agent shall have the power to amend or otherwise adjust any provision of these Credit Linked Notes (including, without limitation any provision relating to the timing of notices hereunder) to account for the application of such DC Resolution.

**23. Change in Market Convention**

The Calculation Agent may from time to time amend any provision of these Credit Linked Note Conditions or the Securities to incorporate and/or reflect further or alternative documents from time to time published by ISDA with respect to the settlement of credit derivative transactions and/

or the operation or application of determinations by the ISDA Credit Derivatives Determinations Committees which the Calculation Agent and the Issuer determine in a commercially reasonable manner are necessary to reflect market practice for credit derivative transactions. The applicable Final Terms may be amended and restated from time to time to reflect such changes in market convention without the consent of the Holders and the Holders are deemed to agree to this provision by the purchase of the Securities.

#### 24. **Additional Provisions**

If one or more amendments or adjustments to these Credit Linked Note Conditions are required for one or more Series of credit linked Securities, including any issue of Nth-to-Default CLNs or leveraged credit linked securities, the applicable Final Terms shall set out such amendments or adjustments to these Credit Linked Note Conditions that are necessary in order to take account of the nature of such securities and these Credit Linked Note Conditions shall be construed accordingly.

#### 25. **Additional Disruption Events**

- (a) Following the determination by the Calculation Agent that an Additional Disruption Event has occurred, the Issuer in its sole and absolute discretion may take the action described in (i) or (ii) below:
  - (i) require the Calculation Agent to determine in its sole and absolute discretion the appropriate adjustment, if any, to be made to any of the other terms of the Terms and Conditions and/or the applicable Final Terms to account for the Additional Disruption Event and determine the effective date of that adjustment; or
  - (ii) give notice to Holders in accordance with Note Condition 14 and redeem all, but not less than all, of the Notes, each nominal amount of Notes equal to the Calculation Amount being redeemed at the Early Redemption Amount (as specified in Part A).
- (b) Upon the occurrence of an Additional Disruption Event, the Issuer shall give notice as soon as practicable to the Holders in accordance with Note Condition 14 stating the occurrence of the Additional Disruption Event giving details thereof and the action proposed to be taken in relation thereto provided that any failure to give, or non-receipt of, such notice will not affect the validity of the Additional Disruption Event.
- (c) For these purposes:

**“Additional Disruption Event”** means any of Change in Law, Hedging Disruption, and/or Increased Cost of Hedging, in each case if specified in the applicable Final Terms.

**“Change in Law”** means that, on or after the Trade Date (i) due to the adoption of or any change in any applicable law or regulation (including, without limitation, any tax law), or (ii) 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 or regulation (including any action taken by a taxing authority), the Calculation Agent determines in its sole and absolute discretion that (A) it has become illegal to hold, acquire or dispose of any relevant asset, hedge or related trading position or (B) the Issuer and/or any of its Affiliates or agents will incur a materially increased cost in performing the obligations of the Issuer in relation to the Securities (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on its tax position).

**“Hedging Disruption”** means that the Issuer and/or any of its Affiliates or agents is unable, after using commercially reasonable efforts, to (i) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the equity, price, credit or other risk of the Issuer issuing and performing its obligations with respect to the Securities, or (ii) realise, recover or remit the proceeds of any such transaction(s) or asset(s).

**“Increased Cost of Hedging”** means that the Issuer and/or any of its Affiliates or agents would incur a materially increased (as compared with circumstances existing on the Trade Date) amount of tax, duty, expense or fee (other than brokerage commissions) to (i) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the equity, price, credit or other risk of the Issuer issuing and performing its obligations with respect to the Securities, or (ii) realise, recover or remit the proceeds of any such transaction(s) or asset(s),

provided that any such materially increased amount that is incurred solely due to the deterioration of the creditworthiness of the Issuer and/or any of its Affiliates or agents shall not be deemed an Increased Cost of Hedging.

## ANNEX 9B

## ADDITIONAL TERMS AND CONDITIONS FOR CREDIT LINKED W&amp;C SECURITIES

1. **Interpretation**

If specified as applicable in the applicable Final Terms, the terms and conditions applicable to Credit Linked Warrants or Credit Linked Certificates shall comprise the terms and conditions of the W&C Securities (the “**W&C Securities Conditions**”) and the Additional Terms and Conditions for Credit Linked Warrants and Certificates set out below (the “**Credit Linked W&C Conditions**”), in each case subject to completion and/or amendment in the applicable Final Terms. In the event of any inconsistency between (i) the Credit Linked W&C Conditions and (ii) the W&C Securities Conditions, the Credit Linked W&C Conditions shall prevail. In the event of any inconsistency between (i) the W&C Securities Conditions and/or the Credit Linked W&C Conditions and (ii) the applicable Final Terms, the applicable Final Terms shall prevail. References in the Credit Linked W&C Conditions to “Security” and “Securities” shall be deemed to be references “W&C Security” and “W&C Securities” as the context admits.

Each Credit Linked Warrant may be designated in the applicable Final Terms as (a) a “**Short Credit Linked Warrant**” or (b) a “**Long Credit Linked Warrant**”. Any Credit Linked Certificate may be designated in the applicable Final Terms as (a) a “**Short Credit Linked Certificate**” or (b) a “**Long Credit Linked Certificate**”. Each Short Credit Linked Warrant and Short Credit Linked Certificate is a W&C Security in respect of which the Holder purchases credit protection on each Reference Entity and/or Reference Obligation from the Issuer and is referred to in these Credit Linked W&C Conditions as a “**Short Credit Linked W&C Security**”. Each Long Credit Linked Warrant and Long Credit Linked Certificate is a W&C Security in respect of which the Issuer purchases credit protection on each Reference Entity and/or Reference Obligation from the Holders and is referred to in these Credit Linked W&C Conditions as a “**Long Credit Linked W&C Security**”.

2. **Definitions**

“**Accreted Amount**” means, with respect to an Accreting Obligation, an amount equal to (a) the sum of (i) the original issue price of such obligation and (ii) the portion of the amount payable at maturity that has accreted in accordance with the terms of the obligation (or as otherwise described below), less (b) any cash payments made by the obligor thereunder that, under the terms of such obligation, reduce the amount payable at maturity (unless such cash payments have been accounted for in (a)(ii) above), in each case calculated as of the earlier of (A) the date on which any event occurs that has the effect of fixing the amount of a claim in respect of principal and (B) the Delivery Date or applicable Valuation Date, as the case may be. Such Accreted Amount shall include any accrued and unpaid periodic cash interest payments (as determined by the Calculation Agent in its sole and absolute discretion) only if “Include Accrued Interest” is specified as applicable in the applicable Final Terms. If an Accreting Obligation is expressed to accrete pursuant to a straight-line method or if such Obligation’s yield to maturity is not specified in, nor implied from, the terms of such Obligation, then, for the purposes of (a)(ii) above, the Accreted Amount shall be calculated using a rate equal to the yield to maturity of such Obligation. Such yield shall be determined on a semi-annual bond equivalent basis using the original issue price of such obligation and the amount payable at the scheduled maturity of such obligation, and shall be determined as of the earlier of (A) the date on which any event occurs that has the effect of fixing the amount of a claim in respect of principal and (B) the Delivery Date or applicable Valuation Date, as the case may be. The Accreted Amount shall exclude, in the case of an Exchangeable Obligation, any amount that may be payable under the terms of such obligation in respect of the value of the Equity Securities for which such obligation is exchangeable.

“**Accreting Obligation**” means any obligation (including, without limitation, a Convertible Obligation or an Exchangeable Obligation), the terms of which expressly provide for an amount payable upon acceleration equal to the original issue price (whether or not equal to the face amount thereof) plus an additional amount or amounts (on account of original issue discount or other accruals of interest or principal not payable on a periodic basis) that will or may accrete, whether or not (a) payment of such additional amounts is subject to a contingency or determined by reference to a formula or index, or (b) periodic cash interest is also payable.

“**Auction**” has the meaning set forth in the Transaction Auction Settlement Terms.

**“Auction Cancellation Date”** means the date on which an Auction is deemed to be cancelled pursuant to the Transaction Auction Settlement Terms with respect to the relevant Reference Entity, or (a) in the case of Long Credit Linked W&C Securities, if the Issuer has delivered a Notice to Exercise Movement Option to the Holders, the date on which a Parallel Auction is deemed to be cancelled pursuant to the Parallel Auction Settlement Terms identified by the Issuer in such notice or (b) in the case of Short Credit Linked W&C Securities, where the Short Movement Option Condition is satisfied, the date on which a Parallel Auction is deemed to be cancelled pursuant to the Short Parallel Auction Settlement Terms.

**“Auction Covered Transaction”** has the meaning set forth in the Transaction Auction Settlement Terms.

**“Auction Final Price”** has the meaning given to it in the Transaction Auction Settlement Terms or (a) in the case of Long Credit Linked W&C Securities, the Parallel Auction Settlement Terms identified by the Issuer in its Notice to Exercise Movement Option (in the latter case, provided that such Notice to Exercise Movement Option has been delivered to the Holders on or prior to the Business Day immediately preceding the Auction Final Price Determination Date for such Parallel Auction Settlement Terms) or (b) in the case of Short Credit Linked W&C Securities, the Short Parallel Auction Settlement Terms.

**“Auction Final Price Determination Date”** means the day, if any, on which the Auction Final Price is determined pursuant to the Transaction Auction Settlement Terms or (a) in the case of Long Credit Linked W&C Securities, if the Calculation Agent has delivered a Notice to Exercise Movement Option to the Issuer, the Parallel Auction Settlement Terms identified by the Calculation Agent in such notice or (b) in the case of Short Credit Linked W&C Securities, the Short Parallel Auction Settlement Terms, in each case with respect to the relevant Reference Entity.

**“Auction Settlement Amount”** means the amount per Security specified as such in the applicable Final Terms or if no such amount is specified in the applicable Final Terms, an amount calculated by the Calculation Agent equal to:

- (a) in the case of Long Credit Linked W&C Securities:

$$(A \times B) - C$$

where:

A is the Notional Amount of each Certificate or Warrant;

B is the Auction Final Price;

C is Unwind Costs; and

- (b) in the case of Short Credit Linked W&C Securities:

$$A \times (100\% - B) - C$$

where:

A is the Notional Amount of each Certificate or Warrant;

B is the Auction Final Price; and

C is Unwind Costs,

provided that in no event shall the Auction Settlement Amount be less than zero.

**“Auction Settlement Date”** means the date which is the number of Business Days specified in the applicable Final Terms after the Auction Final Price Determination Date, or if no such number of Business Days is specified in the applicable Final Terms, eight Business Days after the Auction Final Price Determination Date.

**“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 in a judicial, regulatory or administrative proceeding or filing 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 calendar 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 calendar days thereafter; or
- (h) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has any analogous effect to any of the events specified in clauses (a) to (g) (inclusive).

**“Best Available Information”** means:

- (a) in the case of a Reference Entity which files information with its primary securities regulator or primary stock exchange that includes unconsolidated *pro forma* financial information which assumes that the relevant Succession Event has occurred or which provides such information to its shareholders, creditors or other persons whose approval of the Succession Event is required, that unconsolidated *pro forma* financial information and, if provided subsequently to the provision of unconsolidated *pro forma* financial information but before the Calculation Agent makes its determination for the purposes of the definition of “Successor”, other relevant information that is contained in any written communication provided by the Reference Entity to its primary securities regulator, primary stock exchange, shareholders, creditors or other persons whose approval of the Succession Event is required; or
- (b) in the case of a Reference Entity which does not file with its primary securities regulators or primary stock exchange, or which does not provide to shareholders, creditors or other persons whose approval of the Succession Event is required, the information contemplated in (i) above, the best publicly available information at the disposal of the Calculation Agent to allow it to make a determination for the purposes of the definition of “Successor”.

Information which is made available more than 14 calendar days after the legally effective date of the Succession Event shall not constitute “Best Available Information”.

**“Cancellation Notice”** means:

- (a) a notice given by the Calculation Agent to the Issuer upon making a determination in respect of a Reference Entity that:
  - (i) no Credit Event or (if Grace Period Extension is specified in the Final Terms as applicable) Potential Failure to Pay or (if Repudiation/Moratorium is specified in the Final Terms applicable) Potential Repudiation/ Moratorium has occurred on or prior to the Scheduled Exercise Date (as applicable);
  - (ii) if a Potential Failure to Pay has occurred on or prior to the Scheduled Exercise Date (as applicable), promptly upon making a determination that no Failure to Pay has occurred with respect to the relevant obligation; or
  - (iii) if a Potential Repudiation/Moratorium has occurred on or prior to the Scheduled Exercise Date (as applicable), promptly upon making a determination that no

Repudiation/Moratorium has occurred with respect to the relevant obligation (such determination being made prior to the Repudiation/Moratorium Evaluation Date); or

- (b) if a Convened DC resolves that a Credit Event of the type referenced in the relevant DC Question has not occurred, in which case a Cancellation Notice shall be deemed to be given by the Calculation Agent to the Issuer and the Conditions shall be construed accordingly (provided that if “Calculation Agent Determination” is specified as being applicable in the applicable Final Terms, no Cancellation Notice shall be deemed to be given unless the Calculation Agent notifies the Issuer that such DC Resolution shall apply to the relevant Securities).

**“Conditionally Transferable Obligation”** means a Deliverable Obligation that is either Transferable, in the case of Bonds, or capable of being assigned or novated to all Modified Eligible Transferees without the consent of any person being required, in the case of any Deliverable Obligation other than Bonds, provided, however, that a Deliverable Obligation other than Bonds will be a Conditionally Transferable Obligation notwithstanding that consent of the Reference Entity or the guarantor, if any, of a Deliverable Obligation other than Bonds (or the consent of the relevant obligor if a Reference Entity is guaranteeing such Deliverable Obligation) or any agent is required for such novation, assignment or transfer so long as the terms of such Deliverable Obligation provide that such consent may not be unreasonably withheld or delayed. Any requirement that notification of novation, assignment or transfer of a Deliverable Obligation be provided to a trustee, fiscal agent, administrative agent, clearing agent or paying agent for a Deliverable Obligation shall not be considered to be a requirement for consent for purposes of this definition of “Conditionally Transferable Obligation”. In addition in the case of Long Credit Linked Certificates:

- (a) where “Physical Settlement” is specified as the Settlement Method in the related Confirmation (or where Physical Settlement is applicable as the Fallback Settlement Method pursuant to a Fallback Settlement Event), “Modified Restructuring Maturity Limitation Date and Conditionally Transferable Obligation Applicable” is specified (or deemed applicable) under the applicable Final Terms and a Deliverable Obligation is a Conditionally Transferable Obligation with respect to which consent is required to novate, assign or transfer, then if the requisite consent is refused (whether or not a reason is given for such refusal and, where a reason is given for such refusal, regardless of that reason), or is not received by the Final Delivery Date (in which case it shall be deemed to have been refused), the Issuer shall promptly notify the Holders of such refusal (or deemed refusal) and may redeem or cancel (as applicable) the Securities in accordance with Credit Linked W&C Condition 9 as if such obligation were an Undeliverable Obligation; and
- (b) for purposes of determining whether a Deliverable Obligation satisfies the requirements of the definition of Conditionally Transferable Obligation, such determination shall be made as of the Delivery Date for the Deliverable Obligation, taking into account only the terms of the Deliverable Obligation and any related transfer or consent documents which have been obtained by the Issuer or the Guarantor, as the case may be.

**“Conditions to Settlement”** shall be deemed to be satisfied by the occurrence of an Event Determination Date provided that where “Calculation Agent Determination” is not applicable, no DC No Credit Event Announcement has occurred prior to the Auction Final Price Determination Date, a Valuation Date, the Credit Settlement Date (or, if earlier, a Delivery Date), the Scheduled Exercise Date, as applicable (or, in the case of Long Credit Linked W&C Securities, if an Extension Notice has been delivered to the Issuer, the dates specified in sub-paragraphs (b)(i) to (iii) of the definition of “Long Exercise Date”).

Where the Securities are Nth-to-Default Securities and the Conditions to Settlement are satisfied with respect to more than one Reference Entity on the same day, the Calculation Agent shall determine in its sole discretion the order in which such Conditions to Settlement were satisfied.

**“Convened DC”** has the meaning given to that term in the Rules.

**“Convertible Obligation”** means any obligation that is convertible, in whole or in part, into Equity Securities solely at the option of holders of such obligation or a trustee or similar agent acting for the benefit only of holders of such obligation (or the cash equivalent thereof, whether the cash settlement option is that of the issuer or of (or for the benefit of) the holders of such obligation).

**“Credit Cut-off Date”** means, in the case of Long Credit Linked W&C Securities, the day falling 10 Business Days following the delivery to the Holders of the relevant Notice of Physical Settlement or such other Credit Cut-off Date as is specified in the applicable Final Terms.

**“Credit Derivatives Auction Settlement Terms”** means in relation to any Reference Entity, the credit derivatives auction settlement terms published by ISDA, in accordance with the Rules, with respect to the relevant Reference Entity and the relevant Credit Event, which may be amended in accordance with the Rules from time to time.

**“Credit Derivatives Definitions”** means the 2003 ISDA Credit Derivatives Definitions as supplemented by (i) the 2005 Matrix Supplement to the 2003 ISDA Credit Derivatives Definitions; and (ii) the 2009 ISDA Credit Derivatives Determinations Committees, Auction Settlement and Restructuring Supplement to the 2003 ISDA Credit Derivatives Definitions, each as published by ISDA.

**“Credit Derivatives Determinations Committees”** means the committees established by ISDA for purposes of reaching certain DC Resolutions in connection with credit derivative transactions traded in the over the counter market, as more fully described in the Rules.

**“Credit Event”** means the occurrence of any one or more of the Credit Events specified in the applicable Final Terms which may include Bankruptcy, Failure to Pay, Obligation Acceleration, Obligation Default, Repudiation/Moratorium, Restructuring, or any additional Credit Event specified in the applicable Final Terms, as determined by the Calculation Agent.

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, or is subject to a defence based upon:

- (a) any lack or alleged lack of authority or capacity of a Reference Entity to enter into any Obligation or, as applicable, an Underlying Obligor to enter into any Underlying Obligation;
- (b) any actual or alleged unenforceability, illegality, impossibility or invalidity with respect to any Obligation or, as applicable, any Underlying 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.

**“Credit Event Backstop Date”** means (a) for purposes of any DC Resolution by the relevant Credit Derivatives Determinations Committee as to whether an event that constitutes a Credit Event (or with respect to Repudiation/Moratorium, the event described in sub-paragraph (b) of the definition of Repudiation/Moratorium) has occurred with respect to the relevant Reference Entity or Obligation thereof, the date that is 60 calendar days prior to the Credit Event Resolution Request Date or (b) otherwise, in the case of Long Credit Linked W&C Securities only, the date that is 60 calendar days prior to the earlier of (i) the first date on which both the Credit Event Notice and, if Notice of Publicly Available Information is specified as a Condition to Settlement, the Notice of Publicly Available Information or Officer’s Certificate are delivered by the Calculation Agent to the Issuer and are effective during the Notice Delivery Period and (ii) in circumstances where (A) the conditions to convening a Credit Derivatives Determinations Committee to Resolve the matters described in sub-paragraphs (a) and (b) of the definition of Credit Event Resolution Request Date are satisfied in accordance with the Rules, (B) the relevant Credit Derivatives Determinations Committee has Resolved not to determine such matters and (C) the Credit Event Notice and the Notice of Publicly Available Information or Officer’s Certificate are delivered by the Calculation Agent to the Issuer and are effective not more than 15 Business Days after the day on which ISDA publicly announces that the relevant Credit Derivatives Determinations Committee has Resolved not to determine such matters, the Credit Event Resolution Request Date. The Credit Event Backstop Date shall not be subject to adjustment unless otherwise provided for in the applicable Final Terms.

**“Credit Event Notice”** means an irrevocable notice from the Notifying Party to the Issuer that describes a Credit Event that occurred on or after the Credit Event Backstop Date (determined by

reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)) or (where “Calculation Agent Determination” is specified as being applicable in the applicable Final Terms) the Credit Observation Start Date specified in the Final Terms (or if none is so specified, the date falling 60 calendar days prior to the Trade Date) and on or prior to the Extension Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)).

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.

“**Credit Event Redemption Amount**” means the amount per Security specified as such in the applicable Final Terms or if no such amount is specified in the applicable Final Terms, an amount calculated by the Calculation Agent equal to:

- (a) in the case of Long Credit Linked W&C Securities:

$$(A \times B) - C$$

where:

A is the Notional Amount of each Certificate or Warrant;

B is the Final Price;

C is Unwind Costs; and

- (b) in the case of Short Credit Linked W&C Securities:

$$A \times (100\% - B) - C$$

where:

A is the Notional Amount of each Certificate or Warrant;

B is the Final Price; and

C is Unwind Costs;

provided that in no event shall the Credit Event Redemption Amount be less than zero.

“**Credit Event Redemption Date**” means the day falling the number of Business Days specified in the applicable Final Terms after the calculation of the Final Price, or if no such number of Business Days is specified in the applicable Final Terms, eight Business Days after the Final Price is determined.

“**Credit Event Resolution Request Date**” means, with respect to a notice to ISDA, delivered in accordance with the ISDA Credit Derivatives Determinations Committee Rules, requesting that a Credit Derivatives Determinations Committee be convened to Resolve:

- (a) whether an event that constitutes a Credit Event has occurred with respect to the relevant Reference Entity or Obligation thereof; and
- (b) if the relevant Credit Derivatives Determinations Committee Resolves that such event has occurred, the date of the occurrence of such event,

the date, as publicly announced by ISDA to be the date that the relevant Credit Derivatives Determinations Committee Resolves to be the first date on which such notice was effective and on which the relevant Credit Derivatives Determinations Committee was in possession, in accordance with the Rules, of Publicly Available Information with respect to the DC Resolutions referred to in sub-clauses (a) and (b) above.

“**Credit Observation Start Date**” means the date described as such in the applicable Final Terms or if no date is so specified, the date falling 60 calendar days prior to the Trade Date.

“**Credit Settlement Date**” means the last day of the longest Physical Settlement Period following the date the Notice of Physical Settlement is delivered by the Calculation Agent to the Issuer (the “**Scheduled Credit Settlement Date**”) provided that if in the determination of the Calculation Agent (acting in its sole discretion) a Hedge Disruption Event has occurred and is continuing on the second Business Day immediately preceding the Scheduled Credit Settlement Date, the Credit

Settlement Date shall be the earlier of (i) the second Business Day following the date on which the Calculation Agent determines (acting in its sole discretion) that no Hedge Disruption Event subsists and (ii) the day falling 60 Business Days following the Scheduled Credit Settlement Date.

**“Currency Amount”** means with respect to (a) a Deliverable Obligation specified in a Notice of Physical Settlement that is denominated in a currency other than the Settlement Currency, an amount converted to the relevant Settlement Currency using a conversion rate determined by reference to the Currency Rate and (b) a Replacement Deliverable Obligation specified in a NOPS Amendment Notice, an amount converted to the Settlement Currency (or, if applicable, back into the Settlement Currency) using a conversion rate determined by reference to the Currency Rate, if any, and each Revised Currency Rate used to convert the outstanding Amount of each Deliverable Obligation so replaced by a NOPS Amendment Notice into the currency of denomination of the relevant Replacement Deliverable Obligation.

**“Currency Rate”** means with respect to (a) a Deliverable Obligation specified in the Notice of Physical Settlement, the rate of conversion between the Settlement Currency and the currency in which the Outstanding Amount of such Deliverable Obligation is denominated that is either (i) determined by reference to the Currency Rate Source as at the Next Currency Fixing Time or (ii) if such rate is not available at such time, determined by the Calculation Agent and (b) a Replacement Deliverable Obligation specified in a NOPS Amendment Notice, the Revised Currency Rate.

**“Currency Rate Source”** means the mid-point rate of conversion published by WM/Reuters at 4:00 p.m. (London time), or any successor rate source approved by the relevant Credit Derivatives Determinations Committee.

**“DC Credit Event Announcement”** means with respect to a Reference Entity, a public announcement by ISDA that the relevant Credit Derivatives Determinations Committee has Resolved that (a) an event that constitutes a Credit Event has occurred with respect to such Reference Entity (or an Obligation thereof) and (b) such event occurred on or after the Credit Event Backstop Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)) and on or prior to the Extension Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)). A DC Credit Event Announcement will be deemed not to have occurred unless (i) the Credit Event Resolution Request Date with respect to such Credit Event occurred on or prior to the end of the last day of the Notice Delivery Period (including prior to the Trade Date); (ii) the Trade Date occurs on or prior to the Auction Final Price Determination Date, the Auction Cancellation Date, or the date that is 21 calendar days following the No Auction Announcement Date, if any, as applicable; and (iii) (if “Calculation Agent Determination” is specified as being applicable in the applicable Final Terms) the Calculation Agent has notified the Issuer that such announcement shall apply to the relevant Securities.

**“DC No Credit Event Announcement”** means, with respect to a Reference Entity, a public announcement by ISDA that the relevant Credit Derivatives Determinations Committee has Resolved, following a Credit Event Resolution Request Date, that the event that is the subject of the notice to ISDA resulting in the occurrence of such Credit Event Resolution Request Date does not constitute a Credit Event with respect to such Reference Entity (or an Obligation thereof) provided that if “Calculation Agent Determination” is specified as being applicable in the applicable Final Terms, a DC No Credit Event Announcement shall be deemed not to have occurred unless the Calculation Agent notifies the Issuer that such announcement shall apply to the relevant Securities.

**“DC Question”** has the meaning given to that term in the Rules.

**“DC Resolution”** has the meaning given to that term in the Rules.

**“Default Requirement”** means the amount specified as such in the applicable Final Terms or its equivalent in the relevant Obligation Currency or, if a Default Requirement is not specified in the applicable Final Terms, U.S.\$10,000,000, or its equivalent as calculated by the Calculation Agent in the relevant Obligation Currency, in either case, as of the occurrence of the relevant Credit Event.

**“Deliver”** means to deliver, novate, transfer (including, in the case of a Qualifying Guarantee, transfer of the benefit of the Qualifying Guarantee), assign or sell, as appropriate, in the manner customary for the settlement of the applicable Deliverable Obligations (which shall include



executing all necessary documentation and taking any other necessary actions), in order to convey all right, title and interest in the Entitlement to the relevant Holder free and clear of any and all liens, charges, claims or encumbrances (including without limitation any counterclaim, defence (other than a counterclaim or defence based on the factors set out in (a) to (d) in the definition of “Credit Event” above or right of set-off by or of the Reference Entity or, as applicable, an Underlying Obligor) provided that if all or a portion of the Entitlement consists of Direct Loan Participations, “Deliver” means to create (or procure the creation of) a participation in favour of the relevant Holder and to the extent that the Deliverable Obligations consist of Qualifying Guarantees, “Deliver” means to Deliver both the Qualifying Guarantee and the Underlying Obligation. “Delivery” and “Delivered” will be construed accordingly.

In the case of a Loan, Delivery shall be effected using documentation substantially in the form of the documentation customarily used in the relevant market for Delivery of such Loan at that time. Notwithstanding the previous sentence, in the case of a Loan, Delivery may be effected using the provisions of any documentation (which term shall be deemed to include any market advisory that the relevant Credit Derivatives Determinations Committee Resolves to approve or the Calculation Agent determines is appropriate for such purpose) that the relevant Credit Derivatives Determinations Committee Resolves or the Calculation Agent determines constitutes documentation customarily used in the relevant market for Delivery of such Loan at that time, as such documentation may be amended to the extent the relevant Credit Derivatives Determinations Committee Resolves or the Calculation Agent determines is appropriate. Notwithstanding the previous sentence, in the case of a Loan, the Issuer shall be under no obligation to Deliver such Loan or designate a Replacement Deliverable Obligation to a Holder unless the relevant Holder executes, and/or complies with the provisions of any documentation (which term shall be deemed to include any market advisory that the relevant Credit Derivatives Determinations Committee Resolves to approve or the Calculation Agent determines is appropriate for such purpose) that the relevant Credit Derivatives Determinations Committee Resolves or the Calculation Agent determines constitutes documentation customarily used in the relevant market for Delivery of such Loan at that time, as such documentation may be amended to the extent the relevant Credit Derivatives Determinations Committee Resolves or the Calculation Agent determines is appropriate. If any Holder does not execute and/or do not comply with the provisions of such documentation, the Issuer shall redeem the relevant proportion of the Securities in accordance with Credit Linked W&C Condition 9.

**“Deliverable Obligation”** means, subject as provided in Credit Linked W&C Condition 5:

- (a) any obligation of a Reference Entity (either directly, as provider of a Qualifying Affiliate Guarantee or, if All Guarantees is specified as applicable in the applicable Final Terms, as provider of any Qualifying Guarantee) determined pursuant to the method described in “(A) Method for Determining Deliverable Obligations” below (but excluding any Excluded Deliverable Obligation specified in the applicable Final Terms) that (i) is payable in an amount equal to its Outstanding Principal Balance or Due and Payable Amount, as applicable, (ii) is not subject to any counterclaim, defence (other than a counterclaim or defence based on the factors set forth in paragraphs (a) to (d) of the definition of “Credit Event” above)) or right of set-off by or of a Reference Entity or, as applicable, an Underlying Obligor and (iii) in the case of a Qualifying Guarantee other than a Qualifying Affiliate Guarantee, is capable, at the date on which the Notice of Physical Settlement is deemed given, of immediate assertion or demand by or on behalf of the holder or holders against the Reference Entity for an amount at least equal to the Outstanding Principal Balance or Due and Payable Amount being Delivered apart from the giving of any notice of non-payment or similar procedural requirement, it being understood that acceleration of an Underlying Obligation shall not be considered a procedural requirement;
- (b) subject to the second paragraph of the definition of “Not Contingent” in “(A) Method for Determining Deliverable Obligations” below, each Reference Obligation, unless specified in the applicable Final Terms as an Excluded Deliverable Obligation;
- (c) solely in relation to a Restructuring Credit Event applicable to a Sovereign Reference Entity, any Sovereign Restructured Deliverable Obligation (but excluding any Excluded Deliverable Obligation) that (i) is payable in an amount equal to its Outstanding Principal Balance or Due and Payable Amount, as applicable, (ii) is not subject to any counterclaim, defence (other than a counterclaim or defence based on the factors set forth in paragraphs (a)-(d) of the definition

of “Credit Event” above) or right of set-off by or of a Reference Entity or, as applicable, an Underlying Obligor and (iii) in the case of a Qualifying Guarantee other than a Qualifying Affiliate Guarantee, is capable, at the date on which the Notice of Physical Settlement is deemed given, of immediate assertion or demand by or on behalf of the holder or holders against the Reference Entity for an amount at least equal to the Outstanding Principal Balance or Due and Payable Amount being Delivered apart from the giving of any notice of non-payment or similar procedural requirement, it being understood that acceleration of an Underlying Obligation shall not be considered a procedural requirement; and

- (d) any Additional Deliverable Obligation specified as such for a Reference Entity in the applicable Final Terms.

(A) **Method for Determining Deliverable Obligations.** For the purposes of this definition of “Deliverable Obligation”, the term “Deliverable Obligation” may be defined as each obligation of each Reference Entity described by the Deliverable Obligation Category specified (or deemed to be specified) in the applicable Final Terms, and, subject to (B)(3) below, having each of the Deliverable Obligation Characteristics, if any, specified (or deemed to be specified) in the applicable Final Terms, in each case, as of the Delivery Date thereof. The following terms shall have the following meanings:

- (1) **“Deliverable Obligation Category”** means one of Payment, Borrowed Money, Reference Obligations Only, Bond, Loan, or Bond or Loan (each as defined in the definition of “Obligation” below, except that, for the purpose of determining Deliverable Obligations, the definition of “Reference Obligations Only” shall be amended to state that no Deliverable Obligation Characteristics shall be applicable to Reference Obligations Only).
- (2) **“Deliverable Obligation Characteristics”** means any one or more of Not Subordinated, Specified Currency, Not Sovereign Lender, Not Domestic Currency, Not Domestic Law, Listed, Not Domestic Issuance (each as defined in the definition of “Obligation” below), Not Contingent, Assignable Loan, Consent Required Loan, Direct Loan Participation, Transferable, Maximum Maturity, Accelerated or Matured and Not Bearer where:
  - (i) **“Not Contingent”** means any obligation having as of the Delivery Date and all times thereafter an Outstanding Principal Balance or, in the case of obligations that are not Borrowed Money, a Due and Payable Amount, that pursuant to the terms of such obligation may not be reduced as a result of the occurrence or non-occurrence of an event or circumstance (other than payment). A Convertible Obligation, an Exchangeable Obligation and an Accreting Obligation shall constitute Deliverable Obligations that are Not Contingent if such Deliverable Obligation otherwise meets the requirements of the preceding sentence so long as, in the case of a Convertible Obligation or an Exchangeable Obligation, the right (x) to convert or exchange such obligation or (y) to require the issuer to purchase or redeem such obligation (if the issuer has exercised or may exercise the right to pay the purchase or redemption price, in whole or in part, in Equity Securities) has not been exercised (or such exercise has been effectively rescinded) on or before the Delivery Date.  
  
If a Reference Obligation is a Convertible Obligation or an Exchangeable Obligation, then such Reference Obligation may be included as a Deliverable Obligation only if the rights referred to in clauses (x) and (y) of the preceding paragraph have not been exercised (or such exercise has been effectively rescinded) on or before the Delivery Date;
  - (ii) **“Assignable Loan”** means a Loan that is capable of being assigned or novated to, at a minimum, commercial banks or financial institutions (irrespective of their jurisdiction of organisation) that are not then a lender or a member of the relevant lending syndicate, without the consent of the relevant Reference Entity or the guarantor, if any, of such Loan (or the consent of the applicable borrower if a Reference Entity is guaranteeing such Loan) or any agent;

- (iii) “**Consent Required Loan**” means a Loan that is capable of being assigned or novated with the consent of the relevant Reference Entity or the guarantor, if any, of such Loan (or the consent of the relevant borrower if a Reference Entity is guaranteeing such loan) or any agent;
- (iv) “**Direct Loan Participation**” means a Loan in respect of which, pursuant to a participation agreement, the Issuer is capable of creating, or procuring the creation of, a contractual right in favour of each Holder that provides each Holder with recourse to the participation seller for a specified share in any payments due under the relevant Loan which are received by such participation seller, any such agreement to be entered into between each Holder and either (A) the Issuer or the Guarantor (as applicable) (in either case, to the extent that the Issuer or the Guarantor, as applicable, is then a lender or a member of the relevant lending syndicate), or (B) a Qualifying Participation Seller (if any) (to the extent such Qualifying Participation Seller is then a lender or a member of the relevant lending syndicate);
- (v) “**Transferable**” means an obligation that is transferable to institutional investors without any contractual, statutory or regulatory restriction, provided that none of the following shall be considered contractual, statutory or regulatory restrictions:
  - (a) contractual, statutory or regulatory restrictions that provide for eligibility for resale pursuant to Rule 144A or Regulation S promulgated under the United States Securities Act of 1933, as amended (and any contractual, statutory or regulatory restrictions promulgated under the laws of any jurisdiction having a similar effect in relation to the eligibility for resale of an obligation); or
  - (b) restrictions on permitted investments such as statutory or regulatory investment restrictions on insurance companies and pension funds;
- (vi) “**Maximum Maturity**” means an obligation that has a remaining maturity from the Settlement Date of not greater than the period specified in the applicable Final Terms;
- (vii) “**Accelerated or Matured**” means an obligation under which the total amount owed, whether at maturity, by reason of acceleration, upon termination or otherwise (other than amounts in respect of default interest, indemnities, tax gross-ups and other similar amounts), is, or on or prior to the Delivery Date will be, due and payable in full in accordance with the terms of such obligation, or would have been but for, and without regard to, any limitation imposed under any applicable insolvency laws; and
- (viii) “**Not Bearer**” means any obligation that is not a bearer instrument unless interests with respect to such bearer instrument are cleared via Euroclear, Clearstream, Luxembourg or any other internationally recognised clearing system.

**(B) Interpretation of Provisions**

- (1) If the Obligation Characteristic “Listed” is specified in the applicable Final Terms, the Final Terms shall be construed as though Listed had been specified as an Obligation Characteristic only with respect to Bonds and shall only be relevant if Bonds are covered by the selected Obligation Category;
- (2) if (i) either of the Deliverable Obligation Characteristics “Listed” or “Not Bearer” is specified in the applicable Final Terms, the Final Terms shall be construed as though such Deliverable Obligation Characteristic had been specified as a Deliverable Obligation Characteristic only with respect to Bonds and shall only be relevant if Bonds are covered by the selected Deliverable Obligation Category; (ii) the Deliverable Obligation Characteristic “Transferable” is specified in the applicable Final Terms, the Final Terms shall be construed as though such Deliverable Obligation Characteristic had been specified as a Deliverable

Obligation Characteristic only with respect to Deliverable Obligations that are not Loans (and shall only be relevant to the extent that obligations other than Loans are covered by the selected Deliverable Obligation Category); or (iii) any of the Deliverable Obligation Characteristics “Assignable Loan”, “Consent Required Loan” or “Direct Loan Participation” is specified in the applicable Final Terms, the Final Terms shall be construed as though such Deliverable Obligation Characteristic had been specified as a Deliverable Obligation Characteristic only with respect to Loans and shall only be relevant if Loans are covered by the selected Deliverable Obligation Category;

- (3) if any of Payment, Borrowed Money, Loan or Bond or Loan is specified as the Deliverable Obligation Category and more than one of Assignable Loan, Consent Required Loan and Direct Loan Participation are specified as Deliverable Obligation Characteristics, the Deliverable Obligations may include any Loan that satisfies any one of such Deliverable Obligation Characteristics specified and need not satisfy all such Deliverable Obligation Characteristics; and
- (4) in the event that an Obligation or a Deliverable Obligation is a Qualifying Guarantee, the following will apply:
  - (a) For purposes of the application of the Obligation Category or the Deliverable Obligation Category, the Qualifying Guarantee shall be deemed to be described by the same category or categories as those that describe the Underlying Obligation.
  - (b) For purposes of the application of the Obligation Characteristics or the Deliverable Obligation Characteristics, both the Qualifying Guarantee and the Underlying Obligation must satisfy on the relevant date each of the applicable Obligation Characteristics or Deliverable Obligation Characteristics, if any, specified in the applicable Final Terms from the following list: Not Subordinated, Specified Currency, Not Sovereign Lender, Not Domestic Currency and Not Domestic Law. For these purposes, unless otherwise specified in the applicable Final Terms, (A) the lawful currency of any of Canada, Japan, Switzerland, the United Kingdom or the United States of America or the euro shall not be a Domestic Currency and (B) the laws of England and the laws of the State of New York shall not be a Domestic Law.
  - (c) For purposes of the application of the Obligation Characteristics or the Deliverable Obligation Characteristics, only the Underlying Obligation must satisfy on the relevant date each of the applicable Obligation Characteristics or the Deliverable Obligation Characteristics, if any, specified in the applicable Final Terms from the following list: Listed, Not Contingent, Not Domestic Issuance, Assignable Loan, Consent Required Loan, Direct Loan Participation, Transferable, Maximum Maturity, Accelerated or Matured and Not Bearer.
  - (d) For purposes of the application of the Obligation Characteristics or the Deliverable Obligation Characteristics to an Underlying Obligation, references to the Reference Entity shall be deemed to refer to the Underlying Obligor.
  - (e) The terms “Outstanding Principal Balance” and “Due and Payable Amount” (as they are used in the Credit Linked W&C Conditions, including without limitation, the definitions of “Partial Cash Settlement Amount” and “Quotation Amount” in Credit Linked W&C Condition 9, when used in connection with Qualifying Guarantees are to be interpreted to be the then “Outstanding Principal Balance” or “Due and Payable Amount”, as applicable, of the Underlying Obligation which is supported by a Qualifying Guarantee.

For the avoidance of doubt the provisions of this paragraph (B) apply in respect of the definitions of Obligation and Deliverable Obligation as the context admits.

**“Delivery Date”** means, with respect to a Deliverable Obligation, the date such Deliverable Obligation is Delivered.

**“Domestic Currency”** means the currency specified as such in the applicable Final Terms and any successor currency. If no currency is specified in the applicable Final Terms, the Domestic Currency shall be the lawful currency and any successor currency of (a) the relevant Reference Entity, if the Reference Entity is a Sovereign, or (b) the jurisdiction in which the relevant Reference Entity is organised, if the Reference Entity is not a Sovereign. In no event shall Domestic Currency include any successor currency if such successor currency is the lawful currency of any of Canada, Japan, Switzerland, the United Kingdom or the United States of America or the euro (or any successor currency to any such currency).

**“Downstream Affiliate”** means an entity whose outstanding Voting Shares were, at the date of issuance of the Qualifying Guarantee, more than 50 per cent. owned, directly or indirectly, by the Reference Entity.

**“Due and Payable Amount”** means, subject as provided in sub-paragraph (4)(e) of paragraph (B) (Interpretation of Provisions) in the definition of “Deliverable Obligation”, the amount that is due and payable under (and in accordance with the terms of) a Deliverable Obligation on the Delivery Date, whether by reason of acceleration, maturity, termination or otherwise (excluding sums in respect of default interest, indemnities, tax gross-ups and other similar amounts).

**“Eligible Transferee”** means:

- (a) any
  - (i) bank or other financial institution;
  - (ii) insurance or reinsurance company;
  - (iii) mutual fund, unit trust or similar collective investment vehicle (other than an entity specified in sub-paragraph (c)(i) below); and
  - (iv) registered or licensed broker or dealer (other than a natural person or proprietorship), provided, however, in each case that such entity has total assets of at least U.S.\$500 million;
- (b) an Affiliate of an entity specified in the preceding sub-paragraph (a);
- (c) each of a corporation, partnership, proprietorship, organisation, trust or other entity:
  - (i) that is an investment vehicle (including, without limitation, any hedge fund, issuer of collateralised debt obligations, commercial paper conduit or other special purpose vehicle) that (1) has total assets of at least U.S.\$100 million or (2) is one of a group of investment vehicles under common control or management having, in the aggregate, total assets of at least U.S.\$100 million; or
  - (ii) that has total assets of at least U.S.\$500 million; or
  - (iii) the obligations of which under an agreement, contract or transaction are guaranteed or otherwise supported by a letter of credit or keepwell, support, or other agreement by an entity described in sub-paragraphs (a), (b), (c)(ii) or (d); or
- (d) a Sovereign, Sovereign Agency or Supranational Organisation.

All references in this definition to U.S.\$ include equivalent amounts in other currencies.

**“Enabling Obligation”** means an outstanding Deliverable Obligation that (i) is a Fully Transferable Obligation or a Conditionally Transferable Obligation, as applicable, and (ii) has a final maturity date occurring on or prior to the Scheduled Exercise Date, as applicable, and following the Limitation Date immediately preceding the Scheduled Exercise Date, as applicable (or, in circumstances where the Scheduled Exercise Date, as applicable occurs prior to the 2.5-year Limitation Date, following the final maturity date of the Latest Maturity Restructured Bond or Loan, if any).

**“Entitlement”** means, in respect of each notional amount of Long Credit Linked Certificates equal to the Notional Amount, Deliverable Obligations, as selected by the Calculation Agent in its sole and absolute discretion, with:



- (i) in the case of Deliverable Obligations that are Borrowed Money, an Outstanding Principal Balance (including accrued but unpaid interest (as determined by the Calculation Agent) if “Include Accrued Interest” is specified as applying in the applicable Final Terms, but excluding accrued but unpaid interest if “Exclude Accrued Interest” is specified as applying in the applicable Final Terms, and if neither “Include Accrued Interest” nor “Exclude Accrued Interest” is specified as applying in the applicable Final Terms, excluding accrued but unpaid interest); or
- (ii) in the case of Deliverable Obligations that are not Borrowed Money, a Due and Payable Amount,

(or, in the case of either (i) or (ii), the equivalent Currency Amount of any such amount), in an aggregate amount as of the relevant Delivery Date equal to the Notional Amount of such Certificate less Deliverable Obligations with a market value determined by the Calculation Agent in its sole and absolute discretion on the Business Day selected by the Calculation Agent falling during the period from and including the Event Determination Date to and including the Delivery Date equal to the relevant amount of Unwind Costs, if Unwind Costs are specified as applicable in the applicable Final Terms, rounded down to the nearest specified denomination or permitted transfer amount of the Deliverable Obligations comprised in such Entitlement.

Where the Entitlement is rounded down as described above, the Holders will also receive, in respect of each notional amount of Credit Linked Certificates equal to the Notional Amount, the value of the amount of that fraction of the Deliverable Obligations obtained in calculating the Entitlement after rounding down (as determined by the Calculation Agent), as calculated by the Calculation Agent in its sole discretion from such source(s) as it may select (converted if necessary into the Specified Currency by reference to such exchange rate as the Calculation Agent deems appropriate).

If an obligation by its terms represents or contemplates an obligation to pay an amount greater than the Outstanding Principal Balance of such obligation as of the Delivery Date as a result of the occurrence or non-occurrence of an event or circumstance, the Outstanding Principal Balance of such obligation shall not include any additional amount that would be payable upon the occurrence or non-occurrence of such event or circumstance.

**“Equity Securities”** means:

- (a) in the case of a Convertible Obligation, equity securities (including options and warrants) of the issuer of such obligation or depositary receipts representing equity securities of the issuer of such obligation together with any other property distributed to or made available to holders of those equity securities from time to time; and
- (b) in the case of an Exchangeable Obligation, equity securities (including options and warrants) of a person other than the issuer of such obligation or depositary receipts representing those equity securities of a person other than the issuer of such obligation together with any other property distributed to or made available to holders of those equity securities from time to time;

**“Event Determination Date”** means, with respect to a Credit Event:

- (a) if either (x), subject to (b) below, “Calculation Agent Determination” is specified as being applicable in the applicable Final Terms or (y) no DC Credit Event Announcement and/or DC No Credit Event Announcement has occurred, the first date on which both the (A) the Credit Event Notice and (B) either a Notice of Publicly Available Information or an Officer’s Certificate are delivered by the Calculation Agent to the Issuer and are effective during (I) the Notice Delivery Period or (II) the period from, and including, the day on which ISDA publicly announces that the relevant Credit Derivatives Determinations Committee has Resolved not to determine the matters described in sub-paragraphs (a) and (b) of the definition of “Credit Event Resolution Request Date” to the date which is 15 Business Days thereafter (provided that the relevant Credit Event Resolution Request Date occurred on or prior to the end of the last day of the Notice Delivery Period (including prior to the Trade Date)); or
- (b) if (A) (x) “Calculation Agent Determination” is not specified as being applicable in the Final Terms or (y) “Calculation Agent Determination” is specified as being applicable in the Final Terms but the Calculation Agent notifies the Issuer that this sub-paragraph (b) shall apply to the relevant Securities and (B) a DC Credit Event Announcement has occurred, the Credit

Event Resolution Request Date, provided that if the relevant Credit Event is a Restructuring, the Event Determination Date shall be the Credit Event Resolution Request Date only if (I) in the case of Long Credit Linked W&C Securities, the Calculation Agent has delivered a Credit Event Notice to the Issuer on or prior to the Exercise Cut-off Date or (II) in the case of Short Credit Linked W&C Securities, either the Holder has delivered a Credit Event Notice to the Issuer or the Calculation Agent has delivered a Credit Event Notice to the Issuer, in each case on or prior to the Exercise Cut-off Date and provided further that:

- (i) no Credit Settlement Date has occurred on or prior to the date on which the DC Credit Event Announcement occurs;
  - (ii) if any Valuation Date or Delivery Date, as applicable, has occurred as of the date on which the DC Credit Event Announcement occurs, an Event Determination Date shall be deemed to have occurred only with respect to the portion of the Notional Amount, if any, with respect to which no Valuation Date or Delivery Date, as applicable, has occurred;
  - (iii) no Credit Event Notice specifying a Restructuring as the only Credit Event has been delivered by the Issuer to the Holders (x) unless the Restructuring stated in such Credit Event Notice is also the subject of the notice to ISDA resulting in the occurrence of the Credit Event Resolution Request Date or (y) unless, and to the extent that, the Partial Redemption Amount or the Partial Cancellation Amount (as applicable) specified in any such Credit Event Notice was less than the then outstanding notional amount.
- (c) no Event Determination Date will occur, and any Event Determination Date previously determined with respect to an event shall be deemed not to have occurred, if, or to the extent that, a DC No Credit Event Announcement in respect of the relevant Reference Entity and Credit Event occurs prior to the Auction Final Price Determination Date, a Valuation Date, the Credit Settlement Date (or, if earlier, a Delivery Date), or the Short Exercise Date or Long Exercise Date, as applicable.

If, in accordance with the provisions above, (x) following the determination of an Event Determination Date, such Event Determination Date is deemed (A) to have occurred on a date that is different from the date that was originally determined to be the Event Determination Date or (B) not to have occurred, the Calculation Agent will determine in its sole discretion (i) the adjustment payment, if any, that is payable to reflect any change that may be necessary to the amounts or the Entitlement, as applicable, previously calculated and/or paid or delivered, as applicable under the Securities, (ii) the date on which such adjustment payment is payable, if any, and (iii) whether the Issuer is required to make such adjustment payment. For the avoidance of doubt, no accruals of interest shall be taken into account when calculating any such adjustment payment.

**“Exchangeable Obligation”** means any obligation that is exchangeable, in whole or in part, for Equity Securities solely at the option of holders of such obligation or a trustee or similar agent acting for the benefit only of holders of such obligation (or the cash equivalent thereof, whether the cash settlement option is that of the issuer or of (or for the benefit of) the holders of such obligation).

**“Excluded Deliverable Obligation”** means any obligation of a Reference Entity specified as such or of a type described in the applicable Final Terms.

**“Excluded Obligation”** means any obligation of a Reference Entity specified as such or of a type described as such in the applicable Final Terms.

**“Exercise Cut-off Date”** means in respect of a Reference Entity and a Credit Event:

- (a) if such Credit Event is not a Restructuring (or if such Credit Event is a Restructuring and neither “Restructuring Maturity Limitation and Fully Transferable Obligation Applicable” nor “Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable” is specified (or deemed specified) in the applicable Final Terms), either:
  - (i) the Business Day (or in respect of a Credit Event Notice delivered by a Holder the second Business Day) prior to the Auction Final Price Determination Date, if any;
  - (ii) the Business Day (or in respect of a Credit Event Notice delivered by a Holder the second Business Day) prior to the Auction Cancellation Date, if any; or

- (iii) the date that is 21 calendar days (or in respect of a Credit Event Notice delivered by a Holder 14 calendar days) following the No Auction Announcement Date (if any); or
- (b) if such Credit Event is a Restructuring and either “Restructuring Maturity Limitation and Fully Transferable Obligation Applicable” or “Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable” is specified (or deemed specified) in the applicable Final Terms) and:
  - (i) the relevant Credit Derivatives Determinations Committee has Resolved that Transaction Auction Settlement Terms and/or Parallel Auction Settlement Terms may be published, the date that is: (A) two Business Days (in respect of a Credit Event Notice delivered by a Holder) or (B) five Business Days (in respect of a Credit Event Notice delivered by the Calculation Agent), in each case following the date on which ISDA publishes the Final List applicable to such Transaction Auction Settlement Terms in accordance with the Rules, provided that if the Calculation Agent delivers a Credit Event Notice on or prior to the Exercise Cut-off Date applicable to Holders and the Holder delivers a Credit Event Notice on or prior to the Exercise Cut-off Date applicable to the Calculation Agent, the Credit Event Notice delivered by the Calculation Agent on or prior to the Exercise Cut-off Date applicable to the Holders shall prevail; or
  - (ii) a No Auction Announcement Date occurs pursuant to clause (a) of the definition of “No Auction Announcement Date”, the date that is 21 calendar days (or in respect of a Credit Event Notice delivered by a Holder 14 calendar days) following such No Auction Announcement Date.

“**Extension Date**” means the latest of:

- (a) the Actual Exercise Date;
- (b) the Grace Period Extension Date if (i) Grace Period Extension is specified (or deemed specified) to apply in the applicable Final Terms, (ii) the Credit Event that is the subject of the Credit Event Notice or Credit Event Resolution Request Date, as applicable, is a Failure to Pay that occurs after the Scheduled Exercise Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)) and (iii) the Potential Failure to Pay with respect to such Failure to Pay occurs on or prior to the Scheduled Exercise Date (in each case determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)); and
- (c) the Repudiation/Moratorium Evaluation Date if (i) the Credit Event that is the subject of the Credit Event Notice or Credit Event Resolution Request Date, as applicable, is a Repudiation/ Moratorium for which a Failure to Pay (determined without regard to the Payment Requirement) or a Restructuring (determined without regard to the Default Requirement) occurs after the Scheduled Exercise Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)), (ii) the Potential Repudiation/Moratorium with respect to such Repudiation/Moratorium occurs on or prior to the Scheduled Exercise Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)) and (iii) the Repudiation/Moratorium Extension Condition is satisfied.

“**Extension Notice**” means a notice from the Calculation Agent to the Issuer on or prior to the Actual Exercise Date giving notice of the following in relation to a Reference Entity:

- (i) without prejudice to sub-paragraphs (iii) and (iv) below, that a Credit Event has occurred or may occur on or prior to the Scheduled Exercise Date; or
- (ii) without prejudice to sub-paragraph (iii) and (iv) below, that a Credit Event Resolution Request Date has occurred or may occur on or prior to the last day of the longest Notice Delivery Period; or
- (iii) that a Potential Failure to Pay has occurred or may occur on or prior to the Scheduled Exercise Date; or

- (iv) that a Potential Repudiation/Moratorium has occurred or may occur on or prior to the Scheduled Exercise Date. For the purposes of this sub-paragraph (iv), the giving of a Repudiation/Moratorium Extension Notice on or prior to the Scheduled Exercise Date shall be deemed to satisfy the requirement to give notice under this definition of “Extension Notice”. However, the giving of an Extension Notice in accordance with this sub-paragraph (iv) shall not in any way preclude the subsequent giving of a Repudiation/Moratorium Extension Notice so long as the Repudiation/Moratorium Extension Condition is satisfied.

“**Failure to Pay**” means after the expiration of any applicable 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 in accordance with the terms of such Obligations at the time of such failure.

“**Fallback Settlement Event**” means any of the following:

- (a) an Auction Cancellation Date occurs;
- (b) a No Auction Announcement Date occurs and in circumstances where such No Auction Announcement Date occurs pursuant to sub-paragraph (b) of the definition of “No Auction Announcement Date”, (i) in the case of Long Credit Linked W&C Securities, a Notice to Exercise Movement Option has not been delivered by the Issuer to the Holders on or prior to the Auction Final Price Determination Date or (ii) in the case of Short Credit Linked W&C Securities, the Short Movement Option Condition is not satisfied or no Short Parallel Auction Settlement Terms exist;
- (c) ISDA publicly announces that the relevant Credit Derivatives Determinations Committee has Resolved, following a Credit Event Resolution Request Date, not to determine whether or not an event constitutes a Credit Event; or
- (d) an Event Determination Date has occurred pursuant to sub-paragraph (a) of the definition of “Event Determination Date”, and no Credit Event Request Resolution Date has occurred within three Business Days of such Event Determination Date.

“**Fallback Settlement Method**” means the fallback settlement method specified (or deemed specified) in the applicable Final Terms.

“**Final Delivery Date**” has the meaning given to it in W&C Securities Condition 30(c)(b).

“**Final Price**” means the price of the Reference Obligation, expressed as a percentage, determined in accordance with the Valuation Method specified in the applicable Final Terms. The Calculation Agent shall, upon written request by a Holder to the Issuer and the Calculation Agent, make available for inspection by such Holder at the specified office of the Principal Certificate Agent (in the case of Credit Linked Certificates) or Principal Warrant Agent (in the case of Credit Linked Warrants) (i) a list showing the Quotation(s) that it receives in connection with the calculation of the Final Price and (ii) a written computation showing its calculation of the Final Price as soon as practicable after obtaining all Quotations for a Valuation Date. For the avoidance of doubt, the Issuer shall not be required to identify the Quotation Dealer, from whom any Quotations have been obtained.

“**Full Quotation**” means, in accordance with the Quotation Method each firm quotation obtained from a Quotation Dealer at the Valuation Time, to the extent reasonably practicable, for an amount of the Reference Obligation with an Outstanding Principal Balance equal to the Quotation Amount.

“**Fully Transferable Obligation**” means a Deliverable Obligation that is either Transferable, in the case of Bonds, or capable of being assigned or novated to all Eligible Transferees without the consent of any person being required in the case of any Deliverable Obligation other than Bonds. Any requirement that notification of novation, assignment or transfer of a Deliverable Obligation be provided to a trustee, fiscal agent, administrative agent, clearing agent or paying agent for a Deliverable Obligation shall not be considered as a requirement for consent for purposes of this definition of “Fully Transferable Obligation”. For purposes of determining whether a Deliverable Obligation satisfies the requirements of this definition of “Fully Transferable Obligation”, such determination shall be made as of the Delivery Date for the relevant Deliverable Obligation, taking

into account only the terms of the Deliverable Obligation and any related transfer or consent documents which have been obtained by the Issuer or the Guarantor, as the case may be.

**“Governmental Authority”** means any *de facto* or *de jure* government (or any agency, instrumentality, ministry or department thereof), court, tribunal, administrative or other governmental authority or any other entity (private or public) charged with the regulation of the financial markets (including the central bank) of a Reference Entity or of the jurisdiction of organisation of a Reference Entity.

**“Grace Period”** means, subject to sub-clause (i) and (ii) below, the applicable grace period with respect to payments under the relevant Obligation under the terms of such Obligation in effect as of the date as of which such Obligation is issued or incurred, provided that (i) if Grace Period Extension is specified in the Final Terms as applicable, a Potential Failure to Pay has occurred on or prior to the Scheduled Exercise Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)) and the applicable grace period cannot, by its terms, expire on or prior to the Scheduled Exercise Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)), the Grace Period shall be deemed to be the lesser of such grace period and the period specified as such in the Final Terms or, if no period is specified, 30 calendar days; and (ii) if, as of the date as of which an Obligation is issued or incurred, no grace period with respect to payments or a grace period with respect to payments of less than 3 Grace Period Business Days is applicable under the terms of such Obligation, a Grace Period of 3 Grace Period Business Days shall be deemed to apply to such Obligation; provided that, unless Grace Period Extension is specified (or deemed specified) as applicable in the Final Terms, such deemed Grace Period shall expire no later than the Scheduled Exercise Date.

**“Grace Period 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 Obligation and if a place or places are not so specified, in the jurisdiction of the Obligation Currency.

**“Grace Period Extension Date”** means, if (a) Grace Period Extension is specified as applicable in the Final Terms and (b) a Potential Failure to Pay occurs on or prior to the Scheduled Exercise Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)), the date that is the number of days in the Grace Period after the date of such Potential Failure to Pay. If Grace Period Extension is not specified (or deemed specified) as applicable in the Final Terms, Grace Period Extension shall not apply.

**“Hedge Disruption Event”** means in the opinion of the Calculation Agent any event as a result of which the Issuer and/or any of its Affiliates and/or its agents has not received or is unable to receive (for any reason, including without limitation, due to market conditions) the relevant Deliverable Obligations and/or any cash settlement amount and/or any other amount under the terms of any Hedge Transaction (or any other transaction (including without limitation, has not sourced or has not been able to source, Deliverable Obligations in an Auction in relation to the Credit Event and Reference Entity or otherwise at the Auction Final Price) and/or funding arrangement entered into for the purpose of hedging the Issuer’s obligations (whether in whole or in part) in respect of the Credit Linked Warrants or Credit Linked Certificates, as applicable.

**“Hedge Disruption Obligation”** means a Deliverable Obligation included in the Entitlement which, on the Delivery Date for such Deliverable Obligation, the Calculation Agent determines in its sole and absolute discretion is impossible, illegal or impracticable to Deliver or otherwise determines that it is not able to Deliver or that such Deliverable Obligation cannot be Delivered, in each case as a result of a Hedge Disruption Event.

**“Hedge Transaction”** means any transaction or trading position entered into or held by the Issuer and/or any of its Affiliates to hedge, directly or indirectly, the Issuer’s obligations or positions (whether in whole or in part) in respect of the Credit Linked Warrants or Credit Linked Certificates, as applicable.

**“ISDA”** means International Swaps and Derivatives Association, Inc.



**“Latest Maturity Restructured Bond or Loan”** means, in respect of a Reference Entity and a Credit Event that is a Restructuring, the Restructured Bond or Loan with the latest final maturity date.

**“Limitation Date”** means the first of March 20, June 20, September 20 or December 20 in any year to occur on or immediately following the date that is one of the following numbers of years after the Restructuring Date: 2.5 years (the **“2.5-year Limitation Date”**), 5 years (the **“5-year Limitation Date”**), 7.5 years, 10 years, 12.5 years, 15 years, or 20 years (the **“20-year Limitation Date”**), as applicable. Limitation Dates shall not be subject to adjustment unless otherwise provided in the applicable Final Terms.

**“Long Exercise Date”** means the later of:

- (a) the Actual Exercise Date; or
- (b) where the Calculation Agent delivers an Extension Notice to the Issuer on or prior to the Actual Exercise Date, the first to occur of:
  - (i) the date falling 15 Business Days (or such other date as may be specified in the applicable Final Terms) after the expiry of the Notice Delivery Period (and only where the Conditions to Settlement have not been satisfied during such period);
  - (ii) if a Credit Event Resolution Request Date has occurred on or prior to the expiry of the Notice Delivery Period in relation to a Reference Entity and unless otherwise elected by the Issuer by written notice to the Holders, the date falling 15 Business Days (or such other date as may be specified in the applicable Final Terms) following any date on which the relevant Credit Derivatives Determinations Committee Resolves that the relevant event does not constitute a Credit Event, or Resolves not to make such determination (provided that if “Calculation Agent Determination” is specified as being applicable in the applicable Final Terms, this sub- paragraph (ii) shall not apply to the relevant Long Credit Linked W&C Securities unless the Calculation Agent notifies the Issuer that such DC Resolution shall apply to the relevant Long Credit Linked W&C Securities); or
  - (iii) three Business Days following the date the Cancellation Notice is delivered by the Calculation Agent to the Issuer.

**“Market Value”** means, with respect to a Reference Obligation on a Valuation Date:

- (a) if more than three Full Quotations are obtained, the arithmetic mean of such Full Quotations, disregarding the Full Quotations having the highest and lowest values (and, if more than one such Full Quotations have the same highest value or lowest value, then one of such highest or lowest Full Quotations shall be disregarded);
- (b) if exactly three Full Quotations are obtained, the Full Quotation remaining after disregarding the highest and lowest Full Quotations (and, if more than one such Full Quotations have the same highest value or lowest value, then one of such highest or lowest Full Quotations shall be disregarded);
- (c) if exactly two Full Quotations are obtained, the arithmetic mean of such Full Quotations;
- (d) if fewer than two Full Quotations and a Weighted Average Quotation is obtained, such Weighted Average Quotation;
- (e) if fewer than two Full Quotations are obtained and no Weighted Average Quotation is obtained, subject as provided in the definition of Quotation, an amount as determined by the Calculation Agent on the next Business Day on which two or more Full Quotations or a Weighted Average Quotation is obtained; and
- (f) if two or more Full Quotations or a Weighted Average Quotation are not obtained on or prior to the tenth Business Day following the applicable Valuation Date, the Market Value shall be any Full Quotation obtained from a Quotation Dealer at the Valuation Time on such tenth Business Day, or if no Full Quotation is obtained, the weighted average of any firm quotations for the Reference Obligation obtained from Quotation Dealers at the Valuation Time on such tenth Business Day with respect to the aggregate portion of the Quotation Amount for which such quotations were obtained and a quotation deemed to be zero for the balance of the Quotation Amount for which firm quotations were not obtained on such day.

**“Merger Event”** means, in respect of Long Credit Linked W&C Securities only, that at any time during the period from (and including) the Trade Date to (but excluding) the Scheduled Exercise Date, the Issuer, the Guarantor (if applicable) or a Reference Entity (any such entity, the **“Mergor”**) consolidates or amalgamates with, or merges into, or transfers all or substantially all of its assets to (i) where the Mergor is the Issuer or the Guarantor, a Reference Entity or (ii) where the Mergor is a Reference Entity, the Issuer or the Guarantor, or, the Guarantor and a Reference Entity or the Issuer and a Reference Entity become Affiliates.

**“Minimum Quotation Amount”** means the amount specified as such in the applicable Final Terms (or its equivalent in the relevant Obligation Currency) or, if no amount is so specified, the lower of (a) U.S.\$1,000,000 (or its equivalent in the relevant Obligation Currency) and (b) the Quotation Amount.

**“Modified Eligible Transferee”** means any bank, financial institution or other entity which is regularly engaged in and established for the purpose of making, purchasing or investing in loans, securities and other financial assets.

**“Modified Restructuring Maturity Limitation Date”** means, with respect to a Deliverable Obligation, the Limitation Date occurring on or immediately following the Scheduled Exercise Date, provided that, in circumstances where the Scheduled Exercise Date (as applicable) is later than the 2.5-year Limitation Date, at least one Enabling Obligation exists. With respect to a Credit Linked Warrant or Credit Linked Certificate (as applicable) for which **“Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable”** is specified in the applicable Final Terms and for which the Scheduled Exercise Date is later than the 2.5-year Limitation Date and prior to the 5-year Limitation Date, a Restructured Bond or Loan will not constitute an Enabling Obligation. Notwithstanding the foregoing, if the Scheduled Exercise Date is either (i) on or prior to the 2.5-year Limitation Date or (ii) later than the 2.5-year Limitation Date and on or prior to the 5-year Limitation Date and no Enabling Obligation exists, the Modified Restructuring Maturity Limitation Date will be the 5-year Limitation Date in the case of a Restructured Bond or Loan only.

Subject to the foregoing, in the event that the Scheduled Exercise Date is later than (A) the 2.5-year Limitation Date and no Enabling Obligation exists or (B) the 20-year Limitation Date, the Modified Restructuring Maturity Limitation Date will be the Scheduled Exercise Date.

**“N”** or **“Nth”** means, where the applicable Final Terms specifies that **“Nth-to-Default Securities”** is applicable, such number as may be specified in such Final Terms.

**“Nth-to-Default Securities”** means any nth-to-default Credit Linked Warrants or Credit Linked Certificates (where applicable) where the Issuer purchases credit protection from the Holders or the Holders purchase credit protection from the Issuer (as applicable) in respect of two or more Reference Entities on the basis that the Securities will be exercised in whole following the satisfaction of the Conditions to Settlement in respect of the Nth Reference Entity.

**“Next Currency Fixing Time”** means 4:00 p.m. (London time) on the London Business Day immediately following the date on which the Notice of Physical Settlement or relevant NOPS Amendment Notice, as applicable, is effective.

**“No Auction Announcement Date”** means, with respect to a Credit Event, the date on which ISDA first publicly announces that:

- (a) no Transaction Auction Settlement Terms will be published;
- (b) following the occurrence of a Restructuring and either **“Restructuring Maturity Limitation and Fully Transferable Obligation Applicable”** or **“Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable”** is specified (or deemed specified) in the applicable Final Terms, no Transaction Auction Settlement Terms will be published, but Parallel Auction Settlement Terms will be published; or
- (c) the relevant Credit Derivatives Determinations Committee has Resolved that no Auction will be held following a prior public announcement by ISDA to the contrary.

**“NOPS Amendment Notice”** has the meaning given to it in Credit Linked W&C Condition 5.

**“Notice Delivery Period”** means the period from and including the Issue Date to and including the date that is 15 Business Days (or such other number of days as may be specified in the applicable Final Terms) after the Extension Date.

**“Notice of Publicly Available Information”** means an irrevocable notice from the Calculation Agent to the Issuer that cites Publicly Available Information confirming the occurrence of the Credit Event or Potential Repudiation/Moratorium, as applicable, described in the Credit Event Notice or Repudiation/Moratorium Extension Notice. In relation to a Repudiation/Moratorium Credit Event, the Notice of Publicly Available Information must cite Publicly Available Information confirming the occurrence of both clauses (a) and (b) of the definition of Repudiation/Moratorium. The notice given must contain a copy or description in reasonable detail, of the relevant Publicly Available Information. If Notice of Publicly Available Information is specified (or deemed to be specified) as applying in the applicable Final Terms and a Credit Event Notice or Repudiation/Moratorium Extension Notice, as applicable, contains Publicly Available Information, such Credit Event Notice or Repudiation/Moratorium Extension Notice will also be deemed to be a Notice of Publicly Available Information.

**“Notice of Physical Settlement”** has the meaning given to it in Credit Linked W&C Condition 5.

**“Notice to Exercise Movement Option”** means, in respect of Long Credit Linked W&C Securities only, if the relevant Credit Event is a Restructuring and either “Restructuring Maturity Limitation and Fully Transferable Obligation Applicable” or “Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable” is specified (or deemed specified) in the applicable Final Terms and with respect to which a No Auction Announcement Date has occurred pursuant to sub-paragraph (b) of the definition thereof, a notice by the Issuer to the Holders to apply, for the purposes of the Securities, the Parallel Auction Settlement Terms, if any, for the purposes of which the Deliverable Obligations under the Parallel Auction Settlement Terms are more limited than the Deliverable Obligations under the Transaction Auction Settlement Terms (provided that the Issuer may apply the Parallel Auction Settlement Terms for purposes of which all Deliverable Obligations on the Final List (as defined in the Rules) will be Permissible Deliverable Obligations (as defined in the Credit Derivatives Definitions) if the Parallel Auction Settlement Terms so elected apply to one or more Hedge Transactions in respect of the relevant Securities). The Issuer shall in such notice identify the specific Parallel Auction Settlement Terms which it wishes to apply for the purposes of the Securities.

**“Notifying Party”** means (a) the Calculation Agent and (b) in respect of Short Credit Linked W&C Securities only, if the relevant Credit Event is a Restructuring and either “Restructuring Maturity Limitation and Fully Transferable Obligation Applicable” or “Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable” is specified (or deemed specified) in the applicable Final Terms, a Holder of the Short Credit Linked W&C Security.

**“Notional Credit Derivative Transaction”** means, with respect to any Credit Linked Warrant or Credit Linked Certificate, as applicable, a hypothetical market standard credit default swap transaction entered into by the Issuer, as Buyer (as defined in the Credit Derivatives Definitions) (in the case of Long Credit Linked W&C Securities) and the Issuer, as Seller (as defined in the Credit Derivatives Definitions) (in the case of Short Credit Linked W&C Securities), incorporating the terms of the Credit Derivatives Definitions and under the terms of which (a) the “Trade Date” is the Trade Date; (b) the “Scheduled Termination Date” is the Scheduled Exercise Date; (c) the “Reference Entity” thereunder is the Reference Entity for the purposes of such Security; and (d) the “Transaction Type” thereunder is the Transaction Type for the purposes of such Security.

**“Obligation”** means:

- (a) any obligation of a Reference Entity (either directly, as a provider of a Qualifying Affiliate Guarantee or, if All Guarantees is specified as applicable in the applicable Final Terms, as provider of any Qualifying Guarantee) determined pursuant to the method described in “Method for Determining Obligations” below (but excluding any Excluded Obligation);
- (b) each Reference Obligation specified (or deemed to be specified) in the applicable Final Terms, unless specified as an Excluded Obligation; and
- (c) any Additional Obligation of a Reference Entity specified as such (or deemed to be specified) in the applicable Final Terms;

**Method for Determining Obligations.** For the purposes of paragraph (a) of this definition of “Obligation”, the term “Obligation” may be defined as each obligation of each Reference Entity described by the Obligation Category specified in the applicable Final Terms, and having each of the Obligation Characteristics (if any) specified in the applicable Final Terms, in each case, as of the date of the event which constitutes the Credit Event which is the subject of either the Credit Event Notice or the notice to ISDA resulting in the Credit Event Resolution Request Date, as applicable. 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 applicable Final Terms, where:
  - (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 (excluding an obligation under a revolving credit arrangement for which there are no outstanding unpaid drawings in respect of principal) for the payment or repayment 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 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;
  - (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; 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 Not Subordinated, Specified Currency, Not Sovereign Lender, Not Domestic Currency, Not Domestic Law, Listed and Not Domestic Issuance specified in the applicable Final Terms, where:
  - (i) (A) **“Not Subordinated”** means an obligation that is not Subordinated to (i) the most senior Reference Obligation in priority of payment or (ii) if no Reference Obligation is specified in the Issue Terms, any unsubordinated Borrowed Money obligation of the Reference Entity; provided that, if any of the events set forth under the definition of “Substitute Reference Obligation” has occurred with respect to all of the Reference Obligations or if, pursuant to the definition of “Successor” a Substitute Reference Obligation will be determined in accordance with the definition of “Substitute Reference Obligation” with respect to the Reference Obligation (each, in each case, a **“Prior Reference Obligation”**) and no Substitute Reference Obligation has been identified for any of the Prior Reference Obligations at the time of the determination of whether an obligation satisfies the “Not Subordinated” Obligation Characteristic or Deliverable Obligation Characteristic, as applicable, “Not Subordinated” shall mean an obligation that would not have been Subordinated to the most senior such Prior Reference Obligation in priority of payment. For purposes of determining whether an obligation satisfies the “Not Subordinated” Obligation Characteristic or Deliverable Obligation Characteristic, the ranking in priority of payment of each Reference Obligation or each Prior Reference Obligation, as applicable, shall be determined as of the date as of which the relevant Reference Obligation or Prior Reference Obligation, as applicable, was issued or incurred and shall not reflect any change to such ranking in priority of payment after such date.
  - (B) **“Subordination”** means, with respect to an obligation (the **“Subordinated Obligation”**) and another obligation of the Reference Entity to which such

obligation is being compared (the “Senior Obligation”), a contractual, trust or other similar arrangement providing that (i) upon the liquidation, dissolution, reorganisation or winding up of the Reference Entity, claims of the holders of the Senior Obligation will be satisfied prior to the claims of the holders of the Subordinated Obligation or (ii) the holders of the Subordinated Obligation will not be entitled to receive or retain payments in respect of their claims against the Reference Entity at any time that the Reference Entity is in payment arrears or is otherwise in default under the Senior Obligation. “Subordinated” will be construed accordingly. For purposes of determining whether Subordination exists or whether an obligation is Subordinated with respect to another obligation to which it is being compared, the existence of preferred creditors arising by operation of law or of collateral, credit support or other credit enhancement arrangements shall not be taken into account, except that, notwithstanding the foregoing, priorities arising by operation of law shall be taken into account where the Reference Entity is a Sovereign;

- (C) “**Credit Linked Specified Currency**” means an obligation that is payable in the currency or currencies specified as such in the applicable Final Terms (or, if Credit Linked Specified Currency is specified in the applicable Final Terms and no currency is so specified, any of the lawful currencies of Canada, Japan, Switzerland, the United Kingdom and the United States of America and the euro and any successor currency to any of the aforementioned currencies, which currencies shall be referred to collectively in the applicable Final Terms as the “Standard Specified Currencies”).
- (ii) “**Not Sovereign Lender**” means any obligation that is not primarily owed to a Sovereign or Supranational Organisation, including, without limitation, obligations generally referred to as “Paris Club debt”.
- (iii) “**Not Domestic Currency**” means any obligation that is payable in any currency other than the Domestic Currency.
- (iv) “**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 organisation of the relevant Reference Entity, if such Reference Entity is not a Sovereign.
- (v) “**Listed**” means an obligation that is quoted, listed or ordinarily purchased and sold on an exchange.
- (vi) “**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. Any obligation that is registered or qualified for sale outside the domestic market of the relevant Reference Entity (regardless of whether such obligation is also registered or qualified for sale within the domestic market of the relevant Reference Entity) shall be deemed not to be intended for sale primarily in the domestic market of the Reference Entity.

“**Obligation Acceleration**” means one or more Obligations in an aggregate amount of not less than the Default Requirement 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.

“**Obligation Currency**” means the currency or currencies in which the Obligation is denominated.

“**Obligation Default**” means one or more Obligations in an aggregate amount of not less than the Default Requirement 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.



**“Officer’s Certificate”** means, a certificate signed by a managing director (or other substantively equivalent title) of the Calculation Agent or one of its Affiliates which is delivered to the Issuer together with a Credit Event Notice and which sets out the following information:

- (a) the Calculation Agent or one of its Affiliates reasonably believes that Publicly Available Information is not available in respect of the relevant Credit Event;
- (b) identification by the Calculation Agent or one of its Affiliates of the specific Credit Event that has occurred;
- (c) a description of the manner in which the Credit Event described in a Credit Event Notice was determined to have occurred; and
- (d) identification of the source of the information that reasonably confirms the occurrence of a Credit Event described in a Credit Event Notice and upon which information the determination that a Credit Event has occurred was made (and subject to any applicable law, regulation or duty of confidentiality, attaching copies of such information).

**“Outstanding Principal Balance”** means, subject as provided in sub-paragraph (4)(e) of paragraph (B) (Interpretation of Provisions) in the definition of Deliverable Obligation:

- (a) with respect to any Accreting Obligation, the Accreted Amount thereof; and
- (b) with respect to any other obligation, the outstanding principal balance of such obligation,

provided that with respect to any Exchangeable Obligation that is not an Accreting Obligation, **“Outstanding Principal Balance”** shall exclude any amount that may be payable under the terms of such obligation in respect of the value of the Equity Securities for which such obligation is exchangeable.

**“Parallel Auction”** means “Auction” as defined in the relevant Parallel Auction Settlement Terms.

**“Parallel Auction Settlement Terms”** means following the occurrence of DC Credit Event Announcement (and where the relevant Credit Event is a Restructuring) in respect of any Credit Linked Warrant or Credit Linked Certificate for which either “Restructuring Maturity Limitation and Fully Transferable Obligation Applicable” or “Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable” is specified (or deemed specified) in the applicable Final Terms, any Credit Derivatives Auction Settlement Terms published by ISDA with respect to such Restructuring in accordance with the Rules, and for which the Deliverable Obligation Terms (as defined in such Credit Derivatives Auction Settlement Terms) are the same as the Deliverable Obligation provisions applicable to the Notional Credit Derivative Transaction and for which such Notional Credit Derivative Transaction would not be an Auction Covered Transaction.

**“Payment Requirement”** means the amount specified as such in the applicable Final Terms or its equivalent in the relevant Obligation Currency or, if a Payment Requirement is not specified in the applicable Final Terms, U.S.\$1,000,000, or its equivalent as calculated by the Calculation Agent in the relevant Obligation Currency, in either case, as of the occurrence of the relevant Failure to Pay or Potential Failure to Pay, as applicable.

**“Permitted Currency”** means (i) the legal tender of any Group of 7 country (or any country that becomes a member of the Group of 7 if such Group of 7 expands its membership), or (ii) the legal tender of any country which, as of the date of such change, is a member of the Organisation for Economic Co-operation and Development and has a local currency long term debt rating of either AAA or higher assigned to it by Standard & Poor’s Rating Services, a division of The McGraw-Hill Companies, Inc. or any successor to the rating business thereof, Aaa or higher assigned to it by Moody’s Investors Service’s Limited, or any successor to the rating business thereof or AAA or higher assigned to it by Fitch Ratings Ltd or any successor to the rating business thereof.

**“Physical Settlement Matrix”** means the Credit Derivatives Physical Settlement Matrix Supplement to the Credit Derivatives Definitions, as most recently amended or supplemented as at the Trade Date (unless otherwise specified in relation to a Reference Entity) and as published by ISDA, currently at <http://www.isda.org>, provided that any reference therein to (a) “Confirmation” shall be deemed to be a reference to the applicable Final Terms; (b) “Floating Rate Payer Calculation Amount” shall be deemed to be a reference to the Notional Amount, (c) “Section 3.3 of the Definitions” shall be deemed to be a reference to “Credit Event Notice”, (d) “Section 3.9” shall be

deemed to be a reference to Credit Linked W&C Condition 11 and (e) “Section 8.6” shall be deemed to be a reference to “Physical Settlement Period”.

**“Physical Settlement Period”** means the number of Business Days specified (or deemed specified) as such in the applicable Final Terms or, if a number of Business Days is not so specified, then, with respect to a Deliverable Obligation comprising the Entitlement, the longest number of Business Days for settlement in accordance with then current market practice of such Deliverable Obligation, as determined by the Calculation Agent in its sole discretion provided that the Physical Settlement Period shall not be less than ten Business Days (unless otherwise notified by the Calculation Agent to the Issuer).

**“Potential Failure to Pay”** means 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, without regard to any grace period or any conditions precedent to the commencement of any grace period applicable to such Obligations, in accordance with the terms of such Obligations at the time of such failure.

**“Potential Repudiation/Moratorium”** means the occurrence of an event described in paragraph (a) of the definition of Repudiation/Moratorium.

**“Publicly Available Information”** means:

- (a) information that reasonably confirms any of the facts relevant to the determination that the Credit Event or a Potential Repudiation/Moratorium, as applicable, described in a Credit Event Notice or Repudiation/Moratorium Extension Notice has occurred and which:
  - (i) has been published in or on not less than the Specified Number of Public Sources, regardless of whether the reader or user thereof pays a fee to obtain such information provided that, if either the Calculation Agent or the Issuer, the Guarantor (if applicable) or any of their respective Affiliates and/or agents is cited as the sole source of such information, then such information shall not be deemed to be Publicly Available Information unless either the Calculation Agent or the Issuer, the Guarantor (if applicable) or any of their Affiliates and/or agents is acting in its capacity as trustee, fiscal agent, administrative agent, clearing agent, paying agent, facility agent or agent bank for an Obligation; or
  - (ii) is information received from or published by (A) a Reference Entity or, as the case may be, a Sovereign Agency in respect of a Reference Entity which is a Sovereign or (B) a trustee, fiscal agent, administrative agent, clearing agent, paying agent, facility agent or agent bank for an Obligation; or
  - (iii) is information contained in any petition or filing instituting a proceeding described in paragraph (d) of the definition of “Bankruptcy” against or by a Reference Entity; or
  - (iv) is information contained in any order, decree, notice or filing, however described, of or filed with a court, tribunal, exchange, regulatory authority or similar administrative, regulatory or judicial body;
- (b) in the event that the Calculation Agent is (i) the sole source of information in its capacity as trustee, fiscal agent, administrative agent, clearing agent, paying agent, facility agent or agent bank for an Obligation and (ii) a holder of the Obligation with respect to which a Credit Event has occurred, the Calculation Agent shall be required to deliver to the Issuer a certificate signed by a Managing Director (or other substantially equivalent title) of the Calculation Agent, which shall certify the occurrence of a Credit Event with respect to such Obligation;
- (c) in relation to any information of the type described in paragraphs (a)(ii), (iii) and (iv) above, the Calculation Agent may assume that such information has been disclosed to it without violating any law, agreement or understanding regarding the confidentiality of such information and that the entity disclosing such information has not taken any action or entered into any agreement or understanding with the Reference Entity or any Affiliate of the Reference Entity that would be breached by, or would prevent, the disclosure of such information to the party receiving the information;
- (d) Publicly Available Information need not state:

- (i) in relation to the definition of “Downstream Affiliate”, the percentage of Voting Shares owned, directly or indirectly, by the Reference Entity; and
- (ii) that such occurrence:
  - (A) has met the Payment Requirement or Default Requirement;
  - (B) is the result of exceeding any applicable Grace Period; or
  - (C) has met the subjective criteria specified in certain Credit Events.

“**Public Source**” means each source of Publicly Available Information specified (or deemed specified) as such in the applicable Final Terms (or if a source is not specified in the applicable Final Terms, each of Bloomberg Service, Dow Jones Telerate Service, Reuter Monitor Money Rates Services, Dow Jones News Wire, Wall Street Journal, New York Times, Nihon Keizai Shinbun, Asahi Shinbun, Yomiuri Shinbun, Financial Times, La Tribune, Les Echos and The Australian Financial Review (and successor publications), the main source(s) of business news in the country in which the Reference Entity is organised and any other internationally recognised published or electronically displayed news sources).

“**Qualifying Affiliate Guarantee**” means a Qualifying Guarantee provided by a Reference Entity in respect of an Underlying Obligation of a Downstream Affiliate of that Reference Entity.

“**Qualifying Guarantee**” means an arrangement evidenced by a written instrument pursuant to which a Reference Entity irrevocably agrees (by guarantee of payment or equivalent legal arrangement) to pay all amounts due under an obligation (the “**Underlying Obligation**”) for which another party is the obligor (the “**Underlying Obligor**”). Qualifying Guarantees shall exclude any arrangement (i) structured as a surety bond, financial guarantee insurance policy, letter of credit or equivalent legal arrangement or (ii) pursuant to the terms of which the payment obligations of the Reference Entity can be discharged, reduced or otherwise altered or assigned (other than by operation of law) as a result of the occurrence or non-occurrence of an event or circumstance (other than payment). The benefit of a Qualifying Guarantee must be capable of being Delivered together with the Delivery of the Underlying Obligation.

“**Qualifying Participation Seller**” means any participation seller that meets the requirements specified in the applicable Final Terms. If no such requirements are specified, there shall be no Qualifying Participation Seller.

“**Quotation**” means each Full Quotation and the Weighted Average Quotation obtained and expressed as a percentage with respect to a Valuation Date in the manner that follows:

- (a) The Calculation Agent shall attempt to obtain Full Quotations with respect to each Valuation Date from five or more Quotation Dealers. If the Calculation Agent is unable to obtain two or more such Full Quotations on the same Business Day within three Business Days of a Valuation Date, then on the next following Business Day (and, if necessary, on each Business Day thereafter until the tenth Business Day following the relevant Valuation Date) the Calculation Agent shall attempt to obtain Full Quotations from five or more Quotation Dealers and, if two or more Full Quotations are not available, a Weighted Average Quotation. If the Calculation Agent is unable to obtain two or more Full Quotations or a Weighted Average Quotation on the same Business Day on or prior to the tenth Business Day following the applicable Valuation Date, the Quotations shall be deemed to be any Full Quotation obtained from a Quotation Dealer at the Valuation Time on such tenth Business Day. If no Full Quotation is obtained, the weighted average of any firm quotations for the Reference Obligation obtained from Quotation Dealers at the Valuation Time on such tenth Business Day with respect to the aggregate portion of the Quotation Amount for which such quotations were obtained and a quotation deemed to be zero for the balance of the Quotation Amount for which firm quotations were not obtained on such day.
- (b)
  - (i) If “Include Accrued Interest” is specified in the applicable Final Terms in respect of Quotations, such Quotations shall include accrued but unpaid interest.
  - (ii) If “Exclude Accrued Interest” is specified in the applicable Final Terms in respect of Quotations, such Quotations shall not include accrued but unpaid interest.
  - (iii) If neither “Include Accrued Interest” nor “Exclude Accrued Interest” is specified in the applicable Final Terms in respect of Quotations, the Calculation Agent shall determine,

based on the then current market practice in the market of the Reference Obligation, whether such Quotations shall include or exclude accrued but unpaid interest. All Quotations shall be obtained in accordance with this specification or determination.

- (c) If any Quotation obtained with respect to an Accreting Obligation is expressed as a percentage of the amount payable in respect of such obligation at maturity, such Quotation will instead be expressed as a percentage of the Outstanding Principal Balance for the purposes of determining the Final Price.

**“Quotation Amount”** means the amount specified as such in the applicable Final Terms (which may be specified by reference to an amount in a currency or by reference to a Representative Amount) or, if no amount is specified in the applicable Final Terms, the Aggregate Notional Amount (or its equivalent in the relevant Obligation Currency converted by the Calculation Agent in a commercially reasonable manner by reference to exchange rates in effect at the time that the relevant Quotation is being obtained).

**“Quotation Dealer”** means a dealer in obligations of the type of Obligation(s) for which Quotations are to be obtained including each Quotation Dealer specified in the applicable Final Terms. If no Quotation Dealers are specified in the applicable Final Terms, the Calculation Agent shall select the Quotation Dealers in its sole and absolute discretion. Upon a Quotation Dealer no longer being in existence (with no successors), or not being an active dealer in the obligations of the type for which Quotations are to be obtained, the Calculation Agent may substitute any other Quotation Dealer(s) for such Quotation Dealer(s). For the avoidance of doubt, the Calculation Agent and/or any of its affiliates may be selected as a Quotation Dealer.

**“Quotation Method”** means the applicable Quotation Method specified in the applicable Final Terms by reference to one of the following terms:

**“Bid”** means that only bid quotations shall be requested from Quotation Dealers;

**“Offer”** means that only offer quotations shall be requested from Quotation Dealers; or

**“Mid-market”** means that bid and offer quotations shall be requested from Quotation Dealers and shall be averaged for the purposes of determining a relevant Quotation Dealer’s quotation.

If a Quotation Method is not specified in the applicable Final Terms, Bid shall apply.

**“Reference Entity”** means the reference entity described as such in the Final Terms. Any Successor to a Reference Entity either (a) identified by the Calculation Agent pursuant to the definition of “Successor” on or following the Trade Date or (b) in respect of which ISDA publicly announces on or following the Trade Date that the relevant Credit Derivatives Determinations Committee has Resolved, in respect of a Succession Event Resolution Request Date, a Successor in accordance with the Rules shall, in each case, be the Reference Entity for the purposes of the relevant Series (provided that if “Calculation Agent Determination” is specified as being applicable in the applicable Final Terms, a Successor identified by the relevant Credit Derivatives Determinations Committee shall not be a Reference Entity for the relevant Securities unless the Calculation Agent notifies the Issuer that such announcement shall apply to such Securities).

**“Reference Obligation”** means each obligation specified or of a type described as such in the applicable Final Terms (if any are so specified or described) and any Substitute Reference Obligation.

**“Relevant Obligations”** means the Obligations constituting Bonds and Loans of the Reference Entity outstanding immediately prior to the effective date of the Succession Event, excluding any debt obligations outstanding between the Reference Entity and any of its Affiliates and/or its agents, as determined by the Calculation Agent. The Calculation Agent will determine the entity which succeeds to such Relevant Obligations on the basis of the Best Available Information. If the date on which the Best Available Information becomes available (or is filed) precedes the legally effective date of the relevant Succession Event, any assumptions as to the allocation of obligations between or among entities contained in the Best Available Information will be deemed to have been fulfilled as of the legally effective date of the Succession Event, whether or not this is in fact the case.

**“Replacement Deliverable Obligation”** means each replacement Deliverable Obligation that the Issuer has specified in the relevant NOPS Amendment Notice.

**“Replacement Reference Entity”** means an entity identified by the Calculation Agent which is the “Replacement Reference Entity” under the relevant Hedge Transaction and/or:

- (a) that is in the same industry classification group as the Surviving Reference Entity as determined by the Calculation Agent with reference to the industry classification groups as published by Moody’s Investors Service, Inc. or Standard & Poor’s Rating Services, a division of the McGraw-Hill Companies, Inc. or any successors thereto or any other rating agency as the Calculation Agent shall determine;
- (b) that has a bid-side credit spread (at the time the Calculation Agent identifies such entity) no greater than 110% or (as otherwise specified in the Final Terms) of the relevant Surviving Reference Entity at the same time (the **“Credit Spread Requirement”**), in each case based on a credit default swap:
  - (i) on market standard terms for the relevant entity as at the time of such determination;
  - (ii) in respect of a floating rate payer calculation amount equal to at least 50 per cent. but not more than 100 per cent. of the Aggregate Notional Amount of the Securities; and
  - (iii) with a term equal to the period from and including the date of determination to and including the Scheduled Termination Date (the **“Remaining Term”**), provided that the Calculation Agent, having used reasonable endeavours, cannot obtain quotations from at least three Quotation Dealers, in respect of the Remaining Term, the term for the purposes of this paragraph (iii) shall be five years,

The bid-side credit spreads for the purpose of the Credit Spread Requirement shall be the unweighted arithmetic mean of the spread quotations obtained by the Calculation Agent from at least three Quotation Dealers, as determined by the Calculation Agent acting in good faith and a commercially reasonable manner;

- (c) that is principally traded in the credit derivative market in respect of the same geographical region as the relevant Surviving Reference Entity, as determined by the Calculation Agent acting in good faith and a commercially reasonable manner; and
- (d) that is not an Affiliate of any other Reference Entity under the Securities, the Issuer, the Guarantor or the Calculation Agent both immediately prior to and following the relevant Succession Event.

**“Representative Amount”** means an amount that is representative for a single transaction in the relevant market and at the relevant time, such amount to be determined by the Calculation Agent.

**“Repudiation/Moratorium”** means the occurrence of both of the following events:

- (a) an authorised officer of a Reference Entity or a Governmental Authority:
  - (x) 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
  - (y) declares or imposes a moratorium, standstill, roll-over 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; and
- (b) a Failure to Pay, determined without regard to the Payment Requirement, or a Restructuring, determined without regard to the Default Requirement, with respect to any such Obligation occurs on or prior to the Repudiation/Moratorium Evaluation Notice Date.

**“Repudiation/Moratorium Evaluation Date”** means, if a Potential Repudiation/Moratorium occurs on or prior to the Scheduled Exercise Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)):

- (a) if the Obligations to which such Potential Repudiation/Moratorium relates include Bonds, the date that is the later of:
  - (i) the date that is 60 days after the date of such Potential Repudiation/Moratorium; and



- (ii) the first payment date under any such Bond after the date of such Potential Repudiation/Moratorium (or, if later, the expiration date of any applicable Grace Period in respect of such payment date); and
- (b) if the Obligations to which such Potential Repudiation/Moratorium relates do not include Bonds, the date that is 60 days after the date of such Potential Repudiation/Moratorium.

**“Repudiation/Moratorium Extension Condition”** is satisfied (i) if ISDA publicly announces, pursuant to a valid request that was delivered in accordance with the Rules and effectively received on or prior to the date that is 15 Business Days after the Scheduled Exercise Date, that the relevant Credit Derivatives Determinations Committee has Resolved that an event that constitutes a Potential Repudiation/Moratorium for the purposes of the Securities has occurred with respect to an Obligation of the relevant Reference Entity and that such event occurred on or prior to the Scheduled Exercise Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)) (and provided that, if “Calculation Agent Determination” is specified as being applicable in the applicable Final Terms, the Repudiation/Moratorium Extension Condition shall not be satisfied unless the Calculation Agent notifies the Issuer that such announcement shall apply to the Securities) or (ii) otherwise in the case of Long Credit Linked W&C Securities only, by the delivery of a (x) Repudiation/Moratorium Extension Notice and, if specified as applicable in the Final Terms, Notice of Publicly Available Information by the Calculation Agent to the Issuer are each effective on or prior to the date that is 15 Business Days after the Scheduled Exercise Date; or (y) an Extension Notice giving notice of the circumstances set out in sub-paragraph (d) of the definition thereof on or prior to the Actual Exercise Date (as applicable).

In all cases, the Repudiation/Moratorium Extension Condition will be deemed either not to have been satisfied, or not capable of being satisfied, if, or to the extent that, ISDA publicly announces, pursuant to a valid request that was delivered in accordance with the Rules and effectively received on or prior to the date that is 15 Business Days after the Scheduled Exercise Date, that the relevant Credit Derivatives Determinations Committee has Resolved that either (A) an event does not constitute a Potential Repudiation/Moratorium with respect to an Obligation of the relevant Reference Entity or (B) an event that constitutes a Potential Repudiation/Moratorium has occurred with respect to an Obligation of the relevant Reference Entity but that such event occurred after the Scheduled Exercise Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)) provided that, if “Calculation Agent Determination” is specified as being applicable in the applicable Final Terms, such announcement by ISDA shall be deemed not to have been made (and the Securities shall be construed accordingly) unless the Calculation Agent notifies the Issuer that such announcement shall apply to the Securities.

**“Repudiation/Moratorium Extension Notice”** means an irrevocable notice (which may be in writing and/or by telephone) from the Issuer to the Holders that describes a Potential Repudiation/Moratorium that occurred on or prior to the Scheduled Exercise Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)). A Repudiation/Moratorium Extension Notice must contain a description in reasonable detail of the facts relevant to the determination that a Potential Repudiation/Moratorium has occurred and indicate the date of the occurrence. The Potential Repudiation/Moratorium that is the subject of the Repudiation/Moratorium Extension Notice need not be continuing on the date the Repudiation/Moratorium Extension Notice is effective.

**“Resolve”** has the meaning given to that term in the Rules, and **“Resolved”** and **“Resolves”** shall be interpreted accordingly.

**“Restructured Bond or Loan”** means an Obligation which is a Bond or Loan and in respect of which the relevant Restructuring has occurred.

**“Restructuring”** means, with respect to one or more Obligations and in relation to an aggregate amount of not less than the Default Requirement, any one or more of the following events occurs in a form that binds all holders of such Obligation, is agreed between a Reference Entity or a Governmental Authority and a sufficient number of holders of the Obligation to bind all the holders of such Obligation or is announced (or otherwise decreed) by a Reference Entity or a Governmental Authority in a form that binds all holders of such Obligation, and such event is

not expressly provided for under the terms of such Obligation in effect as of the later of the Credit Event Backstop Date and the date as of which such Obligation is issued or incurred:

- (i) a reduction in the rate or amount of interest payable or the amount of scheduled interest accruals;
- (ii) a reduction in the amount of principal or premium payable at maturity or at scheduled redemption dates;
- (iii) a postponement or other deferral of a date or dates for either (a) the payment or accrual of interest or (b) the payment of principal or premium;
- (iv) a change in the ranking in priority of payment of any Obligation, causing the Subordination of such Obligation to any other Obligation; or
- (v) any change in the currency or composition of any payment of interest or principal to any currency which is not a Permitted Currency;

Notwithstanding the above provisions, none of the following shall constitute a Restructuring:

- (a) the payment in euro of interest or principal in relation to an Obligation denominated in a currency of a Member State of the European Union that adopts or has adopted the single currency in accordance with the Treaty establishing the European Community, as amended by the Treaty on European Union;
- (b) the occurrence of, agreement to or announcement of any of the events described in (i) to (v) above due to an administrative adjustment, accounting adjustment or tax adjustment or other technical adjustment occurring in the ordinary course of business; and
- (c) the occurrence of, agreement to or announcement of any of the events described in (i) to (v) above in circumstances where such event does not directly or indirectly result from a deterioration in the creditworthiness or financial condition of the Reference Entity.

For the purposes of the definition of Restructuring and Credit Linked W&C Condition 15, the term Obligation shall be deemed to include Underlying Obligations for which the Reference Entity is acting as provider of a Qualifying Affiliate Guarantee or, if All Guarantees is specified as applicable in the applicable Final Terms, as provider of any Qualifying Guarantee. In the case of a Qualifying Guarantee and an Underlying Obligation, references to the Reference Entity in the initial paragraph and sub-paragraphs (i) to (v) above of the definition of Restructuring shall be deemed to refer to the Underlying Obligor and the reference to the Reference Entity in the second paragraph of this definition of Restructuring shall continue to refer to the Reference Entity.

**“Restructuring Date”** means, with respect to a Restructured Bond or Loan, the date on which a Restructuring is legally effective in accordance with the terms of the documentation governing such Restructuring.

**“Restructuring Maturity Limitation Date”** means, with respect to a Deliverable Obligation, the Limitation Date occurring on or immediately following the Scheduled Exercise Date, provided that, in circumstances where the Scheduled Exercise Date is later than the 2.5-year Limitation Date, at least one Enabling Obligation exists. Notwithstanding the foregoing, if the final maturity date of the Latest Maturity Restructured Bond or Loan and the Scheduled Exercise Date occurs prior to the final maturity date of such Latest Maturity Restructured Bond or Loan, then the Restructuring Maturity Limitation Date will be the final maturity date of such Latest Maturity Restructured Bond or Loan.

In the event that the Scheduled Exercise Date is later than (i)(A) the final maturity date of the Latest Maturity Restructured Bond or Loan, if any, or (B) the 2.5-year Limitation Date, and, in either case, no Enabling Obligation exists or (ii) the 20-year Limitation Date, the Restructuring Maturity Limitation Date will be the Scheduled Exercise Date.

**“Rules”** means the Credit Derivatives Determinations Committees Rules as published by ISDA on its website at [www.isda.org](http://www.isda.org) (or any successor website thereto) from time to time and as amended from time to time in accordance with the terms thereof.

**“Scheduled Exercise Date”** means the date specified as such in the applicable Final Terms or if no date is so specified, the Actual Exercise Date.

**“Settlement Currency”** means the currency specified as such in the applicable Final Terms, or if no currency is specified in the applicable Final Terms, the Settlement Currency of the Securities.

**“Settlement Method”** means the settlement method specified (or deemed specified) in the applicable Final Terms.

**“Short Exercise Date”** means the Actual Exercise Date; provided that if a Credit Event Resolution Request Date has occurred on or prior to the expiry of the Notice Delivery Period in relation to a Reference Entity, the Short Exercise Date shall be the date falling 15 Business Days (or such other date as may be specified in the applicable Final Terms) following any date on which the relevant Credit Derivatives Determinations Committee Resolves that the relevant event does not constitute a Credit Event, or Resolves not to make such determination (provided that if “Calculation Agent Determination” is specified as being applicable in the applicable Final Terms, this sub-paragraph (ii) shall not apply to the relevant Short Credit Linked W&C Securities unless the Calculation Agent notifies the Issuer that such DC Resolution shall apply to the relevant Short Credit Linked W&C Securities).

**“Short Movement Option Condition”** means, if the relevant Credit Event is a Restructuring and either “Restructuring Maturity Limitation and Fully Transferable Obligation Applicable” or “Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable” is specified (or deemed specified) in the applicable Final Terms and with respect to which a No Auction Announcement Date has occurred pursuant to sub-paragraph (b) of the definition thereof.

**“Short Parallel Auction Settlement Terms”** means, where the Short Movement Option Condition is satisfied, the Parallel Auction Settlement Terms, if any, selected by the Issuer for the purposes of which the Deliverable Obligations under the Parallel Auction Settlement Terms are more limited than the Deliverable Obligations under the Transaction Auction Settlement Terms (provided that if more than one such set of Parallel Auction Settlement Terms are published, the Parallel Auction Settlement Terms specifying the greatest number of Permissible Deliverable Obligations (as defined in the Credit Derivatives Definitions) shall apply and provided further that the Issuer may apply the Parallel Auction Settlement Terms for purposes of which all Deliverable Obligations on the Final List (as defined in the Rules) will be Permissible Deliverable Obligations (as defined in the Credit Derivatives Definitions) if the Parallel Auction Settlement Terms so elected apply to one or more Hedge Transactions in respect of the relevant Securities).

**“Sovereign”** means any state, political subdivision or government, or any agency, instrumentality, ministry, department or other authority (including without limiting the foregoing, the central bank) thereof.

**“Sovereign Agency”** means any agency, instrumentality, ministry, department or other authority (including, without limiting the foregoing, the central bank) of a Sovereign.

**“Sovereign Restructured Deliverable Obligation”** means an Obligation of a Sovereign Reference Entity (a) in respect of which a Restructuring that is the subject of the relevant Credit Event Notice has occurred and (b) described by the Deliverable Obligation Category specified in the applicable Final Terms, and, subject to sub-paragraph (3) of paragraph (B) “Interpretation of Provisions” in the definition of “Deliverable Obligation”, having each of the Deliverable Obligation Characteristics, if any, specified in the applicable Final Terms, in each case, immediately preceding the date on which such Restructuring is legally effective in accordance with the terms of the documentation governing such Restructuring without regard to whether the Obligation would satisfy such Deliverable Obligation Category or Deliverable Obligation Characteristics after such Restructuring.

**“Specified Number”** means the number of Public Source(s) specified in the applicable Final Terms, or if no number is specified in the applicable Final Terms, two, provided that where “Calculation Agent Determination” is specified as applicable in the applicable Final Terms, the “Specified Number” shall be one.

**“Substitute Reference Obligation”** means one or more obligations of the Reference Entity (either directly or as provider of a Qualifying Affiliate Guarantee or, if All Guarantees is specified (or deemed to be specified) as applicable in the applicable Final Terms, as provider of any Qualifying Guarantee) that will replace one or more Reference Obligations, identified by the Calculation Agent in accordance with the following procedures:

- (a) In the event that:
- (i) a Reference Obligation is redeemed in whole; or
  - (ii) in the opinion of the Calculation Agent (A) the aggregate amounts due under any Reference Obligation have been materially reduced by redemption or otherwise (other than due to any scheduled redemption, amortisation or prepayments), (B) any Reference Obligation is an Underlying Obligation with a Qualifying Guarantee of a Reference Entity and, other than due to the existence or occurrence of a Credit Event, the Qualifying Guarantee is no longer a valid and binding obligation of such Reference Entity enforceable in accordance with its terms or (C) for any other reason, other than due to the existence or occurrence of a Credit Event, any Reference Obligation is no longer an obligation of a Reference Entity, the Calculation Agent shall identify one or more Obligations to replace such Reference Obligation.
- (b) Any Substitute Reference Obligation or Substitute Reference Obligations shall be an Obligation that (i) ranks *pari passu* in priority of payment with the ranking in priority of payment of each of the Substitute Reference Obligation and such Reference Obligation (with the ranking in priority of payment of such Reference Obligation being determined as of the date as of which such Reference Obligation was issued or incurred and not reflecting any change to such ranking in priority of payment after such date), (ii) preserves the economic equivalent, as closely as practicable as determined by the Calculation Agent, of the Issuer's delivery and payment obligations under the Securities and (iii) is an obligation of the relevant Reference Entity (either directly or as provider of a Qualifying Affiliate Guarantee or, if All Guarantees is specified (or deemed to be specified) as applicable in the applicable Final Terms, as provider of a Qualifying Guarantee). The Substitute Reference Obligation or Substitute Reference Obligations identified by the Calculation Agent shall, without further action, replace such Reference Obligation or Reference Obligations.
- (c) If more than one specific Reference Obligation is identified as a Reference Obligation in relation to a Series, any of the events set forth in paragraph (a) above has occurred with respect to one or more but not all of the Reference Obligations, and the Calculation Agent determines that no Substitute Reference Obligation is available for one or more of such Reference Obligations, each Reference Obligation for which no Substitute Reference Obligation is available shall cease to be a Reference Obligation.
- (d) If more than one specific Reference Obligation is identified as a Reference Obligation in relation to a Series, any of the events set forth in paragraph (a) above has occurred with respect to all of the Reference Obligations, and the Calculation Agent determines that at least one Substitute Reference Obligation is available for any such Reference Obligation, then each such Reference Obligation shall be replaced by a Substitute Reference Obligation and each Reference Obligation for which no Substitute Reference Obligation is available will cease to be a Reference Obligation.
- (e) If:
- (i) more than one specific Reference Obligation is identified as a Reference Obligation in relation to a Series, any of the events set forth in paragraph (a) above has occurred with respect to all of the Reference Obligations and the Calculation Agent determines that no Substitute Reference Obligation is available for any of the Reference Obligations; or
  - (ii) only one specific Reference Obligation is identified as a Reference Obligation in relation to a Series, any of the events set forth in paragraph (a) above has occurred with respect to such Reference Obligation and the Calculation Agent determines that no Substitute Reference Obligation is available for that Reference Obligation,

then the Calculation Agent shall continue to attempt to identify a Substitute Reference Obligation until the later of (A) the Scheduled Exercise Date, (B) the Grace Period Extension Date (if any) and (C) the Repudiation/Moratorium Evaluation Date (if any). If (i) either Cash Settlement is specified in the applicable Final Terms and the Credit Event Redemption Amount is determined by reference to a Reference Obligation or Physical Settlement is specified in the applicable Final Terms and the Reference Obligation is the only Deliverable Obligation and (ii) on or prior to the later of (A) the Scheduled Exercise Date, (B) the Grace Period Extension Date or (C) the Repudiation/ Moratorium Evaluation Date, a Substitute



Reference Obligation has not been identified, the Issuer's obligations under the Securities shall cease as of the later of (A) the Scheduled Exercise Date, (B) the Grace Period Extension Date or (C) the Repudiation/Moratorium Evaluation Date.

- (f) For the purposes of identification of a Reference Obligation, any change in the Reference Obligation's CUSIP or ISIN number or other similar identifier will not, in and of itself, convert such Reference Obligation into a different Obligation.

**“Succession Event”** means (i) with respect to a Reference Entity that is not a Sovereign, an event such as a merger, consolidation, amalgamation, transfer of assets or liabilities, demerger, spin off or other similar event in which one entity succeeds to the obligations of another entity, whether by operation of law or pursuant to any agreement or (ii) with respect to a Reference Entity that is a Sovereign, an event such as an annexation, unification, secession, partition, dissolution, consolidation, reconstitution or other event that results in any direct or indirect successor(s) to such Reference Entity. Notwithstanding the foregoing, “Succession Event” shall not include an event (A) in which the holders of obligations of the Reference Entity exchange such obligations for the obligations of another entity, unless such exchange occurs in connection with a merger, consolidation, amalgamation, transfer of assets or liabilities, demerger, spin off or other similar event or (B) with respect to which the legally effective date (or, in the case of a Reference Entity that is a Sovereign, the date of occurrence) has occurred prior to the Succession Event Backstop Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)) or (where “Calculation Agent Determination” is specified as being applicable in the applicable Final Terms) the date that is 90 calendar days prior to the Trade Date or the Succession Event Backstop Date if the Calculation Agent notifies the Issuer that the Succession Event Backstop Date shall apply.

**“Succession Event Backstop Date”** means (i) for purposes of any event that constitutes a Succession Event as determined by the relevant DC Resolution, the date that is 90 calendar days prior to the Succession Event Resolution Request Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)) or (ii) otherwise, the date that is 90 calendar days prior to the earlier of (A) the date on which the Succession Event Notice is effective and (B) in circumstances where (I) the Conditions to convening a Credit Derivatives Determinations Committee to Resolve the matters described in sub-paragraphs (a) and (b) of the definition of “Succession Event Resolution Request Date” are satisfied in accordance with the Rules, (II) the relevant Credit Derivatives Determinations Committee has Resolved not to determine such matters and (III) the Succession Event Notice is delivered by the Calculation Agent to the Issuer not more than fourteen calendar days after the day on which ISDA publicly announces that the relevant Credit Derivatives Determinations Committee has Resolved not to determine such matters, the Succession Event Resolution Request Date. The Succession Event Backstop Date shall not be subject to adjustment on account of any business day convention unless otherwise provided for in the applicable Final Terms.

**“Succession Event Notice”** means an irrevocable notice from the Calculation Agent to the Issuer that describes a Succession Event that occurred on or after the Succession Event Backstop Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign, Tokyo time)) or (if Calculation Agent Determination is specified as applicable in the applicable Final Terms and the Calculation Agent has not notified the Issuer that the Succession Event Backstop Date shall apply) the date that is 90 calendar days prior to the Trade Date. A Succession Event Notice must contain a description in reasonable detail of the facts relevant to the determination of, pursuant to sub-paragraphs (a) or (b) of the definition of “Successor”, (i) whether a Succession Event has occurred and (ii) if relevant, the identity of any Successor(s).

**“Succession Event Resolution Request Date”** means, with respect to a notice to ISDA delivered in accordance with the Rules requesting that a Credit Derivatives Determinations Committee be convened to Resolve:

- (a) whether an event that constitutes a Succession Event has occurred with respect to the relevant Reference Entity; and
- (b) if the relevant Credit Derivatives Determinations Committee Resolves that such event has occurred, (A) with respect to a Reference Entity that is not a Sovereign, the legally effective



date of such event or (B) with respect to a Reference Entity that is a Sovereign, the date of the occurrence of such event,

the date, as publicly announced by ISDA, that the relevant Credit Derivatives Determinations Committee Resolves to be the date on which such notice is effective.

**“Successor”** means:

- (a) in relation to a Reference Entity that is not a Sovereign, the entity or entities, if any, determined as set out below:
  - (i) if one entity directly or indirectly succeeds to 75 per cent. or more of the Relevant Obligations of the Reference Entity by way of a Succession Event, that entity will be the sole Successor;
  - (ii) if only one entity directly or indirectly succeeds to more than 25 per cent. (but less than 75 per cent.) of the Relevant Obligations of the Reference Entity by way of a Succession Event, and not more than 25 per cent. of the Relevant Obligations of the Reference Entity remain with the Reference Entity, the entity that succeeds to more than 25 per cent. of the Relevant Obligations will be the sole Successor;
  - (iii) if more than one entity each directly or indirectly succeeds to more than 25 per cent. of the Relevant Obligations of the Reference Entity by way of a Succession Event, and not more than 25 per cent. of the Relevant Obligations of the Reference Entity remain with the Reference Entity, the entities that succeed to more than 25 per cent. of the Relevant Obligations will each be a Successor, and the Credit Linked Warrant or the Credit Linked Certificates, as applicable, will be divided in accordance with Credit Linked W&C Condition 13;
  - (iv) if one or more entities each directly or indirectly succeeds to more than 25 per cent. of the Relevant Obligations of the Reference Entity by way of a Succession Event, and more than 25 per cent. of the Relevant Obligations of the Reference Entity remain with the Reference Entity, each such entity and the Reference Entity will each be a Successor, and the Credit Linked Warrants or the Credit Linked Certificates, as applicable, will be divided in accordance with Credit Linked W&C Condition 13;
  - (v) if one or more entities directly or indirectly succeed to a portion of the Relevant Obligations of the Reference Entity by way of a Succession Event, but no entity succeeds to more than 25 per cent. of the Relevant Obligations of the Reference Entity and the Reference Entity continues to exist, there will be no Successor and the Reference Entity and the Credit Linked Warrants or the Credit Linked Certificates, as applicable, will not be changed in any way as a result of the Succession Event; and
  - (vi) if one or more entities directly or indirectly succeed to a portion of the Relevant Obligations of the Reference Entity by way of a Succession Event, but no entity succeeds to more than 25 per cent. of the Relevant Obligations of the Reference Entity and the Reference Entity ceases to exist, the entity which succeeds to the greatest percentage of Relevant Obligations (or, if 2 or more entities succeed to an equal percentage of Relevant Obligations, the entity from among those entities which succeeds to the greatest percentage of obligations of the Reference Entity) will be the sole Successor;
- (b) with respect to a Sovereign Reference Entity, “Successor” means each entity which becomes a direct or indirect successor to such Reference Entity by way of Succession Event, irrespective of whether any such successor assumes any of the obligations of such Reference Entity; or
- (c) notwithstanding sub-paragraphs (a) and (b) above, where “Calculation Agent Determination” is specified as being applicable in the applicable Final Terms, the Successor shall be either (as selected by the Calculation Agent in its sole discretion) (a) the current obligor in respect of the Reference Obligation, (b) the successor(s) determined in accordance with sub- paragraphs (a) or (b) above, as applicable, or (c) any successor(s) identified by the relevant Credit Derivatives Determinations Committee pursuant to a DC Resolution if the Calculation Agent notifies the Issuer that a DC Resolution in relation to a Reference Entity and a Succession Event shall apply.

The Calculation Agent will be responsible for determining, as soon as reasonably practicable after it becomes aware of the relevant Succession Event (but no earlier than fourteen calendar days after

the date of the occurrence of the relevant Succession Event), and with effect from the date of the occurrence of the Succession Event, each Sovereign and/or entity, if any, that qualifies under (b) above; provided that if “Calculation Agent Determination” is not specified as being applicable in the applicable Final Terms, the Calculation Agent will not make such determination if, at such time, either (A) ISDA has publicly announced that the conditions to convening a Credit Derivatives Determinations Committee to Resolve the matters described in (b) above, and subparagraphs (a) and (b)(B) of the definition of Succession Event Resolution Request Date are satisfied in accordance with the Rules (until such time, if any, as ISDA subsequently publicly announces that the relevant Credit Derivatives Determinations Committee has Resolved not to determine a Successor) or (B) ISDA has publicly announced that the relevant Credit Derivatives Determinations Committee has Resolved that no event that constitutes a Succession Event for purposes of the Notional Credit Derivative Transaction has occurred.

In the case of (a) above, the Calculation Agent will be responsible for determining, as soon as reasonably practicable after it becomes aware of the relevant Succession Event (but no earlier than 14 calendar days after the legally effective date of the relevant Succession Event), and with effect from the legally effective date of the Succession Event, whether the relevant thresholds set out in (a)(i) to (vi) above have been met, or which entity qualifies under (a)(vi) above, as applicable; provided that if “Calculation Agent Determination” is not specified as being applicable in the applicable Final Terms, the Calculation Agent will not make such determination if, at such time, either (A) ISDA has publicly announced that the conditions to convening a Credit Derivatives Determinations Committee to Resolve the matters described in (a) above, and subparagraphs (a) and (b)(A) of the definition of Succession Event Resolution Request Date are satisfied in accordance with the Rules (until such time, if any, as ISDA subsequently publicly announces that the relevant Credit Derivatives Determinations Committee has Resolved not to determine a Successor) or (B) ISDA has publicly announced that the relevant Credit Derivatives Determinations Committee has Resolved that no event that constitutes a Succession Event has occurred. In calculating the percentages used to determine whether the relevant thresholds set out in (a) above have been met, or which entity qualifies under (a)(vi) above, as applicable, the Calculation Agent shall use, with respect to each applicable Relevant Obligation included in such calculation, the amount of the liability with respect to such Relevant Obligation listed in the Best Available Information and shall notify the Issuer and the Holders of such calculation.

For the purposes of this definition of “**Successor**”, “**succeed**” means, with respect to a Reference Entity and its Relevant Obligations (or, as applicable, obligations), that a party other than such Reference Entity (i) assumes or becomes liable for such Relevant Obligations (or, as applicable, obligations) whether by operation of law or pursuant to any agreement or (ii) issues Bonds that are exchanged for Relevant Obligations (or, as applicable, obligations), and in either case such Reference Entity is no longer an obligor (primarily or secondarily) or guarantor or insurer with respect to such Relevant Obligations (or, as applicable, obligations).

Where:

- (A) a Reference Obligation with respect to a Reference Entity is specified in the applicable Final Terms; and
- (B) one or more Successors to the Reference Entity have been identified; and
- (C) any one or more such Successors have not assumed the Reference Obligation,

a Substitute Reference Obligation will be determined in accordance with the definition of “**Substitute Reference Obligation**”.

“**Supranational Organisation**” means any entity or organisation established by treaty or other arrangement between two or more Sovereigns or the Sovereign Agencies of two or more Sovereigns, and includes, without limiting the foregoing, the International Monetary Fund, European Central Bank, International Bank for Reconstruction and Development and the European Bank for Reconstruction and Development.

“**Trade Date**” means the date specified as such in the applicable Final Terms.

“**Transaction Auction Settlement Terms**” means either:

- (a) (if the relevant Credit Event is not a Restructuring) the Credit Derivatives Auction Settlement Terms published by ISDA in respect of such Credit Event; and

- (b) (if the relevant Credit Event is a Restructuring), the Credit Derivatives Auction Settlement Terms published by ISDA in respect of such Credit Event and for which the Notional Credit Derivative Transaction would be an Auction Covered Transaction.

**“Transaction Type”** means in respect of a Reference Entity, the transaction type specified in respect of such Reference Entity in the applicable Final Terms corresponding to the equivalent “Transaction Type” in the Physical Settlement Matrix.

**“Undeliverable Obligation”** means a Deliverable Obligation included in the Entitlement which, on the Final Delivery Date for such Deliverable Obligation, the Calculation Agent determines (in its sole discretion) for any reason (including without limitation, failure of the relevant clearance system or due to any law, regulation, court order, contractual restrictions, statutory restrictions, a Hedge Disruption Event or market conditions or the non-receipt of any requisite consents with respect to the Delivery of Loans) it is either:

- (a) impossible, illegal or impracticable to Deliver or that it is not able to Deliver or that such Deliverable Obligation cannot be Delivered for any reason on the Final Delivery Date; or
- (b) unable or impracticable to Deliver on the Final Delivery Date because (i) the relevant Holder(s) has not taken any action that is deemed necessary by the Calculation Agent (acting in its sole discretion) to enable the Issuer to Deliver and/or for the Holder(s) to take delivery of all or a portion of the Deliverable Obligations; or (ii) the Holder(s) has failed to provide know-your-customer information, sign and deliver relevant transfer documentation and/or confidentiality agreement, pay a fee to the agent to effect the transfer and/or provide any other information or documentation or make any other payment (including any taxes) as is specified under the terms of the relevant Deliverable Obligations or as is customary to provide in respect of such Deliverable Obligations, each as may be required pursuant to the definition of “Deliver” herein.

**“Unwind Costs”** means the amount specified in the applicable Final Terms or if “Standard Unwind Costs” is specified in the applicable Final Terms, an amount determined by the Calculation Agent in its sole discretion equal to the sum of (without duplication) all costs, expenses (including, without limitation, loss of funding and break funding charges and fees), tax and duties incurred by the Issuer and/or any of its Affiliates and/or agents in connection with the redemption or cancellation, as applicable, of the Securities and the related termination, settlement or re-establishment of any hedge or related trading position (and any cost incurred by the Issuer and/or any of its Affiliates and/or agents in sourcing the Deliverable Obligations delivered if the Issuer is unable to do so by way of a transaction entered into pursuant to the relevant Auction and to the extent that the same exceeds the Auction Final Price (if any) determined in relation to the relevant Reference Entity) (or which would have been so incurred had the Issuer and/or its Affiliates entered into and/or elected to unwind one or more such transactions, positions or arrangements), such amount to be apportioned *pro rata* amongst each Notional Amount of Securities.

**“Valuation Date”** means (a) where Physical Settlement is specified (or deemed specified) as applying in the applicable Final Terms, the day falling five Business Days after the Final Delivery Date, or (b) where Cash Settlement is specified (or deemed specified) as applying in the applicable Final Terms, if “Single Valuation Date” is specified in the applicable Final Terms, the date that is the number of Business Days specified in the Final Terms after the Event Determination Date or, if the number of Business Days is not so specified, any day falling on or before the 122<sup>nd</sup> Business Day after the Event Determination Date or (following any Auction Cancellation Date or No Auction Announcement Date) after such Auction Cancellation Date or No Auction Announcement Date (in each case, as selected by the Calculation Agent in its sole discretion), and if “Multiple Valuation Dates” is specified in the applicable Final Terms, each of the following dates:

- (i) the date that is the number of Business Days specified in the applicable Final Terms after the Event Determination Date, Auction Cancellation Date or No Auction Announcement Date (or, if the number of Business Days is not specified, five Business Days); and
- (ii) each successive date that is the number of Business Days specified in the applicable Final Terms (or if the number of Business Days is not so specified, five Business Days) after the date on which the Calculation Agent obtains a Market Value with respect to the immediately preceding Valuation Date.

When “Multiple Valuation Dates” is specified in the applicable Final Terms, the total number of Valuation Dates shall be equal to the number of Valuation Dates specified in the applicable Final Terms (or, if the number of Valuation Dates is not so specified, five Valuation Dates).

If neither Single Valuation Date nor Multiple Valuation Dates is specified in the applicable Final Terms, Single Valuation Date shall apply.

**“Valuation Method”:**

- (i) The following Valuation Methods may be specified in the applicable Final Terms for a Series with only one Reference Obligation and only one Valuation Date:
  - “**Market**” means the Market Value determined by the Calculation Agent with respect to the Valuation Date; or
  - “**Highest**” means the highest Quotation obtained by the Calculation Agent with respect to the Valuation Date.
- (ii) If no such Valuation Method is specified in the applicable Final Terms, the Valuation Method shall be Highest.
- (iii) The following Valuation Methods may be specified in the applicable Final Terms for a Series with only one Reference Obligation and more than one Valuation Date:
  - “**Average Market**” means the unweighted arithmetic mean of the Market Values determined by the Calculation Agent with respect to each Valuation Date; or
  - “**Highest**” means the highest Quotation obtained by the Calculation Agent with respect to any Valuation Date; or
  - “**Average Highest**” means the unweighted arithmetic mean of the highest Quotations obtained by the Calculation Agent with respect to each Valuation Date.
- (iv) If no such Valuation Method is specified in the applicable Final Terms, the Valuation Method shall be Average Highest.
- (v) The following Valuation Methods may be specified in the applicable Final Terms for a Series with more than one Reference Obligation and only one Valuation Date:
  - “**Blended Market**” means the unweighted arithmetic mean of the Market Value for each Reference Obligation determined by the Calculation Agent with respect to the Valuation Date; or
  - “**Blended Highest**” means the unweighted arithmetic mean of the highest Quotations obtained by the Calculation Agent for each Reference Obligation with respect to the Valuation Date.
- (vi) If no such Valuation Method is specified in the applicable Final Terms, the Valuation Method shall be Blended Highest.
- (vii) The following Valuation Methods may be specified in the applicable Final Terms for a Series with more than one Reference Obligation and more than one Valuation Date:
  - “**Average Blended Market**” means, using values with respect to each Valuation Date determined by the Calculation Agent in accordance with the Blended Market Valuation Method, the unweighted arithmetic mean of the values so determined with respect to each Valuation Date; or
  - “**Average Blended Highest**” means, using values with respect to each Valuation Date determined by the Calculation Agent in accordance with the Blended Highest Valuation Method, the unweighted arithmetic mean of the values so determined with respect to each Valuation Date.
- (viii) If no such Valuation Method is specified in the applicable Final Terms, the Valuation Method shall be Average Blended Highest.
- (ix) Notwithstanding paragraphs (i) to (viii) above, if Quotations include Weighted Average Quotations or fewer than two Full Quotations, the Valuation Method shall be Market, Average Market, Blended Market or Average Blended Market, as the case may be.

**“Valuation Time”** means the time specified as such in the applicable Final Terms or, if no time is so specified, 11.00 a.m. in the principal trading market for the Reference Obligation.

**“Voting Shares”** shall mean those shares or other interests that have the power to elect the board of directors or similar governing body of an entity.

**“Weighted Average Quotation”** means, in accordance with the Quotation Method, the weighted average of firm quotations obtained from Quotation Dealers at the Valuation Time, to the extent reasonably practicable, each for an amount of the Reference Obligation with an Outstanding Principal Balance of as large a size as available but less than the Quotation Amount (but, if a Minimum Quotation Amount is specified in the applicable Final Terms, of a size equal to the Minimum Quotation Amount or, if quotations of a size equal to the Minimum Quotation Amount are not available, quotations as near in size as practicable to the Minimum Quotation Amount) that in aggregate are approximately equal to the Quotation Amount.

### 3. Automatic Exercise

- (a) Unless previously purchased and/or cancelled, each Long Credit Linked W&C Security shall be automatically exercised on the Long Exercise Date, each such Security entitling its Holder to receive from the Issuer on the Settlement Date the Cash Settlement Amount specified in, or determined in the manner specified in, the applicable Final Terms (or if no such provision is made in the applicable Final Terms, the outstanding Notional Amount thereof).
- (b) Unless previously purchased and/or cancelled, each Short Credit Linked W&C Security shall be automatically exercised on the Short Exercise Date, each such Security entitling its Holder to receive from the Issuer on the Settlement Date the Cash Settlement Amount specified in, or determined in the manner specified in, the applicable Final Terms (or if no such provision is made in the applicable Final Terms, zero).

### 4. Conditions to Settlement – Cash Settlement

Unless the Securities have been previously redeemed or purchased and cancelled, if the Conditions to Settlement are satisfied (in the case of Nth-to-Default Securities, in relation to the Nth Reference Entity in respect of which the Conditions to Settlement have been satisfied) and the applicable Settlement Method is “Cash Settlement” (or a Fallback Settlement Event has occurred and the Fallback Settlement Method is “Cash Settlement”), the Calculation Agent shall give notice (such notice a **“Settlement Notice”**) to the Issuer and the Issuer shall redeem or cancel, as applicable, all but not less than all of the Securities and pay in respect of each Security the Credit Event Redemption Amount on the Credit Event Redemption Date.

*If the Conditions to Settlement are satisfied and the Certificates or Warrants are redeemed or are cancelled in accordance with this Credit Linked W&C Condition 4, upon payment of the Credit Event Redemption Amount the Issuer shall have discharged its obligations in respect of the Securities and shall have no other liability or obligation whatsoever in respect thereof. The Credit Event Redemption Amount may be less than the Notional Amount of a Security. Any shortfall shall be borne by the Holder and no liability shall attach to the Issuer and/or the Guarantor.*

### 5. Conditions to Settlement – Physical Settlement

Unless the Securities have been previously redeemed or purchased and cancelled, if the Conditions to Settlement are satisfied (in the case of Nth-to-Default Securities, in relation to the Nth Reference Entity in respect of which the Conditions to Settlement have been satisfied) and the applicable Settlement Method is “Physical Settlement” (or a Fallback Settlement Event has occurred and the Fallback Settlement Method is “Physical Settlement”), the Calculation Agent shall give notice (such notice a **“Notice of Physical Settlement”**) to the Issuer by the latest of (a) the thirtieth Business Day after the Event Determination Date; (b) the tenth Business Day following the date of the relevant DC Credit Event Announcement; (c) the tenth Business Day after the date ISDA publicly announces that the relevant Credit Derivatives Determinations Committee has Resolved not to determine the matters that were the subject of the relevant DC Question; (d) the thirtieth Business Day after the Auction Cancellation Date or No Auction Announcement Date, as applicable, and (e) the thirtieth Business Day following the Auction Settlement Date (if any), and the Issuer shall redeem or cancel, as applicable, all but not less than all of the Securities, by Delivering (or procuring the Delivery) in respect of each Security the Deliverable Obligations



comprising the Entitlement, subject to and in accordance with the W&C Security Conditions and the Credit Linked W&C Conditions (and in particular, Credit Linked W&C Condition 9).

In the Notice of Physical Settlement, the Calculation Agent shall (a) specify the Deliverable Obligations comprising the Entitlement that the Issuer shall endeavour to Deliver and (b) where the Credit Event is a Restructuring and either “Restructuring Maturity Limitation and Fully Transferable Obligation Applicable” or “Modified Restructuring Limitation and Conditionally Transferable Obligation Applicable” is specified (or deemed to be specified) in the applicable Final Terms and the Scheduled Exercise Date is later than (i) the final maturity date of the Latest Maturity Restructured Bond or Loan, if any, or (ii) the 2.5-year Limitation Date, details of at least one Enabling Obligation. For the avoidance of doubt, the Calculation Agent shall be entitled to select any of the Deliverable Obligations to constitute the Entitlement, irrespective of their market value. The Calculation Agent may at any time prior to any Delivery Date by delivery of a notice to the Issuer (the “**NOPS Amendment Notice**”) amend the Notice of Physical Settlement and the Issuer shall endeavour to, pursuant to such NOPS Amendment Notice, Deliver to the Holders Replacement Deliverable Obligations that are different from the Deliverable Obligations originally specified.

If “Restructuring Maturity Limitation and Fully Transferable Obligation Applicable” is specified in the applicable Final Terms and Restructuring is the only Credit Event specified in a Credit Event Notice, then a Deliverable Obligation may be included in the Entitlement only if it (i) is a Fully Transferable Obligation and (ii) has a final maturity date not later than the Restructuring Maturity Limitation Date.

If “Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable” is specified as applying in the applicable Final Terms and Restructuring is the only Credit Event specified in a Credit Event Notice, then a Deliverable Obligation may be included in the Entitlement only if it (i) is a Conditionally Transferable Obligation and (ii) has a final maturity date not later than the applicable Modified Restructuring Maturity Limitation Date.

Where the relevant Credit Event is a Restructuring and either “Restructuring Maturity Limitation and Fully Transferable Obligation Applicable” or “Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable” is specified (or deemed specified) in the applicable Final Terms and the Scheduled Exercise Date (as applicable) is later than (A) the final maturity date of the Latest Maturity Restructured Bond or Loan, if any, or (B) the 2.5-year Limitation Date, the Notice of Physical Settlement shall also contain details of at least one Enabling Obligation.

Unless otherwise specified in the applicable Final Terms, the Guaranteed Cash Settlement Amount in respect of each Credit Linked Warrant or Credit Linked Certificate shall be an amount calculated in accordance with the definition of “Partial Cash Settlement Amount”, provided that the Guarantor shall designate in its sole and absolute discretion which portion of the Entitlement shall be an Undeliverable Obligation, and provided that the Valuation Date, shall be the date notified as such by the Guarantor to the Issuer and the Calculation Agent.

*If the Conditions to Settlement are satisfied and the Securities are redeemed or are cancelled in accordance with this Credit Linked W&C Condition 5, upon Delivery of the Deliverable Obligations comprising the Entitlement and/or payment of the Partial Cash Settlement Amount, as the case may be, the Issuer shall have discharged its obligations in respect of the Securities and shall have no other liability or obligation whatsoever in respect thereof. The value of such Deliverable Obligations and/or the Partial Cash Settlement Amount in respect of the Securities to be redeemed may be less than the Notional Amount of a Security. Any shortfall shall be borne by the Holder and no liability shall attach to the Issuer and/or the Guarantor.*

## 6. Conditions to Settlement – Auction Settlement

Unless the Securities have been previously redeemed or purchased and cancelled, if the Conditions to Settlement are satisfied (in the case of Nth-to-Default Securities, in relation to the Nth Reference Entity in respect of which the Conditions to Settlement have been satisfied) and the applicable Settlement Method is “Auction Settlement”, the Calculation Agent shall give notice (such notice a “**Settlement Notice**”) to the Issuer and the Issuer shall redeem or cancel as applicable, all but not less than all of the Securities and pay in respect of each Security the Auction Settlement Amount on the Auction Settlement Date unless a Fallback Settlement Event occurs (for the avoidance of

doubt, in relation to the same Credit Event), in which case the Issuer shall redeem or cancel, as the case may be, the Securities in accordance with the applicable Fallback Settlement Method.

*If the Conditions to Settlement are satisfied and the Warrants or Certificates are redeemed or are cancelled in accordance with this Credit Linked W&C Condition 6, upon payment of the Auction Settlement Amount the Issuer shall have discharged its obligations in respect of the Securities and shall have no other liability or obligation whatsoever in respect thereof. The Auction Settlement Amount may be less than the Notional Amount, as applicable, of a Security. Any shortfall shall be borne by the Holder and no liability shall attach to the Issuer and/ or the Guarantor.*

## 7. Suspension of Obligations

If a Credit Event Resolution Request Date occurs in relation to any Reference Entity, then, unless the Issuer otherwise elects by notice to the Holders, any obligation of the Issuer to redeem or cancel (as the case may be) or otherwise settle any Credit Linked Warrant or Credit Linked Certificate or pay any Additional Amount which would otherwise be due thereon shall, to the extent that it relates to such Reference Entity, be and remain suspended until (a) the occurrence of a DC Credit Event Announcement; (b) the occurrence of a DC No Credit Event Announcement; or (c) the relevant Credit Derivatives Determinations Committee has Resolved with respect to such Reference Entity to dismiss the relevant DC Question (each of the events set out in (a), (b) or (c), a “**DC Announcement**”).

Following a DC Announcement, any obligations so suspended shall resume on the second Business Day immediately following the date of such DC Announcement (regardless of when the suspension began). Notwithstanding the foregoing, any amount of interest or any Additional Amount so suspended shall, subject to W&C Securities Condition 31(B), as applicable, become due and payable on the date determined by the Calculation Agent in its sole discretion provided that such date shall not be later than 20 Business Days after the date of such DC Announcement.

No interest shall accrue on any amount of interest, any Additional Amount, any Cash Settlement Amount or any other payment obligation of the Issuer so suspended.

Where the applicable Final Terms specifies that “Calculation Agent Determination” is applicable, this Credit Linked W&C Condition 5 shall not apply to the relevant Securities unless the Calculation Agent notifies the Issuer that this Credit Linked W&C Condition 7 shall apply.

## 8. Additional Amounts

Following the delivery of an Extension Notice, in the case of additional amounts bearing Credit Linked Certificates or Credit Linked Warranties and provided that the Conditions to Settlement have not been satisfied, the Issuer shall be obliged to pay Additional Amounts calculated as provided in W&C Securities Condition 31 accruing from (and including) the Additional Amount Payment Date immediately preceding the Actual Exercise Date (or, if none, the Issue Date) to (but excluding) the Actual Exercise Date but shall only be obliged to make such payment of Additional Amounts on the Long Exercise Date or the Short Exercise Date (as applicable) and no interest or other amount shall be payable in respect of such delay.

For the avoidance of doubt, if the Conditions to Settlement are satisfied during the Notice Delivery Period, the Issuer’s obligation to pay any Additional Amount shall be determined in accordance with W&C Securities Condition 31(B), as applicable.

Without prejudice to Credit Linked W&C Condition 7, if “Accrual of Additional Amounts upon Credit Event” is specified as Not Applicable in the applicable Final Terms and the Calculation Agent determines that a Credit Event, a Potential Failure to Pay or a Potential Repudiation/ Moratorium has occurred or may occur on or prior to an Additional Amount Payment Date, the Calculation Agent may notify the Issuer and where the Calculation Agent delivers any such notice (a “**Postponement Notice**”) to the Issuer on or prior to such Additional Amount Payment Date (the “**Postponed Payment Date**”), any obligation of the Issuer to pay any Additional Amount shall be suspended for a period of 15 Business Days following such Postponed Payment Date (or, in respect of any Postponed Payment Date scheduled to fall on the Actual Exercise Date, up to the Long Exercise Date or the Short Exercise Date (as applicable) (or such shorter period as the Calculation Agent may notify the Issuer) to enable the Calculation Agent to determine whether a Credit Event has occurred.

Where the Calculation Agent delivers a Postponement Notice to the Issuer, the Issuer shall give notice thereof as soon as practicable to the Holders in accordance with W&C Securities Condition 11, provided that any failure to give, or non-receipt of, such notice will not affect the validity of any postponement of an Additional Amount Payment Date or otherwise.

If the Conditions to Settlement are not satisfied on or prior to such 15<sup>th</sup> Business Day, Long Exercise Date or Short Exercise Date (as applicable), the Additional Amount shall be payable on such 15<sup>th</sup> Business Day, Long Exercise Date, or Short Exercise Date (as applicable) (for the avoidance of doubt, no interest shall accrue on any amount of interest or any additional amount so suspended). If the Conditions to Settlement are satisfied on or prior to such 15<sup>th</sup> Business Day, Long Exercise Date or Short Exercise Date (as applicable), then notwithstanding W&C Securities Condition 31(B)(a), each Security shall cease to accrue additional amount from the Additional Amount Payment Date immediately preceding such Postponed Payment Date or, if the Postponed Payment Date falls on the first Additional Amount Payment Date, no additional amount shall accrue on the Securities (and W&C Securities Condition 31(B) shall be deemed to be amended accordingly).

#### 9. **Partial Cash Settlement**

If all or a portion of the Undeliverable Obligations or Hedge Disruption Obligations comprising the Entitlement are not Delivered for whatever reason by the Final Delivery Date, the Calculation Agent shall give notice (a “**Partial Cash Settlement Notice**”) to the Issuer, as applicable, and the Issuer shall pay in respect of each Undeliverable Obligation or Hedge Disruption Obligation, as the case may be, the Partial Cash Settlement Amount on the Partial Cash Settlement Date. For the avoidance of doubt, the failure by the Issuer to Deliver all or such portion of the Undeliverable Obligations comprising the Entitlement on or prior to the Final Delivery Date shall not constitute an Event of Default.

Unless otherwise specified in the applicable Final Terms, for the purposes of this Credit Linked W&C Condition 9 the following terms are deemed to have the following meanings:

“**Indicative Quotation**” means, in accordance with the Quotation Method, each quotation obtained from a Quotation Dealer at the Valuation Time for (to the extent reasonably practicable) an amount of the Undeliverable Obligation or Hedge Disruption Obligation, as the case may be, equal to the Quotation Amount, which reflects such Quotation Dealer’s reasonable assessment of the price of such Undeliverable Obligation or Hedge Disruption Obligation, as the case may be, based on such factors as such Quotation Dealer may consider relevant, which may include historical prices and recovery rates.

“**Market Value**” means, with respect to an Undeliverable Obligation or Hedge Disruption Obligation, as the case may be, on a Valuation Date, (i) if more than three Full Quotations are obtained, the arithmetic mean of such Full Quotations, disregarding the Full Quotations having the same highest and lowest values (and, if more than one such Full Quotations have the same highest or lowest value, then one of such highest or lowest Full Quotations shall be disregarded); (ii) if exactly three Full Quotations are obtained, the Full Quotations remaining after disregarding the highest and lowest Full Quotations (and, if more than one such Full Quotations have the same highest value or lowest value, then one of such highest or lowest Full Quotations shall be disregarded); (iii) if exactly two Full Quotations are obtained, the arithmetic mean of such Full Quotations; (iv) if fewer than two Full Quotations are obtained and a Weighted Average Quotation is obtained, such Weighted Average Quotation; (v) if Indicative Quotations are specified as applying in the applicable Final Terms and exactly three Indicative Quotations are obtained, the Indicative Quotation remaining after disregarding the highest and lowest Indicative Quotations (and, if more than one such Indicative Quotations have the same highest or lowest value, then one of such highest or lowest Indicative Quotations shall be disregarded); (vi) if fewer than two Full Quotations are obtained and no Weighted Average Quotation is obtained (and, if Indicative Quotations are applicable, fewer than three Indicative Quotations are obtained) then, subject to paragraph (ii) of the definition of “Quotation” below, an amount as determined by the Calculation Agent on the next Business Day on which two or more Full Quotations or a Weighted Average Quotation or, if applicable, three Indicative Quotations are obtained; and (vii) if fewer than two Full Quotations are obtained and no Weighted Average Quotation is obtained (and, if Indicative Quotations are applicable, fewer than three Indicative Quotations are obtained) on the same Business Day on or prior to the tenth Business Day following the Valuation Date, the Market Value

shall be any Full Quotation obtained from a Quotation Dealer at the Valuation Time on such tenth Business Day or, if no Full Quotation is obtained, the weighted average of any firm quotations (or, if applicable, Indicative Quotations) for the Undeliverable Obligation or Hedge Disruption Obligation, as the case may be, obtained from Quotation Dealers at the Valuation Time on such tenth Business Day with respect to the aggregate portion of the Quotation Amount for which such quotations were obtained and a quotation deemed to be zero for the balance of the Quotation Amount for which firm quotations (or, if applicable, Indicative Quotations) were not obtained on such day.

**“Partial Cash Settlement Amount”** is deemed to be, for each Undeliverable Obligation or Hedge Disruption Obligation, as the case may be, an amount calculated by the Calculation Agent equal to the greater of (i) (A) the Outstanding Principal Balance, the Due and Payable Amount or the Currency Amount, as applicable, of each Undeliverable Obligation or Hedge Disruption Obligation, as the case may be, multiplied by (B) either (I) if one or more Auctions are held by the Credit Derivatives Determinations Committee in respect of the Reference Entity, the Auction Final Price or (II) if the Calculation Agent decides (in its sole and absolute discretion), the Final Price with respect to such Undeliverable Obligation or Hedge Disruption Obligation, as the case may be, less (C) Unwind Costs, if any (but excluding any Unwind Costs already taken into account in calculating the relevant Entitlement), and (ii) zero.

**“Partial Cash Settlement Date”** is deemed to be the date falling three Business Days after the calculation of the Final Price or, as applicable, the date falling 15 Business Days after the later of (i) the Final Delivery Date and (ii) the Auction Final Price Determination Date.

**“Quotation”** means each Full Quotation, the Weighted Average Quotation and, if Indicative Quotations are specified as applying in the applicable Final Terms, each Indicative Quotation obtained and expressed as a percentage with respect to a Valuation Date in the manner that follows:

- (i) The Calculation Agent shall attempt to obtain Full Quotations with respect to each Valuation Date from five or more Quotation Dealers. If the Calculation Agent is unable to obtain two or more such Full Quotations on the same Business Day within three Business Days of a Valuation Date, then on the next following Business Day (and, if necessary, on each Business Day thereafter until the tenth Business Day following the relevant Valuation Date) the Calculation Agent shall attempt to obtain Full Quotations from five or more Quotation Dealers, and, if two or more Full Quotations are not available, a Weighted Average Quotation. If two or more such Full Quotations or a Weighted Average Quotation are not available on any such Business Day and Indicative Quotations are specified as applying in the applicable Final Terms, the Calculation Agent shall attempt to obtain three Indicative Quotations from five or more Quotation Dealers.
- (ii) If the Calculation Agent is unable to obtain two or more Full Quotations or a Weighted Average Quotation (or, if Indicative Quotations are specified as applying in the applicable Final Terms, three Indicative Quotations) on the same Business Day on or prior to the tenth Business Day following the Valuation Date, the Quotations shall be deemed to be any Full Quotation obtained from a Quotation Dealer at the Valuation Time on such tenth Business Day or, if no Full Quotation is obtained, the weighted average of any firm quotations (or, if applicable, Indicative Quotations) for the Undeliverable Obligation or Hedge Disruption Obligation, as the case may be, obtained from Quotation Dealers at the Valuation Time on such tenth Business Day with respect to the aggregate portion of the Quotation Amount for which such quotations were obtained and a quotation deemed to be zero for the balance of the Quotation Amount for which firm quotations (or, if applicable, Indicative Quotations) were not obtained on such day.
- (iii) The Calculation Agent shall determine, based on the then current market practice in the market of the relevant Undeliverable Obligation or Hedge Disruption Obligations, as the case may be, whether such Quotations shall include or exclude accrued but unpaid interest. All Quotations shall be obtained in accordance with this specification or determination.
- (iv) If any Quotation obtained with respect to an Accreting Obligation is expressed as a percentage of the amount payable in respect of such obligation at maturity, such Quotation will instead be expressed as a percentage of the Outstanding Principal Balance for the purposes of determining the Final Price.



**“Quotation Amount”** is deemed to be, with respect to each type or issue of Undeliverable Obligation or Hedge Disruption Obligations, as the case may be, an amount equal to the Outstanding Principal Balance or Due and Payable Amount (or, in either case, its equivalent in the relevant Obligation Currency converted by the Calculation Agent in a commercially reasonable manner by reference to exchange rates in effect at the time that the relevant Quotation is being obtained), as applicable, of such Undeliverable Obligation or Hedge Disruption Obligations, as the case may be. The Calculation Agent may in its sole discretion round up or down the Quotation Amount for the purposes of seeking a Quotation.

**“Quotation Method”** is deemed to be Bid.

**“Reference Obligation”** is deemed to be each Undeliverable Obligation or Hedge Disruption Obligation, as the case may be.

**“Valuation Method”** is deemed to be Highest unless fewer than two Full Quotations are obtained or a Weighted Average Quotation applies (or, if applicable, Indicative Quotations), in which case **“Valuation Method”** is deemed to be Market Value.

**“Valuation Time”** is the time specified as such in the applicable Final Terms, or, if no time is so specified, 11:00 a.m. in the principal trading market for the Undeliverable Obligation or Hedge Disruption Obligation, as the case may be.

**“Weighted Average Quotation”** means, in accordance with the Quotation Method, the weighted average of firm quotations obtained from Quotation Dealers at the Valuation Time, to the extent reasonably practicable, each for an amount of the Undeliverable Obligation or Hedge Disruption Obligations, as the case may be, with an Outstanding Principal Balance of as large a size as available but less than the Quotation Amount that in aggregate are approximately equal to the Quotation Amount.

#### 10. **Redemption following a Merger Event**

Unless this Credit Linked W&C Condition 10 is specified as not applicable in the applicable Final Terms, in the event that in the determination of the Calculation Agent a Merger Event has occurred, the Issuer may give notice to the Holders in accordance with W&C Securities Condition 11, as applicable, and redeem or cancel, as applicable, all but not less than all of the Securities at the Merger Event Redemption Amount on the Merger Event Redemption Date.

#### 11. **Credit Event Notice after Restructuring Credit Event**

If this Credit Linked W&C Condition 11 is specified as applicable in the applicable Final Terms, then, notwithstanding anything to the contrary in the Terms and Conditions, in respect of a Restructuring Credit Event in respect of which **“Restructuring Maturity Limitation and Fully Transferable Obligation Applicable”** or **“Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable”** is specified (or deemed to be specified) in the applicable Final Terms:

(a) in the case of Credit Linked Certificates:

- (i) either (A) the Calculation Agent may deliver a Credit Event Notice to the Issuer or (B) (in the case of a Short Credit Linked Certificate only) a Holder may deliver a Credit Event Notice to the Issuer, in each case on or prior to the applicable Exercise Cut-off Date (and subject to the terms of the definition of **“Exercise Cut-off Date”**) in respect of an amount (the **“Partial Cancellation Amount”**) that is less than the Notional Amount of each Certificate immediately prior to the delivery of such Credit Event Notice. In such circumstances the Credit Linked W&C Conditions and related provisions shall be deemed to apply to the Partial Cancellation Amount only and each such Certificate shall be cancelled in part (such cancelled part being equal to the Partial Cancellation Amount).
- (ii) For the avoidance of doubt (A) the Notional Amount, part or other amount of each such Certificate not so redeemed in part shall remain outstanding and additional amounts (if applicable) shall accrue on the Notional Amount outstanding of such Certificate as provided in W&C Securities Condition 31 (adjusted in such manner as the Calculation Agent in its sole and absolute discretion determines to be appropriate), (B) the provisions of the Credit Linked W&C Conditions and related provisions shall apply to



such amount or part outstanding of such Certificate in the event that subsequent Credit Event Notices are delivered in respect of the Reference Entity that was the subject of the Restructuring Credit Event and (C) where such Security is an Nth-to-Default Security, once a Credit Event Notice with respect to a Restructuring Credit Event has been delivered in respect of a Reference Entity, no further Credit Event Notices may be delivered in respect of any Reference Entity other than the Reference Entity that was the subject of the Restructuring Credit Event.

- (iii) If the provisions of this Credit Linked W&C Condition 11(a) apply in respect of the Credit Linked Certificates, on cancellation of part of each such Credit Linked Certificate the relevant Credit Linked Certificate or, if the Credit Linked Certificates are represented by a Global Certificate, such Global Certificate shall be endorsed to reflect such part redemption.
- (b) in the case of Credit Linked Warrants:
  - (i) either (A) the Calculation Agent may deliver a Credit Event Notice to the Issuer or (B) (in the case of a Short Credit Linked Warrant only) a Holder may deliver a Credit Event Notice to the Issuer, in each case on or prior to the applicable Exercise Cut-off Date (and subject to the terms of the definition of “Exercise Cut-off Date”) in respect of an amount (the “**Partial Cancellation Amount**”) that is less than the Notional Amount of each Credit Linked Warrant immediately prior to the delivery of such Credit Event Notice (provided that if the Credit Event Notice does not specify an amount, then the full Notional Amount will be deemed to have been specified). In such circumstances the Credit Linked W&C Conditions and related provisions shall be deemed to apply to the Partial Cancellation Amount only and each such Credit Linked Warrant shall be cancelled in part (such cancelled part being equal to the Partial Cancellation Amount).
  - (ii) For the avoidance of doubt (A) the Notional Amount, part or other amount of each such Credit Linked Warrant not so redeemed in part shall remain outstanding and additional amounts (if applicable) shall accrue on the Notional Amount outstanding of such Credit Linked Warrant as provided in W&C Securities Condition 24 (adjusted in such manner as the Calculation Agent in its sole and absolute discretion determines to be appropriate), (B) the provisions of the Credit Linked W&C Conditions and related provisions shall apply to such amount or part outstanding of such Credit Linked Warrant in the event that subsequent Credit Event Notices are delivered in respect of the Reference Entity that was the subject of the Restructuring Credit Event and (C) where such Security is an Nth-to-Default Security, once a Credit Event Notice with respect to a Restructuring Credit Event has been delivered in respect of a Reference Entity, no further Credit Event Notices may be delivered in respect of any Reference Entity other than the Reference Entity that was the subject of the Restructuring Credit Event.
  - (iii) If the provisions of this Credit Linked W&C Condition 11(b) apply in respect of the Credit Linked Warrants, on cancellation of part of each such Credit Linked Warrants the relevant Credit Linked Warrant or, if the Credit Linked Warrants are represented by a Global Warrant, such Global Warrant shall be endorsed to reflect such part redemption.

## 12. Multiple Holder Obligation

If Multiple Holder Obligation is specified (or deemed to be specified) as applicable in the applicable Final Terms, notwithstanding anything to the contrary in the definition of Restructuring and related provisions, the occurrence of, agreement to, or announcement of, any of the events described in subparagraphs (i) to (v) of the definition of “Restructuring” in Credit Linked W&C Condition 2 shall not be a Restructuring unless the Obligation in respect of any such events is a Multiple Holder Obligation provided that any Obligation that is a Bond shall be deemed to satisfy the requirement in part (ii) of the definition of “Multiple Holder Obligation” below.

“**Multiple Holder Obligation**” means an Obligation that (i) at the time of the event which constitutes a Restructuring Credit Event, is held by more than three holders that are not Affiliates of each other and (ii) with respect to which a percentage of holders (determined pursuant to the terms of the Obligation as in effect on the date of such event) at least equal to sixty-six and two-thirds is required to consent to the event which constitutes a Restructuring Credit Event.

13. **Successors**

- (a) Where a Succession Event has occurred and more than one Successor has been identified, the Credit Linked Warrants or the Credit Linked Certificates (as applicable) will be equally divided into such number of notional Credit Linked Warrants or Credit Linked Certificates (as applicable) as there are Successors and each Successor will be the Reference Entity for the purposes of such Credit Linked Warrant or Credit Linked Certificates (as applicable). These Credit Linked W&C Conditions shall be deemed to apply to such Credit Linked Warrants or Credit Linked Certificates (as applicable) and shall be construed accordingly.
- (b) Where a Credit Event occurs in respect of a Reference Entity after such a Succession Event, the provisions of these Credit Linked W&C Conditions shall be deemed to apply to the Notional Amount represented by that Reference Entity only (the “**Partial Notional Amount**”) and all the provisions shall be construed accordingly. Each Security shall thereafter be redeemed in part (such redeemed part being equal to its *pro rata* share of the Partial Notional Amount).
- (c) The Securities shall remain outstanding with a new Notional Amount equal to the Notional Amount prior to such redemption minus the Partial Notional Amount (such amount in each case, the “**Remaining Amount**”) and Additional Amounts shall be payable, on the Remaining Amount as provided for in W&C Securities Condition 31 (adjusted in such manner as the Calculation Agent in its sole and absolute discretion determines to be appropriate).
- (d) Any determinations (including (without limitation) as to the division of the Credit Linked Warrants or the Credit Linked Certificates (as applicable)) and any adjustment to the applicable Final Terms relating to, connected with or as a result of a Succession Event shall be made by the Calculation Agent in its sole discretion (provided that if such determinations have been made by the relevant Credit Derivatives Determinations Committee, then the Calculation Agent shall, unless (x) otherwise provided for in the applicable Final Terms or (y) “Calculation Agent Determination” is specified as applicable in the applicable Final Terms, be bound by such determinations) and, in the absence of manifest error, shall be conclusive and binding on all Holders. The applicable Final Terms may be amended and restated from time to time to reflect the effect of a Succession Event without the consent of the Holders and the Holders are deemed to agree to this provision by the purchase of the Securities.

14. **Provisions taken from the ISDA supplement titled “Additional Provisions for Physically Settled Default Swaps – Monoline Insurer as Reference Entity (January 2005)”**

If Credit Linked W&C Condition 14 is specified as applicable in the applicable Final Terms, the following provisions will apply:

- (a) **Obligation and Deliverable Obligation.** Paragraph (a) of the definition of “Obligation” in Credit Linked W&C Condition 2 and paragraph (a) of the definition of “Deliverable Obligation” in Credit Linked W&C Condition 2 are hereby amended by adding “or Qualifying Policy” after “or as a provider of a Qualifying Affiliate Guarantee”.
- (b) **Interpretation of Provisions.** In the event that an Obligation or a Deliverable Obligation is a Qualifying Policy, paragraph (B) of the definition of “Deliverable Obligation” in Credit Linked W&C Condition 2 will apply, with references to the “Qualifying Guarantee”, the “Underlying Obligation” and the “Underlying Obligor” deemed to include the “Qualifying Policy”, the “Insured Instrument” and the “Insured Obligor”, respectively, except that:
  - (i) the Obligation Category Borrowed Money and the Obligation Category and Deliverable Obligation Category Bond shall be deemed to include distributions payable under an Insured Instrument in the form of a pass-through certificate or similar funded beneficial interest, the Deliverable Obligation Category Bond shall be deemed to include such an Insured Instrument, and the terms “obligation” and “obligor” as used in the Credit Linked W&C Conditions in respect of such an Insured Instrument shall be construed accordingly;
  - (ii) references in the definitions of “Assignable Loan” and “Consent Required Loan” to “the ‘guarantor’ and ‘guaranteeing’ shall be deemed to include ‘the ‘insurer’ and ‘insuring’, respectively;

- (iii) neither the Qualifying Policy nor the Insured Instrument must satisfy on the relevant date the Deliverable Obligation Characteristic of Accelerated or Matured, whether or not that characteristic is otherwise specified as applicable in the applicable Final Terms;
  - (iv) if the Assignable Loan, Consent Required Loan, Direct Loan Participation or Transferable Deliverable Obligation Characteristics are specified in the applicable Final Terms and if the benefit of the Qualifying Policy is not transferred as part of any transfer of the Insured Instrument, the Qualifying Policy must be transferable at least to the same extent as the Insured Instrument; and
  - (v) with respect to an Insured Instrument in the form of a pass-through certificate or similar funded beneficial interest, the term “Outstanding Principal Balance” shall mean the outstanding Certificate Balance and “maturity”, as such term is used in the Maximum Maturity Deliverable Obligation Characteristic, shall mean the specified date by which the Qualifying Policy guarantees or insures, as applicable, that the ultimate distribution of the Certificate Balance will occur.
- (c) **Not Contingent.** An Insured Instrument will not be regarded as failing to satisfy the Not Contingent Deliverable Obligation Characteristic solely because such Insured Instrument is subject to provisions limiting recourse in respect of such Insured Instrument to the proceeds of specified assets (including proceeds subject to a priority of payments) or reducing the amount of any Instrument Payments owing under such Insured Instrument, provided that such provisions are not applicable to the Qualifying Policy by the terms thereof and the Qualifying Policy continues to guarantee or insure, as applicable, the Instrument Payments that would have been required to be made absent any such limitation or reduction. By specifying that this Credit Linked W&C Condition 14 is applicable, no inference should be made as to the interpretation of the “Not Contingent” Deliverable Obligation Characteristic in the context of limited recourse or similar terms applicable to Deliverable Obligations other than Qualifying Policies.
- (d) **Deliver.** For the purposes of the definition of “Deliver” in Credit Linked W&C Condition 2, “Deliver” with respect to an obligation that is a Qualifying Policy means to Deliver both the Insured Instrument and the benefit of the Qualifying Policy (or a custodial receipt issued by an internationally recognised custodian representing an interest in such an Insured Instrument and the related Qualifying Policy), and “Delivery” and “Delivered” will be construed accordingly.
- (e) **Provisions for Determining a Successor.** The paragraph commencing “For the purposes of this definition of “Successor” . . . ” in the definition of “Successor” in Credit Linked W&C Condition 2 is hereby amended by adding “or insurer” after “or guarantor”.
- (f) **Substitute Reference Obligation.** The first paragraph of the definition of “Substitute Reference Obligation” and paragraph (b) thereof in Credit Linked W&C Condition 2 is hereby amended by adding “or Qualifying Policy” after “or as provider of a Qualifying Affiliate Guarantee”. For the purposes of sub-paragraph (a)(ii)(B) of the definition of “Substitute Reference Obligation”, references to “the Qualifying Guarantee” and the “Underlying Obligation” shall be deemed to include “the Qualifying Policy” and “the Insured Instrument” respectively.
- (g) **Restructuring**
- (i) With respect to an Insured Instrument that is in the form of a pass-through certificate or similar funded beneficial interest or a Qualifying Policy with respect thereto, paragraphs (i) to (v) inclusive of the definition of “Restructuring” in Credit Linked W&C Condition 2 are hereby amended to read as follows:
    - “(i) a reduction in the rate or amount or the Instrument Payments in clause (A)(x) of the definition thereof that are guaranteed or insured by the Qualifying Policy;
    - (ii) a reduction in the amount of the Instrument Payments described in clause (A)(y) of the definition thereof that are guaranteed or insured by the Qualifying Policy;
    - (iii) a postponement or other deferral of a date or dates for either (x) the payment or accrual of the Instrument Payments described in clause (A)(x) of the definition thereof or (y) the payment of the Instrument Payments described in clause (A)(y)

of the definition thereof, in each case that are guaranteed or insured by the Qualifying Policy;

- (iv) a change in the ranking in priority of payment of (x) any Obligation under a Qualifying Policy in respect of Instrument Payments, causing the Subordination of such Obligation to any other Obligation or (y) any Instrument Payments, causing the Subordination of such Insured Instrument to any other instrument in the form of a pass-through certificate or similar funded beneficial interest issued by the Insured Obligor, it being understood that, for this purpose, Subordination will be deemed to include any such change that results in a lower ranking under a priority of payments provision applicable to the relevant Instrument Payments; or
- (v) any change in the currency or composition of any payment of Instrument Payments that are guaranteed or insured by the Qualifying Policy to any currency which is not a Permitted Currency.”
- (ii) Paragraph (c) of the definition of “Restructuring” in Credit Linked W&C Condition 2 is hereby amended by adding “or, in the case of a Qualifying Policy and an Insured Instrument, where (A) the Qualifying Policy continues to guarantee or insure, as applicable, that the same Instrument Payments will be made on the same dates on which the Qualifying Policy guaranteed or insured that such Instrument Payments would be made prior to such event and (B) such event is not a change in the ranking in the priority of payment of the Qualifying Policy” after “Reference Entity”.
- (iii) The definition of “Restructuring” in Credit Linked W&C Condition 2 is hereby amended by the insertion of the following paragraph after the final paragraph thereof:  

“For purposes of the definition of “Restructuring” in Credit Linked W&C Condition 2 and if Credit Linked W&C Condition 14 is specified as applying in the applicable Final Terms, for the purposes of the Credit Linked W&C Conditions the term Obligation shall be deemed to include Insured Instruments for which the Reference Entity is acting as provider of a Qualifying Policy. In the case of a Qualifying Policy and an Insured Instrument, references to the Reference Entity in the definition of “Restructuring” shall be deemed to refer to the Insured Obligor and the reference to the Reference Entity in paragraphs (a) to (c) inclusive in the definition of “Restructuring” shall continue to refer to the Reference Entity.”
- (h) **Fully Transferable Obligation and Conditionally Transferable Obligation.** In the event that “Restructuring Maturity Limitation and Fully Transferable Obligation Applicable” and/or “Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable” is specified in the applicable Final Terms and a Fully Transferable Obligation or Conditionally Transferable Obligation is a Qualifying Policy, the Insured Instrument must meet the requirements of the relevant definition. References in the definition of “Conditionally Transferable Obligation” to the “guarantor” and “guaranteeing” shall be deemed to include “the “insurer” and “insuring” respectively. With respect to an Insured Instrument in the form of a pass-through certificate or similar funded beneficial interest, the term “final maturity date”, as such term is used in Credit Linked W&C Condition 5 and the definition of “Restructuring Maturity Limitation Date”, shall mean the specified date by which the Qualifying Policy guarantees or insures, as applicable, that the ultimate distribution of the Certificate Balance will occur.
- (i) **Other Provisions.** For purposes of paragraph (a)(ii) of the definition of “Deliverable Obligation” and the definitions of “Credit Event” and “Deliver” in Credit Linked W&C Condition 2, references to the “Underlying Obligation” and the “Underlying Obligor” shall be deemed to include “Insured Instruments” and the “Insured Obligor” respectively.
- (j) **Additional Definitions.**  

“**Qualifying Policy**” means a financial guaranty insurance policy or similar financial guarantee pursuant to which a Reference Entity irrevocably guarantees or insures all Instrument Payments of an instrument that constitutes Borrowed Money (modified as set forth in this Credit Linked W&C Condition 14) (the “**Insured Instrument**”) for which another party (including a special purpose entity or trust) is the obligor (the “**Insured Obligor**”). Qualifying Policies shall exclude any arrangement (i) structured as a surety bond, letter of credit or

equivalent legal arrangement or (ii) pursuant to the express contractual terms of which the payment obligations of the Reference Entity can be discharged or reduced as a result of the occurrence or non-occurrence of an event or circumstance (other than the payment of Instrument Payments);

**“Instrument Payments”** means (A) in the case of any Insured Instrument that is in the form of a pass-through certificate or similar funded beneficial interest, (x) the specified periodic distributions in respect of interest or other return on the Certificate Balance on or prior to the ultimate distribution of the Certificate Balance and (y) the ultimate distribution of the Certificate Balance on or prior to a specified date and (B) in the case of any other Insured Instrument, the scheduled payments of principal and interest, in the case of both (A) and (B) (1) determined without regard to limited recourse or reduction provisions of the type described in Credit Linked W&C Condition 14(c) above and (2) excluding sums in respect of default interest, indemnities, tax gross-ups, make-whole amounts, early redemption premiums and other similar amounts (whether or not guaranteed or insured by the Qualifying Policy).

**“Certificate Balance”** means, in the case of an Insured Instrument that is in the form of a pass-through certificate or similar funded beneficial interest, the unit principal balance, certificate balance or similar measure of unreimbursed principal investment.

15. **Provisions taken from the ISDA supplement titled Additional Provisions for LPN Reference Entities (published on 3<sup>rd</sup> October, 2006)**

If Credit Linked W&C Condition 15 is specified as applicable in the applicable Final Terms, notwithstanding anything to the contrary in the Credit Linked W&C Conditions, the following provisions will apply:

- (a) Provisions relating to Multiple Holder Obligation will be deemed to be Not Applicable with respect to any Reference Obligation (and any Underlying Loan);
- (b) each Reference Obligation will be an Obligation, notwithstanding anything to the contrary in the Credit Linked W&C Conditions including, but not limited to the definition of “Obligation” in Credit Linked W&C Condition 2, and in particular, notwithstanding that the obligation is not an obligation of the Reference Entity;
- (c) each Reference Obligation will be a Deliverable Obligation notwithstanding anything to the contrary in the Credit Linked W&C Conditions including, but not limited to the definition of “Deliverable Obligation” in Credit Linked W&C Condition 2 and in particular, notwithstanding that the obligation is not an obligation of the Reference Entity.

For the avoidance of doubt with respect to any LPN Reference Obligation that specifies an Underlying Loan or an Underlying Finance Instrument, the outstanding principal balance shall be determined by reference to the Underlying Loan or Underlying Finance Instrument (as applicable) relating to such LPN Reference Obligation.

The Not Subordinated Obligation Characteristic and Deliverable Obligation Characteristic shall be construed as if no Reference Obligation was specified in respect of the Reference Entity;

- (d) the definition of “Reference Obligation” shall be deleted and the following substituted therefor:

**“Reference Obligation”** means, as of the Trade Date, each of the obligations listed as a Reference Obligation of the Reference Entity in the applicable Final Terms or set forth on the relevant LPN Reference Obligations List (each a **“Markit Published LPN Reference Obligation”**), as published by Markit Group Limited, or any successor thereto, which list is as of the Trade Date available at <http://www.markit.com/marketing/services.php>, any Additional LPN and each Additional Obligation; and

- (e) the following additional definitions shall apply:

**“Additional LPN”** means any bond issued in the form of a loan participation note (a **“LPN”**) by an entity (the **“LPN Issuer”**) for the sole purpose of providing funds for the LPN Issuer to (a) finance a loan to the Reference Entity (the **“Underlying Loan”**) or (b) provide finance to the Reference Entity by way of a deposit, loan or other Borrowed Money instrument (the **“Underlying Finance Instrument”**), provided that (i) either (x) in the event that there is an



Underlying Loan with respect to such LPN the Underlying Loan satisfies the Obligation Characteristics specified in respect of the Reference Entity or (y) in the event that there is an Underlying Finance Instrument with respect to such LPN the Underlying Finance Instrument satisfies the Not Subordinated, Not Domestic Law and Not Domestic Currency Obligation Characteristics; (ii) the LPN satisfies the following Deliverable Obligation Characteristics: Transferable, Not Bearer, Credit Linked Specified Currency – Standard Specified Currencies, Not Domestic Law, Not Domestic Issuance; and (iii) the LPN Issuer has, as of the issue date of such obligation, granted a First Ranking Interest over or in respect of certain of its rights in relation to the relevant Underlying Loan or Underlying Finance Instrument (as applicable) for the benefit of the holders of the LPNs.

“**Additional Obligation**” means each of the obligations listed as an Additional Obligation of the Reference Entity in the applicable Final Terms or set forth on the relevant LPN Reference Obligations List, as published by Markit Group Limited, or any successor thereto, as of the Trade Date, which list is currently available at <http://www.markit.com/marketing/services.php>.

“**First Ranking Interest**” means a charge, security interest (or other type of interest having similar effect) (an “**Interest**”), which is expressed as being “first ranking”, “first priority”, or similar (“**First Ranking**”) in the document creating such Interest (notwithstanding that such Interest may not be First Ranking under any insolvency laws of any related insolvency jurisdiction of the LPN Issuer).

“**LPN Reference Obligation**” means each Reference Obligation other than any Additional Obligation.

For the avoidance of doubt, any change to the issuer of an LPN Reference Obligation in accordance with its terms shall not prevent such LPN Reference Obligation constituting a Reference Obligation.

Each LPN Reference Obligation is issued for the sole purpose of providing funds for the LPN Issuer to finance a loan to the Reference Entity. For the purposes of the Credit Linked W&C Conditions each such loan shall be an Underlying Loan.

#### 16. **Deliverable Obligations Portfolio Valuation**

If Credit Linked W&C Condition 16 is specified as applicable in the applicable Final Terms:

- (a) notwithstanding anything to the contrary in the Credit Linked W&C Conditions, “Reference Obligation” shall mean:
  - (i) any obligation of a Reference Entity (either directly, as provider of a Qualifying Affiliate Guarantee or, if All Guarantees is specified as applicable in the applicable Final Terms, as provider of any Qualifying Guarantee) determined pursuant to the method described in “(A) Method for Determining Deliverable Obligations” above (but excluding any Excluded Deliverable Obligation specified in the applicable Final Terms) that (i) is payable in an amount equal to its Outstanding Principal Balance or Due and Payable Amount, as applicable, (ii) is not subject to any counterclaim, defence (other than a counterclaim or defence based on the factors set forth in paragraphs (a) to (d) of the definition of “Credit Event” above) or right of set-off by or of a Reference Entity or, as applicable, an Underlying Obligor and (iii) in the case of a Qualifying Guarantee other than a Qualifying Affiliate Guarantee, is capable, at the Valuation Date, of immediate assertion or demand by or on behalf of the holder or holders against the Reference Entity for an amount at least equal to the Quotation Amount apart from the giving of any notice of non-payment or similar procedural requirement, it being understood that acceleration of an Underlying Obligation shall not be considered a procedural requirement;
  - (ii) each Benchmark Obligation specified in the applicable Final Terms; and
  - (iii) any Substitute Benchmark Obligation,

as selected by the Calculation Agent in its sole and absolute discretion and notified to the Issuer (a “**Reference Obligation Notification**”) on or prior to the relevant Valuation Date.

In each case the Reference Obligation Notification shall describe the selected Reference Obligation in reasonable detail and shall specify the title or designation, maturity date and

coupon rate. The Calculation Agent may at any time after delivering a Reference Obligation Notification but prior to the Valuation Time on the Valuation Date deliver a further Reference Obligation Notification which shall replace all prior Reference Obligation Notifications in relation to any additional or replacement Reference Obligation specified therein.

For the avoidance of doubt the Calculation Agent shall be entitled to select any of the Reference Obligations for the purposes of calculating the Final Price irrespective of their market value and, provided that the selected obligation(s) satisfy the Deliverable Obligation Category and Deliverable Obligation Characteristics on the date of selection, such obligation(s) may constitute the Reference Obligation for the purposes hereof notwithstanding that this is not the case subsequent to such date.

- (b) The definition of “Substitute Reference Obligation” in Credit Linked W&C Condition 2 shall be amended so that each reference to “Substitute Reference Obligation” and “Reference Obligation” is replaced by reference to a “Substitute Benchmark Obligation” and a “Benchmark Obligation” respectively, provided that once a Benchmark Obligation has been specified as a Reference Obligation the definition of “Substitute Reference Obligation” shall not apply with respect to such Benchmark Obligation.
- (c) Paragraph (B)(1)(a) of the definition of “Obligation” in Credit Linked W&C Condition 2 shall be deleted and the following substituted therefor:  

“**Not Subordinated**” means an obligation that is not Subordinated to (i) the most senior Reference Obligation in priority of payment or (ii) if no Reference Obligation is specified in the Issue Terms, any unsubordinated Borrowed Money obligation of the Reference Entity. For purposes of determining whether an obligation satisfies the “Not Subordinated” Obligation Characteristic or Deliverable Obligation Characteristic, the ranking in priority of payment of each Benchmark Obligation shall be determined as of the later of (I) the Trade Date specified in the applicable Final Terms and (II) the date on which such Benchmark Obligation was issued or incurred and shall not reflect any change to such ranking in priority of payment after such later date.
- (d) For purposes of the Credit Linked W&C Conditions:
  - (i) each reference in the Credit Linked W&C Conditions to “a Deliverable Obligation” and “the Deliverable Obligation” shall be deemed to be a reference to “a Reference Obligation” and “the Reference Obligation” respectively; and
  - (ii) each reference in the Credit Linked W&C Conditions to “a Delivery Date” and “the Delivery Date” shall be deemed to be a reference to the date of selection of the relevant Reference Obligation, except that the words “the Delivery Date or” shall be deleted in the definition of “Accreted Amount” Credit Linked W&C Condition 2.
- (e) For the avoidance of doubt, if Credit Linked W&C Condition 16 is specified as applicable in the applicable Final Terms Credit Linked W&C Condition 5 is not applicable and the Securities shall, following the satisfaction of the Conditions to Settlement during the Notice Delivery Period, be settled in accordance with Credit Linked W&C Condition 4, and these Credit Linked W&C Conditions shall be construed accordingly.

## 17. Nth-to-Default Securities

Where the Securities are Nth-to-Default Securities:

- (a) where a Succession Event has occurred in respect of a Reference Entity (other than a Reference Entity in respect of which an Event Determination Date has occurred) and more than one Successor has been identified, the applicable Securities will be equally divided into a number of notional Credit Linked Warrants or Credit Linked Certificates (as applicable) as there are Successors. Each such notional Credit Linked Warrants or Credit Linked Certificates (as applicable) shall include a Successor and each and every one of the Reference Entities unaffected by such Succession Event shall apply thereto;
- (b) if “Substitution” is specified as not being applicable in the applicable Final Terms, where any Reference Entity (the “**Surviving Reference Entity**”) (other than a Reference Entity that is subject to the Succession Event) would be a Successor to any other Reference Entity (the

“**Legacy Reference Entity**”) pursuant to a Succession Event, such Surviving Reference Entity shall be deemed to be a Successor to the Legacy Reference Entity; and

- (c) if “Substitution” is specified as being applicable in the Final Terms, where any Reference Entity (the “**Surviving Reference Entity**”) (other than a Reference Entity that is subject to the Succession Event) would be a Successor to any other Reference Entity (the “**Legacy Reference Entity**”) pursuant to a Succession Event:
  - (i) such Surviving Reference Entity shall be deemed not to be a Successor to the Legacy Reference Entity; and
  - (ii) the Replacement Reference Entity shall be deemed to be a Successor to the Legacy Reference Entity.

#### 18. **Physical Settlement Matrix**

Where a Transaction Type is specified in the applicable Final Terms in respect of any Reference Entity, then the provisions of such Final Terms shall apply with respect to such Reference Entity in accordance with the Physical Settlement Matrix as it applies to such Transaction Type, as though such Physical Settlement Matrix were set out in full in such Final Terms.

#### 19. **Notices to Holders**

The Issuer shall, upon receiving any of the following notices from the Calculation Agent, as soon as practicable forward a copy of such notice(s) to the Holders of the relevant Securities:

- (a) an Extension Notice;
- (b) a Cancellation Notice;
- (c) a Credit Event Notice;
- (d) a Notice of Publicly Available Information;
- (e) an Officer’s Certificate;
- (f) a determination by the Calculation Agent of a Successor or a Succession Event (including any Succession Event Notice);
- (g) a Notice of Physical Settlement;
- (h) a NOPS Amendment Notice;
- (i) a Partial Cash Settlement Notice;
- (j) any notification by the Calculation Agent to the Issuer that the Physical Settlement Period shall be less than ten Business Days;
- (k) a Notice to Exercise Movement Option; and
- (l) (where “Calculation Agent Determination” is specified as being applicable in the applicable Final Terms) any notification from the Calculation Agent that it will apply a DC Resolution for the purposes of the relevant Securities.

#### 20. **Calculation Agent**

Any determination by the Calculation Agent of any amount or of any state of affairs, circumstance, event or other matter, or the formation of any opinion or the exercise of any discretion required or permitted to be determined, formed or exercised by the Calculation Agent pursuant to the Credit Linked W&C Conditions and related provisions shall (in the absence of manifest error) be final and binding on the Issuer, the Guarantor and the Holders and shall be without liability on the part of the Calculation Agent and without the Calculation Agent being obliged to consider the interests of the Issuer, the Guarantor or the Holders. In performing its duties pursuant to the Credit Linked W&C Conditions, the Calculation Agent shall act in its sole and absolute discretion. Any delay, deferral or forbearance by the Calculation Agent in the performance or exercise of any of its obligations or its discretion under the Credit Linked W&C Conditions including, without limitation, the giving of any notice by it to any person, shall not affect the validity or binding nature of any later performance or exercise of such obligation or discretion, and none of the Calculation Agent, the Issuer and the

Guarantor shall, in the absence of wilful misconduct and gross negligence, bear any liability in respect of, or consequent upon, any such delay, deferral or forbearance.

For the avoidance of doubt, if the applicable Final Terms specifies that “Calculation Agent Determination” is applicable, then notwithstanding any provision in these Credit Linked W&C Conditions, the Issuer and the Calculation Agent shall not be bound to (although they may in their sole discretion) apply any DC Resolution to the Securities and unless the Calculation Agent notifies the Issuer that any DC Resolution shall apply to the Securities, the Credit Linked W&C Conditions and the relevant Securities shall be construed as if the relevant DC Resolution and the relevant DC Question was not made. If the Calculation Agent notifies the Issuer that any DC Resolution shall apply to the Securities, the Calculation Agent shall have the power to amend or otherwise adjust any provision of the relevant Securities (including, without limitation any provision relating to the timing of notices hereunder) to account for the application of such DC Resolution.

**21. Change in Market Convention**

The Calculation Agent may from time to time amend any provision of these Credit Linked W&C Conditions or the Securities to incorporate and/or reflect further or alternative documents from time to time published by ISDA with respect to the settlement of credit derivative transactions and/or the operation or application of determinations by the ISDA Credit Derivatives Determinations Committees which the Calculation Agent and the Issuer determine in a commercially reasonable manner are necessary to reflect market practice for credit derivative transactions. The applicable Final Terms may be amended and restated from time to time to reflect such changes in market convention without the consent of the Holders and the Holders are deemed to agree to this provision by the purchase of the Securities.

**22. Additional Provisions**

If one or more amendments or adjustments to these Credit Linked W&C Conditions are required for one or more Series of credit linked Securities, including any issue of Nth-to-Default credit linked securities or leveraged credit linked securities, the applicable Final Terms shall set out such amendments or adjustments to these Credit Linked W&C Conditions that are necessary in order to take account of the nature of such securities and these Credit Linked W&C Conditions shall be construed accordingly.

**23. Additional Disruption Events**

- (a) Following the determination by the Calculation Agent that an Additional Disruption Event has occurred, the Issuer in its sole and absolute discretion may take the action described in (i) or (ii) below:
  - (i) require the Calculation Agent to determine in its sole and absolute discretion the appropriate adjustment, if any, to be made to any of the other terms of the Terms and Conditions and/or the applicable Final Terms to account for the Additional Disruption Event and determine the effective date of that adjustment; or
  - (ii) (A) in the case of Credit Linked Warrants, give notice to Holders in accordance with W&C Securities Condition 11 and cancel the Credit Linked Warrants. If the Credit Linked Warrants are so cancelled, the Issuer will pay an amount to each Holder in respect of each Credit Linked Warrant held by him, which amount shall be the fair market value of a Credit Linked Warrant, taking into account the Additional Disruption Event less the cost to the Issuer and/or any of its Affiliates or agents of unwinding any underlying related hedging arrangements (including any cost of funding in respect of such hedging arrangements), all as determined by the Calculation Agent in its sole and absolute discretion. Payments will be made in such manner as shall be notified to the Holders in accordance with W&C Securities Condition 11; or
  - (B) in the case of Credit Linked Certificates, give notice to Holders in accordance with W&C Securities Condition 11 and cancel the Credit Linked Certificates. If the Credit Linked Certificates are so cancelled, the Issuer will pay an amount to each Holder in respect of each Credit Linked Certificate held by him, which amount shall be the fair market value of a Credit Linked Certificate, taking into account the Additional Disruption Event less the cost to the Issuer and/or any of its Affiliates

or agents of unwinding any underlying related hedging arrangements (including any cost of funding in respect of such hedging arrangements), all as determined by the Calculation Agent in its sole and absolute discretion. Payments will be made in such manner as shall be notified to the Holders in accordance with W&C Securities Condition 11.

- (b) Upon the occurrence of an Additional Disruption Event, the Issuer shall give notice as soon as practicable to the Holders in accordance with W&C Securities Condition 11, as applicable, stating the occurrence of the Additional Disruption Event giving details thereof and the action proposed to be taken in relation thereto provided that any failure to give, or non-receipt of, such notice will not affect the validity of the Additional Disruption Event.
- (c) For these purposes:

**“Additional Disruption Event”** means any of Change in Law, Hedging Disruption, and/or Increased Cost of Hedging, in each case if specified in the applicable Final Terms.

**“Change in Law”** means that, on or after the Trade Date (i) due to the adoption of or any change in any applicable law or regulation (including, without limitation, any tax law), or (ii) 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 or regulation (including any action taken by a taxing authority), the Calculation Agent determines in its sole and absolute discretion that (A) it has become illegal to hold, acquire or dispose of any relevant asset, hedge or related trading position or (B) the Issuer and/or any of its Affiliates or agents will incur a materially increased cost in performing the obligations of the Issuer in relation to the Securities (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on its tax position).

**“Hedging Disruption”** means that the Issuer and/or any of its Affiliates or agents is unable, after using commercially reasonable efforts, to (i) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the equity, price, credit or other risk of the Issuer issuing and performing its obligations with respect to the Securities, or (ii) realise, recover or remit the proceeds of any such transaction(s) or asset(s).

**“Increased Cost of Hedging”** means that the Issuer and/or any of its Affiliates or agents would incur a materially increased (as compared with circumstances existing on the Trade Date) amount of tax, duty, expense or fee (other than brokerage commissions) to (i) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the equity, price, credit or other risk of the Issuer issuing and performing its obligations with respect to the Securities, or (ii) realise, recover or remit the proceeds of any such transaction(s) or asset(s), provided that any such materially increased amount that is incurred solely due to the deterioration of the creditworthiness of the Issuer and/or any of its Affiliates or agents shall not be deemed an Increased Cost of Hedging.



## ANNEX 10

## ADDITIONAL TERMS AND CONDITIONS FOR PHYSICAL DELIVERY NOTES

1. **Interpretation**

The following provisions (the “**Physical Delivery Note Conditions**”) apply to Notes specified as being Physical Delivery Notes in the applicable Final Terms or where Physical Delivery is specified in the applicable Final Terms.

References in the Physical Delivery Note Conditions to “delivery”, “delivered” and “deliver” shall in the context of the delivery of the Entitlement in respect of Credit Linked Notes be deemed to be references to “Delivery”, “Delivered” and “Deliver” as such terms are defined and construed in the Credit Linked Note Conditions.

2. **Delivery of Entitlement and Asset Transfer Notices**

In order to obtain delivery of the Entitlement(s) in respect of any Note:

- (a) if such Note is represented by a Global Note, the relevant Holder must deliver to Euroclear or Clearstream, Luxembourg (as applicable), with a copy to the Principal Paying Agent or, in the case of Registered Notes, to the Registrar and the Issuer not later than the close of business in each place of reception on the Cut-Off Date, a duly completed Asset Transfer Notice substantially in the form set out in the Agency Agreement (the “**Asset Transfer Notice**”); and
- (b) if such Note is in definitive form, the relevant Holder must deliver to any Paying Agent, with a copy to the Principal Paying Agent or, in the case of Registered Notes, to the Registrar and the Issuer not later than the close of business in each place of reception on the Cut-Off Date, a duly completed Asset Transfer Notice.

Forms of the Asset Transfer Notice may be obtained during normal business hours from the specified office of any Security Agent.

An Asset Transfer Notice may only be delivered (a) if such Note is represented by a Global Note, in such manner as is acceptable to Euroclear or Clearstream, Luxembourg, as the case may be or (b) if such Note is in definitive form in writing.

If such Note is in definitive form, such Note must be delivered together with the duly completed Asset Transfer Notice.

The Issuer shall at the risk of the relevant Holder deliver the Entitlement in respect of each Note or, in the case of Credit Linked Notes, Deliver the Deliverable Obligations comprising the Entitlement in such commercially reasonable manner as the Issuer shall, in its sole discretion, determine to be appropriate for such delivery.

All expenses including any applicable depositary charges, transaction or exercise charges, stamp duty, stamp duty reserve tax, issue, registration, securities, transfer and/or other taxes or duties (together “**Expenses**”) arising from the redemption of the Notes and the delivery of any Entitlement shall be for the account of the relevant Holder and no delivery and/or transfer of any Entitlement shall be made until all Expenses have been paid to the satisfaction of the Issuer by the relevant Holder.

An Asset Transfer Notice must:

- (a) specify the name, address and contact telephone number of the relevant Holder and the person from whom the Issuer may obtain details for the delivery of the Entitlement if such delivery is to be made otherwise than in the manner specified in the applicable Final Terms;
- (b) in the case of Notes represented by a Global Note, specify the nominal amount of Notes which are the subject of such notice and the number of the Holder’s account at Euroclear or Clearstream, Luxembourg, as the case may be, to be debited with such Notes and irrevocably instruct and authorise Euroclear or Clearstream, Luxembourg, as the case may be, to debit the relevant Holder’s account with such Notes on or before the Maturity Delivery Date (as defined below) or, in the case of Credit Linked Notes, the Credit Settlement Date;
- (c) include an undertaking to pay all Expenses and, in the case of Notes represented by a Global Note, an authority to debit a specified account of the Holder at Euroclear or Clearstream, Luxembourg, as the case may be, in respect thereof and to pay such Expenses;

- (d) include such details as are required by the applicable Final Terms for delivery of the Entitlement which may include account details and/or the name and address of any person(s) into whose name evidence of the Entitlement is to be registered and/or any bank, broker or agent to whom documents evidencing the Entitlement are to be delivered and specify the name and number of the Holder's account to be credited with any cash payable by the Issuer, in respect of any cash amount constituting the Entitlement or any dividends relating to the Entitlement, as a result of the occurrence of a Settlement Disruption Event or a Failure to Deliver due to Illiquidity and the Issuer electing to pay the Disruption Cash Settlement Price or Failure to Deliver Settlement Price, as applicable, or in respect of any Partial Cash Settlement Amounts;
- (e) certify that the beneficial owner of each Note is not a United States Person (as defined in the Asset Transfer Notice), the Note is not being redeemed within the United States or on behalf of a United States Person and no cash, securities or other property have been or will be delivered within the United States or to, or for the account or benefit of, a United States Person in connection with any redemption thereof; and
- (f) authorise the production of such notice in any applicable administrative or legal proceedings.

No Asset Transfer Notice may be withdrawn after receipt thereof by Euroclear, Clearstream, Luxembourg, a Paying Agent or the Registrar as provided above. After delivery of an Asset Transfer Notice, the relevant Holder may not transfer the Notes which are the subject of such notice.

In the case of Notes represented by a Global Note, upon receipt of such notice, Euroclear or Clearstream, Luxembourg, as the case may be, shall verify that the person specified therein as the Holder is the holder of the specified nominal amount of Notes according to its books.

Subject thereto, Euroclear or Clearstream, Luxembourg, as the case may be, will confirm to the Principal Paying Agent or, in the case of Registered Notes, the Registrar, the series number and number of Notes the subject of such notice, the relevant account details (if applicable) and the details for the delivery of the Entitlement in respect of each such Note. Upon receipt of such confirmation, the Principal Paying Agent or, in the case of Registered Notes, the Registrar will inform the Issuer thereof. Euroclear or Clearstream, Luxembourg, as the case may be, will on or before the Maturity Delivery Date or Credit Settlement Date, as the case may be, debit the securities account of the relevant Holder with the Notes the subject of the relevant Asset Transfer Notice.

Failure properly to complete and deliver an Asset Transfer Notice may result in such notice being treated as null and void. Any determination as to whether such notice has been properly completed and delivered as provided in the Physical Delivery Note Conditions shall be made, in the case of Notes represented by a Global Note, by Euroclear or Clearstream, Luxembourg, as the case may be, after consultation with the Principal Paying Agent or, in the case of Registered Notes, the Registrar and the Issuer and shall be conclusive and binding on the Issuer, the Guarantor and the relevant Holder or in the case of Notes in definitive form, by the relevant Paying Agent after consultation with the Principal Paying Agent or, in the case of Registered Notes, the Registrar and the Issuer and shall be conclusive and binding on the Issuer, the Guarantor and the relevant Holder.

If such Asset Transfer Notice is subsequently corrected to the satisfaction of Euroclear or Clearstream, Luxembourg, as the case may be, or the relevant Paying Agent, in each case in consultation with the Principal Paying Agent or, in the case of Registered Notes, the Registrar and the Issuer, it shall be deemed to be a new Asset Transfer Notice submitted at the time such correction was delivered as provided above.

Euroclear, Clearstream, Luxembourg, the relevant Paying Agent or, in the case of Registered Notes, the Registrar, as applicable, shall use its best efforts promptly to notify the Holder submitting an Asset Transfer Notice if, in consultation with the Principal Paying Agent or, in the case of Registered Notes, the Registrar and the Issuer, it has determined that such Asset Transfer Notice is incomplete or not in proper form. In the absence of negligence or wilful misconduct on its part, none of the Issuer, the Guarantor, the Paying Agents, Euroclear, Clearstream, Luxembourg, the Principal Paying Agent or the Registrar shall be liable to any person with respect to any action taken or omitted to be taken by it in connection with such determination or the notification of such determination to a Holder.

The Entitlement will be delivered at the risk of the relevant Holder, in the manner provided above on the Maturity Date (such date, subject to adjustment in accordance with these Physical Delivery Note Conditions, the “**Maturity Delivery Date**”) or, in the case of Credit Linked Notes, in the manner provided above on the Credit Settlement Date, provided that the Asset Transfer Notice is duly delivered to Euroclear, Clearstream, Luxembourg or a Paying Agent, as the case may be, with a copy to the Principal Paying Agent or, in the case of Registered Notes, the Registrar and the Issuer, as provided above, not later than the close of business in each place of receipt on the Cut-Off Date.

If an Asset Transfer Notice is delivered to Euroclear, Clearstream, Luxembourg or a Paying Agent, as the case may be, with a copy to the Principal Paying Agent or, in the case of Registered Notes, the Registrar and the Issuer, later than the close of business in each place of receipt on the Cut-Off Date, then the Entitlement will be delivered as soon as practicable after the Maturity Date (in which case, such date of delivery shall be the Maturity Delivery Date) or, in the case of Credit Linked Notes, the Credit Settlement Date at the risk of such Holder in the manner provided above. Provided that if in respect of a Note an Asset Transfer Notice is not delivered to Euroclear, Clearstream, Luxembourg or a Paying Agent, as the case may be, with a copy to the Principal Paying Agent or, in the case of Registered Notes, the Registrar and the Issuer, later than the close of business in each place of receipt on the 90<sup>th</sup> calendar day following the Cut-off Date the Issuer’s obligations in respect of such Note and the Guarantor’s obligations in respect of the relevant Guarantee in respect of such Note shall be discharged and no further liability in respect thereof shall attach to the Issuer or the Guarantor. For the avoidance of doubt, in such circumstances such Holder shall not be entitled to any payment, whether of interest or otherwise, as a result of such Maturity Delivery Date or the Credit Settlement Date, as the case may be, falling after the originally designated Maturity Delivery Date or Credit Settlement Date, as the case may be, and no liability in respect thereof shall attach to the Issuer or the Guarantor.

Delivery of the Entitlement in respect of the Notes is subject to all applicable laws, regulations and practices in force on the Maturity Delivery Date or the Credit Settlement Date, as the case may be, and none of the Issuer, the Guarantor or any of its Affiliates or agents, the Paying Agents or the Registrar shall incur any liability whatsoever if it is unable to effect the transactions contemplated, after using all reasonable efforts, as a result of any such laws, regulations or practices. None of the Issuer, the Guarantor or any of its Affiliates or agents, the Paying Agents or the Registrar shall under any circumstances be liable for any acts or defaults of Euroclear or Clearstream, Luxembourg in relation to the performance of their duties in relation to the Notes.

For such period of time after the Maturity Delivery Date or Credit Settlement Date, as the case may be, as any person other than the relevant Holder shall continue to be the legal owner of the securities, obligations or Deliverable Obligations comprising the Entitlement (the “**Intervening Period**”), none of the Issuer, the Guarantor nor any other such person shall (a) be under any obligation to deliver or procure delivery to the relevant Holder or any subsequent beneficial owner of such Note any letter, certificate, notice, circular or any other document or, except as provided herein, payment whatsoever received by that person in respect of such securities, obligations or Deliverable Obligations, (b) be under any obligation to exercise or procure exercise of any or all rights (including voting rights) attaching to such securities, obligations or Deliverable Obligations during the Intervening Period or (c) be under any liability to the relevant Holder, or any subsequent beneficial owner of such Note in respect of any loss or damage which the relevant Holder, or subsequent beneficial owner may sustain or suffer as a result, whether directly or indirectly, of that person being the legal owner of such securities, obligations or Deliverable Obligations during such Intervening Period.

Where the Entitlement comprises shares, any dividend or other distribution in respect of such Entitlement will be payable to the party that would receive such dividend or other distribution according to market practice for a sale of the Share executed on the Maturity Delivery Date and to be delivered in the same manner as the Entitlement. Any such dividend or other distribution to be paid to a Holder shall be paid to the account specified in the relevant Asset Transfer Notice.

Except in the case of Credit Linked Notes, where the Entitlement is, in the determination of the Issuer, an amount other than an amount of Relevant Assets capable of being delivered, the Holders will receive an Entitlement comprising of the nearest number (rounded down) of Relevant Assets capable of being delivered by the Issuer (taking into account that a Holder’s entire holding may be aggregated at the Issuer’s discretion for the purpose of delivering the Entitlements), and in respect

of the amount of Relevant Assets not capable of being delivered, an amount in the Specified Currency which shall be the value of the amount of the Relevant Assets so rounded down, as calculated by the Calculation Agent in its sole discretion from such source(s) as it may select (converted if necessary into the Specified Currency by reference to such exchange rate as the Calculation Agent deems appropriate).

### 3. **Settlement Disruption Event**

The provisions of this Physical Delivery Note Condition 3 shall apply to Physical Delivery Notes other than Credit Linked Notes.

If, prior to the delivery of the Entitlement in accordance with these Physical Delivery Note Conditions, a Settlement Disruption Event is subsisting, then the Maturity Delivery Date in respect of such Note shall be postponed until the next Settlement Business Day on which no Settlement Disruption Event is subsisting and notice thereof shall be given to the relevant Holder, in accordance with Note Condition 14. Such Holder shall not be entitled to any payment, whether of interest or otherwise, on such Note as a result of any delay in the delivery of the Entitlement pursuant to these Physical Delivery Note Conditions. Where delivery of the Entitlement has been postponed as provided in the Physical Delivery Note Conditions the Issuer shall not be in breach of these Conditions and no liability in respect thereof shall attach to the Issuer or the Guarantor.

For so long as delivery of the Entitlement in respect of any Note is not practicable by reason of a Settlement Disruption Event, then in lieu of physical settlement and notwithstanding any other provision hereof, the Issuer may elect in its sole discretion to satisfy its obligations in respect of the relevant Note by payment to the relevant Holder of the Disruption Cash Settlement Price not later than on the third Business Day following the date that the notice of such election (the “**Election Notice**”) is given to the Holders in accordance with Note Condition 14.

### 4. **Failure to Deliver due to Illiquidity**

The provisions of this Physical Delivery Note Condition 4 shall apply to Physical Delivery Notes other than Credit Linked Notes.

If Failure to Deliver due to Illiquidity is specified as applying in the applicable Final Terms and, in the opinion of the Calculation Agent, it is impossible or impracticable to deliver, when due, some or all of the Relevant Assets comprising the Entitlement (the “**Affected Relevant Assets**”), where such failure to deliver is due to illiquidity in the market for the Relevant Assets (a “**Failure to Deliver due to Illiquidity**”), then:

- (a) subject as provided elsewhere in the Physical Delivery Note Conditions and/or the applicable Final Terms, any Relevant Assets which are not Affected Relevant Assets, will be delivered on the originally designated Maturity Delivery Date in accordance with the Physical Delivery Note Conditions; and
- (b) in respect of any Affected Relevant Assets, notwithstanding any other provision hereof, the Issuer may elect in its sole discretion, in lieu of delivery of the Affected Relevant Assets, to pay to the relevant Holder the Failure to Deliver Settlement Price (as defined below) on the fifth Business Day following the date the Failure to Deliver Notice (as defined below) is given to the Holders in accordance with Note Condition 14. The Issuer shall give notice (such notice a “Failure to Deliver Notice”) as soon as reasonably practicable to the Holders in accordance with Note Condition 14 that the provisions of this Physical Delivery Note Condition 4 apply.

### 5. **Option to Vary Settlement**

The provisions of this Physical Delivery Note Condition 5 shall apply to Physical Delivery Notes other than Credit Linked Notes.

If the applicable Final Terms indicates that the Issuer has an option to vary settlement in respect of the Notes, the Issuer may at its sole and unfettered discretion in respect of each such Note, elect not to pay the relevant Holders the Final Redemption Amount or to deliver or procure delivery of the Entitlement to the relevant Holders, as the case may be, but, in lieu thereof to deliver or procure delivery of the Entitlement or make payment of the Final Redemption Amount on the Maturity Date to the relevant Holders, as the case may be. Notification of such election will be given to Holders in accordance with Condition 14.

## 6. **Additional Provisions for Credit Linked Notes**

The provisions of this Physical Delivery Note Condition 6 shall apply to Credit Linked Notes.

In relation to each Deliverable Obligation constituting the Entitlement the Issuer or the Guarantor, as applicable, will Deliver or procure the Delivery of the relevant Deliverable Obligation as provided in Physical Delivery Note Condition 2 on the Credit Settlement Date, provided that if all or some of the Deliverable Obligations included in the Entitlement are Undeliverable Obligations and/or Hedge Disruption Obligations, then the Issuer shall continue to attempt to Deliver all or a portion of such Undeliverable Obligations or Hedge Disruption Obligations, as the case may be, on or before the 30<sup>th</sup> Business Day following the Credit Settlement Date (the “**Final Delivery Date**”), provided further that if all or a portion of such Undeliverable Options or Hedge Disruption Obligations, as the case may be, are not Delivered by the Final Delivery Date the provisions of Credit Linked Note Condition 9 shall apply.

## 7. **Definitions**

For the purposes of these Physical Delivery Note Conditions:

“**Disruption Cash Settlement Price**” means, in respect of each nominal amount of Notes equal to the Calculation Amount, an amount equal to the fair market value of such Notes (but not taking into account any interest accrued on such Note and paid pursuant to Note Condition 5 and Note Condition 6) on such day as shall be selected by the Issuer in its sole and absolute discretion provided that such day is not more than 15 calendar days before the date that the Election Notice is given as provided above less the cost to the Issuer and/or its Affiliates or agents of the Issuer of unwinding or adjusting any underlying or related hedging arrangements (including the cost of funding in respect of such hedging arrangements), all as calculated by the Calculation Agent in its sole and absolute discretion.

“**Entitlement**” means, in relation to a Physical Delivery Note (other than a Credit Linked Note), the quantity of the Relevant Asset or the Relevant Assets, as the case may be, which a Holder is entitled to receive on the Maturity Delivery Date in respect of each such Note following payment of the Expenses, which quantity will be rounded down as provided in Physical Delivery Note Condition 2, as determined by the Calculation Agent and includes any documents evidencing such Entitlement.

“**Failure to Deliver Settlement Price**” means, in respect of each nominal amount of the Notes equal to the Calculation Amount, the fair market value of the Affected Relevant Assets in respect of such Notes on the fifth Business Day prior to the date on which the Failure to Deliver Notice is given as provided above, less the cost to the Issuer and/or its Affiliates or agents of unwinding or adjusting any underlying or related hedging arrangements (including the cost of funding in respect of such hedging arrangements), all as calculated by the Calculation Agent in its sole and absolute discretion.

“**Settlement Disruption Event**” means an event beyond the control of the Issuer or, if applicable, the Guarantor, as a result of which, in the opinion of the Calculation Agent or, if applicable, the Guarantor, delivery of the Entitlement by or on behalf of the Issuer or the Guarantor, as the case may be, in accordance with the Physical Delivery Note Conditions and/or the applicable Final Terms is not practicable.



## ANNEX 11

## ADDITIONAL TERMS AND CONDITIONS FOR RULE 144A WARRANTS

1. **Interpretation**

If specified as applicable in the applicable Final Terms, the terms and conditions applicable to Warrants represented by a Rule 144A Global Warrant or a Regulation S/Rule 144A Global Warrant shall comprise the terms and conditions of the W&C Securities (the “**W&C Securities Conditions**”) and the Additional Terms and Conditions for Rule 144A Warrants set out below (the “**Rule 144A Warrant Conditions**”) in each case subject to completion and/or amendment in the applicable Final Terms. In the event of any inconsistency between the W&C Securities Conditions and the Rule 144A Warrant Conditions, the Rule 144A Warrant Conditions shall prevail. In the event of any inconsistency between (a) the W&C Securities Conditions, and/or the Rule 144A Warrant Conditions and (b) the applicable Final Terms, the applicable Final Terms shall prevail.

2. **Form**

If the applicable Final Terms specifies that the Warrants are eligible for sale exclusively in the United States or to, or for the account or benefit of, United States Persons pursuant to an exemption from the registration requirements of the Securities Act of 1933, as amended (the “**Securities Act**”), the Warrants sold (a) in the United States to qualified institutional buyers (“**QIBs**”) within the meaning of Rule 144A (“**Rule 144A**”) under the Securities Act who are also each a qualified purchaser (each a “**QP**”) within the meaning of Section 3(c)(7) and as defined in Section 2(a)(51) of the United States Investment Company Act of 1940, as amended (the “**1940 Act**”) and the rules thereunder or (b) to, or for the account or benefit of, United States Persons who are QIBs and also QPs will be represented by a Rule 144A Global Warrant in registered form (the “**Rule 144A Global Warrant**”). Beneficial interests in a Rule 144A Global Warrant held through DTC (as defined below) must be held through an account with a direct participant in DTC that has been expressly authorised by the Issuer to hold such interests (an “**Authorised Custodian**”) and each Authorised Custodian must have executed and delivered a Custodian Letter (as defined below) pursuant to which it will have agreed with the Issuer not to transfer any portion of a beneficial owner’s interests in the Rule 144A Global Warrant to the account of any other person at the relevant Authorised Custodian, or to the account of any other participant in DTC or otherwise, without the prior written consent of the Issuer or the prior written consent of a person authorised to act on the Issuer’s behalf. If specified in the applicable Final Terms, the Warrants may be sold (a) in the United States to QIBs who are also QPs who have executed and delivered an Investor Representation Letter (as defined below) or (b) to, or for the account or benefit of, United States Persons who are QIBs and also QPs who have executed and delivered an Investor Representation Letter and, in either case, concurrently outside the United States to non-United States Persons and will be represented by a Regulation S/Rule 144A Global Warrant in registered form (the “**Regulation S/Rule 144A Global Warrant**”), which will be deposited with the Common Depositary and registered in the name of a nominee of the Common Depositary. A Rule 144A Global Warrant and a Regulation S/Rule 144A Global Warrant will only be issued in relation to Cash Settled W&C Securities which are either Index Linked Warrants or Share Linked Warrants.

Each Rule 144A Global Warrant will be either (a) deposited with the U.S. Warrant Agent as custodian for, and registered in the name of a nominee of, The Depository Trust Company (“**DTC**”) and references herein to Warrants “held through” DTC will be deemed to be references to Warrants so represented, or (b) deposited with the Common Depositary and registered in the name of a nominee of the Common Depositary, as specified in the applicable Final Terms.

In the case of Warrants represented by a Rule 144A Global Warrant held through DTC, if DTC notifies the Issuer that it is unwilling or unable to continue as a depository for that Rule 144A Global Warrant held through DTC, or if at any time DTC ceases to be a “clearing agency” registered under the U.S. Securities Exchange Act of 1934, as amended, and a successor depository is not appointed by the Issuer within 90 calendar days of such notice, the Issuer will deliver Warrants in definitive registered form (“**Definitive Registered Warrants**”) (bearing such legends as may be required by the Issuer) in exchange for that Rule 144A Global Warrant. Except in these circumstances, owners of beneficial interests in a Rule 144A Global Warrant held through DTC will not be entitled to have any portion of such Warrants registered in their name and will not receive or be entitled to receive physical delivery of Definitive Registered Warrants in exchange for their interests in that Rule 144A Global Warrant. Transfer, exercise, settlement and other mechanics

related to any Definitive Registered Warrants in exchange for Warrants represented by a Rule 144A Global Warrant held through DTC shall be as agreed between the Issuer and the U.S. Warrant Agent.

Except as specified herein, Definitive Registered Warrants will not be issued.

For the purposes of the W&C Securities Conditions as amended and/or supplemented by the Rule 144A Warrant Conditions, except as provided in the Rule 144A Warrant Conditions, Warrants represented by a Regulation S/Rule 144A Global Warrant or a Rule 144A Global Warrant deposited with the Common Depositary shall be deemed to be Warrants represented by a Global Warrant held by the Common Depositary.

### 3. Definitions

For the purposes of these Rule 144A Warrant Conditions:

“**Brussels Business Day**” means a day (other than Saturday or Sunday) on which commercial banks are open for general business in Brussels.

“**Clearing System**” means Euroclear and/or Clearstream, Luxembourg.

“**Global Warrant**” means a Rule 144A Global Warrant or Regulation S/Rule 144A Global Warrant.

“**Luxembourg Business Day**” means a day (other than Saturday or Sunday) on which commercial banks are open for general business in Luxembourg.

“**New York Business Day**” means a day (other than Saturday or Sunday) on which commercial banks are open for general business in New York City.

### 4. Title

In the case of Warrants represented by a Rule 144A Global Warrant held through DTC, the Rule 144A Global Warrant will be registered in the name of Cede & Co., as nominee of DTC but does not confer any rights or benefits on Cede & Co. or any other holder and is only enforceable by the Holders as provided therein. Any Rule 144A Global Warrant held through DTC will be held by the U.S. Warrant Agent as custodian for DTC. Subject as set forth in this Rule 144A Warrant Condition 4, each person who is for the time being shown in the records of DTC as the holder of a particular number of such Warrants shall be treated by the Issuer, the Guarantor and any Security Agent as the holder of such number of such Warrants for all purposes (and the expressions “**Holder**” and “**holder of Warrants**” and related expressions shall be construed accordingly).

In the case of Warrants represented by a Regulation S/Rule 144A Global Warrant or a Rule 144A Global Warrant held through Euroclear or Clearstream, Luxembourg, title to such Warrants shall, subject to mandatory rules of law, pass by registration in the Register that MLICo. shall procure to be kept by the Registrar in accordance with the provisions of the Agency Agreement. For as long as the Warrants are represented by a Global Warrant held through Euroclear and/or Clearstream, Luxembourg, each person who is for the time being shown in the records of a Clearing System as the holder of a particular number of Warrants (in which regard any certificate or other document issued by such Clearing System as to the number of Warrants standing to the account of any person shall be conclusive and binding for all purposes save in the case of manifest error) shall be treated by the Issuer, the Guarantor or the Registrar and any relevant Security Agent as the holder of such number of Warrants for all purposes (and the expressions “**Holder**” and “**holder of Warrants**” and related expressions shall be construed accordingly).

### 5. Transfers

All transactions (which transactions shall include transfers of Warrants represented by a Rule 144A Global Warrant, and transfers of Warrants represented by the same or another Global Warrant) (a) to a person in the United States or (b) to, or for the account or benefit of, a United States Person who is a QIB and also a QP, in either case, who takes delivery of Warrants represented by a Rule 144A Global Warrant in the open market or otherwise in respect of Warrants represented by a Rule 144A Global Warrant may only be effected to or through the Issuer. In addition, all transactions (which transactions shall include transfers represented by a Regulation S/Rule 144A Global Warrant, and transfers of Warrants represented by the same or another Global Warrant) (a) in the United States or (b) to, or for the account or benefit of, a United States Person who is a QIB and

also a QP, in either case, in the open market or otherwise in respect of Warrants represented by a Regulation S /Rule 144A Global Warrant may only be effected to or through the Issuer.

For so long as the Warrants are represented by a Rule 144A Global Warrant held through DTC, all permitted transfers of such Warrants must be effected through a direct or indirect participant of DTC and all such Warrants must be held through an Authorised Custodian. Title will pass upon registration of the transfer in the records of DTC. Transfers of a Rule 144A Global Warrant held by a nominee for DTC shall be limited to transfers of such Rule 144A Global Warrant, in whole but not in part, to another nominee of DTC or to a successor of DTC or such successor's nominee.

For so long as the Warrants are represented by a Regulation S/Rule 144A Global Warrant or a Rule 144A Global Warrant held through Euroclear or Clearstream, Luxembourg, all permitted transfers of such Warrants must be effected through an account at Euroclear or Clearstream, Luxembourg. Title to a Regulation S/Rule 144A Global Warrant or a Rule 144A Global Warrant will pass upon registration of the transfer of such Warrant in the Register.

Any reference herein to Euroclear and/or Clearstream, Luxembourg or DTC shall, whenever the context so permits, be deemed to include a reference to any additional or alternative clearing system approved by the Issuer and the Registrar or Principal Warrant Agent, as the case may be, from time to time and notified to the Holders in accordance with Condition 11.

Subject as stated above, sales, transfers or exchanges of Warrants represented by a Global Warrant may only be made in accordance with the following provisions:

- (a) (i) (A) subject to the proviso set forth below, in the case of sales, transfers to or exchanges with a person who takes delivery in the form of Warrants represented by a Regulation S/Rule 144A Global Warrant, if such transfer or exchange, as the case may be, is being made to or through the Issuer (x) to a non-United States Person in an offshore transaction pursuant to Regulation S under the Securities Act or (y) (a) in the United States to a QIB who is also a QP (a “**QIB/QP**”) or (b) to, or for the account or benefit of, a United States Person who is a QIB/QP, in either case, who acquired such Warrants in a transaction meeting the requirements of Rule 144A, and if required a duly executed Investor Representation Letter (as defined below) from the relevant transferee is delivered and, if required, a custodian letter from the relevant transferee's proposed DTC direct participant in the form of Schedule 17 to the Agency Agreement (the “**Custodian Letter**”) is delivered, in each case in accordance with paragraph (b) below; provided that the foregoing shall not apply to any transfers or exchanges between or among non-United States Persons in offshore transactions pursuant to Regulation S under the Securities Act; or
- (B) in the case of transfers to or exchanges with a person who takes delivery in the form of Warrants represented by a Rule 144A Global Warrant, if such transfer or exchange, as the case may be, is being made to or through the Issuer (a) in the United States to a QIB/QP or (b) to, or for the account or benefit of, a United States Person who is a QIB/QP, in either case, who acquired such Warrants in a transaction meeting the requirements of Rule 144A, and a duly executed Investor Representation Letter from the relevant transferee is delivered and, if required, a Custodian Letter from the relevant transferee's proposed DTC direct participant is delivered, in each case in accordance with paragraph (b) below; and
- (ii) in accordance with any applicable rules and regulations of the Principal Warrant Agent, U.S. Warrant Agent, DTC and each relevant Clearing System.

The Holder must send:

- (A) in the case of transfers or exchanges of Warrants represented by a Regulation S/Rule 144A Global Warrant or Rule 144A Global Warrant held through Euroclear and/or Clearstream, Luxembourg, to Euroclear and/or Clearstream, Luxembourg, as the case may be, a free of payment instruction not later than 10.00 a.m. (Brussels or Luxembourg time, as the case may be) one Brussels Business Day or Luxembourg Business Day, as the case may be, prior to the date on which the transfer or exchange is to take effect; and
- (B) in the case of transfers or exchanges of Warrants represented by a Rule 144A Global Warrant held through DTC, to DTC a free of payment instruction at least

two New York Business Days prior to the date on which the transfer or exchange is to take effect.

In the case of a transfer, separate payment arrangements are required to be made between the transferor and the transferee.

On the transfer or exchange date Euroclear or Clearstream, Luxembourg, or DTC, as the case may be, will debit the account of its participant and will instruct (a), in the case of transfers to a person who takes delivery of Warrants represented by a Regulation S/Rule 144A Global Warrant or a Rule 144A Global Warrant held through Euroclear and/or Clearstream, Luxembourg, the Principal Warrant Agent to instruct Euroclear or Clearstream, Luxembourg, as the case may be, to credit the relevant account of the Euroclear or Clearstream, Luxembourg participant, as the case may be, or (b) in the case of transfers to a person who takes delivery of Warrants represented by a Rule 144A Global Warrant held through DTC, the U.S. Warrant Agent (in the case of transfers or exchanges of Warrants represented by a Rule 144A Global Warrant held through DTC) to credit the relevant account of the DTC participant.

- (b) In the case of sales or transfers of Warrants (i) to a person who takes delivery in the form of Warrants represented by a Rule 144A Global Warrant or (ii) (a) to a person in the United States who is a QIB/QP or (b) to, or for the account or benefit of, a United States Person who is a QIB/QP, in either case, who takes delivery in the form of Warrants represented by a Regulation S/Rule 144A Global Warrant (each of which transfers must be effected to or through the Issuer), the delivery of a duly executed investor representation letter in the form set out in the Agency Agreement (an “**Investor Representation Letter**”) from the relevant transferee and, in the case of Warrants held through DTC, the delivery of a Custodian Letter from the relevant transferee’s DTC direct participant (to the extent that such DTC direct participant is not already an Authorised Custodian) each is a condition precedent to the sale or transfer of such Warrants or any beneficial interests therein. The Investor Representation Letter must be duly executed by such proposed transferee or such proposed transferee’s attorney duly authorised in writing, at least three New York Business Days prior to the date the transfer of such Warrants is desired. Any attempted transfer in which the Investor Representation Letter and the proposed transfer was not effected in accordance with the foregoing procedures shall not be valid or binding on the Issuer. In addition, if any Security Agent subsequently determines or is subsequently notified by the Issuer that (i) a transfer or attempted or purported transfer of any interest in a Warrant was consummated in compliance with the provisions of this paragraph on the basis of an incorrect certification from the transferee or purported transferee as set forth in the relevant Investor Representation Letter, (ii) the holder of any interest in a Warrant was in breach, at the time given, of any representation or agreement set forth in any Investor Representation Letter or any deemed representation or agreement of such holder, or (iii) a transfer or attempted transfer of any interest in a Warrant was consummated which did not comply with the transfer restrictions set forth in this Rule 144A Warrant Condition 5 the purported transfer shall be absolutely null and void *ab initio* and shall vest no rights in the purported transferee (such purported transferee, a “**Disqualified Transferee**”) and the last preceding holder of such interest that was not a Disqualified Transferee shall be restored to all rights as a holder thereof retroactively to the date of transfer of such interest by such holder.

## 6. Exercise Rights

### (A) American Style Warrants

If Automatic Exercise is not specified in the applicable Final Terms, in the case of American Style Warrants represented by a Rule 144A Global Warrant held through DTC, any such American Style Warrants with respect to which no Exercise Notice has been delivered in the manner set out in Rule 144A Warrant Condition 7, at or prior to 5.00 p.m., New York City time, on the New York Business Day immediately preceding the Expiration Date, shall become void.

If Automatic Exercise is specified in the applicable Final Terms, in the case of American Style Warrants represented by a Rule 144A Global Warrant held through DTC, any such American Style Warrant with respect to which no Exercise Notice has been delivered in the manner set out in Rule



144A Warrant Condition 7, at or prior to 5.00 pm New York City time, on the New York Business Day immediately preceding the Expiration Date and which is in the determination of the Calculation Agent “In-The-Money” shall be automatically exercised on the Expiration Date and the provisions of Rule 144A Warrant Condition 8 shall apply.

In the case of American Style Warrants represented by a Rule 144A Global Warrant held through DTC, (a) the Exercise Business Day immediately succeeding the New York Business Day on which an Exercise Notice is received prior to 5.00 p.m., New York City time, by the U.S. Warrant Agent and a copy thereof is delivered to Merrill Lynch International and the Principal Warrant Agent, or (b), if Automatic Exercise is specified in the applicable Final Terms and the Warrants are automatically exercised on the Expiration Date as provided above, the Expiration Date, is referred to herein as the “**Actual Exercise Date**”. If any such Exercise Notice is received by the U.S. Warrant Agent, or if a copy thereof is delivered to Merrill Lynch International and the Principal Warrant Agent, after 5.00 p.m. on any New York Business Day, such Exercise Notice will be deemed to have been given on the next New York Business Day and the Exercise Business Day immediately succeeding such next New York Business Day shall be deemed to be the Actual Exercise Date, provided that any such Warrants in respect of which no Exercise Notice has been delivered in the manner set out in Rule 144A Warrant Condition 7, at or prior to 5.00 p.m. New York City time, on the New York Business Day immediately preceding the Expiration Date shall (i) if Automatic Exercise is not specified in the applicable Final Terms, become void or (ii), if Automatic Exercise is specified in the applicable Final Terms, be automatically exercised on the Expiration Date as provided above.

In the case of American Style Warrants represented by a Rule 144A Warrant held through Euroclear or Clearstream, Luxembourg or a Regulation S/Rule 144 Warrant, the provisions of W&C Security Condition 22 shall apply.

*(B) European Style Warrants*

In the case of European Style Warrants represented by a Rule 144A Global Warrant held through DTC, if Automatic Exercise is not specified in the applicable Final Terms, any European Style Warrant with respect to which no Exercise Notice has been delivered in the manner set out in Rule 144A Warrant Condition 7, at or prior to 5.00 p.m., New York City time on the New York Business Day immediately preceding the Actual Exercise Date, shall become void.

If Automatic Exercise is specified in the applicable Final Terms, any such European Style Warrant with respect to which no Exercise Notice has been delivered in the manner set out in Rule 144A Warrant Condition 7, at or prior to 5.00 p.m. New York City time on the New York Business Day immediately preceding the Actual Exercise Date and which is in the determination of the Calculation Agent “In-The-Money”, shall be automatically exercised on the Actual Exercise Date and the provisions of Rule 144A Warrant Condition 8 shall apply.

The expressions “exercise”, “due exercise” and related expressions shall be construed to apply to any Warrants which are automatically exercised on the Actual Exercise Date in accordance with this provision.

In the case of European Style Warrants represented by a Rule 144A Global Warrant held through Euroclear or Clearstream, Luxembourg or a Regulation S/Rule 144A Warrant, the provisions of W&C Security Condition 22 shall apply.

**7. Exercise Procedure**

*(A) Warrants represented by a Rule 144A Global Warrant held through DTC*

Warrants represented by a Rule 144A Global Warrant held through DTC may only be exercised by delivery through computerised exercise instruction through DTC (via its “Deposit and Withdrawal at Custodian” or “DWAC” function) of a duly completed Exercise Notice in the form set out in the Agency Agreement (copies of which form may be obtained from the Security Agents) to the U.S. Warrant Agent with a copy to the Principal Warrant Agent and Merrill Lynch International, in accordance with the provisions set out in Rule 144A Warrant Conditions 6 and 7.

In the case of Warrants represented by a Rule 144A Global Warrant held through DTC, the Exercise Notice shall:



- (i) specify the series of the Warrants and the number of Warrants being exercised and, if Units are specified in the applicable Final Terms, the number of Units being exercised;
- (ii) specify the designated account at the U.S. Warrant Agent (or such other account or bank as may be specified by the U.S. Warrant Agent) to be debited with the Warrants being exercised;
- (iii) irrevocably instruct the U.S. Warrant Agent to exercise the Warrants debited to the account of the Holder and credited to the account of the U.S. Warrant Agent by means of DTC's DWAC function;
- (iv) specify the designated account at the U.S. Warrant Agent (or at such other account or bank as may be specified by the U.S. Warrant Agent) to be credited with the Cash Settlement Amount (if any) for each Warrant being exercised;
- (v) include an undertaking to pay all Expenses and an authority to the U.S. Warrant Agent to deduct an amount in respect thereof from any Cash Settlement Amount due to such Holder and/ or to debit a specified account of the Holder at the U.S. Warrant Agent (or at such other account or bank as may be specified by the U.S. Warrant Agent) in respect thereof and to pay such Expenses; and
- (vi) authorise the production of such certification in applicable administrative or legal proceedings, all as provided in the Agency Agreement.

Upon receipt of an Exercise Notice, the U.S. Warrant Agent shall verify that the person exercising the Warrants is the holder thereof according to the records of DTC. Subject thereto, the U.S. Warrant Agent shall notify the Issuer of the number of Warrants being exercised and the account details, if applicable, for the payment of the Cash Settlement Amount of each Warrant being exercised. If the Warrants are American Style Warrants, upon exercise of less than all the Warrants held through DTC, the U.S. Warrant Agent will note such exercise on the Schedule to such Rule 144A Global Warrant and the number of Warrants so constituted shall be reduced by the cancellation *pro tanto* of the Warrants so exercised.

The Issuer, through the Principal Warrant Agent, shall on the Settlement Date pay or cause to be paid the Cash Settlement Amount (if any) for each duly exercised Warrant or Unit, as the case may be, to the designated account at the U.S. Warrant Agent (or at such other account or bank as may be specified by the U.S. Warrant Agent) for the account of the U.S. Warrant Agent. In such case, as promptly as practicable thereafter, and provided that the U.S. Warrant Agent is satisfied that delivery to it of funds sufficient to pay the Cash Settlement Amount will be made, the U.S. Warrant Agent will cause the Cash Settlement Amount to be credited to the Holder's account with the U.S. Warrant Agent less any Expenses.

Delivery of an Exercise Notice shall constitute an irrevocable election by the relevant Holder to exercise the Warrants specified. After the delivery of such Exercise Notice, such exercising Holder may not transfer such Warrants.

Any determination as to whether an Exercise Notice is duly completed and in proper form shall be made by the U.S. Warrant Agent in consultation with the Principal Warrant Agent in the case of Warrants represented by a Rule 144A Global Warrant held through DTC, and shall be conclusive and binding on the Issuer, the relevant Security Agents and the relevant Holder. Subject as set out below, any Exercise Notice so determined to be incomplete or not in proper form, or which is not copied to the Principal Warrant Agent and Merrill Lynch International immediately after being delivered or sent to the U.S. Warrant Agent shall be null and void.

If such Exercise Notice is subsequently corrected to the satisfaction of the U.S. Warrant Agent in consultation with the Principal Warrant Agent, it shall be deemed to be a new Exercise Notice submitted at the time such correction was delivered to the U.S. Warrant Agent and copied to the Principal Warrant Agent and Merrill Lynch International.

If Automatic Exercise is not specified in the applicable Final Terms, any Warrants with respect to which the Exercise Notice has not been duly completed and delivered in the manner set out above by the cut-off time specified in Rule 144A Warrant Condition 6(A), in the case of American Style Warrants, or Rule 144A Warrant Condition 6(B), in the case of European Style Warrants, shall become void.

The U.S. Warrant Agent shall use its best efforts promptly to notify the Holder submitting an Exercise Notice if, in consultation with the Principal Warrant Agent, it has determined that such Exercise Notice is incomplete or not in proper form. In the absence of negligence or wilful misconduct on its part, none of the Issuer, the Guarantor, the Security Agents or DTC, shall be liable to any person with respect to any action taken or omitted to be taken by it in connection with such determination or the notification of such determination to a Holder.

(B) *Warrants represented by a Regulation S/Rule 144A Global Warrant or a Rule 144A Global Warrant held through Euroclear and/or Clearstream, Luxembourg*

In respect of Warrants represented by a Regulation S/Rule 144A Global Warrant or a Rule 144A Global Warrant held through Euroclear and/or Clearstream, Luxembourg, the provisions of W&C Securities Condition 23(A)(a)(1) in respect of Cash Settled Warrants shall apply except that subparagraph (v) shall be amended by the addition of the following after the words “certify, *inter alia*”, “either (i) that the beneficial owner of each Warrant being exercised is a QIB/QP (as defined in the Exercise Notice) and, where appropriate, undertake to provide such various forms of certification in respect of selling restrictions under the securities, commodities and other laws of the United States as set out in the applicable Final Terms, or (ii)”.

8. **Automatic Exercise**

Automatic Exercise will apply to Warrants represented by a Rule 144A Global Warrant held through DTC if specified to be applicable in the applicable Final Terms.

In the case of Warrants represented by a Rule 144A Global Warrant held through DTC, in order to receive the Cash Settlement Amount, in respect of a Warrant, or if Units are specified in the applicable Final Terms, a Unit, as the case may be, the relevant Holder must deliver through computerised exercise instruction through DTC (via its DWAC function) a duly completed Exercise Notice to the U.S. Warrant Agent with a copy to Merrill Lynch International and the Principal Warrant Agent on any New York Business Day until not later than 5.00 p.m. New York City time, on the New York Business Day immediately preceding the Cut-off Date (as defined in W&C Securities Condition 23(E)).

The Exercise Notice shall include the applicable information set out in the Exercise Notice referred to in Rule 144A Warrant Condition (A). The Business Day during the period from the Expiration Date or the Actual Exercise Date, as the case may be, until the Cut-off Date on which an Exercise Notice is delivered to the U.S. Warrant Agent and a copy thereof delivered to Merrill Lynch International and the Principal Warrant Agent is referred to in this Rule 144A Warrant Condition 8 as the “**Exercise Notice Delivery Date**”, provided that if the Exercise Notice is delivered to the U.S. Warrant Agent at or after 5.00 p.m., New York City time on a New York Business Day the Exercise Notice Delivery Date shall be deemed to be the next succeeding New York Business Day.

Subject to the relevant Holder performing its obligations in respect of the relevant Warrant or Unit, as the case may be, in accordance with these Terms and Conditions, the Settlement Date for such Warrants or Units, as the case may be, shall be the fourth Business Day following the Exercise Notice Delivery Date. In the event that a Holder does not so deliver an Exercise Notice in accordance with this Rule 144A Warrant Condition 8 prior to 5.00 p.m., New York City time, on the New York Business Day immediately preceding the Cut-off Date, the Issuer’s obligations in respect of such Rule 144A Warrants and the Guarantor’s obligations in respect of the Original Guarantee shall be discharged and no further liability in respect thereof shall attach to the Issuer or the Guarantor.

9. **Purchases**

Warrants represented by a Rule 144A Global Warrant purchased by the Issuer pursuant to W&C Securities Condition 9 may only be resold pursuant to Rule 144A or Regulation S.

10. **Additional Amounts**

In respect of Warrants represented by a Rule 144A Global Warrant held through DTC, the provisions of W&C Securities Condition 24 (*Additional Amounts*) shall apply except that references therein to “relevant Clearing Systems” shall be replaced by “DTC”.

**11. U.S. Warrant Agent**

The Issuer and the Guarantor reserve the right at any time to vary or terminate the appointment of the U.S. Warrant Agent and to appoint further or additional Security Agents as provided in W&C Securities Condition 10, provided that, so long as any of the Warrants are represented by a Rule 144A Global Warrant held through DTC, there shall be a U.S. Warrant Agent.

**12. Notices**

For so long as the Warrants are represented by a Rule 144A Global Warrant held through DTC, the reference in the first paragraph of W&C Securities Condition 11 to “each Clearing System” shall be replaced by “DTC”.

**13. Substitution of the Issuer**

The Issuer, or any previous substituted company may, at any time, without the consent of the Holders, substitute for itself as principal obligor under Warrants represented by a Rule 144A Global Warrant or a Regulation S/Rule 144A Global Warrant any company, being BAC or any of its other subsidiaries as provided in W&C Securities Condition 14, provided that the Substitute and the Warrants satisfy all the applicable requirements of Rule 144A.

## ANNEX 12

## ADDITIONAL TERMS AND CONDITIONS FOR SAUDI SHARE LINKED WARRANTS

1. **Interpretation**

If specified as applicable in the applicable Final Terms, the terms and conditions applicable to Saudi Share Linked Warrants shall comprise the terms and conditions of the W&C Securities (the “**W&C Securities Conditions**”) and the Additional Terms and Conditions for Saudi Share Linked Warrants set out below (the “**Saudi Share Linked Warrant Conditions**”), in each case subject to completion and/or amendment in the applicable Final Terms. In the event of any inconsistency between the W&C Securities Conditions and the Saudi Share Linked Warrant Conditions, the Saudi Share Linked Warrant Conditions shall prevail. In the event of any inconsistency between (a) the W&C Securities Conditions and the Saudi Share Linked Warrant Conditions and (b) the applicable Final Terms, the applicable Final Terms shall prevail. References in the Saudi Share Linked Warrant Conditions to “Security” and “Securities” shall be deemed to be references to “W&C Security” and “W&C Securities” as the context admits. Any reference to “Share Linked Warrant” in the W&C Securities Conditions shall be deemed to include any Saudi Share Linked Warrant.

2. **Definitions**

For the purposes of these Saudi Share Linked Warrant Conditions:

“**Additional Amount**” means, in respect of an Additional Amount Payment Date, an amount equal to 100 per cent. of the relevant Cash Dividend per Share less any Taxation and Costs, such amount converted (if necessary) into the Settlement Currency at the Dividend Exchange Rate.

“**Additional Amount Payment Date**” means, in respect of each Dividend Distribution Date, the fifth Business Day following the Dividend Distribution Date, unless otherwise determined by the Calculation Agent.

“**Adjustment Factor**” means the Adjustment Factor as specified in the applicable Final Terms.

“**Applicable Hedge Positions**” means, at any time, Hedge Positions that the Calculation Agent determines that a Hypothetical Dealer, acting in a commercially reasonable manner, would consider necessary to hedge the price risk and dividend risk of the Issuer issuing and the Issuer performing its obligations with respect to any Saudi Share Linked Warrant at that time.

“**Basket of Shares**” means a basket composed of Shares in their relative proportions or number of Shares, as specified in the applicable Final Terms.

“**Business Day**” means a day (other than a Thursday, Friday, Saturday or Sunday) which is both (a) a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in London, Riyadh and in each relevant Business Day Centre(s) specified in the applicable Final Terms and (b) either (1) in relation to any sum payable in a Settlement Currency other than euro, a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in the principal financial centre of the country of the relevant Settlement Currency or (2) in relation to any sum payable in euro, a day on which the Trans-European Automated Real-time Gross settlement Express Transfer (TARGET2) system (the “**TARGET2 System**”) is open.

“**Cash Dividend**” means, in respect of any Warrant, any ordinary or extraordinary dividends that (a) are paid in cash (excluding, for the avoidance of doubt, stock dividends or the cash value of any dividend declared on a Share in shares of the Share Company or in any assets other than cash) by the Share Company to holders of record of a Share from (but excluding) the Trade Date to (and including) the relevant Valuation Date and (b) have an Ex-Dividend Date that occurs from (but excluding) the Trade Date to (and including) the relevant Valuation Date.

“**Cash Settled Securities**” means Securities that entitle the holder, upon due exercise and subject to certification of non-U.S. beneficial ownership, to receive from the Issuer, on the Settlement Date, the Cash Settlement Amount.

“**Common Scheduled Trading Day**” means, in respect of a Basket of Shares, each day which is a Scheduled Trading Day for all the Shares in the Basket of Shares.

**“Costs”** means all expenses, costs, charges, levies, tax, duties, withholding, deductions or other payments including without limitation, all Depository, custodial, registration, transaction and exercise changes and stamp, issues, registration or, securities transfer or other similar taxes or duties, as determined by the Calculation Agent, that would be incurred per Share by or on behalf of (i) a Hypothetical Dealer or a Hedging Entity that is a holder of record of a Share in connection with the payment of a Cash Dividend or stock dividend on such Share (ii) a Hypothetical Dealer or a Hedging Entity in respect of any payments or deliveries under any Applicable Hedge Position and/or (iii) a Hypothetical Dealer or Hedging Entity terminating or liquidating any Applicable Hedge Positions or Hedge Positions (as applicable) during any Execution Period, as applicable.

**“Currency of the Shares”** means the currency (a) in which any Cash Dividend would be paid by the Share Company, (b) in which the Shares trade on the Exchange or (c) of any proceeds that the Calculation Agent determines a Hypothetical Dealer holding the Shares would receive on disposition of the Shares, as the case may be.

**“Dividend Exchange Rate”** means, the rate, determined by the Calculation Agent acting in good faith and in a commercially reasonable manner, for converting the currency of the Cash Dividend into the Settlement Currency on the relevant Dividend Distribution Date by reference to such sources as the Calculation Agent may, in its discretion, select.

**“Dividend Distribution Date”** means each date that the Share Company pays a Cash Dividend to holders of record of the Share, as determined by the Calculation Agent.

**“Ex-Dividend Date”** means, in respect of a dividend, the date that the relevant Share commences trading ex-dividend on the Exchange in respect of the dividend as determined by the Calculation Agent.

**“Exchange”** means, in relation to a Share, each exchange or quotation system specified as such for such Share in the applicable Final Terms, any successor to such exchange or quotation system or any substitute exchange or quotation system to which trading in the Share has temporarily relocated (provided that the Calculation Agent has determined that there is comparable liquidity relative to such Share on such temporary substitute exchange or quotation system as on the original Exchange).

**“Execution Period”** means the period from (and including) the relevant Valuation Date to (and including) the relevant Final Execution Date.

**“Final Execution Date”** means the day (as determined by the Calculation Agent) on which a Hypothetical Dealer acting in a commercially reasonable manner could execute the last purchase or sale transaction, as the case may be, that would be necessary to fully unwind the relevant Applicable Hedge Positions, such determination to be made by the Calculation Agent provided that if the Calculation Agent determines that a Hypothetical Dealer would be unable to fully unwind the relevant Applicable Hedge Positions on or prior to the date falling four years following the Trade Date (the **“Execution Cut-Off Date”**), the Final Execution Date shall be the Execution Cut-Off Date.

**“Final Reference Price”** means the weighted average price per Share determined by the Calculation Agent by reference to (i) the price that would be realised by a Hypothetical Dealer, less any Costs and Taxation, acting in a commercially reasonable manner, in terminating or liquidating Applicable Hedge Positions (corresponding to the number of outstanding Warrants during any relevant Execution Period, provided that if the Calculation Agent determines that a Hypothetical Dealer would be unable to fully terminate or liquidate the Applicable Hedge Positions (whether due to market disruptions or for any other reasons) corresponding to the number of outstanding Warrants on or before the Execution Cut-Off Date, the Calculation Agent shall (to the extent a Hypothetical Dealer would be unable to fully terminate or liquidate the Applicable Hedge Positions) estimate the relevant price, Costs and Taxation in good faith (and, for the avoidance of doubt, such price may be zero), and (ii) such other matters and information (if any) that the Calculation Agent, in its sole discretion, considers relevant.

**“FX Rate”** means the weighted average rate, determined by the Calculation Agent, for converting the Currency of the Shares into the Settlement Currency expressed as a number of units (or fractional amounts thereof) of the currency in which the Shares are denominated for one unit of the Settlement Currency, taking into consideration all available information that the Calculation Agent considers relevant, which information shall include such sources selected by the Calculation Agent



and/or rates of exchange as the Calculation Agent determines would be realised by a Hypothetical Dealer converting into the Settlement Currency amounts received in connection with a hypothetical disposition of Applicable Hedge Positions during any Execution Period at the time of receipt of such amounts.

“**Hedging Entity**” means the Issuer and/or any affiliate(s) of the Issuer or any entity (or entities) acting on behalf of the Issuer engaged in any underlying or hedging transactions relating to the Saudi Share Linked Warrants and/or the Shares in respect of the Issuer’s obligations under the Saudi Share Linked Warrants.

“**Hypothetical Dealer**” means a hypothetical broker dealer subject to the same securities laws and rules and regulations of any securities regulators, exchanges and self-regulating organisations as applying to the Hedging Entity.

“**Hedge Positions**” means any purchase, sale, entry into or maintenance of one or more of (i) positions or contracts in securities, options, futures, derivatives or foreign exchange, (ii) stock loan transactions or (iii) other instruments or arrangements (howsoever described) by a Hedging Entity or a Hypothetical Dealer (as applicable) in order to hedge, individually or on a portfolio basis, the Issuer issuing, and the Issuer performing its obligations with respect to, any Saudi Share Linked Warrant.

“**Local Jurisdiction**” means, in respect of Saudi Share Linked Warrants, the Kingdom of Saudi Arabia.

“**Max**” followed by a series of amounts inside brackets, means whichever is the greater of the amounts separated by a semi-colon inside those brackets.

“**Related Exchange**” means, in relation to a Share, each exchange or quotation system specified as such for such Share in the applicable Final Terms, any successor to such exchange or quotation system or any substitute exchange or quotation system to which trading in futures or options contracts relating to such Share has temporarily relocated (provided that the Calculation Agent has determined that there is comparable liquidity relative to the futures or options contracts relating to such Share on such temporary substitute exchange or quotation system as on the original Related Exchange), provided, however, that where “All Exchanges” is specified as the Related Exchange in the applicable Final Terms, “**Related Exchange**” shall mean each exchange or quotation system where trading has a material effect (as determined by the Calculation Agent) on the overall market for futures or options contracts relating to such Share.

“**Scheduled Trading Day**” means any day on which the Exchange is scheduled to be open for trading for its regular trading sessions.

“**Settlement Date**” means, unless otherwise specified in the applicable Final Terms, in respect of any Warrant, the fifth Business Day following the relevant Final Execution Date.

“**Shares**” and “**Share**” mean, subject to adjustment in accordance with these Saudi Share Linked Warrant Conditions, the shares or a share specified in the applicable Final Terms and related expressions shall be construed accordingly.

“**Share Company**” means, in respect of a Share, the company that has issued such Share.

“**Taxation**” means the aggregation of all withholding taxes, capital gains taxes and other duties and taxes whatsoever in effect which, in the sole and absolute determination of the Calculation Agent, would be payable per Share by or on behalf of (i) a Hypothetical Dealer or a Hedging Entity that is a holder of record of a Share in connection with the payment of a Cash Dividend or stock dividend on such Share (ii) a Hypothetical Dealer or a Hedging Entity in respect of any payments or deliveries under any Applicable Hedge Position and/or (iii) a Hypothetical Dealer or Hedging Entity terminating or liquidating Applicable Hedge Positions or Hedge Positions (as applicable) during any Execution Period, as applicable.

“**Trade Date**” means the date specified as a Trade Date in the applicable Final Terms.

“**Valuation Date**” means, the date specified as such in the applicable Final Terms, or if that is not a Scheduled Trading Day the first Scheduled Trading Day thereafter (or, where the Saudi Share Linked Warrants relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, if such date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day).

### 3. Cash Settlement Amount

The Issuer shall, for each Saudi Share Linked Warrant being exercised or deemed exercised, on the Settlement Date pay or cause the payment of the Cash Settlement Amount to the Holder.

Unless otherwise specified in the applicable Final Terms, “Cash Settlement Amount” means an amount per Saudi Share Linked Warrant in the Settlement Currency as determined by the Calculation Agent in accordance with the following formula:

$$\text{Max}[0; \frac{\text{Final Reference Price}}{\text{FX Rate}}] * \text{Adjustment Factor}$$

The Cash Settlement Amount will be rounded to the nearest two decimal places in the relevant Settlement Currency, 0.005 being rounded upwards, with W&C Securities exercised at the same time by the same Holder being aggregated for the purpose of determining the aggregate Cash Settlement Amounts payable in respect of such W&C Securities.

### 4. Additional Amounts

If Additional Amounts are specified as applicable in the applicable Final Terms, in respect of each Additional Amount Payment Date, the Issuer shall pay to the Holder of each Saudi Share Linked Warrant the Additional Amount (as determined by the Calculation Agent in its sole discretion) corresponding to such Additional Amount Payment Date.

### 5. Potential Adjustment Events, Merger Event, Tender Offer, De-listing, Nationalisation and Insolvency

- (a) If the Calculation Agent determines that a Potential Adjustment Event (as defined in Share Linked Condition 6 (*Potential Adjustment Events, Merger Event, Tender Offer, De-listing, Nationalisation and Insolvency*)) has occurred in respect of a Share, the Calculation Agent will determine whether such Potential Adjustment Event has a diluting or concentrative effect on the theoretical value of the relevant Shares and, if so, the Calculation Agent may:
- (i) make corresponding adjustment(s), if any, to any one or more of the terms of the Terms and Conditions and/or the applicable Final Terms, including to any Additional Amount, the Cash Settlement Amount, and/or any other variable relevant to the exercise, settlement, payment or other terms of the Saudi Share Linked Warrants as the Calculation Agent determines appropriate to account for that diluting or concentrative effect; and/or
  - (ii) determine, subject to the agreement of the Issuer, (A) to issue further Saudi Share Linked Warrants in accordance with W&C Securities Condition 13 (*Further Issues*) or issue Securities of a different Series and distribute such Saudi Share Linked Warrants or Securities to Holders and/or (B) distribute a cash amount to Holders, in each case, on such terms as the Calculation Agent determines appropriate to account for that diluting or concentrative effect,

taking into consideration any Costs and/or Taxation associated with any such Potential Adjustment Event and provided that no adjustments (or further issuances) will be made to account solely for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Share. The Calculation Agent may, but need not, determine the appropriate adjustment (or further issuance) by reference to the adjustment in respect of such Potential Adjustment Event made by an options exchange to options on the Shares traded on that options exchange. The Calculation Agent shall determine the effective date(s) of such adjustment(s), further issue(s), distribution(s) and/or purchase(s).

- (b) Upon the making of any such determination, the Calculation Agent shall give notice as soon as practicable to the Holders in accordance with W&C Securities Condition 11 (*Notices*) stating (i) in respect of a determination pursuant to Saudi Share Linked Warrant Condition 5(a)(i), the adjustment and/or (ii) in respect of a determination pursuant to Saudi Share Linked Warrant Condition 5(a)(ii)(A), details of the relevant Securities to be distributed and the number of Securities to which the Holder is entitled and/or (iii) in respect of a determination pursuant to Saudi Share Linked Warrant Condition 5(a)(ii)(B), the amount payable to the Holder of a Saudi Share Linked Warrant, provided in each case that any failure to give such notice shall not affect the validity of the Potential Adjustment Event or any action taken.

- (c) Share Linked Conditions 6(a) and (b) shall apply to Saudi Share Linked Warrants and shall be deemed to be incorporated by reference into these Saudi Share Linked Warrant Conditions.

**6. Additional Disruption Events**

- (a) Share Linked Condition 8 (*Additional Disruption Events*), as amended pursuant to Saudi Share Linked Warrant Condition 6(b) below, shall apply to Saudi Share Linked Warrants and shall be deemed to be incorporated by reference into these Saudi Share Linked Warrant Conditions.
- (b) Notwithstanding Share Linked Condition 8(a) (*Additional Disruption Events*), for the purpose of the Saudi Share Linked Warrant Conditions the definition of “Additional Disruption Event” shall be deleted and replaced with the following:

“**Additional Disruption Event**” means any of (a) CMA Order, Jurisdiction Event and/or Trading Failure and (b) if specified in the applicable Final Terms, Change in Law, Hedging Disruption, Increased Cost of Hedging and/or Insolvency Filing, where:

“**CMA Order**” means, in relation to any series of Saudi Share Linked Warrants, the Capital Market Authority (or any successor or equivalent body) of the Kingdom of Saudi Arabia (the “**Capital Market Authority**”) has requested that any Hedging Entity terminate or otherwise modify any Hedge Positions or imposes any qualitative or quantitative limitation or any other requirements in relation to any Hedge Positions (including, without limitation, the contractual arrangements relating thereto), the Saudi Share Linked Warrants, the relevant Guarantee, the Holders or any document or matter in relation thereto which the Issuer reasonably determines will have a material effect on any of the foregoing;

“**Jurisdiction Event**” means an event has occurred, whether of general application or otherwise and which occurs as a result of present or future risks in or connected with the Kingdom of Saudi Arabia including, but not limited to, risks associated with fraud or corruption, political risk, legal uncertainty, imposition of foreign exchange controls or capital controls, changes in laws or regulations and changes in the interpretation or enforcement of laws and regulations (including without limitation those relating to taxation) and other legal and/or sovereign risks; and

“**Trading Failure**” means any Hedging Entity is not able to buy and/or sell Shares via a trading system commonly used within the Kingdom of Saudi Arabia for such Shares or such trading system fails to calculate and publish the price of the Shares on a day on which the Calculation Agent determines that such calculation and publication was otherwise expected to be made, and in each case, which has or may have (as determined by the Calculation Agent) a material effect on the relevant Hedge Positions).”

**7. Potential Adjustment Events, Merger Event, Tender Offer, De-listing, Nationalisation, Insolvency and Additional Disruption Events**

In the circumstance where one or more event may satisfy the terms of two or more of the adjustment or termination events set forth in Saudi Share Linked Warrant Condition 7 (*Potential Adjustment Events, Merger Event, Tender Offer, De-listing, Nationalisation and Insolvency*) and/or Saudi Share Linked Warrant Condition 6 (*Additional Disruption Events*), then the Calculation Agent shall determine (in its sole and absolute discretion) which adjustment or termination event shall be applicable.

**8. Payment Disruption**

W&C Securities Condition 6(C) (*Payment Disruption*) shall be amended as follows:

The definition of “Payment Event Cut-off Date” shall be deleted and replaced with the following:

“**Payment Event Cut-off Date**” means the earliest of:

- (i) the date which is one year after the Exercise Date or Settlement Date; or
- (ii) date falling four years after the Trade Date (notwithstanding that such date may be the Exercise Date or Settlement Date of the Saudi Share Linked Warrants and therefore no extension of the term of the Saudi Share Linked Warrants could occur),

or as determined by the Calculation Agent acting in good faith and notified to Holders in accordance with W&C Securities Condition 11 (*Notices*).

9. **Interpretation**

With regard to the Share Linked Conditions incorporated by reference into these Saudi Share Linked Warrant Conditions all references therein to “the Share Linked Securities” or “these Share Linked Securities” shall instead be deemed to be, respectively, to “the Saudi Share Linked Warrants” or “these Saudi Share Linked Warrants”, and such Share Linked Conditions shall otherwise be deemed to be incorporated *mutatis mutandis* into the Saudi Share Linked Warrant Conditions in order to give reasonable effect to such provisions in the context of these Saudi Share Linked Warrant Conditions.

## ANNEX 13

### ADDITIONAL TERMS AND CONDITIONS FOR SWISS COSI SECURITIES

If “Collateralisation” is specified as applicable in the applicable Final Terms, the terms and conditions applicable to Swiss Securities shall comprise the terms and conditions of the W&C Securities and the additional terms and conditions for Swiss COSI Securities set out below and as further described under section “Collateral Secured Instruments (COSI)”.

Swiss COSI Securities are collateralised in accordance with the terms of the SIX Swiss Exchange «Framework Agreement for Collateral Secured Instruments» (the “**Framework Agreement**”), to be dated on or about 24 May 2012, between SIX Swiss Exchange, SIS, MLICo. and Merrill Lynch Capital Markets AG, Zurich, Switzerland (the “**Collateral Provider**”). The Collateral Provider undertakes to secure the Current Value of the Swiss COSI Securities at any given time as well as the further claims listed in the Framework Agreement in accordance with the provisions of the Framework Agreement. The Holders are not party to the Framework Agreement. The Framework Agreement constitutes an integral part of this Base Prospectus.

In the event of any contradiction between the provisions of this Base Prospectus and the applicable Final Terms and the Framework Agreement, the Framework Agreement takes precedence. The Issuer shall, upon request, provide the Framework Agreement to investors free of charge in the original German version or in an English translation. The Framework Agreement may be obtained from Merrill Lynch Capital Markets AG, Stockerhof, Stockerstrasse 23, 8002 Zurich, Switzerland via telephone +41 44 297 75 93, fax +41 44 291 33 41 or via e-mail: dg.ogc\_zurich@baml.com.



## ANNEX 14

## ADDITIONAL TERMS AND CONDITIONS FOR LOW EXERCISE PRICE WARRANTS

1. **Application and Interpretation**

## (a) Application to Share Linked W&amp;C Securities

If specified as applicable in the applicable Final Terms, the terms and conditions applicable to the relevant Share Linked W&C Securities shall comprise the terms and conditions of the W&C Securities (the “**W&C Securities Conditions**”), the additional terms and conditions for share linked securities (the “**Share Linked Conditions**”) and the additional terms and conditions for low exercise price warrants set out below (the “**LEPW Conditions**”), in each case subject to completion and/or amendment in the applicable Final Terms. In the event of any inconsistency between (i) the W&C Securities Conditions or the Share Linked Conditions and (ii) the LEPW Conditions, the LEPW Conditions shall prevail. In the event of any inconsistency between (iii) the W&C Securities Conditions, the Share Linked Conditions or the LEPW Conditions and (iv) the applicable Final Terms, the applicable Final Terms shall prevail.

## (b) Application to Index Linked W&amp;C Securities

If specified as applicable in the applicable Final Terms, the terms and conditions applicable to the relevant Index Linked W&C Securities shall comprise the W&C Securities Conditions, the additional terms and conditions for index linked securities (the “**Index Linked Conditions**”) and the LEPW Conditions, in each case subject to completion and/or amendment in the applicable Final Terms. In the event of any inconsistency between (i) the W&C Securities Conditions or the Index Linked Conditions and (ii) the LEPW Conditions, the LEPW Conditions shall prevail. In the event of any inconsistency between (iii) the W&C Securities Conditions, the Index Linked Conditions or the LEPW Conditions and (iv) the applicable Final Terms, the applicable Final Terms shall prevail.

2. **Definitions**

For the purposes of these LEPW Conditions:

“**Additional Amount**” means, in respect of the Share and a Relevant Cash Dividend, an amount calculated by the Calculation Agent as:

- (i) an amount equal to the difference between (a)(I) the aggregate of 100 per cent (100%) of the Relevant Cash Dividend per Share that would have been received by a Hypothetical Broker Dealer as the holder of one Share, divided by (II) the relevant Exchange Rate on or around the date on which such Relevant Cash Dividend would have been received by a Hypothetical Broker Dealer from the relevant Share Company, minus (b) any Dividend Taxes; multiplied by
- (ii) the Number of Shares per Warrant.

“**Additional Amount Payment Date**” means, unless otherwise specified in the applicable Final Terms, in respect of each Additional Amount, the fifth Business Day following the date on which the corresponding Relevant Cash Dividend would have been received, from the relevant Share Company by a Hypothetical Broker Dealer as the holder of the relevant Share.

“**Applicable Hedge Positions**” has the meaning ascribed to it in the applicable Final Terms.

“**Cost**” means, as determined by the Calculation Agent in its sole discretion, as attributed to each W&C Security, any brokerage commissions, stock exchange or clearing system charges or other similar charges that, directly or indirectly, would have been incurred by a Hypothetical Broker Dealer in connection with (i) the exercise of the W&C Securities and payments in respect thereof as if such Hypothetical Broker Dealer were the issuer of the W&C Securities; or (ii) the acquisition, holding, realization or disposal of the Applicable Hedge Positions or any Related Hedging Arrangements as if such Hypothetical Broker Dealer were a holder of or party to the Applicable Hedge Positions or such Related Hedging Arrangements.

“**Dividend Period**” means, in respect of the Share and:

- (i) American Style Warrants, the period commencing on, but excluding, the Trade Date and ending on, and including, the last day of the Exercise Period or the Actual Exercise Date (if earlier) of such Warrant; or

- (ii) European Style Warrants, the period commencing on, but excluding, the Trade Date and ending on, and including, the Exercise Date.

**“Dividend Taxes”** means, in respect of the Share and a Relevant Cash Dividend, any amounts that would have been withheld for or on account of tax if such cash dividend were paid to a Hypothetical Broker Dealer as the holder of one Share, and excluding any reduction of such tax that would have been available to a Hypothetical Broker Dealer pursuant to a double tax treaty or any other applicable domestic exemption, where each such tax is converted into the Settlement Currency using the relevant Exchange Rate on or around the date on which such tax is due, as determined by the Calculation Agent.

**“Ex-Dividend Date”** means, in respect of the Share and a Gross Cash Dividend in respect of such Share, the date that the Share commences trading ex-dividend in respect of such Gross Cash Dividend on the Exchange, as determined by the Calculation Agent.

**“Exchange Rate”** means the rate specified as such in the applicable Final Terms.

**“Gross Cash Dividend”** means, in respect of the Share, each sum declared by the relevant Share Company as a dividend for one such Share before the withholding or deduction of taxes at the source by or on behalf of any applicable authority having power to tax in respect of such a dividend, and shall exclude any imputation or other credits, refunds or deductions granted by any applicable authority having power to tax in respect of such dividend and any taxes, credits, refunds or benefits imposed, withheld, assessed or levied thereon.

**“Hypothetical Broker Dealer”** means a hypothetical broker dealer subject to the same securities laws and rules and regulations of any securities regulators, exchanges and self-regulating organisations as applicable to the Issuer or any of its Affiliates designated by the Issuer provided, however, that such hypothetical broker dealer is deemed not entitled to any benefit, exemption or reduction in Tax pursuant to any double tax treaty, application of netting or otherwise.

**“Number of Shares per Warrant”** means the amount specified as such in the applicable Final Terms.

**“Related Hedging Arrangements”** means any one or more positions or contracts in securities, options, futures, derivatives, foreign exchange or other instruments or arrangements (howsoever described) that the Calculation Agent determines, in its sole discretion, a Hypothetical Broker Dealer, directly or indirectly, could purchase, sell, maintain or enter into with or through any person in order to hedge, individually or on a portfolio basis, the W&C Securities. In making such determination, the Calculation Agent may have regard to any positions, contracts or other instruments or arrangements (howsoever described) that the Issuer or its Affiliates has entered into with any person (including the Issuer’s Affiliates) in order to hedge, individually or on a portfolio basis, the obligations in respect of the W&C Securities.

**“Relevant Cash Dividend”** means in respect of the Share, a Gross Cash Dividend per Share as declared by the relevant Share Company where the Ex-Dividend Date falls within the Dividend Period and the full payment in cash in respect of such Gross Cash Dividend would have been made to a Hypothetical Broker Dealer as the holder of one Share within the Dividend Period, as determined by the Calculation Agent.

**“Record Date”** means, in respect of any distribution or payment or the determination of the rights of any Holder of the Share Linked W&C Securities pursuant to LEPW Condition 4(b), such date as determined by the Calculation Agent in its sole and absolute discretion, which is utilised to determine the Holders who are entitled to such distribution, payment or rights, as the case may be.

**“Tax”** means, as determined by the Calculation Agent in its sole discretion, having regard to any relevant tax that the Issuer or its Affiliates could be assessed or could incur, based on professional tax advice provided to the Calculation Agent at any time, as attributed to each W&C Security, the gross amount of any tax (including any transfer, registration, stamp duty or capital gain taxes), levy, impost, duty, charge, assessment or fee of any nature (including interests, penalties and additions thereon) imposed by a Taxing Authority that a Hypothetical Broker Dealer, directly or indirectly, could be assessed or could incur at any time in connection with (i) the exercise of the W&C Securities and payments in respect thereof as if the Hypothetical Broker Dealer were the issuer of the W&C Securities; or (ii) the acquisition, holding, realization or disposal of the Applicable Hedge Positions or any Related Hedging Arrangements as if the Hypothetical Broker Dealer were a holder of or party to the Applicable Hedge Positions or such Related Hedging Arrangements.

“**Taxing Authority**” means a governmental, regulatory or other authority having the power to tax.

**3. Additional Amounts**

In respect of any Share Linked W&C Securities, unless previously exercised or purchased and cancelled, the Issuer shall pay to the Holder of each Share Linked W&C Security the Additional Amount in respect of such Share Linked W&C Security on each Additional Amount Payment Date. W&C Securities Conditions 24(A) and (B) shall not apply.

**4. Additional Consequences of Potential Adjustment Events**

- (a) In respect of any Share Linked W&C Securities, Share Linked Condition 6 (*Potential Adjustment Events, Merger Event, Tender Offer, De-listing, Nationalisation and Insolvency*) shall apply, as amended by this LEPW Condition 4 (*Additional Consequences of Potential Adjustment Events*).

- (b) The second paragraph of Share Linked Condition 6(a) (*Potential Adjustment Events, Merger Event, Tender Offer, De-listing, Nationalisation and Insolvency*) beginning with the words “Following the declaration...” shall be deemed to be deleted and replaced with this LEPW Condition 4(b).

Following the declaration by the relevant Share Company of the terms of any Potential Adjustment Event, the Calculation Agent will, in its sole and absolute discretion, determine whether such Potential Adjustment Event has a diluting or concentrative effect on the theoretical or market value of the Share and, if so, the Calculation Agent may, in its sole and absolute discretion, take any one or more of the following actions:

- (i) (A) make the corresponding adjustment(s), if any, to any one or more of the terms of the Terms and Conditions of the W&C Securities and/or the applicable Final Terms as the Calculation Agent in its sole and absolute discretion determines appropriate to account for that diluting or concentrative effect (provided that no adjustments will be made to account solely for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Share), and (B) determine the effective date(s) of such adjustment(s). The Calculation Agent may, but need not, determine the appropriate adjustment by reference to the adjustment in respect of such Potential Adjustment Event made by an options exchange to options on the Shares traded on that options exchange; and/or
  - (ii) determine that the Issuer shall issue to Holders additional Warrants, at such cost, if any, to the Holders, on such terms as the Calculation Agent determines appropriate to account for that diluting or concentrative effect, subject at all times to the agreement of the Issuer and the ability of the Issuer to issue and distribute such additional Warrants; and/or
  - (iii) determine that the Issuer shall issue to Holders new warrants linked to the share capital or other securities of another company created as a result of a spin-off or other similar transaction relating to the relevant Share Company, on such terms as the Calculation Agent determines appropriate to account for that diluting or concentrative effect, subject at all times to the agreement of the Issuer and the ability of the Issuer and the Holders respectively to issue and hold such new warrants; and/or
  - (iv) determine, subject at all times to the agreement of the Issuer, that the Issuer shall distribute a cash amount to Holders, on such terms as the Calculation Agent determines appropriate to account for that diluting or concentrative effect.
- (c) The last paragraph of Share Linked Condition 6(a) (*Potential Adjustment Events, Merger Event, Tender Offer, De-listing, Nationalisation and Insolvency*) beginning with the words “Upon the making of...” shall be deemed to be deleted and replaced with this LEPW Condition 4(c).

Upon making any determination under LEPW Condition 4(b), the Calculation Agent shall give notice as soon as practicable to the Holders in accordance with W&C Securities Condition 12, giving brief details of the Potential Adjustment Event and stating the action proposed to be taken in relation thereto, and:

- (i) in respect of a determination pursuant to LEPW Condition 4(b)(i), the adjustment to any one or more of the terms of the Terms and Conditions of the W&C Securities and/or the applicable Final Terms;
- (ii) in respect of a determination pursuant to LEPW Condition 4(b)(ii):

- (A) the Record Date;
- (B) the number of additional Warrants to which the Holder of each W&C Security is entitled or the number of additional Warrants which the Holder of each W&C Security is entitled to purchase, as the case may be;
- (C) if any subscription monies, fees and/or charges are payable, the date on or prior to which such subscription monies, fees and/or charges, as the case may be, must be paid to the Issuer by the Holder of each W&C Security in order to purchase additional Warrants, if any;
- (D) the amount of such subscription monies, fees and/or charges payable by the Holder of each W&C Security in order to purchase additional Warrants, if any;
- (E) the date on or prior to which the Holder of each W&C Security must notify the Principal Warrant Agent and Merrill Lynch International that it wishes to purchase any additional Warrants, if applicable; and
- (F) the account of the Issuer with the Clearing System to be credited with the amount payable by the Holders (if any);
- (iii) in respect of a determination pursuant to LEPW Condition 4(b)(iii), the Record Date and the number of new warrants to which the Holder of each W&C Security is entitled; and
- (iv) in respect of a determination pursuant to LEPW Condition 4(b)(iv), the Record Date and amount payable to the Holder of each W&C Security,

provided that (y) if a combination of the consequences specified in LEPW Condition 4(b) are determined by the Calculation Agent to apply, such notice shall state and set out the relevant information applicable to each applicable consequence, and (z) any failure to give, or the non-receipt of, such notice will not affect the validity of the Potential Adjustment Event or any action taken as a consequence of such Potential Adjustment Event.

- (d) In the case of an issue of additional Warrants to Holders pursuant to LEPW Condition 4(b)(ii) in respect of which any subscription monies, fees and/or charges are payable, no Holder shall be entitled to receive any additional Warrants (and the Issuer shall not be obliged to issue additional Warrants to any Holder) unless:
  - (i) each of the Principal Warrant Agent and Merrill Lynch International has received notice from a relevant Holder that it wishes to purchase such additional Warrants (a “**Notice of Purchase of Additional Warrants**”) on or prior to the date specified in the relevant notice from the Calculation Agent pursuant to LEPW Condition 4(c)(ii). Such Notice of Purchase of Additional Warrants shall be given by sending an authenticated instruction by SWIFT message or by any other authorised communication channel, in accordance with the rules and operating procedures of, and in such manner as is acceptable to, Euroclear and/or Clearstream, Luxembourg, as the case may be (in consultation with the Principal Warrant Agent and, in the case of Euroclear/CBL Global Registered Warrants, the Registrar), and which shall include the information set out in Schedule 7 Part 9 to the Agency Agreement (copies of which may be obtained from the Principal Warrant Agent); and
  - (ii) the Issuer has received payment of the subscription monies on or prior to the date specified in the relevant notice.

For the avoidance of doubt, no Holder shall be obliged to purchase any additional Warrants referred to in LEPW Condition 4(b)(ii). However, if such additional Warrants are not purchased by the Holder of any W&C Security in accordance with the above provisions, the Issuer shall have no further obligation to such Holder to take any action in respect of the relevant Potential Adjustment Event or to pay any amounts in cash to any Holder in lieu thereof.

## 5. Additional Disruption Events

The definition of “Change in Law” in Index Linked Condition 6(a) (*Additional Disruption Events*) and Share Linked Condition 8(a) (*Additional Disruption Events*) (as applicable) shall be deemed to be deleted and replaced with the following:

“**Change in Law**” means that, on or after the Trade Date (as specified in the applicable Final Terms) (i) due to the proposal or adoption of or any change in any applicable law or regulation

(including, without limitation, any tax law), or (ii) 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 or regulation (including any action taken by a Taxing Authority), the Calculation Agent determines in its sole and absolute discretion that (A) it has become, or there is a reasonable likelihood that it may or will become, illegal for the Issuer and/or any of its Affiliates or agents to hold, acquire or dispose of the Applicable Hedge Positions or any Related Hedging Arrangements or (B) the Issuer and/or any of its Affiliates or agents has incurred or suffered, or there is a reasonable likelihood that it may or will incur or suffer, a materially increased cost in performing its obligations in relation to the W&C Securities (including, without limitation, due to any proposed or actual increase in tax liability, decrease in tax benefit or other potential or actual adverse effect on the tax position of the Issuer and/or any of its Affiliates or agents), a material penalty, injunction, non-financial burden, reputational harm or other material adverse consequence in connection with the holding, acquiring, establishing, re-establishing, maintaining, unwinding or disposing of the Applicable Hedge Positions or any Related Hedging Arrangements.

**6. Deduction of Cost and Taxes**

All and any payments (other than any Additional Amount) made by the Issuer in respect of the W&C Securities (including, without limitation, any payment made by the Issuer upon cancellation of the W&C Securities) shall be made subject to (and after) deductions to account for all and any applicable Cost and Tax. Any amounts of Cost and Tax will be converted to the Settlement Currency at the Exchange Rate by the Calculation Agent as it deems necessary.



## COLLATERAL SECURED INSTRUMENTS (COSI)

Swiss COSI Securities are collateralised in accordance with the terms of the SIX Swiss Exchange «Framework Agreement for Collateral Secured Instruments». Merrill Lynch Capital Markets AG, Zurich, Switzerland (the “**Collateral Provider**”) undertakes to secure the value of the Swiss COSI Securities at any given time as well as the further claims listed in the Framework Agreement.

Security must be provided to SIX Swiss Exchange in the form of a regular right of lien. The collateral is booked to a SIX Swiss Exchange account with SIX SIS. Investors do not themselves have a surety right to the collateral. The Swiss COSI Securities and the collateral shall be valued on each banking day. The Collateral Provider shall be obliged to adjust the collateral to any changes in value. Permitted forms of collateral shall be selected by SIX Swiss Exchange on an ongoing basis from various categories of securities. The Issuer shall, upon enquiry, inform investors about the collateral that is permitted as security for the Swiss COSI Securities at any given time. The Collateral Provider shall pay SIX Swiss Exchange a fee for the service regarding the collateralisation of the Swiss COSI Securities. A change of Collateral Provider shall be notified in accordance with the provisions of this Base Prospectus.

**Documentation.** The collateralisation in favour of SIX Swiss Exchange is based on the «Framework Agreement for Collateral Secured Instruments» between SIX Swiss Exchange, SIX SIS, MLICo. and the Collateral Provider to be dated on or about 24 May 2012 (“**Framework Agreement**”). The investor is not party to the Framework Agreement. **The Framework Agreement constitutes an integral part of this Base Prospectus.** In the event of any contradiction between the provisions of this Base Prospectus and the Framework Agreement, the Framework Agreement takes precedence. The Issuer shall, upon request, provide the Framework Agreement to investors free of charge in the original German version or in an English translation. The Framework Agreement may be obtained from Merrill Lynch Capital Markets AG, Stockerhof, Stockerstrasse 23, 8002 Zurich, Switzerland via telephone +41 44 297 75 93, fax +41 44 291 33 41 or via e-mail: dg.ogc\_zurich@baml.com. The core elements of collateralisation of the Swiss COSI Securities are summarised in a SIX Swiss Exchange information sheet, which is available at «www.six-swiss-exchange.com».

**Collateralisation method.** The collateral that must be furnished by the Collateral Provider is determined by the value of the Swiss COSI Securities at any given time (hereinafter “**Current Value**”). The Current Values shall be determined in the trading currency of the Swiss COSI Securities and converted into Swiss francs for the purpose of calculating the required collateral. The method for calculating the Current Value shall be determined for each series of Swiss COSI Securities upon application for (provisional) admission to trading and shall remain unchanged for the entire term of such series of Swiss COSI Securities. If prices for the Swiss COSI Securities calculated by third parties are available (so-called «Fair Values»), they are taken into account when determining the Current Value in accordance with the provisions of the rules and regulations of SIX Swiss Exchange. Otherwise, the determination of the Current Value will take into account the «bond floor pricing», as defined by the Swiss Federal Tax Administration, Berne (Switzerland). For as long as no bond floor is available for a series of Swiss COSI Securities that is subject to bond floor pricing, the Current Value shall correspond at least to the capital protection laid down in the redemption terms for such series of Swiss COSI Securities. If the final bid-side purchase price of the Swiss COSI Securities on the previous trading day on Scoach Switzerland is higher, the collateral requirement shall always be based on this latter price. If the aforementioned prices for Swiss COSI Securities are unavailable at any given time, then other prices shall be used to calculate the required collateral, in accordance with the rules and regulations of SIX Swiss Exchange. The Current Values required for the collateralisation of the Swiss COSI Securities shall be determined exclusively in accordance with the provisions of the «Special Conditions for Collateral Secured Instruments» of SIX Swiss Exchange. The Current Value of a series of Swiss COSI Securities shall be determined according to either Method A: “Fair Value Method” or Method B: “Bond Floor Method” of these Special Conditions of SIX Swiss Exchange.

**Distribution and market making.** The distribution of the Swiss COSI Securities shall be the responsibility of the Issuer. The Issuer undertakes to ensure that market making for the Swiss COSI Securities is in place.

**Risks.** Collateralisation eliminates the issuer default risk only to the extent that the proceeds from the liquidation of collateral upon occurrence of a Liquidation Event (less the costs of liquidation and payout) are able to meet the investors’ claims. The investor bears the following risks, among others: (i) the Collateral Provider is unable to supply the additionally required collateral if the value of the Swiss COSI Securities rises or the value of the collateral decreases; (ii) in a Liquidation Event, the collateral cannot be liquidated immediately by SIX Swiss Exchange because of factual hindrances or because the collateral

must be handed over to the executory authorities for liquidation; (iii) the market risk associated with the collateral results in insufficient liquidation proceeds or, in extreme circumstances, the collateral might lose its value entirely until the liquidation can take place; (iv) the maturity of Swiss COSI Securities in a foreign currency according to the Framework Agreement may result in losses for the investor because the Current Value (determinant for the investor's claim against the Issuer) is set in the foreign currency, while payment of the pro-rata share of net liquidation proceeds (determinant for the extent to which the investor's claim against the Issuer is satisfied) is made in Swiss francs; (v) the collateralisation is challenged according to the laws governing debt enforcement and bankruptcy, so that the collateral cannot be liquidated according to the terms of the Framework Agreement for the benefit of the investors in Swiss COSI Securities.

**Liquidation of collateral.** If the Collateral Provider fails to fulfil its obligations, the collateral will be liquidated by SIX Swiss Exchange or a liquidator under the terms of the applicable legal regulations. The collateral may be liquidated (“**Liquidation Events**”) if (i) the Collateral Provider fails to furnish the required collateral, fails to do so in due time, or if the collateral that is provided is not free from defects, unless any such defect is remedied within three (3) banking days; (ii) the Issuer fails to fulfil a payment or delivery obligation under any Swiss COSI Securities upon maturity according to the issuing conditions, fails to do so in due time, or if its fulfilment of such obligations is defective, unless any such defect is remedied within three (3) banking days; (iii) the Swiss Financial Market Supervisory Authority FINMA orders protective measures with regard to the Issuer or the Collateral Provider under Article 26 paragraph 1 letter (f) to (h) of the Federal Act on Banks and Savings Banks, or restructuring measures or the liquidation (winding-up proceedings) under Article 25 et seq. of the Federal Act on Banks and Savings Banks; (iv) a foreign financial market supervisory authority, another competent foreign authority or a competent foreign court orders an action that is comparable with that described in item (iii) above; (v) the market making obligation is breached for ten (10) consecutive banking days; (vi) the Collateral Provider's participation at SIX SIS ceases; (vii) the provisional admission of the Swiss COSI Securities to trading lapses or is cancelled and the Issuer fails to satisfy investors' claims according to the issuing conditions of the Swiss COSI Securities within thirty (30) banking days of the lapse or cancellation of the provisional admission; or (viii) the Swiss COSI Securities are delisted upon application by the Issuer or for any other reason, and the Issuer fails to satisfy investors' claims according to the issuing conditions of the Swiss COSI Securities within thirty (30) banking days of the last trading day. The Framework Agreement provides for the exact time at which each Liquidation Event occurs. The remedy of a Liquidation Event is not possible.

**Determination of a Liquidation Event.** SIX Swiss Exchange is not required to undertake investigations with regard to the occurrence of a Liquidation Event. In determining the occurrence of a Liquidation Event, it bases its decision on reliable sources of information only. SIX Swiss Exchange determines with binding effect for the investors that an incident qualifies as a Liquidation Event and at what point in time the Liquidation Event occurred.

**Procedure in case of a Liquidation Event.** If a Liquidation Event occurs, SIX Swiss Exchange is at its own discretion entitled: (i) to make public the occurrence of a Liquidation Event immediately or at a later stage in suitable form, specifically in a newspaper with a national distribution and on the SIX Swiss Exchange website; as well as (ii) to liquidate immediately or at a later stage – without regard to the amount of unsatisfied claims – all existing collateral on a private basis, provided the applicable legal regulations or regulatory orders do not prohibit such private liquidation (and, if a private liquidation is not possible, hand the collateral over to the competent person for liquidation). Once a Liquidation Event has occurred, trading in all Swiss COSI Securities of the Issuer may be suspended, and the Swiss COSI Securities of the Issuer may be delisted.

**Maturity of the Swiss COSI Securities as well as investors' claims against SIX Swiss Exchange and the Issuer.** All of the Issuer's Swiss COSI Securities under the Framework Agreement shall fall due for redemption thirty (30) banking days after a Liquidation Event has occurred. SIX Swiss Exchange shall make public the due date in a newspaper with a national distribution, as well as on the SIX Swiss Exchange website. **Investors' claims against SIX Swiss Exchange for the payment of their pro-rata share of the net liquidation proceeds** arise automatically only once the Swiss COSI Securities have fallen due for redemption. Investors' claims against SIX Swiss Exchange are based on a genuine contract in favour of third parties (Article 112 paragraph 2 of the Swiss Code of Obligations) which is irrevocable on the part of the Collateral Provider. The acquisition of a Swiss COSI Security by an investor automatically entails the declaration vis-à-vis SIX Swiss Exchange, as described in Art. 112 paragraph 3 of the Swiss Code of Obligations, that he wishes to enforce his right under the Framework Agreement at maturity of the Swiss COSI Security. In dealings with SIX Swiss Exchange and SIX SIS, the investors are bound by

the provisions of the Framework Agreement, specifically the **choice of Swiss law and the exclusive jurisdiction of the Commercial Court of Canton Zurich (Switzerland)**.

If a Liquidation Event has occurred, SIX Swiss Exchange will determine the Current Values of all Swiss COSI Securities of the Issuer in the respective trading currency with binding effect for the Issuer, the Collateral Provider and the investors. **Investors' claims against the Issuer** will be based on these Current Values when the Swiss COSI Securities mature in accordance with the Framework Agreement. The Current Values of the Swiss COSI Securities on the banking day immediately preceding the date on which the Liquidation Event occurred shall be applicable. SIX Swiss Exchange shall make public the applicable Current Values of the Swiss COSI Securities.

**Costs of liquidation and payout for the benefit of the investors.** The costs incurred in connection with the liquidation and payout (including taxes and duties, as well as consulting fees) shall, in advance, be covered out of the proceeds of the liquidation of the collateral. For this purpose, SIX Swiss Exchange shall deduct a flat-rate fee of 0.1 percent from the entire liquidation proceeds for its own expenses and for the expenses of third parties. In addition, SIX Swiss Exchange shall be entitled to satisfy, in advance out of the proceeds of the liquidation of the collateral, any outstanding claims it holds against the Collateral Provider and the Issuer under the terms of the Framework Agreement. The remaining net liquidation proceeds are available for payout to the investors in Swiss COSI Securities of the Issuer.

SIX Swiss Exchange will transfer the pro-rata share of net liquidation proceeds due to investors to SIX SIS participants. In doing so, it is released from all further obligations. The amounts transferred are determined by the holdings of Swiss COSI Securities that are booked to participant accounts with SIX SIS. If the Issuer which, according to the Framework Agreement, is affected by the maturity of its Swiss COSI Securities, is a SIX SIS participant, then SIX Swiss Exchange and SIX SIS shall decide on a separate procedure for the payment of the pro-rata share of net liquidation proceeds to those investors who hold their Swiss COSI Securities via the Issuer. SIX Swiss Exchange may transfer the pro-rata share of net liquidation proceeds for these investors to one or more other SIX SIS participants or to one or more third parties, which will attend to the payment to investors in Swiss COSI Securities either directly or indirectly. In doing so, SIX Swiss Exchange is released from all further obligations. SIX Swiss Exchange may decide at its own discretion to have the payment of the pro-rata share of net liquidation proceeds for other or all investors in Swiss COSI Securities conducted by one or more other SIX SIS participants or by one or more third parties.

The payouts to investors are made exclusively in Swiss francs. The claim of the investors is non-interest-bearing. SIX Swiss Exchange is not liable to pay either default interest or damages should the payout be delayed for any reason.

The maximum claim of an investor to satisfaction from the net liquidation proceeds of collateral is determined by the sum of the Current Values of his Swiss COSI Securities. Should the combined Current Values of all investors in the Issuer's Swiss COSI Securities exceed the net liquidation proceeds, payment of pro-rata shares of net liquidation proceeds to individual investors will be made according to the ratio between the total Current Values held by individual investors and the total Current Values accruing to all investors in Swiss COSI Securities of the Issuer.

In the case of Swiss COSI Securities in a different trading currency than the Swiss franc, SIX Swiss Exchange shall, with binding effect for the parties to the Framework Agreement and the investors, convert the Current Values into Swiss francs in order to determine the pro-rata share of net liquidation proceeds. The exchange rates according to the rules and regulations of SIX SIS on the banking day immediately preceding the date on which the Liquidation Event occurred, shall be applicable. The conversion of the Current Values of Swiss COSI Securities of a different trading currency than the Swiss franc pertains only to the amount and the effect of the payout of pro-rata net liquidation proceeds by SIX Swiss Exchange to investors in such Swiss COSI Securities and shall have no further effect on the relationship between the investor and the Issuer. SIX Swiss Exchange shall make public these values of the Swiss COSI Securities as well as the applicable exchange rates.

The investors' claims against the Issuer arising from the Swiss COSI Securities are reduced by the amount of the payment of the pro-rata net liquidation proceeds. In the case of Swiss COSI Securities of a different trading currency than the Swiss franc the reduction amount of the claim of the investor against the Issuer shall be determined in accordance with the conversion rate of the particular trading currency of the Swiss COSI Securities to the Swiss franc applicable on the banking day immediately preceding the date on which the Liquidation Event occurred.

No further investor claims exist against SIX Swiss Exchange, SIX SIS or other persons which are involved in the collateralisation service for Swiss COSI Securities under the terms of the Framework Agreement.

**Listing.** Apart from the listing of the Swiss COSI Securities on SIX Swiss Exchange the Issuer may apply for a listing or admission to trading on one or more other exchanges. All aspects and events related to listing or admission to trading of the Swiss COSI Securities on another exchange shall be disregarded under the Framework Agreement. In particular, prices of the Swiss COSI Securities on any exchange other than SIX Swiss Exchange are not taken into consideration for the calculation of the Current Value and events which are related to a listing or admission to trading of the Swiss COSI Securities on any exchange other than SIX Swiss Exchange, such as the suspension of the market making at an exchange other than SIX Swiss Exchange or the delisting of the Swiss COSI Securities from an exchange other than SIX Swiss Exchange, shall not be deemed a Liquidation Event under the Framework Agreement. SIX Swiss Exchange is at its own discretion entitled to make public the occurrence of a Liquidation Event and the maturity of the Swiss COSI Securities pursuant to the Framework Agreement in the countries where a listing or admission to trading of the Swiss COSI Securities on an exchange is maintained as well as to inform any such exchange or any other bodies about such occurrences.

**Liability.** The liability of parties to the Framework Agreement to pay damages exists only in cases of gross negligence or intentional misconduct. Further liability is excluded. SIX Swiss Exchange shall only be liable for third parties, which are mandated with the valuation of Swiss COSI Securities, in case of improper selection and instruction of such third parties. Where the payment of pro-rata shares of net liquidation proceeds of Swiss COSI Securities is made via SIX SIS participants to the extent these participants hold the Swiss COSI Securities in accounts at SIX SIS, SIX Swiss Exchange and SIX SIS are liable only for the careful instruction of these SIX SIS participants. If the payment is made via third parties or via SIX SIS participants in respect of Swiss COSI Securities that are not booked to these participants' accounts at SIX SIS, then SIX Swiss Exchange and SIX SIS are liable only for the careful selection and instruction.

**No authorisation.** Swiss COSI Securities do not constitute collective investment schemes pursuant to the Federal Act on Collective Investment Schemes (CISA). They do not require authorisation or supervision by the Swiss Financial Market Supervisory Authority FINMA.

**Congruence with the Programme.** This section "Collateral Secured Instruments" corresponds to the SIX Swiss Exchange standard text. The provisions of this section "Collateral Secured Instruments" take precedence in the event of contradiction between this section "Collateral Secured Instruments" and the other content of the Base Prospectus.

**Additional information.** The costs for the service provided by SIX Swiss Exchange with respect to the collateralisation of Swiss COSI Securities may be taken into account for the pricing of Swiss COSI Securities and may therefore be borne by the investors, as the case may be. With regard to the payment of the pro-rata share of the net liquidation proceeds the investor shall bear the solvency risks of SIX Swiss Exchange and the financial intermediaries along the payout chain. The payment to the investors may be delayed for factual or legal reasons. To the extent the calculation of the Current Value of a Swiss COSI Security proves to be incorrect, the collateralisation of the Swiss COSI Securities may be insufficient.



**FORM OF ORIGINAL GUARANTEE**

FOR VALUE RECEIVED, receipt of which is hereby acknowledged, BANK OF AMERICA CORPORATION, a corporation duly organised and existing under the laws of the State of Delaware (“**BAC**”), hereby unconditionally and irrevocably guarantees (the “**Guarantee**”) to the holders (the “**Holders**”) of Warrants and Certificates issued on or after the date hereof by Merrill Lynch International & Co. C.V., a limited partnership of unlimited duration incorporated under the laws of Curaçao (“**MLICo.**”), and Notes and Certificates issued on or after the date hereof by Merrill Lynch S.A., a public limited liability company (*société anonyme*) incorporated under the laws of Luxembourg (“**MLSA**” and, together with MLICo., the “**Issuers**” and each, an “**Issuer**”), in each case under the terms of the Amended and Restated Agency Agreement dated 24 May 2012 (as the same may be further amended, supplemented and/or restated in accordance with the terms thereof, the “**Agency Agreement**”) among BAC, MLICo., MLSA and the Agents (as defined therein):

- (i) the due and punctual payment by the relevant Issuer of any and all amounts payable by such Issuer as obligor in respect of each Security (as defined below); and/or
- (ii) subject as provided below, the due and punctual delivery of non-cash consideration deliverable by the relevant Issuer in respect of each Security, if applicable,

when and as the same shall become due and payable or when the same shall become due for delivery, as the case may be, pursuant to the terms of the Securities issued on or after the date hereof. For outstanding Securities previously issued with the benefit of a guarantee by Merrill Lynch & Co., Inc. (“**ML&Co.**”), such ML&Co. guarantee shall remain in full force and effect and shall continue to be valid and enforceable in accordance with its terms. For outstanding Securities issued on or after 15 September 2009 and prior to 22 June 2010, the BAC guarantee executed on 15 September 2009 shall remain in full force and effect and shall continue to be valid and enforceable in accordance with its terms. For outstanding Securities issued on or after 22 June 2010 and prior to 22 June 2011, the BAC guarantee executed on 22 June 2010 shall remain in full force and effect and shall be valid and enforceable in accordance with its terms. For outstanding Finnish Securities issued on or after 23 March 2011 and prior to 22 June 2011, the BAC guarantee executed on 23 March 2011 shall remain in full force and effect and shall be valid and enforceable in accordance with its terms. For outstanding Securities issued on or after 22 June 2011 and prior to the date hereof, the BAC guarantee effective as of 22 June 2011 shall remain in full force and effect and shall be valid and enforceable in accordance with its terms.

Warrants and Certificates are herein referred to as “**W&C Securities**” and Notes and W&C Securities are herein referred to as “**Securities**”. For the avoidance of doubt, Swiss COSI Securities are excluded from the definitions of W&C Securities and Securities.

**Notwithstanding that under the terms of the Securities either (i) the relevant Issuer has the right (whether or not exercised) to vary the type of consideration due and payable or deliverable to a Holder or (ii) a Holder has the right (whether or not exercised) to vary the type of consideration due and payable or deliverable to it or (iii) the relevant Issuer is obligated to deliver non-cash consideration to Holders when the same shall become due and deliverable, BAC shall at all times have the right, at its sole and unfettered discretion, to elect not to deliver or procure delivery of the Entitlement to the Holders of such Securities when the same shall become due and deliverable, but, in lieu thereof, to pay an amount in cash equal to the Guaranteed Cash Settlement Amount (calculated pursuant to the terms of, or as specified in, the Final Terms or Securities Note, as applicable, prepared with respect to such Securities). Any payment of the Guaranteed Cash Settlement Amount in lieu of the Entitlement shall constitute a complete discharge of BAC’s obligations in respect of such Securities.**

Subject as provided above, in case of the failure of the relevant Issuer punctually to make any such payment or to perform any such delivery obligation, at the time and in the manner required under the terms and conditions of the relevant Securities, BAC hereby agrees to make such payment or to perform such delivery obligation, as the case may be, or cause such payment to be made or to cause such delivery obligation to be performed, as the case may be, promptly upon demand in accordance with the terms of the relevant Securities; such demand must be made by the relevant Holder by the giving of written notice of such demand to BAC at Bank of America Corporation, Bank of America Corporate Center, Attention: Corporate Treasury—Global Funding Transaction Management, NC1-007-06-10, 100 North Tryon Street, Charlotte, North Carolina 28255, U.S.A., with a copy sent to BAC at Bank of America Corporation, Legal Department, Attention: General Counsel, NC1-027-20-05, 214 North Tryon Street, Charlotte, North Carolina 28255, U.S.A.; provided however, that delay in making such demand shall in no event affect BAC’s obligations under this Guarantee. This Guarantee shall remain in full force and



effect or shall be reinstated (as the case may be) if at any time any payment or delivery guaranteed hereunder, in whole or in part, is rescinded or must otherwise be returned by a Holder upon the insolvency, bankruptcy or reorganisation of the relevant Issuer or otherwise, all as though such payment or delivery had not been made.

BAC covenants in favour of each Holder who is a United States Alien or a Luxembourg Non-resident that it will duly perform and comply with the obligations expressed to be undertaken by it in Note Condition 8(A). In particular, if in respect of any payment to be made under this Guarantee, any deduction or withholding for or on account of any present or future tax, assessment or other governmental charge of whatever nature is imposed, BAC shall pay the additional amounts referred to in Note Condition 8(A), all subject to and in accordance with the provisions of Note Condition 8.

BAC hereby agrees that its obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability (except as may result from any applicable statute of limitations) of any Security; the absence of any action to enforce the same; any waiver or consent by the Holder concerning any provisions thereof; the rendering of any judgement against the relevant Issuer or any action to enforce the same; any change in the relevant Issuer's name, or any reorganisation (whether by way of reconstruction, consolidation, amalgamation, merger, transfer, sale, lease or otherwise) of that Issuer or its business; any consent by the relevant Issuer to judicial proceedings relating to itself under any applicable bankruptcy, liquidation, insolvency, composition, reorganisation or other similar laws; any incapacity or lack or limitations of power, authority or legal personality of the relevant Issuer or of that Issuer's managing directors, managers, partners or agents, or any irregularity, defect or infirmity of the Securities; or any other circumstances that might otherwise constitute a legal or equitable discharge of a guarantor or a defence of a guarantor. BAC covenants that, subject as provided below, this Guarantee will not be discharged except by complete payment of the amounts payable under each Security and/or the complete performance of any obligation with respect to physical delivery to be performed under each Security, as applicable. This Guarantee shall continue to be effective if the relevant Issuer merges or consolidates with or into another entity, loses its separate legal identity or ceases to exist.

BAC hereby waives diligence, presentment, protest, notice of protest, acceleration, dishonour, filing of claims with any court in the event of insolvency or bankruptcy of the relevant Issuer, all demands whatsoever, except as noted above with respect to demand made by the relevant Holder in accordance with the terms of the relevant Securities and any right to require a proceeding first against the relevant Issuer.

BAC hereby represents and warrants that this Guarantee constitutes the valid and binding obligation of BAC and is enforceable in accordance with its terms.

The obligations of BAC under this Guarantee, save for such exceptions as may be provided by applicable laws and regulations or judicial order, rank *pari passu* with its other present and future unsecured and unsubordinated contractual obligations.

This Guarantee shall not be valid or become obligatory for any purpose with respect to any Security until (i) in the case of a Security other than a Swedish Security, a Swedish Note, a Finnish Security, a CREST Security or a Swiss Warrant or Swiss Certificate in uncertificated form, the Global W&C Security, the Global Note, the Swiss Definitive Warrant, the Definitive Bearer Note, the Definitive Bearer Certificate, the Individual Note Certificate or the individual certificate, as applicable, representing such Security shall have been authenticated as provided in the Agency Agreement; (ii) in the case of a Swedish Security or Swedish Note, the issue of such Swedish Security or Swedish Note, as applicable, has been duly registered in the book-entry system of the Swedish CSD; (iii) in the case of a Finnish Security, the issue of such Finnish Security has been duly registered in the book-entry system of Euroclear Finland; (iv) in the case of a CREST Security, the issue of such CREST Security has been duly registered in the Record of the CREST Agent and notified to the Operator; or (v) in the case of a Swiss Warrant or a Swiss Certificate in uncertificated form, such Swiss Warrant or Swiss Certificate, as the case may be, (A) has been registered as an uncertificated security (*Wertrechte*) in the uncertificated securities book (*Wertrechtbuch*) of the main register (*Hauptregister*) of SIS as intermediated securities (*Bucheffekten*) within the meaning of the Swiss Federal Intermediated Securities Act (*Bucheffektengesetz*) and (B) has been entered into the accounts of one or more participants of SIS.

Terms and expressions defined in the Agency Agreement and the applicable Conditions shall have the same meanings when used in this Guarantee, except where the context otherwise requires.

This Guarantee shall be governed by, and construed in accordance with, the laws of the State of New York applicable to agreements made and to be performed in the State of New York.

The Securities are governed by, and construed in accordance with, English law, and the Issuers have submitted to the exclusive jurisdiction of the English courts for the purposes of determining any legal action or proceeding relating thereto. BAC has not submitted to the jurisdiction of the English courts for any such purpose, and any legal action or proceedings arising out of or relating to this Guarantee shall be subject to the exclusive jurisdiction of the federal court in the Borough of Manhattan in the City and State of New York.

This Guarantee may be terminated at any time by written notice by BAC to the Issuers, and shall be effective upon receipt of such notice by the Issuers or such later date as may be specified in such notice; provided, however, that this Guarantee shall continue in full force and effect with respect to any payment or delivery obligation of the Issuers under the Securities already in issue at the date of such termination becoming effective or the Conditions relating thereto arising prior to the effectiveness of such notice of termination.

IN WITNESS WHEREOF, BAC has caused this Guarantee to be executed in its corporate name by its duly authorised representative effective as of 24 May 2012.

BANK OF AMERICA CORPORATION

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

Name: \_\_\_\_\_

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

**FORM OF SWISS COSI SECURITIES GUARANTEE**

FOR VALUE RECEIVED, the receipt of which is hereby acknowledged, BANK OF AMERICA CORPORATION, a corporation duly organised and existing under the laws of the State of Delaware (“**BAC**”), hereby conditionally but irrevocably guarantees (the “**Swiss COSI Securities Guarantee**”) to the holders (the “**Holders**”) of the Swiss COSI Securities issued on or after the date hereof by Merrill Lynch International & Co. C.V., a limited partnership of unlimited duration incorporated under the laws of Curaçao (“**MLICo.**” or the “**Issuer**”), under the terms of the Amended and Restated Agency Agreement dated 24 May 2012 (as the same may be further amended, supplemented and/or restated in accordance with the terms thereof, the “**Agency Agreement**”) among BAC, MLICo., Merrill Lynch S.A., a public limited liability company (*société anonyme*) incorporated under the laws of Luxembourg (“**MLSA**”), and the Agents (as defined therein) and in accordance with the SIX Swiss Exchange «Framework Agreement for Collateral Secured Instruments» to be dated on or about 24 May 2012 (the “**Framework Agreement**”), among the SIX Swiss Exchange Ltd, SIX SIS AG., MLICo. and Merrill Lynch Capital Markets AG, Zurich, Switzerland (as “**Collateral Provider**” under the Framework Agreement), the payment obligations of the Issuer to the extent of any Shortfall (as defined below) for the relevant Series of Swiss COSI Securities, upon demand and otherwise in accordance with this Swiss COSI Securities Guarantee. Any and all obligations of BAC hereunder are conditional and secondary, it being understood and agreed that the Holders shall have no right to proceed under this Swiss COSI Securities Guarantee until the SIX Swiss Exchange or other liquidator has liquidated all the collateral relating to the relevant Series of Swiss COSI Securities furnished by the Collateral Provider in accordance with the Framework Agreement and applicable law (the “**Collateral Enforcement Efforts**”).

Subject as provided hereunder, in the event that the proceeds and other amounts received by the SIX Swiss Exchange or other liquidator after exhausting all Collateral Enforcement Efforts are insufficient to pay to the Holders the Current Value (as defined in the Framework Agreement) of the relevant Series of Swiss COSI Securities (the “**Shortfall**”) and in case of the failure of the Issuer to punctually make payment of any such Shortfall when and as the same shall become due and payable, BAC hereby agrees to pay or cause to be paid promptly upon demand such additional amounts as are necessary to ensure that the Holders receive the Current Value of the relevant Series of Swiss COSI Securities as though there had been no Shortfall; such demand may only be made by the relevant Holders upon written notice to BAC at Bank of America Corporation, Bank of America Corporate Center, Attention: Corporate Treasury—Global Funding Transaction Management, NC1-007-06-10, 100 North Tryon Street, Charlotte, North Carolina 28255, U.S.A., with a copy sent to BAC at Bank of America Corporation, Legal Department, Attention: General Counsel, NC1-027-20-05, 214 North Tryon Street, Charlotte, North Carolina 28255, U.S.A.; provided however, so long as all Collateral Enforcement Efforts have been exhausted, that delay in making such demand shall in no event affect BAC’s obligations under this Swiss COSI Securities Guarantee. This Swiss COSI Securities Guarantee shall remain in full force and effect or shall be reinstated (as the case may be) if at any time any amount guaranteed hereunder, in whole or in part, is rescinded or must otherwise be returned by the Holder upon the insolvency, bankruptcy or reorganisation of the Issuer or otherwise, all as though such payment had not been made.

BAC hereby agrees that, so long as all Collateral Enforcement Efforts have been exhausted, its payment obligations hereunder shall not be impaired or made invalid as a result of any flaw in the validity, regularity or enforceability (except as may result from any applicable statute of limitations) of the Swiss COSI Securities; any waiver or consent by the Holders concerning any provisions thereof; the rendering of any judgment against the Issuer or any action to enforce the same; any change in the Issuer’s name, or any reorganisation (whether by way of reconstruction, consolidation, amalgamation, merger, transfer, sale, lease or otherwise) of the Issuer or its business; any consent by the Issuer to judicial proceedings relating to itself under any applicable bankruptcy, liquidation, insolvency, composition, reorganisation or other similar laws; or any other circumstances that might otherwise constitute a legal or equitable discharge of a guarantor or a defence of a guarantor. BAC covenants that, subject as provided below, this Swiss COSI Securities Guarantee will not be discharged except by complete payment of the amounts equal to any Shortfall. This Swiss COSI Securities Guarantee shall continue to be effective if the Issuer merges or consolidates with or into another entity, loses its separate legal identity or ceases to exist.

Provided that all Collateral Enforcement Efforts have been exhausted, BAC, with respect to the Shortfall, hereby waives diligence, presentment, protest, notice of protest, dishonour, filing of claims with any court in the event of insolvency or bankruptcy of the Issuer and any right to proceed first against the Issuer.

BAC hereby represents and warrants that this Swiss COSI Securities Guarantee constitutes the valid and binding obligation of BAC and is enforceable in accordance with its terms.

The obligations of BAC under this Swiss COSI Securities Guarantee, save for such exceptions as may be provided by applicable laws and regulations or judicial order, rank *pari passu* with its other present and future unsecured and unsubordinated contractual obligations.

This Swiss COSI Securities Guarantee shall not be valid or become obligatory for any purpose with respect to a Series of Swiss COSI Securities until (a) the Swiss COSI Securities of such Series are issued in uncertificated form, entered into the main register (*Hauptregister*) of SIS and credited to the accounts of one or more participants of SIS such that the relevant Series of Swiss COSI Securities constitutes intermediated securities (*Bucheffekten*) within the meaning of the Swiss Federal Intermediated Securities Act (*Bucheffektengesetz*) and (b) the collateral for such Series of Swiss COSI Securities has been furnished by the Collateral Provider in accordance with the Framework Agreement.

Terms and expressions defined in the Agency Agreement and the applicable Conditions shall have the same meanings when used in this Swiss COSI Securities Guarantee, except where the context otherwise requires.

This Guarantee may be terminated at any time by written notice by BAC to the Issuer, and shall be effective upon receipt of such notice by the Issuer or such later date as may be specified in such notice; provided, however, that this Guarantee shall continue in full force and effect with respect to any payment obligation of the Issuer under the Swiss COSI Securities already in issue at the date of such termination becoming effective or the Conditions relating thereto arising prior to the effectiveness of such notice of termination.

This Swiss COSI Securities Guarantee shall be governed by, and construed in accordance with, the laws of the State of New York applicable to agreements made and to be performed in the State of New York.

The Swiss COSI Securities are governed by, and construed in accordance with, English law; however, BAC has not submitted to the jurisdiction of the English courts for the purpose of determining any legal action or proceeding relating to the Swiss COSI Securities, this Swiss COSI Securities Guarantee or for any other purpose relating to the Swiss COSI Securities, and any legal action or proceeding arising out of or relating to this Swiss COSI Securities Guarantee shall be subject to the exclusive jurisdiction of the federal court in the Borough of Manhattan in the City and State of New York.

IN WITNESS WHEREOF, BAC has caused this Swiss COSI Securities Guarantee to be executed in its corporate name by its duly authorised representative on [●] 2012.

BANK OF AMERICA CORPORATION

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

Name: \_\_\_\_\_

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

## BOOK-ENTRY CLEARING SYSTEMS

*The information set out below is subject to any change in or reinterpretation of the rules, regulations and procedures of DTC, Euroclear, Clearstream, Luxembourg, Clearstream, Frankfurt, Euroclear France, Euroclear Finland, or Euroclear Sweden (together, the “Book-Entry Clearing Systems”) currently in effect. Investors wishing to use the facilities of any of the Book-Entry Clearing Systems are advised to confirm the continued applicability of the rules, regulations and procedures of the relevant Book Entry Clearing System. Neither the relevant Issuer nor any agent party to the Agency Agreement will have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests in the Securities held through the facilities of any Book-Entry Clearing System or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.*

### Book-entry Systems

#### DTC

DTC has advised MLICo. that DTC, the world’s largest securities depository, is a limited-purpose trust company organised under the New York Banking Law, a “banking organisation” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code and a “clearing agency” registered pursuant to the provisions of Section 17A of the Exchange Act. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (“**Direct Participants**”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities through electronic computerised book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organisations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“**DTCC**”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“**Indirect Participants**”). DTC has Standard & Poor’s highest rating: AAA. The DTC rules applicable to its Participants are on file with the SEC. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com). and [www.dtc.org](http://www.dtc.org).

Under the rules, regulations and procedures creating and affecting DTC and its operations (the “**Rules**”), DTC makes book-entry transfers of Rule 144A Global Warrants held through DTC among Direct Participants on whose behalf it acts with respect to Warrants accepted into DTC’s book-entry settlement system (“**DTC Warrants**”) as described below and receives and transmits payments on DTC Warrants. Direct Participants and Indirect Participants with which beneficial owners of DTC Warrants (“**Beneficial Owners**”) have accounts with respect to the DTC Warrants similarly are required to make book-entry transfers and receive and transmit such payments on behalf of their respective Beneficial Owners. Accordingly, although Beneficial Owners who hold DTC Warrants through Direct Participants or Indirect Participants will not possess definitive Warrants, the Rules, by virtue of the requirements described above, provide a mechanism by which Direct Participants will receive payments and will be able to transfer their interest in respect to the DTC Warrants.

Purchases of DTC Warrants under the DTC system must be made by or through Direct Participants, which will receive a credit for the DTC Warrants on DTC’s records. The ownership interest of each actual purchaser of each DTC Warrants being a Beneficial Owner, is in turn to be recorded on the Direct and Indirect Participant’s records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the DTC Warrants are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in DTC Warrants, except in the event that use of the book-entry system for the DTC Warrants is discontinued.

To facilitate subsequent transfers, all DTC Warrants deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co. or such other name as may be



requested by an authorised representative of DTC. The deposit of DTC Warrants with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect changes in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the DTC Warrants; DTC's records reflect only the identity of the Direct Participants to whose accounts such DTC Warrants are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers. Subsequent transfers of the Warrants, however, may only be made to persons that hold their Warrants through DTC Direct Participants that have executed and delivered to MLICo. a Custodian Letter in a form approved by MLICo. and that have thereby become "Authorised Custodians" with respect to the Warrants.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Under certain circumstances DTC will exchange the DTC Warrants for definitive Warrants, which it will distribute to its Participants in accordance with their proportionate entitlements. Since DTC may only act on behalf of Direct Participants, who in turn act on behalf of Indirect Participants, any Beneficial Owner desiring to pledge DTC Warrants to persons or entities that do not participate in DTC, or otherwise take actions with respect to such DTC Securities, may be limited in its ability to effect such a pledge.

The information in this section concerning DTC and DTC's book-entry systems has been obtained from sources that MLICo. believes to be reliable, but MLICo. takes no responsibility for the accuracy thereof.

*Euroclear, Clearstream, Luxembourg, Clearstream, Frankfurt, Euroclear France and Euroclear Finland*  
Euroclear, Clearstream, Luxembourg, Clearstream, Frankfurt, Euroclear France and Euroclear Finland each hold securities for their customers and facilitate the clearance and settlement of securities transactions by electronic book-entry transfer between their respective account holders. Euroclear, Clearstream, Luxembourg, Clearstream, Frankfurt, Euroclear France and Euroclear Finland provide various services including safekeeping, administration, clearance and settlement of internationally traded securities and securities lending and borrowing. Euroclear, Clearstream, Luxembourg, Clearstream, Frankfurt, Euroclear France and Euroclear Finland also deal with domestic securities markets in several countries through established depository and custodial relationships. Euroclear and Clearstream, Luxembourg have established an electronic bridge between their two systems across which their respective participants may settle trades with each other.

Euroclear, Clearstream, Luxembourg, Clearstream, Frankfurt, Euroclear France and Euroclear Finland customers are world-wide financial institutions, including underwriters, securities brokers and dealers, banks, trust companies and clearing corporations. Indirect access to Euroclear, Clearstream, Luxembourg, Clearstream, Frankfurt, Euroclear France and Euroclear Finland is available to other institutions that clear through or maintain a custodial relationship with an account holder of either system.

The address of Euroclear is Euroclear Bank SA/NV., 1 Boulevard du Roi Albert II, B-1210 Brussels, the address of Clearstream, Luxembourg is Clearstream Banking, 42 Avenue JF Kennedy, L-1855, Luxembourg, the address of Clearstream, Frankfurt is Mergenthalerallee 61, 65760, Eschborn, Germany, the address of Euroclear France is 115 rue Réaumur, 75081 Paris Cedex 02, France, and the address of Euroclear Finland is P.O. Box 1110, 00101 Helsinki, Finland.

### *SIX SIS AG*

SIX SIS AG has been part of SIX Group since January 2008. SIX Group was formed at the beginning of 2008 through the merger of SWX Group, SIS Group and Telekurs Group.

As both a central securities depository and an international central securities depository, SIX SIS AG offers banks and other financial market participants the safe custody of securities, a full range of custody services and the settlement of securities transactions. SIX SIS AG settles securities transactions worldwide, including transactions in uncertificated securities.

In the Swiss market, SIX SIS AG is part of the so-called Swiss value chain. The links to the SIX Swiss Exchange AG and the payment systems SIC/euroSIC, ensure fully automated settlement in central bank money.

*Euroclear Sweden*

Euroclear Sweden is a subsidiary within the Euroclear group of companies and a limited liability company incorporated in Sweden. It is authorised and regulated by the Swedish Financial Supervisory Authority as a central securities deposit within the meaning of the Swedish Financial Instruments Accounts Act (1998:1479 (as amended)) and as a clearing organisation within the meaning of the Swedish Securities Markets Act (2007:528 (as amended)).

Swedish Notes will be issued as Registered Notes in global registered form. A link will be maintained between Euroclear and the Swedish CSD for the purpose of maintaining computerised book-entry records of the beneficial owners' interests in the Swedish Notes. The beneficial owners' interests will be recorded in the register of the Swedish CSD in dematerialised and uncertificated book-entry form in accordance with the Swedish Financial Instruments Accounts Act.

Swedish Securities will be issued in registered, uncertificated and dematerialised book-entry form with Euroclear Sweden in accordance with the Swedish CSD Rules. No physical notes, certificates or other physical instruments (whether in global, temporary or definitive form) will be issued in respect of the Swedish Securities other than as specifically allowed in the General Instrument Conditions and the General Note Conditions.

All transactions relating to the Swedish Securities or interests in the Swedish Notes (such as issuance, sale and transfer, pledge arrangements and other dispositions and redemptions) are executed as computerised book-entry registrations. Consequently, in order to effect such entries Holders must establish a book-entry account through a credit institution or a securities firm acting as an account operator with Euroclear Sweden. More information regarding Euroclear Sweden and its rules and operating procedures can be found at its internet web site at <http://www.ncsd.eu>.

**Book-entry Ownership of and Payments in respect of DTC Warrants**

If a Rule 144A Global Warrant is to be registered in the name of a nominee of DTC, MLICo. will apply to DTC in order to have the Warrants represented by such Rule 144A Global Warrant accepted in its book-entry settlement system. Upon the issue of any Rule 144A Global Warrant to be held through DTC, DTC or its custodian will credit, on its internal book-entry system, the respective nominal amounts of the individual beneficial interests represented by such Rule 144A Global Warrant to the accounts of persons who have accounts with DTC, and who have signed and delivered to MLICo. a Custodian Letter in the form set out in schedule 17 to the Agency Agreement. Ownership of beneficial interests in any such Rule 144A Global Warrant will be limited to Direct Participants or Indirect Participants, including the respective depositaries of Euroclear and Clearstream, Luxembourg. Ownership of beneficial interests in any such Rule 144A Global Warrant held through DTC will be shown on, and the transfer of such ownership will be effected only through, records maintained by DTC or its nominee (with respect to the interests of Direct Participants) and the records of Direct Participants (with respect to interests of Indirect Participants).

Payments in U.S. dollars in respect of a Rule 144A Global Warrant registered in the name of DTC's nominee will be made to the order of such nominee as the registered holder of such Warrant. In the case of any payment in a currency other than U.S. dollars, payment will be made to the U.S. Warrant Agent on behalf of DTC's nominee and the U.S. Warrant Agent will (in accordance with instructions received by it) remit all or a portion of such payment for credit directly to the beneficial holders of interests in the Rule 144A Global Warrant held through DTC in the currency in which such payment was made and/or cause all or a portion of such payment to be converted into U.S. dollars and credited to the applicable Participants' account.

MLICo. expects DTC to credit accounts of Direct Participants on the applicable payment date in accordance with their respective holdings as shown in the records of DTC unless DTC has reason to believe that it will not receive payment on such payment date. MLICo. also expects that payments by Participants to Beneficial Owners of Warrants will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers, and will be the responsibility of such Participant and not the responsibility of DTC, the Principal Security Agent, the U.S. Warrant Agent or MLICo. Payments on Warrants to DTC is the responsibility of MLICo.

**Transfers of Securities Represented by Global Securities**

Transfers of any interests in Securities represented by a Global Warrant within DTC or a Global Security or Global Note within Euroclear, Clearstream, Luxembourg, Clearstream, Frankfurt and Euroclear

France will be effected in accordance with the customary rules and operating procedures of the relevant clearing system. The laws in some States within the United States require that certain persons take physical delivery of securities in definitive form. Consequently, the ability to transfer Warrants represented by a Global Warrant to such persons may depend upon the ability to exchange such Warrants for Warrants in definitive form. Similarly, because DTC can only act on behalf of Direct Participants in the DTC system who in turn act on behalf of Indirect Participants, the ability of a person having an interest in Warrants represented by a Global Warrant to pledge such Warrants to persons or entities that do not participate in the DTC system or to otherwise take action in respect of such Warrants may depend upon the ability to exchange such Warrants for Warrants in definitive form. The ability of any person having a beneficial interest in Warrants represented by a Global Warrant to resell, pledge or otherwise transfer such Warrants may be impaired if the proposed transferee of such Warrants is not eligible to hold such Warrants through a Direct or Indirect participant in the DTC system.

Subject to compliance with the transfer restrictions applicable to the Rule 144A Global Warrants and Regulation S/Rule 144A Global Warrants described under “Notice to Purchasers and Holders of Securities and Transfer Restrictions”, cross-market transfers between DTC, on the one hand, and directly or indirectly through Euroclear, Clearstream, Luxembourg accountholders, on the other, will be effected by the relevant clearing system in accordance with its rules and through action taken by the Principal Security Agent, the U.S. Warrant Agent and any custodian (“**Custodian**”) with whom the relevant Global Warrants have been deposited.

On or after the Issue Date for any Securities, transfers of such Securities between accountholders in Euroclear, Clearstream, Luxembourg, Clearstream, Frankfurt and Euroclear France and transfers of such Securities between participants in DTC will generally have a settlement date three business days after the trade date (T+3). The customary arrangements for delivery versus payment will apply to such transfers.

Cross-market transfers between accountholders in Euroclear, Clearstream, Luxembourg and DTC participants will need to have an agreed settlement date between the parties to such transfer. Because there is no direct link between DTC, on the one hand, and Euroclear, Clearstream, Luxembourg, on the other, transfers of interests in the relevant Global Warrants will be effected through the Principal Security Agent, the U.S. Warrant Agent and the Custodian receiving instructions (and where appropriate certification) from the transferor and arranging for delivery of the interests being transferred to the credit of the designated account for the transferee. In the case of cross-market transfers, settlement between Euroclear, Clearstream, Luxembourg accountholders and DTC participants cannot be made on a delivery versus payment basis. The Warrants will be delivered on a free delivery basis and arrangements for payment must be made separately.

DTC, Euroclear, Clearstream, Luxembourg and Clearstream, Frankfurt have each published rules and operating procedures designed to facilitate transfers of beneficial interests in Global Securities and Global Notes, as the case may be, among participants and accountholders of DTC, Euroclear, Clearstream, Luxembourg and Clearstream, Frankfurt. However, they are under no obligation to perform or continue to perform such procedures, and such procedures may be discontinued or changed at any time. None of the Issuers, BAC, the Security Agents or any Dealer will be responsible for any performance by DTC, Euroclear, Clearstream, Luxembourg or Clearstream, Frankfurt or their respective direct or indirect participants or accountholders of their respective obligations under the rules and procedures governing their operations and none of them will have any liability for any aspect of the records relating to or payments made on account of beneficial interests in the Securities represented by Global Securities or Global Notes, as the case may be, or for maintaining, supervising or reviewing any records relating to such beneficial interests.

## NOTICE TO PURCHASERS AND HOLDERS OF SECURITIES AND TRANSFER RESTRICTIONS

*As a result of the following restrictions, purchasers of Securities are advised to consult legal counsel prior to making any purchase, offer, sale, resale or other transfer of such Securities.*

### Notes and Certificates

None of the Notes or Certificates of any series, the relevant Guarantee of BAC, or certain of the Entitlements (if any) with respect thereto, have been, or will be, registered under the U.S. Securities Act of 1933, as amended (the “**Securities Act**”) or under any U.S. state securities laws. No Notes or Certificates of any series, or interests therein, or Entitlements with respect thereto may at any time be offered, sold, resold, traded, pledged, exercised, redeemed, transferred or delivered, directly or indirectly, in the United States of America (including the U.S. states and the District of Columbia), its territories, its possessions and other areas subject to its jurisdiction (the “**United States**”) or directly or indirectly offered, sold, resold, traded, pledged, exercised, redeemed, transferred or delivered to, or for the account or benefit of, any United States Person. “**United States Person**” means a person which is a “U.S. person” as defined by Regulation S under the Securities Act or a “United States person” as defined in Section 7701(a)(30) of the Internal Revenue Code of 1986, as amended and in U.S. Treasury regulations. Consequently, any offer, sale, resale, trade, pledge, exercise, redemption, transfer or delivery of any Notes or Certificates made, directly or indirectly, within the United States or to, or for the account or benefit of, a United States Person will not be recognised.

Any person purchasing Notes or Certificates of any series will be deemed on purchase to represent, acknowledge, certify and agree with the Issuer, the Dealer or the seller of such Notes or Certificates for itself and any person for whose account such Notes or Certificates are being purchased that:

- (i) it is not a United States Person and it is not located in the United States and was not solicited to purchase the Notes or Certificates, as applicable, while present in the United States;
- (ii) it will not at any time offer, sell, resell, trade, pledge, exercise, redeem, transfer or deliver, directly or indirectly, any Notes or Certificates, as applicable, of such series so purchased in the United States or to, or for the account or benefit of, any United States Person or to others for offer, sale, resale, trade, pledge, exercise, redemption, transfer or delivery, directly or indirectly, in the United States or to, or for the account or benefit of any, United States Person;
- (iii) it is not purchasing any Notes or Certificates, as applicable, of such series for the account or benefit of any United States Person;
- (iv) it will not make offers, sales, resales, trades, pledges, exercises, redemptions, transfers or deliveries of any Notes or Certificates, as applicable, of such series (otherwise acquired), directly or indirectly, in the United States or to, or for the account or benefit of, any United States Person;
- (v) prior to the delivery of any Entitlement in respect of a Security settled by Physical Delivery (a “**Physical Delivery Security**”) the holder thereof will be required to represent that, *inter alia*, he is not a United States Person, the Note or Certificate, as applicable, was not exercised on behalf of a United States Person and no cash, and in the case of Physical Delivery Securities, no securities or other property have been or will be delivered within the United States or to, or the account or benefit of, a United States Person in connection with any exercise thereof;
- (vi) it acknowledges that the Global Notes and Global Certificates will bear a legend substantially to the following effect unless otherwise agreed to by the applicable Issuer:

“THE SECURITIES REPRESENTED BY THIS GLOBAL SECURITY, THE RELEVANT GUARANTEE AND CERTAIN ENTITLEMENTS (IF ANY) HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE “**SECURITIES ACT**”), OR ANY OTHER SECURITIES LAWS. THIS SECURITY, OR ANY INTERESTS THEREIN, MAY NOT BE OFFERED, SOLD, RESOLD, TRADED, PLEDGED, EXERCISED, REDEEMED, TRANSFERRED OR DELIVERED, DIRECTLY OR INDIRECTLY, IN THE UNITED STATES OF AMERICA (INCLUDING THE STATES AND THE DISTRICT OF COLUMBIA), ITS TERRITORIES, ITS POSSESSIONS AND OTHER AREAS SUBJECT TO ITS JURISDICTION (THE “**UNITED STATES**”) OR DIRECTLY OR INDIRECTLY OFFERED, SOLD, RESOLD, TRADED, PLEDGED, EXERCISED, REDEEMED, TRANSFERRED OR DELIVERED TO, OR FOR THE ACCOUNT OR BENEFIT OF, ANY UNITED STATES PERSON. “**UNITED STATES**



**PERSON” MEANS A PERSON WHICH IS A “U.S. PERSON” AS DEFINED BY REGULATION S UNDER THE SECURITIES ACT OR A “UNITED STATES PERSON” AS DEFINED IN SECTION 7701(A)(30) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED AND IN U.S. TREASURY REGULATIONS.”; and**

- (vii) that the relevant Issuers, BAC and others will rely upon the truth and accuracy of the foregoing acknowledgements, representations and agreements and agrees that if any of such acknowledgements, representations or agreements made by it are no longer accurate, it shall promptly notify the relevant Issuer; and if it is acquiring any Notes or Certificates as a fiduciary or agent for one or more accounts it represents that it has sole investment discretion with respect to each such account and that it has full power to make the foregoing acknowledgements, representations and agreements on behalf of each such account.

## **Warrants**

### *Restriction on transfer of Saudi Share Linked Warrants*

Each purchaser of Saudi Share Linked Warrants shall be obliged to sign and deliver to the Issuer, the Guarantor and the relevant “Authorised Person” specified therein a letter substantially in the form set forth in Schedule 27 to the Agency Agreement, and comply with the authorisations, representations, warranties, confirmations and undertakings set forth therein.

### *Restrictions on transfer of all Warrants*

None of the Warrants of any series, the relevant Guarantee of BAC or certain of the Entitlements (if any) with respect thereto have been, or will be, registered under the Securities Act or under any U.S. state securities laws. Neither MLICo. nor the Guarantor is registered as an investment company under the U.S. Investment Company Act of 1940, as amended (the “**1940 Act**”). Offers, sales and resales of the Warrants may not be made within the United States or to, or for the account or benefit of, United States Persons (as defined herein) except to “qualified institutional buyers” (“**QIBs**”) as defined in Rule 144A that are also “qualified purchasers” (“**QPs**”) within the meaning of Section 3(c)(7) of the 1940 Act (“**Section 3(c)(7)**”) and as defined in Section 2(a)(51) of the 1940 Act and the rules thereunder and who have executed and delivered an Investor Representation Letter. Accordingly, (i) Warrants represented by a Rule 144A Global Warrant or a Regulation S/Rule 144A Global Warrant are being offered and sold in the United States and to, or for the account or benefit of, United States Persons exclusively to QIBs who are also QPs pursuant to exemptions from the registration requirements of the Securities Act and in compliance with Section 3(c)(7) and (ii) the Warrants are being offered and sold outside the United States to persons other than United States Persons, which term shall include dealers or other professional fiduciaries in the United States acting on a discretionary basis for foreign beneficial owners (other than an estate or trust), in reliance upon Regulation S.

Prior to the delivery of the Entitlement in respect of a Physical Delivery Warrant, the holder thereof will be required to represent that, *inter alia*, he is not a United States Person, the Warrant was not exercised on behalf of a United States Person and no cash, and in the case of Physical Delivery Securities, no securities or other property have been or will be delivered within the United States or to, or for the account or benefit of, a United States Person in connection with any exercise thereof.

Each purchaser of Warrants will, in connection with its purchase of such Warrants, be required to acknowledge, represent and agree, or by its acquisition or purchase of such Warrants be deemed to have acknowledged, represented and agreed, substantially to the following effect (terms used in this paragraph that are defined in Rule 144A or in Regulation S are used herein as defined therein) together with, to the extent not set forth below, the acknowledgements, representations and agreements made by such purchaser pursuant to the Investor Representation Letter (substantially in the form of Schedule 16 to the Agency Agreement) executed and delivered in connection with the purchase of Rule 144A Warrants:

- (i) that either:
  - (a) in the case of exchange, sale or transfer of a Warrant in the United States or to, or for the account or benefit of, a United States Person who takes delivery in the form of Warrants represented by a Rule 144A Global Warrant or a Regulation S/Rule 144A Global Warrant,
    - (1) it is a QIB that is also a QP (a “**QIB/QP**”);



- (2) it is not a dealer as described in Rule 144A(a)(1)(ii) which owns and invests on a discretionary basis less than U.S.\$25,000,000 in securities of issuers that are not affiliated with the dealer;
  - (3) it is not a partnership, common trust fund, special trust, pension fund, retirement plan or other entity under which the partners, beneficial owners or participants, as the case may be, may designate the particular investments to be made on the allocation thereof;
  - (4) if it is an investment company excepted from the 1940 Act pursuant to Section 3(c)(1) or Section 3(c)(7) thereof (or a foreign investment company under Section 7(d) thereof relying on Section 3(c)(1) or Section 3(c)(7) thereof with respect to its U.S. holders) and was formed on or before 30 April 1996, it has received the consent of those of its beneficial owners who acquired their interests on or before 30 April 1996 with respect to its treatment as a qualified purchaser in the manner required by Section 2(a)(51)(C) of the 1940 Act and the rules thereunder;
  - (5) it is acting for its own account, or the account of another entity that meets the requirements of this paragraph (i)(a);
  - (6) it is not an entity that will have invested more than 40 per cent. of its assets in the Issuer's securities after giving effect to the purchase of such Warrants;
  - (7) it is not formed, reformed or recapitalised for the purpose of investing in the Warrants or other securities of the Issuer unless each of its beneficial owners is a QIB/QP who was not so formed;
  - (8) following its purchase, it or any other QIB/QP to which it transfers any interest will hold an undivided beneficial interest in the Warrants in an amount of not less than the minimum subscription amount as set forth in the applicable Final Terms for the applicable Warrants;
  - (9) unless otherwise agreed to by the Issuer and the Guarantor and an opinion of counsel or other comfort satisfactory to the Issuer and the Guarantor is delivered which affirms that none of the acquisition, purchase or holding of any Warrant would cause any assets other than the Warrants to be treated as "plan assets" for the purposes of ERISA or any regulation thereunder (or in the case of a governmental, church or non-U.S. plan, any substantially similar federal, state, local or non-U.S. law), it is not, and is not a fiduciary investing assets of or on behalf of, (i) an employee benefit plan (as defined in Section 3(3) of ERISA) that is subject to Title I of ERISA; (ii) a plan (as defined in Section 4975(e)(1) of the Code) that is subject to section 4975 of the Code; or (iii) an entity whose assets include assets of a plan described in (i) or (ii) above by reason of such a plan's investment in the entity under 29 C.F.R. §2510.3-101 as modified by Section 3(42) of ERISA or otherwise; or (iv) a governmental, church or non-U.S. plan that is subject to any federal, state, local or non-U.S. law that is substantially similar to Section 406 of ERISA or Section 4975 of the Code;
  - (10) if it will hold Warrants through DTC, it acknowledges that beneficial interests in the Warrants are held only in book-entry form through the facilities of DTC; it agrees that, at all times, it will hold its interest in the Warrants in its account at an Authorised Custodian; it acknowledges that the relevant Authorised Custodian has agreed with the Issuer and such Issuer's agents not to transfer any portion of the purchaser's interest in the Warrants to the account of any other person at the relevant Authorised Custodian, or to the account of any other participant in DTC, without such Issuer's prior written consent or the prior written consent of a person authorised to act on behalf of such Issuer; and
  - (11) it will provide notice of applicable transfer restrictions to any subsequent transferees; or
- (b) it is outside the United States and is not a United States Person and is acquiring the Warrants in an offshore transaction in compliance with Regulation S;
- (ii) that it understands and acknowledges that neither the Issuer nor the Guarantor has been registered or will be registered as an investment company under the 1940 Act and the Warrants and the related Guarantee have not been registered under the Securities Act or any other applicable securities law, are being offered for sale in transactions not requiring registration under the Securities Act or any

other securities laws, including sales pursuant to Rule 144A, and may not be offered, sold or otherwise transferred except in compliance with the registration requirements of the Securities Act or any other applicable securities law, pursuant to an exemption therefrom or in a transaction not subject thereto and in each case in compliance with the conditions for transfer set forth in paragraph (ix) below;

- (iii) that it understands and acknowledges that trading in the Warrants and the related Guarantee has not been approved by the Commodity Futures Trading Commission under the United States Commodity Exchange Act, as amended;
- (iv) that in issuing Warrants linked to any underlying asset (an “**Underlying Asset**”), the Issuer is not making, and has not made any representations whatsoever as to any such Underlying Asset or any information contained in any document filed by any such issuer of such Underlying Asset with any exchange or with any governmental entity regulating the purchase and sale of securities or the Warrants linked to any Underlying Asset;
- (v) that the Issuer and any affiliate of such Issuer may at the date hereof or at any time hereafter be in possession of information in relation to any issuer of an Underlying Asset which is or may be material in the context of the Warrants linked to any Underlying Asset and which is or may not be known to the general public or the holder. The Warrants linked to any Underlying Asset do not create any obligation on the part of the Issuer or any affiliate of the Issuer to disclose to the holder any such relationship or information (whether or not confidential) and neither the Issuer nor any other affiliate of the Issuer shall be liable to the holder by reason of such non-disclosure. No such information had been used in the selection of any issuer of an Underlying Asset for the Warrants linked to any Underlying Asset;
- (vi) in the case of Share Linked Warrants, that the Issuer and any affiliate of the Issuer may have existing or future business relationships with any issuer of an Underlying Asset (including, but not limited to, lending, depository, risk management, advisory or banking relationships), and will pursue actions and take steps that it deems or they deem necessary or appropriate to protect its or their interests arising therefrom without regard to the consequences for a holder of such Warrants linked to any such Underlying Asset;
- (vii) that the market value of the Warrants linked to any such Underlying Asset may be adversely affected by movements in the value of the Underlying Asset or in currency exchange rates;
- (viii) that the Cash Settlement Amount (if any) in respect of any Warrant may be less than its Issue Price;
- (ix) that, if in the future it decides to resell, pledge or otherwise transfer the Warrants or any beneficial interests in the Warrants, it will do so, only to or through the Issuer (a) in the case of a transferor who is a QIB/QP, inside the United States to a person meeting the requirements of paragraph (i)(a) above in compliance with Rule 144A under the Securities Act or (b) in the case of a transferor who is not a United States Person, outside the United States in an offshore transaction in compliance with Regulation S under the Securities Act;
- (x) it will, and will require each subsequent Holder to, notify any purchaser of the Warrants from it of the resale restrictions referred to in paragraph (ii) above;
- (xi) that prior to the delivery of the Entitlement in respect of a Physical Delivery Warrant the holder thereof will be required to represent that, *inter alia*, he is not a United States Person, the Warrant was not exercised on behalf of a United States Person and no cash, and in the case of Physical Delivery Securities, no securities or other property have been or will be delivered within the United States or to, or the account or benefit of, a United States Person in connection with any exercise thereof;
- (xii) that Warrants initially offered exclusively (a) in the United States to QIBs/QPs or (b) to, or for the account or benefit of, United States Persons who are QIBs/QPs will be represented by one or more Rule 144A Global Warrants, and that Warrants initially offered (a) in the United States to QIBs/QPs or (b) to, or for the account or benefit of, United States Persons who are QIBs/QPs and concurrently outside the United States in reliance on Regulation S will be represented by one or more Regulation S/Rule 144A Global Warrants;
- (xiii) that it is purchasing the Warrants for its own account, or for one or more investor accounts for which it is acting as a fiduciary or agent, for each of which it has the authority to make the representations, acknowledgements and agreements set forth herein and in the Investor

Representation Letter in each case for investment, and not with a view to, or for offer or sale in connection with, any distribution thereof in violation of the Securities Act, subject to any requirement of law that the disposition of its property or the property of such investor account or accounts be at all times within its or their control. It agrees on its own behalf and on behalf of any investor account for which it is purchasing the Warrants, and each subsequent holder of the Warrants by its acceptance thereof will agree, to offer, sell or otherwise transfer such Warrants, only pursuant to the representations, restrictions and agreements described in the legends following this paragraph. It and any future purchaser acknowledge that each Global Warrant will contain a legend substantially to the following effect:

**Rule 144A Global Warrants**

“THE WARRANTS REPRESENTED BY THIS GLOBAL SECURITY, THE RELEVANT GUARANTEE AND CERTAIN ENTITLEMENTS (IF ANY) RELATING TO THE WARRANTS HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “**SECURITIES ACT**”), OR ANY OTHER SECURITIES LAWS, AND MAY NOT BE OFFERED, SOLD, PLEDGED, ASSIGNED, DELIVERED OR OTHERWISE TRANSFERRED, EXERCISED OR REDEEMED IN VIOLATION OF THE SECURITIES ACT OR ANY OTHER SECURITIES LAWS. MERRILL LYNCH INTERNATIONAL & CO. C.V., THE ISSUER OF THE WARRANTS, HAS NOT BEEN AND WILL NOT BE REGISTERED UNDER THE INVESTMENT COMPANY ACT OF 1940, AS AMENDED (THE “**1940 ACT**”).

THE WARRANTS REPRESENTED BY THIS GLOBAL SECURITY MAY NOT BE RESOLD, PLEDGED, ASSIGNED, DELIVERED OR OTHERWISE TRANSFERRED, EXERCISED OR REDEEMED EXCEPT IN ACCORDANCE WITH THE AGENCY AGREEMENT REFERRED TO HEREIN AND OTHER THAN PURSUANT TO AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER. A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND SHALL BE DELIVERED TO EACH PERSON TO WHOM WARRANTS REPRESENTED BY THIS GLOBAL SECURITY ARE TRANSFERRED BY THE TRANSFERRING HOLDER.

THE HOLDER OF ANY WARRANTS AND THE HOLDER OF ANY BENEFICIAL INTEREST IN THE WARRANTS REPRESENTED BY THIS GLOBAL SECURITY, AGREES BY ITS ACQUISITION HEREOF FOR THE BENEFIT OF THE ISSUER AND THE GUARANTOR THAT ANY BENEFICIAL INTEREST IN THE WARRANTS REPRESENTED BY THIS GLOBAL SECURITY MAY BE RESOLD, PLEDGED, ASSIGNED, DELIVERED OR OTHERWISE TRANSFERRED, EXERCISED OR REDEEMED ONLY TO OR THROUGH THE ISSUER TO A PERSON (A) THAT IS A “QUALIFIED INSTITUTIONAL BUYER” (“**QIB**”) AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT AND A “QUALIFIED PURCHASER” (“**QP**”) WITHIN THE MEANING OF SECTION 3(c)(7), AND AS DEFINED IN SECTION 2(a)(51), OF THE 1940 ACT AND THE RULES THEREUNDER; (B) THAT IS NOT (i) A DEALER DESCRIBED IN RULE 144A(a)(1)(ii) THAT OWNS AND INVESTS ON A DISCRETIONARY BASIS LESS THAN U.S.\$25,000,000 IN SECURITIES OF ISSUERS THAT ARE NOT AFFILIATED WITH THE DEALER, (ii) A PARTNERSHIP, COMMON TRUST FUND, SPECIAL TRUST, PENSION FUND, RETIREMENT PLAN OR OTHER ENTITY IN WHICH THE PARTNERS, BENEFICIARIES, BENEFICIAL OWNERS OR PARTICIPANTS, AS THE CASE MAY BE, MAY DESIGNATE THE PARTICULAR INVESTMENTS TO BE MADE OR THE ALLOCATION THEREOF, (iii) AN INVESTMENT COMPANY EXCEPTED FROM THE 1940 ACT PURSUANT TO SECTION 3(c)(1) OR SECTION 3(c)(7) THEREOF (OR A FOREIGN INVESTMENT COMPANY UNDER SECTION 7(d) THEREOF RELYING ON SECTION 3(c)(1) OR SECTION 3(c)(7) THEREOF WITH RESPECT TO ITS U.S. HOLDERS) AND FORMED ON OR PRIOR TO 30 APRIL 1996, THAT HAS NOT RECEIVED THE CONSENT OF EACH OF ITS BENEFICIAL OWNERS WITH RESPECT TO ITS TREATMENT AS A QUALIFIED PURCHASER IN THE MANNER REQUIRED BY SECTION 2(a)(51)(C) OF THE 1940 ACT AND THE RULES THEREUNDER OR (iv) AN ENTITY THAT WILL HAVE INVESTED MORE THAN 40% OF ITS ASSETS IN THE ISSUER’S SECURITIES; (C) THAT WAS NOT FORMED, REFORMED OR RECAPITALISED FOR THE PURPOSE OF INVESTING IN THE WARRANTS OR OTHER SECURITIES OF THE ISSUER UNLESS EACH OF ITS BENEFICIAL OWNERS IS BOTH A QIB AND A QP WHO WAS NOT SO FORMED; (D) THAT FOLLOWING ITS PURCHASE, IT WILL HOLD AN UNDIVIDED BENEFICIAL INTEREST IN THE WARRANTS IN AN AMOUNT OF NOT LESS THAN THE MINIMUM SUBSCRIPTION AMOUNT SET FORTH IN THE APPLICABLE FINAL TERMS FOR THE APPLICABLE WARRANTS; (E)

THAT WILL PROVIDE NOTICE OF APPLICABLE TRANSFER RESTRICTIONS TO ANY SUBSEQUENT TRANSFEREE; (F) THAT UNLESS OTHERWISE AGREED TO BY THE ISSUER AND THE GUARANTOR AND AN OPINION OF COUNSEL OR OTHER COMFORT SATISFACTORY TO THE ISSUER AND THE GUARANTOR IS DELIVERED WHICH AFFIRMS THAT NONE OF THE ACQUISITION, PURCHASE OR HOLDING OF ANY WARRANT WOULD CAUSE ANY ASSETS OTHER THAN THE WARRANTS TO BE TREATED AS “PLAN ASSETS” FOR THE PURPOSES OF ERISA OR ANY REGULATION THEREUNDER (OR IN THE CASE OF A GOVERNMENTAL, CHURCH OR NON-U.S. PLAN, ANY SUBSTANTIALLY SIMILAR FEDERAL, STATE, LOCAL OR NON-U.S. LAW), IT IS NOT, AND IS NOT A FIDUCIARY INVESTING ASSETS OF OR ON BEHALF OF, (i) AN EMPLOYEE BENEFIT PLAN (AS DEFINED IN SECTION 3(3) OF ERISA) THAT IS SUBJECT TO TITLE I OF ERISA; (ii) A PLAN (AS DEFINED IN SECTION 4975(e)(1) OF THE UNITED STATES INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE “**CODE**”)) THAT IS SUBJECT TO SECTION 4975 OF THE CODE; (iii) AN ENTITY WHOSE ASSETS INCLUDE ASSETS OF A PLAN DESCRIBED IN (i) OR (ii) ABOVE BY REASON OF SUCH A PLAN’S INVESTMENT IN THE ENTITY UNDER 29 C.F.R. §2510.3-101 AS MODIFIED BY SECTION 3(42) OF ERISA OR OTHERWISE; OR (iv) A GOVERNMENTAL, CHURCH OR NON-U.S. PLAN THAT IS SUBJECT TO ANY FEDERAL, STATE, LOCAL OR NON-U.S. LAW THAT IS SUBSTANTIALLY SIMILAR TO SECTION 406 OF ERISA OR SECTION 4975 OF THE CODE; (G) IF IT WILL HOLD WARRANTS THROUGH DTC, THAT IT ACKNOWLEDGES THAT BENEFICIAL INTERESTS IN THE WARRANTS ARE HELD ONLY IN BOOK-ENTRY FORM THROUGH THE FACILITIES OF DTC; IT AGREES THAT, AT ALL TIMES, IT WILL HOLD ITS INTEREST IN THE WARRANTS IN ITS ACCOUNT AT AN AUTHORISED CUSTODIAN; IT ACKNOWLEDGES THAT THE RELEVANT AUTHORISED CUSTODIAN HAS AGREED WITH THE ISSUER AND SUCH ISSUER’S AGENTS NOT TO TRANSFER ANY PORTION OF THE PURCHASER’S INTEREST IN THE WARRANTS TO THE ACCOUNT OF ANY OTHER PERSON AT THE RELEVANT AUTHORISED CUSTODIAN, OR TO THE ACCOUNT OF ANY OTHER PARTICIPANT IN DTC, WITHOUT THE ISSUER’S PRIOR WRITTEN CONSENT OR THE PRIOR WRITTEN CONSENT OF A PERSON AUTHORISED TO ACT ON BEHALF OF THE ISSUER; (H) THAT IS PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNTS OF ONE OR MORE OTHER PERSONS EACH OF WHOM MEETS ALL OF THE REQUIREMENTS OF CLAUSES (A) THROUGH (G); AND (I) THAT AGREES THAT IT WILL NOT REOFFER, RESELL, PLEDGE OR OTHERWISE TRANSFER ANY INTEREST IN THE WARRANTS REPRESENTED BY THIS GLOBAL SECURITY TO ANY PERSON EXCEPT TO OR THROUGH THE ISSUER TO A PERSON THAT MEETS ALL OF THE REQUIREMENTS OF CLAUSES (A) THROUGH (H) AND THAT AGREES NOT TO SUBSEQUENTLY TRANSFER ANY INTEREST IN THE WARRANTS REPRESENTED BY THIS GLOBAL SECURITY EXCEPT IN ACCORDANCE WITH THIS CLAUSE (I). EACH HOLDER OF A BENEFICIAL INTEREST IN THE WARRANTS REPRESENTED BY THIS GLOBAL SECURITY SHALL BE REQUIRED TO REPRESENT WITH RESPECT TO ITSELF AND EACH ACCOUNT FOR WHICH IT IS PURCHASING THAT IT AND EACH SUCH ACCOUNT SATISFIES THE REQUIREMENTS SET FORTH IN THE PRECEDING SENTENCE AND ANY RESALE, PLEDGE, ASSIGNMENT, DELIVERY OR OTHER TRANSFER, EXERCISE OR REDEMPTION OF ITS INTEREST IN SUCH WARRANTS MAY ONLY BE MADE TO A PERSON SATISFYING THE REQUIREMENTS IN THE PRECEDING SENTENCE AND WILL REQUIRE THE SUBMISSION TO THE RELEVANT SECURITY AGENT (AS DEFINED IN THE AGENCY AGREEMENT REFERRED TO HEREIN) OF A DULY COMPLETED INVESTOR REPRESENTATION LETTER, IN THE FORM AVAILABLE FROM THE SECURITY AGENT OR THE ISSUER WITH RESPECT TO ANY INTEREST IN THE WARRANTS REPRESENTED BY THIS GLOBAL SECURITY. IF AT ANY TIME THE SECURITY AGENT SUBSEQUENTLY DETERMINES OR IS SUBSEQUENTLY NOTIFIED BY THE ISSUER THAT THE HOLDER OF ANY INTEREST IN THE WARRANTS REPRESENTED BY THIS GLOBAL SECURITY WAS IN BREACH, AT THE TIME GIVEN, OF ANY REPRESENTATION OR AGREEMENT SET FORTH HEREIN OR IN ANY LETTER DELIVERED TO THE ISSUER, THE PURPORTED TRANSFER SHALL BE ABSOLUTELY NULL AND VOID AB INITIO AND SHALL VEST NO RIGHTS IN THE PURPORTED TRANSFEREE (SUCH PURPORTED TRANSFEREE, A “**DISQUALIFIED TRANSFEREE**”) AND THE LAST PRECEDING HOLDER OF SUCH INTEREST THAT WAS NOT A DISQUALIFIED TRANSFEREE SHALL BE RESTORED TO ALL RIGHTS AS A HOLDER THEREOF RETROACTIVELY TO THE DATE OF SUCH TRANSFER OF SUCH INTEREST BY SUCH HOLDER.



THE HOLDER OF ANY WARRANTS AND THE HOLDER OF ANY BENEFICIAL INTERESTS IN THE WARRANTS REPRESENTED BY THIS GLOBAL SECURITY UNDERSTANDS THAT THE ISSUER MAY RECEIVE A LIST OF PARTICIPANTS OR ACCOUNTHOLDERS HOLDING POSITIONS IN ITS SECURITIES FROM THE RELEVANT CLEARING SYSTEM.

IF REQUESTED BY THE ISSUER, THE GUARANTOR OR A SECURITY AGENT, THE PURCHASER AGREES TO PROVIDE THE INFORMATION NECESSARY TO DETERMINE WHETHER THE TRANSFER OF THIS WARRANT IS PERMISSIBLE UNDER THE SECURITIES ACT AND THE 1940 ACT.

THE WARRANTS AND RELATED DOCUMENTATION MAY BE AMENDED OR SUPPLEMENTED FROM TIME TO TIME TO MODIFY THE RESTRICTIONS ON AND PROCEDURES FOR REALES, PLEDGES, ASSIGNMENTS, DELIVERIES AND OTHER TRANSFERS, EXERCISES OR REDEMPTIONS OF THE WARRANTS TO REFLECT ANY CHANGE IN APPLICABLE LAW OR REGULATION (OR THE INTERPRETATION THEREOF) OR IN PRACTICES RELATING TO THE RESALE, PLEDGE, ASSIGNMENT, DELIVERY OR TRANSFER, EXERCISE OR REDEMPTION OF RESTRICTED SECURITIES GENERALLY. BY THE ACCEPTANCE OF A WARRANT, THE PURCHASER THEREOF SHALL BE DEEMED TO HAVE AGREED TO ANY SUCH AMENDMENT OR SUPPLEMENT.”

**Global Warrants other than Rule 144A Global Warrants and Regulation S/Rule 144A Global Warrants**

“THE WARRANTS REPRESENTED BY THIS GLOBAL SECURITY, THE RELEVANT GUARANTEE AND CERTAIN ENTITLEMENTS (IF ANY) RELATING TO THE WARRANTS HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “**SECURITIES ACT**”), OR ANY OTHER SECURITIES LAWS, AND MAY NOT BE OFFERED, SOLD, PLEDGED, ASSIGNED, DELIVERED OR OTHERWISE TRANSFERRED, EXERCISED OR REDEEMED IN VIOLATION OF THE SECURITIES ACT OR ANY OTHER SECURITIES LAWS. MERRILL LYNCH INTERNATIONAL & CO. C.V., THE ISSUER OF THE WARRANTS, HAS NOT BEEN AND WILL NOT BE REGISTERED UNDER THE INVESTMENT COMPANY ACT OF 1940, AS AMENDED (THE “**1940 ACT**”). THE WARRANTS REPRESENTED BY THIS GLOBAL SECURITY MAY NOT BE EXERCISED IN THE UNITED STATES OR BY OR ON BEHALF OF ANY UNITED STATES PERSON (AS DEFINED HEREIN).

THE WARRANTS REPRESENTED BY THIS GLOBAL SECURITY MAY NOT BE RESOLD, PLEDGED, ASSIGNED, DELIVERED OR OTHERWISE TRANSFERRED, EXERCISED OR REDEEMED EXCEPT TO A PERSON WHO IS NOT A UNITED STATES PERSON AND WHO IS ACQUIRING THE SECURITIES IN AN OFFSHORE TRANSACTION IN COMPLIANCE WITH REGULATION S UNDER THE SECURITIES ACT. FOR THE PURPOSES HEREOF, “**UNITED STATES PERSON**” MEANS A PERSON WHICH IS A “U.S. PERSON” AS DEFINED BY REGULATION S UNDER THE SECURITIES ACT OR A “UNITED STATES PERSON” AS DEFINED IN SECTION 7701(A)(30) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED AND IN U.S. TREASURY REGULATIONS. EACH HOLDER OF A BENEFICIAL INTEREST IN THE WARRANTS REPRESENTED BY THIS GLOBAL SECURITY SHALL BE DEEMED TO HAVE REPRESENTED WITH RESPECT TO ITSELF AND EACH ACCOUNT FOR WHICH IT IS PURCHASING THAT IT AND EACH SUCH ACCOUNT SATISFIES THE REQUIREMENTS SET FORTH IN THE PRECEDING SENTENCE AND ANY RESALE, PLEDGE, ASSIGNMENT, DELIVERY OR OTHER TRANSFER, EXERCISE OR REDEMPTION OF ITS INTEREST IN SUCH WARRANTS MAY ONLY BE MADE TO A PERSON SATISFYING THE REQUIREMENTS IN THE PRECEDING SENTENCE. CONSEQUENTLY, ANY OFFER, SALE, RESALE, TRADE, PLEDGE, ASSIGNMENT, DELIVERY, TRANSFER, EXERCISE OR REDEMPTION MADE, DIRECTLY OR INDIRECTLY, WITHIN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, A UNITED STATES PERSON SHALL BE ABSOLUTELY NULL AND VOID AB INITIO AND SHALL INVEST NO RIGHTS IN THE PURPORTED TRANSFEREE (SUCH PURPORTED TRANSFEREE, A “**DISQUALIFIED TRANSFEREE**”) AND THE LAST PRECEDING HOLDER OF SUCH INTEREST THAT WAS NOT A DISQUALIFIED TRANSFEREE SHALL BE RESTORED TO ALL RIGHTS AS A HOLDER THEREOF RETROACTIVELY TO THE DATE OF SUCH TRANSFER OF SUCH INTEREST BY SUCH HOLDER.



THE WARRANTS AND RELATED DOCUMENTATION MAY BE AMENDED OR SUPPLEMENTED FROM TIME TO TIME TO MODIFY THE RESTRICTIONS ON AND PROCEDURES FOR REALES, PLEDGES, ASSIGNMENTS, DELIVERIES AND OTHER TRANSFERS, EXERCISES OR REDEMPTIONS OF THE WARRANTS TO REFLECT ANY CHANGE IN APPLICABLE LAW OR REGULATION (OR THE INTERPRETATION THEREOF) OR IN PRACTICES RELATING TO THE RESALE, PLEDGE, ASSIGNMENT, DELIVERY OR TRANSFER, EXERCISE OR REDEMPTION OF RESTRICTED SECURITIES GENERALLY. BY THE ACCEPTANCE OF A WARRANT, THE PURCHASER THEREOF SHALL BE DEEMED TO HAVE AGREED TO ANY SUCH AMENDMENT OR SUPPLEMENT.”

**Regulation S/Rule 144A Global Warrants**

“THE WARRANTS REPRESENTED BY THIS GLOBAL SECURITY, THE RELEVANT GUARANTEE AND CERTAIN ENTITLEMENTS (IF ANY) RELATING TO THE WARRANTS HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “**SECURITIES ACT**”), OR ANY OTHER SECURITIES LAWS, AND MAY NOT BE OFFERED, SOLD, PLEDGED, ASSIGNED, DELIVERED OR OTHERWISE TRANSFERRED, EXERCISED OR REDEEMED IN VIOLATION OF THE SECURITIES ACT OR ANY OTHER SECURITIES LAWS. MERRILL LYNCH INTERNATIONAL & CO. C.V., THE ISSUER OF THE WARRANTS, HAS NOT BEEN AND WILL NOT BE REGISTERED UNDER THE INVESTMENT COMPANY ACT OF 1940, AS AMENDED (THE “**1940 ACT**”).

THE WARRANTS REPRESENTED BY THIS GLOBAL SECURITY MAY NOT BE RESOLD, PLEDGED, ASSIGNED, DELIVERED OR OTHERWISE TRANSFERRED, EXERCISED OR REDEEMED EXCEPT IN ACCORDANCE WITH THE AGENCY AGREEMENT REFERRED TO HEREIN AND OTHER THAN PURSUANT TO AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT PROVIDED BY REGULATION S OR RULE 144A THEREUNDER. A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND SHALL BE DELIVERED TO EACH PERSON TO WHOM WARRANTS REPRESENTED BY THIS GLOBAL SECURITY ARE TRANSFERRED BY THE TRANSFERRING HOLDER.

THE HOLDER OF ANY WARRANTS AND THE HOLDER OF ANY BENEFICIAL INTEREST IN THE WARRANTS REPRESENTED BY THIS GLOBAL SECURITY, AGREES BY ITS ACQUISITION HEREOF FOR THE BENEFIT OF THE ISSUER AND THE GUARANTOR THAT ANY BENEFICIAL INTEREST IN THE WARRANTS REPRESENTED BY THIS GLOBAL SECURITY MAY BE RESOLD, PLEDGED, ASSIGNED, DELIVERED OR OTHERWISE TRANSFERRED, EXERCISED OR REDEEMED ONLY (1) IN THE CASE THAT THE TRANSFEROR IS NOT A UNITED STATES PERSON (AS DEFINED HEREIN), TO A PERSON THAT IS NOT A UNITED STATES PERSON AND THAT IS ACQUIRING THE WARRANTS IN AN OFFSHORE TRANSACTION IN COMPLIANCE WITH REGULATION S UNDER THE SECURITIES ACT; OR (2) IN THE CASE THAT THE TRANSFEROR IS A “QUALIFIED INSTITUTIONAL BUYER” (“**QIB**”) AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT AND A “QUALIFIED PURCHASER” (“**QP**”) WITHIN THE MEANING OF SECTION 3(c)(7), AND AS DEFINED IN SECTION 2(a)(51), OF THE 1940 ACT AND THE RULES THEREUNDER, TO OR THROUGH THE ISSUER TO A PERSON (A) THAT IS A QIB AND A QP; (B) THAT IS NOT (i) A DEALER DESCRIBED IN RULE 144A(a)(1)(ii) THAT OWNS AND INVESTS ON A DISCRETIONARY BASIS LESS THAN U.S.\$25,000,000 IN SECURITIES OF ISSUERS THAT ARE NOT AFFILIATED WITH THE DEALER, (ii) A PARTNERSHIP, COMMON TRUST FUND, SPECIAL TRUST, PENSION FUND, RETIREMENT PLAN OR OTHER ENTITY IN WHICH THE PARTNERS, BENEFICIARIES, BENEFICIAL OWNERS OR PARTICIPANTS, AS THE CASE MAY BE, MAY DESIGNATE THE PARTICULAR INVESTMENTS TO BE MADE OR THE ALLOCATION THEREOF, (iii) AN INVESTMENT COMPANY EXCEPTED FROM THE 1940 ACT PURSUANT TO SECTION 3(c)(1) OR SECTION 3(c)(7) THEREOF (OR A FOREIGN INVESTMENT COMPANY UNDER SECTION 7(d) THEREOF RELYING ON SECTION 3(c)(1) OR SECTION 3(c)(7) THEREOF WITH RESPECT TO ITS U.S. HOLDERS) AND FORMED ON OR PRIOR TO 30 APRIL 1996, THAT HAS NOT RECEIVED THE CONSENT OF EACH OF ITS BENEFICIAL OWNERS WITH RESPECT TO ITS TREATMENT AS A QUALIFIED PURCHASER IN THE MANNER REQUIRED BY SECTION 2(a)(51)(C) OF THE 1940 ACT AND THE RULES THEREUNDER, OR (iv) AN ENTITY THAT WILL HAVE INVESTED MORE THAN 40% OF ITS ASSETS IN THE ISSUER’S SECURITIES;

(C) THAT WAS NOT FORMED, REFORMED OR RECAPITALISED FOR THE PURPOSE OF INVESTING IN THE WARRANTS OR OTHER SECURITIES OF THE ISSUER UNLESS EACH OF ITS BENEFICIAL OWNERS IS BOTH A QIB AND A QP WHO WAS NOT SO FORMED; (D) THAT FOLLOWING ITS PURCHASE, IT WILL HOLD AN UNDIVIDED BENEFICIAL INTEREST IN THE WARRANTS IN AN AMOUNT OF NOT LESS THAN THE MINIMUM SUBSCRIPTION AMOUNT SET FORTH IN THE APPLICABLE FINAL TERMS FOR THE APPLICABLE WARRANTS; (E) THAT WILL PROVIDE NOTICE OF APPLICABLE TRANSFER RESTRICTIONS TO ANY SUBSEQUENT TRANSFEREE; (F) THAT UNLESS OTHERWISE AGREED TO BY THE ISSUER AND THE GUARANTOR AND AN OPINION OF COUNSEL OR OTHER COMFORT SATISFACTORY TO THE ISSUER AND THE GUARANTOR IS DELIVERED WHICH AFFIRMS THAT NONE OF THE ACQUISITION, PURCHASE OR HOLDING OF ANY WARRANT WOULD CAUSE ANY ASSETS OTHER THAN THE WARRANTS TO BE TREATED AS “PLAN ASSETS” FOR THE PURPOSES OF ERISA OR ANY REGULATION THEREUNDER (OR IN THE CASE OF A GOVERNMENTAL, CHURCH OR NON-U.S. PLAN, ANY SUBSTANTIALLY SIMILAR FEDERAL, STATE, LOCAL OR NON-U.S. LAW), IT IS NOT, AND IS NOT A FIDUCIARY INVESTING ASSETS OF OR ON BEHALF OF, (i) AN EMPLOYEE BENEFIT PLAN (AS DEFINED IN SECTION 3(3) OF ERISA) THAT IS SUBJECT TO TITLE I OF ERISA; (ii) A PLAN (AS DEFINED IN SECTION 4975(e)(1) OF THE UNITED STATES INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE “**CODE**”)) THAT IS SUBJECT TO SECTION 4975 OF THE CODE; (iii) AN ENTITY WHOSE ASSETS INCLUDE ASSETS OF A PLAN DESCRIBED IN (i) OR (ii) ABOVE BY REASON OF SUCH A PLAN’S INVESTMENT IN THE ENTITY UNDER 29 C.F.R. §2510.3-101 AS MODIFIED BY SECTION 3(42) OF ERISA OR OTHERWISE; OR (iv) A GOVERNMENTAL, CHURCH OR NON-U.S. PLAN THAT IS SUBJECT TO ANY FEDERAL, STATE, LOCAL OR NON-U.S. LAW THAT IS SUBSTANTIALLY SIMILAR TO SECTION 406 OF ERISA OR SECTION 4975 OF THE CODE; (G) IF IT WILL HOLD WARRANTS THROUGH DTC, THAT IT ACKNOWLEDGES THAT BENEFICIAL INTERESTS IN THE WARRANTS ARE HELD ONLY IN BOOK-ENTRY FORM THROUGH THE FACILITIES OF DTC; IT AGREES THAT, AT ALL TIMES, IT WILL HOLD ITS INTEREST IN THE WARRANTS IN ITS ACCOUNT AT AN AUTHORISED CUSTODIAN; IT ACKNOWLEDGES THAT THE RELEVANT AUTHORISED CUSTODIAN HAS AGREED WITH THE ISSUER AND SUCH ISSUER’S AGENTS NOT TO TRANSFER ANY PORTION OF THE PURCHASER’S INTEREST IN THE WARRANTS TO THE ACCOUNT OF ANY OTHER PERSON AT THE RELEVANT AUTHORISED CUSTODIAN, OR TO THE ACCOUNT OF ANY OTHER PARTICIPANT IN DTC, WITHOUT THE ISSUER’S PRIOR WRITTEN CONSENT OR THE PRIOR WRITTEN CONSENT OF A PERSON AUTHORISED TO ACT ON BEHALF OF THE ISSUER; (H) THAT IS PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNTS OF ONE OR MORE OTHER PERSONS EACH OF WHOM MEETS ALL OF THE REQUIREMENTS OF CLAUSES (A) THROUGH (G); AND (3) THAT AGREES THAT IT WILL NOT REOFFER, RESELL, PLEDGE OR OTHERWISE TRANSFER ANY INTEREST IN THE WARRANTS REPRESENTED BY THIS GLOBAL SECURITY TO ANY PERSON EXCEPT TO OR THROUGH THE ISSUER TO A PERSON THAT MEETS ALL OF THE REQUIREMENTS OF EITHER CLAUSE (1) OR (2) AND THAT AGREES NOT TO SUBSEQUENTLY TRANSFER ANY INTEREST IN THE WARRANTS REPRESENTED BY THIS GLOBAL SECURITY EXCEPT IN ACCORDANCE WITH THIS CLAUSE (3). FOR THE PURPOSES HEREOF, “**UNITED STATES PERSON**” MEANS A PERSON WHICH IS A “U.S. PERSON” AS DEFINED BY REGULATION S UNDER THE SECURITIES ACT OR A “UNITED STATES PERSON” AS DEFINED IN SECTION 7701(A)(30) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED AND IN U.S. TREASURY REGULATIONS. EACH HOLDER OF A BENEFICIAL INTEREST IN THE WARRANTS REPRESENTED BY THIS GLOBAL SECURITY SHALL BE REQUIRED TO REPRESENT WITH RESPECT TO ITSELF AND EACH ACCOUNT FOR WHICH IT IS PURCHASING THAT IT AND EACH SUCH ACCOUNT SATISFIES THE REQUIREMENTS SET FORTH IN THE PRECEDING SENTENCE AND ANY RESALE, PLEDGE, ASSIGNMENT, DELIVERY OR OTHER TRANSFER, EXERCISE OR REDEMPTION OF ITS INTEREST IN SUCH WARRANTS MAY ONLY BE MADE TO A PERSON SATISFYING THE REQUIREMENTS IN THE PRECEDING SENTENCE AND WITH RESPECT TO A PERSON SATISFYING THE REQUIREMENTS OF CLAUSE (2) OF THE PRECEDING SENTENCE WILL REQUIRE THE SUBMISSION TO THE RELEVANT SECURITY AGENT (AS DEFINED IN THE AGENCY AGREEMENT REFERRED TO HEREIN) OF A DULY COMPLETED INVESTOR REPRESENTATION LETTER, IN THE FORM AVAILABLE FROM THE SECURITY AGENT OR THE ISSUER WITH RESPECT TO

ANY INTEREST IN THE WARRANTS REPRESENTED BY THIS GLOBAL SECURITY. IF AT ANY TIME THE SECURITY AGENT SUBSEQUENTLY DETERMINES OR IS SUBSEQUENTLY NOTIFIED BY THE ISSUER THAT THE HOLDER OF ANY INTEREST IN THE WARRANTS REPRESENTED BY THIS GLOBAL SECURITY WAS IN BREACH, AT THE TIME GIVEN, OF ANY REPRESENTATION OR AGREEMENT SET FORTH HEREIN OR IN ANY LETTER DELIVERED TO THE ISSUER, THE PURPORTED TRANSFER SHALL BE ABSOLUTELY NULL AND VOID AB INITIO AND SHALL VEST NO RIGHTS IN THE PURPORTED TRANSFEREE (SUCH PURPORTED TRANSFEREE, A “**DISQUALIFIED TRANSFEREE**”) AND THE LAST PRECEDING HOLDER OF SUCH INTEREST THAT WAS NOT A DISQUALIFIED TRANSFEREE SHALL BE RESTORED TO ALL RIGHTS AS A HOLDER THEREOF RETROACTIVELY TO THE DATE OF SUCH TRANSFER OF SUCH INTEREST BY SUCH HOLDER.

THE HOLDER OF ANY WARRANTS AND THE HOLDER OF ANY BENEFICIAL INTERESTS IN THE WARRANTS REPRESENTED BY THIS GLOBAL SECURITY UNDERSTANDS THAT THE ISSUER MAY RECEIVE A LIST OF PARTICIPANTS OR ACCOUNTHOLDERS HOLDING POSITIONS IN ITS SECURITIES FROM THE RELEVANT CLEARING SYSTEM.

IF REQUESTED BY THE ISSUER, THE GUARANTOR OR A SECURITY AGENT, THE PURCHASER AGREES TO PROVIDE THE INFORMATION NECESSARY TO DETERMINE WHETHER THE TRANSFER OF THIS WARRANT IS PERMISSIBLE UNDER THE SECURITIES ACT AND THE 1940 ACT.

THE WARRANTS AND RELATED DOCUMENTATION MAY BE AMENDED OR SUPPLEMENTED FROM TIME TO TIME TO MODIFY THE RESTRICTIONS ON AND PROCEDURES FOR REALES, PLEDGES, ASSIGNMENTS, DELIVERIES AND OTHER TRANSFERS, EXERCISES OR REDEMPTIONS OF THE WARRANTS TO REFLECT ANY CHANGE IN APPLICABLE LAW OR REGULATION (OR THE INTERPRETATION THEREOF) OR IN PRACTICES RELATING TO THE RESALE, PLEDGE, ASSIGNMENT, DELIVERY OR TRANSFER, EXERCISE OR REDEMPTION OF RESTRICTED SECURITIES GENERALLY. BY THE ACCEPTANCE OF A WARRANT, THE PURCHASER THEREOF SHALL BE DEEMED TO HAVE AGREED TO ANY SUCH AMENDMENT OR SUPPLEMENT.”;

- (xiv) that it agrees it will deliver to each person to whom it transfers any of the Warrants notice of any restrictions on transfers of such Warrants;
- (xv) that it understands that the Issuer may receive a list of participants holding positions in its securities from one or more book-entry depositories, including DTC, Euroclear or Clearstream, Luxembourg;
- (xvi) that it will not engage in any hedging transactions with respect to the Warrants unless in compliance with the Securities Act;
- (xvii) it agrees that in the event that at any time the Principal Warrant Agent determines or is notified by the Issuer, the Guarantor or any of their affiliates that (i) a transfer or attempted or purported transfer of any interest in a Warrant was not consummated in compliance with the provisions of W&C Securities Condition 22 or Annex 11 to the Terms and Conditions – “Additional Terms and Conditions for Rule 144A Warrants”, as applicable, or on the basis of an incorrect form, representation or certification from such investor as set forth herein or in the Investor Representation Letter, (ii) it is in breach at the time given of any representation or agreement set forth in any certificate or letter or any deemed representation or agreement delivered or deemed to be made by such purchaser, or (iii) a transfer or attempted transfer of any interest in a Warrant was consummated which did not comply with the transfer restrictions set forth in this Base Prospectus, the purported transfer shall be absolutely null and void *ab initio* and shall vest no rights in such purchaser (being in such case, a “**Disqualified Transferee**”) and the last preceding holder of such interest that was not a Disqualified Transferee shall be restored to all rights as a Holder thereof retroactively to the date of transfer of such interest by such Holder; and
- (xviii) that MLICo., the Guarantor and others will rely upon the truth and accuracy of the foregoing acknowledgements, representations and agreements and agrees that if any of such acknowledgements, representations or agreements made by it are no longer accurate, it shall promptly notify MLICo. and the Guarantor; and if it is acquiring any Warrants as a fiduciary or

agent for one or more accounts it represents that it has sole investment discretion with respect to each such account and that it has full power to make the foregoing acknowledgements, representations and agreements on behalf of each such account.

Upon execution and delivery of an Investor Representation Letter by a QIB/QP, and, if required, execution and delivery of a Custodian Letter by the relevant DTC Direct Participant acting as custodian on behalf of such QIB/QP, Warrants will be issued in the form of a Rule 144A Global Warrant or a Regulation S/Rule 144A Global Warrant, as applicable.

In the Investor Representation Letter the QIB/QP will agree, acknowledge and represent, among other things, substantially to the following effect:

- (i) it has all requisite power and authority to enter into the Investor Representation Letter and the Investor Representation Letter has been duly authorised, validly executed and delivered by it and constitutes its valid and legally binding agreement; such entrance into the Investor Representation Letter and its acquisition of and payment for any Warrants do not violate or conflict with any law applicable to it, any provisions 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;
- (ii) that the QIB/QP has received copies of this Base Prospectus and such other information as it deems necessary in order to make its investment decision;
- (iii) that the QIB/QP understands that any subsequent transfer of the Warrants is subject to certain restrictions and conditions set forth in this Base Prospectus and the Warrants (including those set out above) and that it agrees to be bound by, and not to resell, pledge, assign, deliver or otherwise transfer, exercise or redeem the Warrants except in compliance with, such restrictions and conditions and the Securities Act;
- (iv) that the purchaser is a QIB as defined in Rule 144A, and a QP as defined in Section 2(a)(51) of the 1940 Act and the rules thereunder;
- (v) (i) that the QIB/QP (a) is not a dealer described in Rule 144A(a)(1)(ii) that owns and invests on a discretionary basis less than U.S.\$25,000,000 in securities of issuers that are not affiliated with the dealer, (b) is not a partnership, common trust fund, special trust, pension fund, retirement plan or other entity in which the partners, beneficiaries, beneficial owners or participants, as the case may be, may designate the particular investments to be made or the allocation thereof, (c) is not an investment company excepted from the 1940 Act pursuant to Section 3(c)(1) or Section 3(c)(7) thereof (or a foreign investment company under Section 7(d) thereof relying on Section 3(c)(1) or Section 3(c)(7) thereof with respect to its U.S. holders) and formed on or prior to 30 April 1996, that has not received the consent of each of its beneficial owners with respect to its treatment as a qualified purchaser in the manner required by Section 2(a)(51)(C) of the Investment Company Act and the rules thereunder, (d) is not an entity that will have invested more than 40 per cent. of its assets in the Securities after giving effect to the purchase of such Warrants, (e) unless otherwise agreed to by the Issuer and the Guarantor and an opinion of counsel or other comfort satisfactory to MLICo. and the Guarantor is delivered which affirms that none of the acquisition, purchase or holding of any Warrant would cause any assets other than the Warrants to be treated as “plan assets” for the purposes of ERISA or any regulation thereunder (or in the case of a governmental, church or non-U.S. plan, any substantially similar federal, state, local or non-U.S. law), it is not a fiduciary investing assets of or on behalf of, (i) an employee benefit plan (as defined in Section 3(3) of ERISA) that is subject to Title I of ERISA; (ii) a plan (as defined in section 4975(e)(1) of the Code) that is subject to Section 4975 of the Code; (iii) an entity whose assets include assets of a plan described in (i) or (ii) above by reason of such a plan’s investment in the entity under 29 C.F.R. §2510.3-101 as modified by Section 3(42) of ERISA or otherwise; or (iv) a governmental, church or non-U.S. plan that is subject to any federal, state, local or non-U.S. law that is substantially similar to Section 406 of ERISA or Section 4975 of the Code; (f) was not formed for the purpose of investing in the Warrants or other securities of the Issuer unless each of its beneficial owners is a QIB/QP who was not so formed; (g) will provide notice of applicable transfer restrictions to any subsequent transferees; and (h) is purchasing for its own account or for the accounts of one or more other persons each of whom meets all of the requirements of clauses (a) through (h); and (ii) it is able to bear the economic risk of an investment in such Warrants and has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of acquiring such Warrants;

- (vi) if the QIB/QP's Warrants are to be held through DTC, the QIB/QP acknowledges that its interest in the Warrants will, at all times, be held only in book-entry form through its account at the direct participant in DTC that has been expressly authorised by the Issuer to hold interests in the Warrants (such DTC participant, an "**Authorised Custodian**"), and the QIB/QP understands that the relevant Authorised Custodian has agreed with the Issuer and its agents not to transfer any portion of the QIB/ QP's interest in the Warrants to the account of any other person at the relevant Authorised Custodian, or to the account of any other participant in DTC, without the prior written consent of such Issuer or the prior written consent of a person authorised to act on such Issuer's behalf; and
- (vii) that the QIB/QP acknowledges that it conducted and relied on its own research into such matters as it deemed necessary or advisable in connection with its purchase of the Warrants.



## **MERRILL LYNCH S.A.**

### **History and Business**

Merrill Lynch S.A. (“**MLSA**”) was incorporated under the laws of Luxembourg on 18 December 1991 as a société anonyme for an unlimited period. MLSA’s articles of incorporation were published in the Mémorial, Journal Officiel du Grand-Duché de Luxembourg, Recueil Spécial des Sociétés et Associations, C-No. 51 of 14 February 1992. MLSA’s articles of incorporation have not been amended since 2 July 2008. MLSA complies with the Luxembourg corporate governance regime. MLSA is majority-owned through a 99.98 per cent. shareholding by Merrill Lynch International Holdings Inc., which, in turn, is wholly-owned by Merrill Lynch & Co., Inc., whose ultimate parent is Bank of America Corporation (“**BAC**”). MLSA does not hold any of its own shares.

The object of MLSA, as set out in Article 3 of its Articles of Incorporation, is to make loans and to grant financial assistance in any form whatsoever to companies which are part of its group. To that effect, MLSA may borrow money in whatever form and currency, issue bonds, debentures or other debt instruments in whatever form and in any manner whatsoever, and it may secure any of its borrowings by pledge or security of all or any of its property or income.

### **Principal Activities**

The main activity of MLSA consists of granting loans to group companies and issuing Notes and certificates to investors. MLSA complies with the corporate governance regime of Luxembourg.

MLSA also has the corporate power to take participating interests in any companies or undertakings in whatever form and carry out transactions pertaining to the administration, the management, the control and the development of any such participating interests.

MLSA’s accounting year coincides with the calendar year.

### **Registered Office and Register of Commerce and Companies**

MLSA’s registered office is at Ballade B2, 4, rue Albert Borschette, L-1246 Luxembourg, with telephone number +352 49 49 111 and it was registered with the Register of Commerce and Companies of Luxembourg under number B-39046 on 14 January 1992.

The registered office of MLSA is located in Luxembourg where the directors hold all of their Board Meetings.

### **Principal Markets in which MLSA Competes**

The main markets in which MLSA sells securities are the Eurobond markets.

### **Trend Information**

MLSA’s primary objective in 2012 will be the continued development of securitised products to be offered and sold to retail, “high net worth” and institutional investors principally outside of the United States of America linked to a range of Reference Items including equity, credit, interest rates, commodities, and funds.

### **Directors**

The administrative, management and supervisory bodies of MLSA comprise its Board of Directors. Set forth below is the name and title of MLSA’s Directors:

<b>Director</b>	<b>Title</b>
Raymond Blokland	Director
Gerard Fabry	Director
Matthew Fitch	Director
Steen Foldberg	Director
Brian Morris	Director
Bradley Taylor	Director
Jonathan Lee	Director

The business address of the Directors of MLSA is Ballade B2, 4, rue Albert Borschette, L-1246 Luxembourg Grand Duchy of Luxembourg.

There are no potential conflicts of interest between any duties to MLSA and their private interests or other duties of the Directors of MLSA.

There are no principal activities performed by the Directors outside MLSA which are significant to MLSA as issuer.

**Share Capital**

The authorised and subscribed capital of MLSA is U.S.\$65,000, consisting of 6,500 registered ordinary shares of U.S.\$10 each, fully paid.

**Dividends**

MLSA has not paid any dividends in the previous five years.

**SELECTED FINANCIAL DATA OF MERRILL LYNCH S.A.****BALANCE SHEET****As at 31 December 2011 and 31 December 2010**

The following table contains MLSA's selected financial data as at 31 December 2011 and 2010, extracted from MLSA's audited financial statements.

	<b>31 December 2011</b>	<b>31 December 2010</b>
	<b>U.S.\$'000</b>	<b>U.S.\$'000</b>
<b>ASSETS</b>		
FINANCIAL ASSETS.....	5,454,009	7,846,996
CURRENT ASSETS (LESS THAN ONE YEAR).....	2,074,555	1,963,884
<b>TOTAL ASSETS</b> .....	<b>7,528,564</b>	<b>9,810,880</b>
<b>LIABILITIES</b>		
CAPITAL AND RESERVES.....	29,579	25,459
CREDITORS DUE AFTER MORE THAN ONE YEAR .....	4,556,190	5,905,502
CREDITORS DUE WITHIN ONE YEAR.....	2,841,488	3,776,221
PROVISIONS FOR TAXATION.....	1,307	3,698
SUBORDINATED DEBT .....	100,000	100,000
<b>TOTAL LIABILITIES</b> .....	<b>7,528,564</b>	<b>9,810,880</b>

**PROFIT AND LOSS ACCOUNT****For the years ended 31 December 2011 and 31 December 2010**

The following table contains MLSA's selected financial data as at 31 December 2011 and 2010, extracted from MLSA's audited financial statements.

	<b>31 December 2011</b>	<b>31 December 2010</b>
	<b>U.S.\$'000</b>	<b>U.S.\$'000</b>
EXPENSES.....	174,920	191,774
INCOME TAX.....	940	1,076
PROFIT FOR THE FINANCIAL YEAR .....	4,120	2,929
TOTAL CHARGES .....	179,980	195,779
<b>TOTAL INCOME</b> .....	<b>179,980</b>	<b>195,779</b>

## MERRILL LYNCH INTERNATIONAL & CO. C.V.

### Overview

Merrill Lynch International & Co. C.V. (“**MLICo.**”) is a Curaçao limited partnership of unlimited duration organised under the laws of Curaçao which commenced operation on 1 August 1975 and was registered on 1 August 1975 under registered number 11705 in the Commercial Registry of the Chamber of Commerce and Industry in Curaçao. MLICo. complies with the Curaçao corporate governance regime. MLICo. engages primarily in the issuance of warrants and related financial instruments and the distribution of managed fund products. Bank of America Corporation (“**BAC**”) is the ultimate parent of MLICo. as further described below under “Partners”.

MLICo.’s registered office and business address is at Kaya W.F.G. (Jombi) Mensing 36, Curaçao. The telephone number of MLICo. is 00 (5999) 4611299.

The objects of MLICo. are set out in Article 3 of MLICo.’s Partnership Agreement, and include purchasing, selling and underwriting securities. MLICo.’s Partnership Agreement is available as part of its constitutional documents as described in “General Information”. There are no recent events which are to a material extent relevant to the evaluation of MLICo.’s solvency. MLICo. has made no principal investments since 31 December 2011 and the management body of MLICo. has made no firm commitments for any future principal investments, in each case, other than issuing W&C Securities and, if applicable, entering into related arrangements.

### Principal Activities

The principal activities of MLICo. are the issuance of warrants and related financial instruments, and distribution of Merrill Lynch International managed funds and other managed fund products.

MLICo.’s total capital amounts to U.S.\$1,050,128,000 comprising of: (i) U.S.\$118,000 fully paid up ordinary shares, comprising of 118 ordinary shares with a par value of U.S.\$1,000 each; (ii) U.S.\$50,000,000 paid up Series A Preferred Partnership Interest; (iii) U.S.\$500,000,000 fully paid up Series B Preferred Partnership Interest; and (iv) a capital contribution of U.S.\$500,010,000.

### Trend Information

MLICo.’s primary objective in 2012 will be the continued development of securitised products to be offered and sold to retail, “high net worth” and institutional investors principally outside of the United States of America linked to a range of Reference Items including equity, credit, interest rates, commodities, and funds.

### Partners

ML Cayman Holdings Inc., a corporation organised under the laws of the State of Delaware in the United States, is the General, Managing and Directing Partner (“**Directing Partner**”) of MLICo. and holds a Preferred Partnership interest in MLICo. Merrill Lynch International Services Limited (“**Limited Partner**”), a Canadian company, is the Limited Partner. Neither the Directing Partner nor the Limited Partner engages in any other activities other than being the Directing Partner or the Limited Partner of MLICo. as applicable.

The Directing Partner is vested with the power to direct the financial and business policies of MLICo. The Directing Partner determines the use and disposition of surplus and net profits.

The Limited Partner is indirectly wholly owned by BAC.

The Directing Partner is wholly-owned by Merrill Lynch International Holdings Inc., which is wholly-owned by Merrill Lynch International Incorporated, which, in turn, is wholly-owned by ML&Co. which, in turn, is wholly-owned by BAC. Each of Merrill Lynch International Holdings Inc., Merrill Lynch International Incorporated and ML&Co. is a corporation organised under the laws of the State of Delaware in the United States.



The Directors of the Directing Partner are:

<b>Name</b>	<b>Title</b>
Bruce Blanco	Director
Debra Zachter	Director

The above Directors are BAC group employees.

The registered address of the Directing Partner and its Directors is c/o The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington DE 19801, United States.

The Director of the Limited Partner is:

<b>Name</b>	<b>Title</b>
Gordon Weir	Director

The above Director is a BAC group employee.

The registered address of the Limited Partner and its Director is 129 Water Street, Box 38, Charlottetown, Prince Edward Island, Canada C1A 1A8.

There are no potential conflicts of interest between any duties to MLICo. of the Directing Partner and its private interest and/or other duties.

There are no principal activities performed by the Directors outside MLICo. which are significant to MLICo. as issuer.

**SELECTED FINANCIAL DATA OF MERRILL LYNCH INTERNATIONAL & CO. C.V.**

**PROFIT AND LOSS ACCOUNT**

**For the year ended 31 December 2011 and 31 December 2010**

The following table contains MLICo.'s selected financial data as at 31 December 2011 and 31 December 2010 extracted from MLICo.'s audited financial statements.

	<b>31 December 2011</b>	<b>31 December 2010</b>
	<b>U.S.\$'000</b>	<b>U.S.\$'000</b>
TURNOVER.....	247,217	245,250
OPERATING PROFIT.....	30,062	48,474
(LOSS)/PROFIT ON ORDINARY ACTIVITIES BEFORE TAXATION .....	(15,330)	8,691
(LOSS)/PROFIT FOR THE FINANCIAL YEAR BEFORE PARTNER'S (LOSS)/PROFIT ALLOCATION.....	(15,445)	8,443
GENERAL PARTNER'S LOSS/(PROFIT) ALLOCATION .....	15,445	(8,443)
PROFIT FOR THE FINANCIAL YEAR AFTER PARTNER'S PROFIT ALLOCATION.....	—	—

Turnover and operating profit derive wholly from continuing operations.

There were no recognised gains and losses for 2011 or 2010 other than those included in the profit and loss account.

**BALANCE SHEET**

**As at 31 December 2011 and 31 December 2010**

The following table contains MLICo.'s selected financial data as at 31 December 2011 and 2010, extracted from MLICo.'s audited financial statements.

	<b>31 December 2011</b>		<b>31 December 2010</b>	
	<b>U.S.\$'000</b>	<b>U.S.\$'000</b>	<b>U.S.\$'000</b>	<b>U.S.\$'000</b>
FIXED ASSETS .....		969		1,198
CURRENT ASSETS.....	5,405,885		13,094,223	
CREDITORS .....	5,406,854		13,095,421	
NET CURRENT LIABILITIES.....		(969)		(1,198)
NET ASSETS .....		—		—

## BANK OF AMERICA CORPORATION

Bank of America Corporation (“**BAC**”) is a Delaware corporation, a bank holding company, and a financial holding company. BAC was incorporated on 31 July 1998 (for an unlimited duration) as a part of the merger of BankAmerica Corporation with NationsBank Corporation. BAC was initially registered with the State of Delaware, Secretary of State, Division of Corporations on 31 July 1998 under registration number is 2927442. BAC operates under the General Corporation Law of the State of Delaware, Title 8 of the Delaware Code 1953, sections 101 through 398, known as the “Delaware General Corporation Law”. BAC’s registered office in Delaware is at the Corporation Trust Company, Corporate Trust Center, 1209 Orange Street, Wilmington, Delaware 19801, United States. BAC’s headquarters and principal place of business are located at 100 North Tryon Street, Charlotte, North Carolina 28255, United States, telephone number (704) 386-5681. BAC’s objects and purposes are to engage in any lawful act or activity for which corporations may be organised and incorporated in the General Corporation Law of the State of Delaware, as specified in paragraph 2 of BAC’s amended and restated certificate of incorporation.

### Business Segment Operations

BAC, together with its subsidiaries, provides a diversified range of banking and non-banking financial services and products in all 50 states of the United States, the District of Columbia, and more than 40 non-U.S. countries. BAC provides these services and products through five business segments: (1) *Consumer & Business Banking*, (2) *Consumer Real Estate Services*, (3) *Global Banking*, (4) *Global Markets* and (5) *Global Wealth & Investment Management*.

### Board of Directors

As of the date of this Base Prospectus, the Directors of BAC are:

Director	Function
Charles O. Holliday, Jr. ....	Chairman, Non-employee director
Mukesh D. Ambani .....	Non-employee director
Susan S. Bies .....	Non-employee director
Frank P. Bramble, Sr. ....	Non-employee director
Virgis W. Colbert .....	Non-employee director
Charles K. Gifford .....	Non-employee director
Monica C. Lozano .....	Non-employee director
Thomas J. May .....	Non-employee director
Brian T. Moynihan .....	President and Chief Executive Officer
Donald E. Powell .....	Non-employee director
Charles O. Rossotti .....	Non-employee director
Robert W. Scully .....	Non-employee director

The business address of each Director is 100 North Tryon Street, Charlotte, North Carolina 28255, United States.

For the purposes of the Prospectus Directive, no potential conflicts of interest exist between the duties to BAC of the members of the Board of Directors, as listed above, and their private interests and/or other duties.

### Subsidiaries

BAC acts as the holding company of over 1,800 subsidiary undertakings worldwide which are all operative within the financial services sector. Details of BAC’s principal subsidiaries, each of which is wholly owned, directly or indirectly, by BAC, are set out below:

<b>Name</b>	<b>Address</b>	<b>Principal Activity</b>
Bank of America, N.A. ....	101 South Tryon Street Charlotte, North Carolina 28255	Commercial and consumer banking
FIA Card Services, N.A. ....	1100 North King Street Wilmington, Delaware 19884	Consumer credit
Merrill Lynch & Co., Inc. ....	Bank of America Corporate Center, 100 North Tryon Street Charlotte, North Carolina 28255	Through its subsidiaries, investment banking, capital markets, advisory and wealth management

### **Trend Information**

The banking environment and markets in which the BAC conducts its businesses will continue to be strongly influenced by developments in the U.S. and global economies, including the results of the European Union sovereign debt crisis, continued large budget imbalances in key developed nations, and the implementation and rulemaking associated with recent financial reform. The global economy expanded at a diminished pace in 2011, with the U.S., U.K., Europe and Japan all losing momentum, while economic growth in emerging nations diminished somewhat but remained robust.

### **United States**

The U.S. economy expanded only modestly in 2011, as a promising beginning with an improving labour market gave way to an appreciable slowdown in domestic demand early in the year. By mid-year, the labour market had slowed once more, followed by a sharp reversal in the stock market and in consumer sentiment. Increasing oil prices and supply chain disruptions stemming from Japan's earthquake, along with continued financial market anxiety due to the European sovereign debt crisis and difficult and protracted U.S. budget negotiations related to the federal debt ceiling, contributed to the weakness. As some of these factors dissipated, domestic demand picked up in the second half of 2011, easing U.S. recession fears. In the fourth quarter of 2011, equities rebounded from their mid-year declines, consumer confidence edged up and labour markets showed clear signs of improvement.

The economic and financial environment for banking showed signs of improvement in the first quarter of 2012 as labour market recovery and rising equity values combined to raise consumer and business confidence. However, many key indicators of sustainable economic growth remain under pressure. While still elevated, the U.S. unemployment rate continued its recent decline ending the first quarter of 2012 at 8.2 per cent compared to 8.5 per cent at 31 December 2011. The solid equity market performance, supported by less volatile European financial conditions, provided a boost to consumer confidence. Consumer spending categories rose modestly. Retail spending was soft at the beginning of the year but gathered momentum as the first quarter of 2012 progressed. Despite the improvements, economic growth remained moderate as households continued to reduce debt and spend cautiously, businesses held cash and state and local government purchases continued to decline. Export activity was solid. Real estate activity showed some encouraging signs of stability although home prices continued to decline in many parts of the U.S. during the first quarter of 2012. Business spending gains were moderate, largely related to the expiration of tax incentives for equipment and software purchases at the end of 2011. Rising gasoline prices were a concern during the first quarter of 2012 but oil price gains remained relatively stable. Despite the overall improvements in U.S. economic performance in the past two quarters, anxiety that the economy will lose momentum near mid-year persists.

Despite subdued U.S. economic growth, year-over-year inflation drifted higher over the first three quarters of 2011, lifted in part by the surge in energy costs, before edging lower in the fourth quarter. Fears of deflation, prevalent in 2010, faded as year-over-year core inflation, which began 2011 below one per cent., moved to above two per cent. by year end. Nevertheless, bond yields, which drifted gradually lower in the first half of 2011, fell during a volatile third quarter amid anxiety over the European sovereign debt crisis, exacerbated by the U.S. debt ceiling debate and fears of recession. Despite the S&P ratings downgrade of U.S. sovereign debt, mounting concerns about Europe's financial crisis generated strong demand for U.S. government securities. The Federal Reserve Board completed its second round of quantitative easing near mid-year. Responding to sharp declines in equity markets, low consumer expectations and heightened worries about recession, the Federal Reserve Board adopted another financial support program in September 2011 aimed at lowering bond yields. The program involved sales of \$400 billion of shorter-term (less than three years) government securities and purchases of an equal



volume of longer-term (six years and over) government bonds. Bonds yields held near all-time post-Great Depression lows at year end.

During the first quarter of 2012, the Federal Reserve Board extended its guidance for the exceptionally low level of the federal funds rate at least through late 2014. It also continued its programme of extending the maturity of its portfolio by buying longer term Treasury securities and selling short-term holdings, which is scheduled to be complete by mid-year. Market speculation about extending the maturity extension programme or initiating further outright security purchases after the completion of the current programme increased during the quarter, as the Federal Reserve Board acknowledged economic and labour market improvement while stressing that conditions have not normalised.

### *Europe*

Europe's financial crisis escalated in 2011 despite a series of initiatives by policymakers, and several European nations were experiencing recessionary conditions in the fourth quarter. Europe's problems involve unsustainably high public debt in some nations, including Greece and Portugal, slow growth and significant refinancing risk related to maturing sovereign debt in Italy, and excess household debt and sharp declines in wealth stemming from falling home values following unsustainable housing bubbles in other nations, including Spain and Ireland. These national challenges are closely intertwined with the problems facing Europe's banks, which are some of the largest holders of the bonds of troubled European nations. During 2011, financial markets became increasingly sceptical that government policies would resolve these problems, and risk-averse investors reduced their exposures to bonds of troubled nations, driving up their bond yields and, to varying degrees, restricting access to capital markets. This exacerbated already onerous debt service burdens. In response, European policymakers provided financial support to troubled nations through the European Financial Stability Facility ("EFSF") and purchases of sovereign debt by the European Central Bank (the "ECB"). Despite these efforts, sharp increases in the bond yields of Spanish and Italian bonds further complicated Europe's financial problems beyond the current capabilities of the EFSF. As the magnitude of the financial stresses rose, reflected in higher sovereign bond yields and mounting funding shortfalls at select banks, the ECB instituted new programs to provide low-cost, three-year loans to European banks, and expanded collateral eligibility. This served to alleviate bank funding pressures toward year end and provided greater liquidity in sovereign debt markets.

An agreement on a Greek debt restructuring and a large European Central Bank programme establishing long-term lending to European banks helped stabilise European sovereign debt markets and improve worldwide financial conditions during the first quarter of 2012. Nevertheless, a mild, but uneven economic recession continued in most European Union nations especially nations undertaking substantial fiscal and market reforms. Late in the first quarter of 2012, concern about Spain's contracting economy and large budget deficit, and renewed anxiety over Italy's economic reforms pushed European sovereign yields higher, offsetting a portion of earlier yield declines. This trend continued early in the second quarter of 2012, as concern about Europe continued, stemming from the negative impacts of the economic recession, resistance to implementing economic reforms and fiscal measures, as well as rising government debt-to-gross domestic product ratios. In response to rising bond yields, an enhanced financial support package was established by the International Monetary Fund in March 2012 to slow further deterioration in Europe.

### *Asia*

Japan's economic environment in 2011 was marked by the trauma of its massive earthquake in early 2011 that caused a dramatic decline in economic activity followed by a quick rebound. A sharp decline in consumption and domestic demand was accompanied by temporary production shutdowns of various intermediate and durable goods that disrupted supply chains throughout Asia and the world. The ripple effects were pronounced, although temporary, throughout Asia. Japan continued to recover moderately from the earthquake in early 2011. China continued to grow rapidly throughout 2011, with real GDP growth exceeding nine per cent., despite elevated inflation and government efforts to constrain price pressures through the tightening of monetary policy and bank credit, and regulations that limit speculation and price increases in real estate. China's economic growth slowed modestly in the second half of 2011, reflecting in part slower growth of exports to Europe and other destinations and during the first quarter of 2012. China's inflation also began to subside toward the end of 2011. Other Asian nations continued to experience strong growth rates and to expand during the first quarter of 2012.

For information on the BAC's non-U.S. portfolio, see Non-U.S. Portfolio in Management's Discussion and Analysis of Financial Condition and Results of Operations ("MD&A") on page 104 and Note 28 –

Performance by Geographical Area to the Consolidated Financial Statements of the 2011 Form 10-K Annual Report and in the 4 May 2012 Form 8-K, which reflects a realignment of the Issuer's business segments, and the Non-U.S. Portfolio in the MD&A on page 96 of the First Quarter 2012 Form 10-Q Quarterly Report.

### **Board Practices**

#### ***Audit Committee***

BAC's Audit Committee, which currently consists of four independent members of BAC's Board of Directors, provides direct oversight of the corporate audit function and the independent registered public accounting firm of BAC.

The members of the Audit Committee are Charles O. Rossotti (Chair), Susan S. Bies, Donald E. Powell and Robert W. Scully.

#### ***Corporate Governance***

BAC has complied in all material respects with the corporate governance regime of the State of Delaware and all applicable provisions of Delaware General Corporation Law.

#### ***Ratings***

As at the date of this Base Prospectus, BAC's long-term senior debt is rated Baa1 (Review for Downgrade) by Moody's, A- (Negative) by S&P and A (Stable) by Fitch. BAC's subordinated debt is rated Baa2 (Review for Downgrade) by Moody's, BBB+ (Negative) by S&P and BBB (Stable) by Fitch. Credit ratings and outlooks may be adjusted over time, and so there is no assurance that these credit ratings and outlooks will be effective after the date of this Base Prospectus. A credit rating is not a recommendation to buy, sell or hold any Securities.

**SELECTED FINANCIAL DATA OF BANK OF AMERICA CORPORATION**

The following table contains BAC's selected financial data (1) as of 31 December 2011 and 2010, and for each of the years in the three years ended 31 December 2011, extracted from BAC's audited financial statements and (2) as of and for the three months ended 31 March 2012 and 2011, extracted from BAC's unaudited financial statements, which were prepared in conformity with accounting principles generally accepted in the United States. BAC's unaudited financial statements include all adjustments, consisting only of normal recurring accruals, that BAC considers necessary for a fair statement of its financial position and its results of operations as of such dates and for such periods. Results for the three months ended 31 March 2012 are not necessarily indicative of the results that might be expected for any other interim period or for the year as a whole. Certain prior period amounts have been reclassified to conform to current period classifications.

	<b>Three months ended March 31</b>		<b>Year ended December 31</b>		
	<b>2012</b>	<b>2011</b>	<b>2011</b>	<b>2010</b>	<b>2009</b>
<b>(Unaudited)</b>					
<b>(Dollars in millions, except number of shares and per share information)</b>					
<b>Income statement:</b>					
Interest income .....	\$15,461	\$17,922	\$66,236	\$75,497	\$77,916
Interest expense .....	4,615	5,743	21,620	23,974	30,807
Net interest income .....	10,846	12,179	44,616	51,523	47,109
Noninterest income .....	11,432	14,698	48,838	58,697	72,534
Total revenue, net of interest expense .....	22,278	26,877	93,454	110,220	119,643
Provision for credit losses .....	2,418	3,814	13,410	28,435	48,570
Noninterest expense .....	19,141	20,283	80,274	83,108	66,713
Income (loss) before income taxes	719	2,780	(230)	(1,323)	4,360
Income tax expense (benefit) .....	66	731	(1,676)	915	(1,916)
Net income (loss) .....	653	2,049	1,446	(2,238)	6,276
Net income (loss) applicable to common shareholders .....	328	1,739	85	(3,595)	(2,204)
Average common shares issued and outstanding (in thousands) .....	10,651,367	10,075,875	10,142,625	9,790,472	7,728,570
Average diluted common shares issued and outstanding (in thousands) .....	10,761,917	10,181,351	10,254,824	9,790,472	7,728,570
<b>Per common share information:</b>					
Earnings (loss) .....	\$0.03	\$0.17	\$0.01	\$(0.37)	\$(0.29)
Diluted earnings (loss) .....	0.03	0.17	0.01	(0.37)	(0.29)
Dividends paid .....	0.01	0.01	0.04	0.04	0.04

Selected Financial Data of Bank of America Corporation

	<b>March 31</b>		<b>December 31</b>	
	<b>2012</b>	<b>2011</b>	<b>2011</b>	<b>2010</b>
	<b>(Unaudited)</b>			
	<b>(Dollars in millions, except percentages)</b>			
<b>Balance sheet (period-end):</b>				
Total loans and leases .....	\$902,294	\$932,425	\$926,200	\$940,440
Total assets.....	2,181,449	2,274,532	2,129,046	2,264,909
Total deposits.....	1,041,311	1,020,175	1,033,041	1,010,430
Long-term debt.....	354,912	434,436	372,265	448,431
Total shareholders' equity .....	232,499	230,876	230,101	228,248
Allowance for loan and lease losses as a percentage of total loans and leases outstanding <sup>1</sup> .....	3.61%	4.29%	3.68%	4.47%
Total ending equity to total ending assets .....	10.66%	10.15%	10.81%	10.08%
<b>Capital ratios (period-end):</b>				
Risk-based capital				
Tier 1 common capital.....	10.78%	8.64%	9.86%	8.60%
Tier 1 capital .....	13.37%	11.32%	12.40%	11.24%
Total capital .....	17.49%	15.98%	16.75%	15.77%
Tier 1 leverage .....	7.79%	7.25%	7.53%	7.21%

### Share Capital

As of 31 March 2012, the issued and outstanding common stock of BAC equalled 10,775,604,276 shares, \$0.01 par value, fully paid, which shares and additional paid in capital equalled approximately \$158 billion. As at the date of this Base Prospectus, the authorised common stock of BAC is 12,800,000,000 shares.

As of 31 March 2012, the issued and outstanding preferred stock of BAC equalled 3,685,410 shares, \$0.01 par value, fully paid, with an aggregate liquidation preference of approximately \$18.8 billion. The authorised preferred stock of BAC is 100,000,000 shares.

### Principal Shareholders

As of 14 March 2012, Warren E. Buffet and Berkshire Hathaway Inc. indirectly held warrants for 700,000,000 shares of BAC common stock through certain entities which are deemed to share beneficial ownership of those securities as determined under SEC rules. Otherwise, as of 14 March 2012, BAC did not know of any person having an interest in BAC capital or voting rights which is notifiable under U.S. securities laws.

### Dividends

The following cash dividends per share of common stock of BAC were paid for each of the five consecutive fiscal years ended 31 December 2011:

<b>Fiscal Year</b>	<b>Dividend per share</b>
2011	\$ 0.04
2010	\$ 0.04
2009	\$ 0.04
2008	\$ 2.24
2007	\$ 2.40

<sup>1</sup> Outstanding loan and lease balances and ratios do not include loans accounted for under the fair value option.

## ERISA MATTERS

**Any discussion of United States federal tax issues set forth in this Base Prospectus was written in connection with the promotion and marketing of the Securities by MLSA, MLICo., BAC, the Dealers and the Managers (as applicable). Such discussion was not intended or written to be legal or tax advice to any person and was not intended or written to be used, and it cannot be used, by any person for the purpose of avoiding any United States federal tax penalties that may be imposed on such person. Each person considering an investment in the Securities should seek advice based on its particular circumstances from an independent tax advisor.**

BAC and certain affiliates of BAC may each be considered a “party in interest” within the meaning of the Employee Retirement Income Security Act of 1974, as amended (“**ERISA**”), or a “disqualified person” within the meaning of the Code with respect to employee benefit plans subject to ERISA and individual retirement accounts, Keoghs and other plans subject to Section 4975 of the Code (collectively, “**Covered Plans**”). Certain transactions between such a Covered Plan and a party in interest or disqualified person may result in “prohibited transactions” within the meaning of ERISA and the Code, unless such transactions are effected pursuant to an applicable exemption. Assets of Covered Plans in this section are referred to as “**plan assets**”.

In addition, certain regulatory requirements applicable under ERISA could cause investments by a Covered Plan in the Securities (whether directly or indirectly) to be deemed to include not only the purchased Securities but also an undivided interest in each of the underlying assets of the relevant Issuer. In the absence of an applicable exception to this general rule, the relevant Issuer could be considered to hold plan assets of the investing Covered Plan such that persons providing services in connection with such plan assets might be considered “parties in interest” or “disqualified persons” with respect to the investing Covered Plan and could be governed by the fiduciary responsibility provisions of Title I of ERISA and the prohibited transaction provisions referenced above. If this were the case, any discretionary actions undertaken by that person regarding those plan assets could be deemed to be a prohibited transaction under ERISA or the Code (e.g., the use of fiduciary authority or responsibility in circumstances under which that person has interests that may conflict with the interests of the investing plan and affect the exercise of that person’s best judgment as a fiduciary).

Under ERISA and various prohibited transaction class exemptions (“**PTCEs**”) issued by the U.S. Department of Labor, exemptive relief may be available for direct or indirect prohibited transactions resulting from the purchase, holding or disposition of the Securities. Those exemptions include PTCE 96-23 (for certain transactions determined by in-house asset managers), PTCE 95-60 (for certain transactions involving insurance company general accounts), PTCE 91-38 (for certain transactions involving bank collective investment funds), PTCE 90-1 (for certain transactions involving insurance company pooled separate accounts), and PTCE 84-14 (for certain transactions determined by independent qualified professional asset managers). In addition, Section 408(b)(17) of ERISA and Section 4975(d)(20) of the Code provide statutory exemptive relief for certain arm’s-length transactions with a person that is a party in interest solely by reason of providing services to employee benefit plans or being an affiliate of such a service provider.

Because BAC and certain of its affiliates may be considered a party in interest or disqualified person with respect to many Covered Plans, the Securities may not be purchased, held or disposed of by any Covered Plan, any entity whose underlying assets include plan assets by reason of any Covered Plan’s investment in the entity, or any person investing plan assets of any Covered Plan, unless such purchase, holding or disposition is eligible for statutory or administrative exemptive relief or such purchase, holding or disposition is otherwise not prohibited. Any purchaser, including any fiduciary purchasing on behalf of a Covered Plan, transferee or holder of the Securities will be deemed to have represented, in its corporate and its fiduciary capacity, by its purchase and holding of the securities that either (a) it is not a Covered Plan or an entity whose underlying assets include plan assets by reason of any Covered Plan’s investment in the entity and is not purchasing such securities on behalf of or with plan assets of any Covered Plan or with any assets of a governmental, church or foreign plan that is subject to any federal, state, local or foreign law that is substantially similar to the provisions of Section 406 of ERISA or Section 4975 of the Code; or (b) its purchase, holding and disposition are eligible for exemptive relief or such purchase, holding and disposition are not prohibited by ERISA or Section 4975 of the Code (or in the case of a governmental, church or foreign plan, any substantially similar federal, state, local or foreign law).

Due to the complexity of the rules discussed in this section and the penalties that may be imposed upon persons involved in non-exempt prohibited transactions, it is particularly important that fiduciaries or other persons considering purchasing Securities on behalf of or with plan assets of any Covered Plan (or



of governmental, church, or non-U.S. plans that are not subject to ERISA or to the Code but that may be subject to similar restrictions under federal, state, local or non-U.S. law) consult with their legal and tax counsel regarding the potential consequences of the investment and the availability of exemptive relief.

## TAXATION

**The following comments are of a general nature and apply only to the jurisdiction stated, are based on the Issuers' understanding of current law and practice and are included in this Base Prospectus solely for information purposes. These comments are not intended to be, nor should they be regarded as, legal or tax advice. The precise tax treatment of a holder of an instrument that is either a note ("Notes"), warrant ("Warrants") or certificate ("Certificates") will depend for each issue on the terms of the Notes, Warrants or Certificates, as specified in the "Terms and Conditions of the Notes" or the "Terms and Conditions of the W&C Securities" (as applicable), as amended and supplemented by the applicable Final Terms under the law and practice at the relevant time. Prospective holders of Notes, Warrants or Certificates should consult their own tax advisers in all relevant jurisdictions to obtain advice about their particular tax treatment in relation to such Notes, Warrants or Certificates.**

### UNITED STATES FEDERAL INCOME TAXATION

TO ENSURE COMPLIANCE WITH U.S. TREASURY DEPARTMENT CIRCULAR 230, HOLDERS ARE HEREBY NOTIFIED THAT: (A) ANY DISCUSSION OF UNITED STATES FEDERAL TAX ISSUES HEREIN IS NOT INTENDED OR WRITTEN TO BE RELIED UPON, AND CANNOT BE RELIED UPON BY HOLDERS FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED ON HOLDERS UNDER THE INTERNAL REVENUE CODE; (B) SUCH DISCUSSION IS INCLUDED HEREIN BY THE ISSUERS IN CONNECTION WITH THE PROMOTION OR MARKETING (WITHIN THE MEANING OF CIRCULAR 230) BY THE ISSUERS AND ANY DEALER OF THE TRANSACTIONS OR MATTERS ADDRESSED HEREIN; AND (C) HOLDERS SHOULD SEEK ADVICE BASED ON THEIR PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.

*Except as otherwise provided in the applicable Final Terms, the following is a summary of certain United States federal income tax considerations applicable to an investment in the Securities by holders who are United States Aliens (as defined in the "Terms and Conditions of the Notes") who are the original purchasers of the Securities and who have not purchased, and do not hold, the Securities in connection with a United States trade or business. For purposes of the following discussion, it is assumed that no Securities in bearer form are issued other than Certificates and Warrants cleared through Clearstream, Frankfurt which will be treated as in registered form for United States federal income tax purposes..*

If an entity or arrangement treated as a partnership for United States federal income tax purposes holds the Securities, the United States federal income tax treatment of a partner generally will depend upon the status of the partner and the activities of the partnership. A partner of a partnership holding the Securities should consult its own tax advisor regarding the United States federal income tax consequences to the partner of the acquisition, ownership and disposition by the partnership of the Securities. In addition, this summary is for general information only, and does not purport to discuss all aspects of United States federal income taxation that may be important to a particular holder in light of its circumstances or to holders subject to special tax rules, such as trusts, estates, controlled foreign corporations, passive foreign investment companies, personal holding companies, or the beneficiaries or shareholders of such entities.

While the United States federal income and withholding tax treatment of a Security will generally depend on the particular terms of such Security, the Issuer, except as otherwise indicated in the applicable Final Terms, generally does not intend to withhold United States federal income tax with respect to payments (other than payments treated as dividends or "dividend equivalents" pursuant to United States federal income tax law), including payments of principal and interest (including original issue discount), if any, by the Issuer or any Paying Agent or Security Agent (acting in its capacity as such) outside the United States to any holder of a Security who is a United States Alien.

Special rules may apply to payments treated as contingent interest or as dividends for certain United States federal income tax purposes.

Special rules may apply to payments that are treated as dividends or "dividend equivalents" for certain United States federal income tax purposes. The Issuer or its agent will withhold on such payments to the extent required by law notwithstanding any indication to the contrary in the applicable Final Terms. A "dividend equivalent" payment is treated as a dividend from sources within the United States and such payments generally would be subject to a 30 per cent. U.S. withholding tax if paid to a United States Alien holder. Under proposed U.S. Treasury regulations, certain payments that are contingent upon or determined by reference to U.S. source dividends, including payments reflecting adjustments for

(extraordinary) dividends, with respect to equity-linked instruments, including certain Securities, may be treated as “dividend equivalents”. If adopted in their current form, the regulations would impose a withholding tax on payments made on certain Securities on or after 1 January 2013 that are treated as “dividend equivalents”. In that case, we (or any Paying Agent) would be entitled to withhold taxes without being required to pay any additional amounts with respect to amounts so withheld. Further, United States Alien holders may be required to provide certifications prior to, or upon the sale, redemption or maturity of the Securities in order to minimize or avoid U.S. withholding taxes.

Neither the Issuer nor the Guarantor assumes any liability for the payment of any tax which it is required to withhold or any additional amount in respect thereof, except that in certain circumstances set forth in Condition 8 of the “Terms and Conditions of the Notes”, additional amounts may be paid with respect to a Note in connection with taxes. The United States federal income and withholding tax consequences of certain Securities linked to Reference Item(s) are uncertain. No statutory, judicial, or administrative authority directly addresses the characterisation of such Securities or securities similar to such Securities for United States federal income, withholding, or other tax purposes. All holders should consult their tax advisors regarding the United States federal income and withholding tax consequences to them of holding such Securities.

The IRS released a notice (the “**Notice**”) seeking comments on the taxation of financial instruments referred to as “prepaid forward contracts” including “exchange traded notes”. According to the Notice, the IRS and U.S. Treasury are considering whether a holder of such an instrument should be required to accrue ordinary income on a current basis, regardless of whether any payments are made prior to maturity. The IRS and U.S. Treasury are also considering additional issues, including whether foreign holders of such instruments should be subject to withholding tax on any deemed income accruals. In addition, legislation was introduced in the United States Congress which, if enacted, would require that a holder that acquires such an instrument after the date of enactment of the legislation accrue income on a current basis in certain circumstances. It is not possible to determine what guidance the IRS and U.S. Treasury will ultimately issue, if any, what legislation will be enacted, if any, and whether any such guidance or legislation would be retroactive. Any such guidance or legislation may affect the United States federal income and withholding tax treatment of the Securities.

A United States Alien holder generally will not be subject to United States federal income tax on any gain realised on the sale, exchange, or retirement of a Security (other than gains treated as dividends or “dividend equivalents” pursuant to United States federal income tax law), provided that (a) the gain is not effectively connected with the conduct of trade or business within the United States, or a permanent establishment maintained in the United States if certain tax treaties apply, (b) in the case of a United States Alien holder that is an individual, the United States Alien holder is not present in the United States for 183 days or more in the taxable year of the sale, exchange or retirement of the Security, (c) the Security is not a “United States real property interest” for United States federal income tax purposes, and (d) the United States Alien holder is not subject to tax pursuant to certain provisions of United States federal income tax law applicable to certain expatriates.

In general, United States backup withholding and information reporting should not apply to payments on the Securities held by a United States Alien holder and received outside the United States through a non-United States bank or other non-United States financial institution. Proceeds of sales and payments on the Securities received within the United States or through certain United States related financial institutions may be subject to backup withholding and information reporting unless the United States Alien holder complies with applicable certification procedures to establish that it is not a United States person and the Issuer does not have actual knowledge or reason to know that the certification is false (or such holder otherwise establishes an exemption). However, the Issuer and other payors are required to report certain payments on the Securities on IRS Form 1042-S even if payments are not otherwise subject to information reporting requirements. The treatment of Securities for purposes of United States backup withholding tax and information reporting requirements will generally depend on the particular terms of such Security, the characteristics of the person or entity making a payment and the payee, and the circumstances of payment. Holders should consult their own tax advisors regarding the application of the backup withholding tax and information reporting rules.

### **The Foreign Account Tax Compliance Act**

The Foreign Account Tax Compliance Act (“**FATCA**”) (Sections 1471 through 1474 of the Code), enacted on 18 March 2010, will impose a 30 per cent. U.S. withholding tax on certain U.S. source payments, including interest (and original issue discount), dividends, or other fixed or determinable

annual or periodical gain, profits, and income, and on the gross proceeds from a disposition of property of a type which can produce U.S. source interest or dividends (“**Withholdable Payments**”), if paid to a foreign financial institution (including amounts paid to a foreign financial institution on behalf of a holder), unless such institution enters into an agreement with the U.S. Treasury to collect and provide to the U.S. Treasury substantial information regarding U.S. account holders, including certain account holders that are foreign entities with U.S. owners, with such institution. The legislation also generally imposes a withholding tax of 30 per cent. on Withholdable Payments made to a non-financial foreign entity unless such entity provides the withholding agent with a certification that it does not have any substantial U.S. owners or a certification identifying the direct and indirect substantial U.S. owners of the entity. Under certain circumstances, a holder may be eligible for refunds or credits of such taxes.

In addition, under FATCA, “passthru payments” made by a foreign financial institution to “recalcitrant holders” or non-compliant foreign financial institutions are subject to a 30 per cent. U.S. withholding tax. A “recalcitrant holder” generally is a holder of an account with a foreign financial institution that fails to comply with reasonable requests for information that will help enable the relevant foreign financial institution to comply with its reporting requirements (a Security may constitute an account for these purposes). A “passthru payment” is any Withholdable Payment or other payment (including non-U.S. source payments) to the extent attributable to any Withholdable Payment. The IRS has issued a notice indicating that a payment will be attributable to a Withholdable Payment to the extent of a percentage determined by dividing the sum of the foreign financial institution’s U.S. assets by the sum of the institution’s total assets, each as determined on certain testing dates. However, if proposed U.S. Treasury regulations are finalized in their current form, a passthru payment will be any Withholdable Payment and any “foreign passthru payment”, which has yet to be defined.

These withholding and reporting requirements will generally apply to payments made after 31 December 2012 and if the Issuer determines withholding is appropriate with respect to the Securities, the Issuer will withhold tax at the applicable statutory rate without being required to pay any additional amounts with respect to amounts so withheld. However, the withholding tax will not be imposed on payments pursuant to obligations outstanding as of 18 March 2012. Pursuant to proposed U.S. Treasury regulations, if finalized in their current form, the withholding tax will not be imposed on payments pursuant to obligations outstanding on 1 January 2013. In addition, the IRS has issued a notice indicating that any withholding obligations will begin no earlier than 1 January 2014. Holders are urged to consult with their own tax advisors regarding the possible implications of this recently enacted legislation on their investment in the Securities.

**THE UNITED STATES FEDERAL INCOME TAX DISCUSSION SET FORTH ABOVE IS INCLUDED FOR GENERAL INFORMATION ONLY AND MAY OR MAY NOT BE APPLICABLE DEPENDING UPON A HOLDER’S PARTICULAR SITUATION. HOLDERS SHOULD CONSULT THEIR OWN TAX ADVISERS WITH RESPECT TO THE TAX CONSEQUENCES TO THEM OF THE OWNERSHIP AND DISPOSITION OF THE SECURITIES, INCLUDING THE TAX CONSEQUENCES UNDER STATE, LOCAL, FOREIGN AND OTHER TAX LAWS AND THE POSSIBLE EFFECTS OF CHANGES IN FEDERAL OR OTHER TAX LAWS.**

## **LUXEMBOURG TAXATION**

The following summary is of a general nature and is included herein solely for information purposes. It is based on the laws presently in force in Luxembourg, though it is not intended to be, nor should it be construed to be, legal or tax advice. Prospective investors in the Notes, the Warrants and the Certificates (together referred to as the “**Securities**”), should therefore consult their own professional advisers as to the effects of state, local or foreign laws, including Luxembourg tax law, to which they may be subject.

### **Withholding Tax and Self-Applied Tax**

#### **(i) Non-resident holders of the Securities**

Under Luxembourg general tax laws currently in force and subject to the laws of 21 June 2005 (the “**Laws**”) mentioned below, there is no withholding tax on payments of principal, premium, any additional amounts or interest made to non-resident holders of Securities, nor on accrued but unpaid interest in respect of Securities, nor is any Luxembourg withholding tax payable upon redemption or repurchase of Securities held by non-resident holders of Securities.

Under the Luxembourg laws dated 21 June 2005 implementing the Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments (the “**Savings Directive**”) and

several agreements concluded between Luxembourg and certain dependent or associated territories of the European Union (“EU”), a Luxembourg-based paying agent (within the meaning of the Savings Directive) is required since 1 July 2005 to withhold tax on interest and other similar income paid by it to (or under certain circumstances, to the benefit of) an individual resident in another EU Member State or in certain EU dependent or associated territories, unless the beneficiary of the interest payments elects for the procedure of exchange of information or for the tax certificate procedure. The same treatment will apply to payments of interest and other similar income made to certain “residual entities” within the meaning of Article 4.2 of the Savings Directive established in a EU Member State or in certain EU dependent or associated territories (i.e. entities which are not legal persons (the Finnish and Swedish companies listed in Article 4.5 of the Savings Directive are not considered as legal persons for this purpose), whose profits are not taxed under the general arrangements for the business taxation, which are not and have not opted to be treated as UCITS recognised in accordance with the European Council Directive 85/611/EEC as replaced by the European Council Directive 2009/65/EC or similar collective investment funds located in Jersey, Guernsey, the Isle of Man, the Turks and Caicos Islands, the Cayman Islands, Montserrat or the British Virgin Islands).

The current withholding tax rate is 35 per cent. The withholding tax system will only apply during a transitional period, the ending of which depends on the conclusion of certain agreements relating to information exchange with certain third countries.

## (ii) Resident holders of the Securities

Under Luxembourg general tax laws currently in force and subject to the law of 23 December 2005 as amended by the law of 17 July 2008 (the “**Law**”) mentioned below, there is no withholding tax on payments of principal, premium, any additional amounts or interest made to Luxembourg resident holders of Securities, nor on accrued but unpaid interest in respect of Securities, nor is any Luxembourg withholding tax payable upon redemption or repurchase of Securities held by Luxembourg resident holders of Securities.

Under the Law payments of interest or similar income made or ascribed by a Luxembourg paying agent (defined in the same way as in the Savings Directive) to or for the benefit of an individual beneficial owner who is resident of Luxembourg or to certain residual entities that secure interest payments on behalf of such individuals (unless such entities have opted either to be treated as UCITS recognised in accordance with the European Council Directive 85/611/EC as replaced by the European Council Directive 2009/65/EC or for the exchange of information regime) will be subject to a withholding tax of 10 per cent. (the “**10 per cent. Withholding Tax**”).

Pursuant to the Law, Luxembourg resident individuals acting in the course of the private wealth can opt to self-declare and pay a 10 per cent. tax (the “**10 per cent. Self-Declared Tax**”) on interest payments made on or after 31 December 2007 by paying agents (defined in the same way as under the Savings Directive) located in an EU Member State other than Luxembourg, a Member State of the European Economic Area other than an EU Member State or in a State or territory which has concluded an international agreement directly related to the Savings Directive.

The 10 per cent. Withholding Tax or the 10 per cent. Self-Declared Tax will be in full discharge of income tax if the beneficial owner is an individual acting in the course of the management of his/her private wealth. Payments of interest under the Securities coming within the scope of the Law would be subject to 10 per cent. Withholding Tax, or the 10 per cent. Self-Declared Tax.

## CURAÇAO TAXATION

*The following is a general summary and the tax consequences as described here may not apply to a holder of W&C Securities. Any potential investor should consult his tax adviser for more information about the tax consequences of acquiring, owning and disposing of W&C Securities in his particular circumstances.*

This taxation summary solely addresses the principal Curaçao tax consequences of the acquisition, ownership and disposal of W&C Securities. It does not consider every aspect of taxation that may be relevant to a particular holder of W&C Securities under special circumstances or a holder who is subject to special treatment under applicable law. Where in this summary English terms and expressions are used to refer to Dutch concepts, the meaning to be attributed to such terms and expressions shall be the meaning to be attributed to the equivalent Dutch concepts under Curaçao tax law.

This summary is based on the tax law of Curaçao (unpublished case law not included) as it stands at the date of this Note, Warrant and Certificate Programme. The law upon which this summary is based is



subject to change, perhaps with retroactive effect. Any such change may invalidate the contents of this summary, which will not be updated to reflect such change. This summary assumes that (i) each transaction with respect to W&C Securities is at arm's length, (ii) Bank of America Corporation as Guarantor is neither resident nor deemed to be resident in Curaçao and neither has a permanent establishment nor a permanent representative in Curaçao, (iii) no payment under W&C Securities has been or will be secured by a mortgage on any real property, or on any rights on real property, situated within Curaçao, (iv) if any payment under W&C Securities qualifies as an interest payment made to, or secured to, or for the direct benefit of, an individual who is resident of the part of the Kingdom of the Netherlands situated in Europe or of any other State, with which the Kingdom of the Netherlands has concluded an agreement regarding automatic exchange of information with respect to income in the form of interest payments within the meaning of the National Ordinance on the Taxation of Savings Income (*Landsverordening spaarvermogensheffing*), such individual has authorised in writing the submission of information concerning such payments to the competent authorities of his State of residency in accordance with the National Ordinance on the Taxation of Savings Income, and (v) no W&C Securities will be issued that are, in whole or in part, linked to shares of any one or more companies that are resident or deemed to be resident in Curaçao for Curaçao tax purposes.

### **Withholding Tax**

All payments under W&C Securities may be made free of withholding or deduction of, for or on account of any taxes of whatever nature imposed, levied, withheld or assessed by Curaçao or any political subdivision or taxing authority of, or in, Curaçao.

### **Taxes on Income and Capital Gains**

The summary set out in this section “Curacao Taxation - Taxes on Income and Capital Gains” applies only to a holder of W&C Securities who is neither resident nor deemed to be resident in Curaçao for the purposes of Curaçao income tax or profit tax, as the case may be (a “**Non-Resident holder of W&C Securities**”).

A Non-Resident holder of W&C Securities will not be subject to any Curaçao taxes on income or capital gains in respect of any benefits derived or deemed to be derived from W&C Securities, including any payment under W&C Securities and any gain realised on the disposal of W&C Securities, provided that:

- (i) such holder does not have an enterprise or profession or an interest in an enterprise or profession that is, in whole or in part, carried on in Curaçao by or for the account of such holder, and to which enterprise or profession or part of an enterprise or profession, as the case may be, his or its W&C Securities are attributable; and
- (ii) if such holder is an individual and if such W&C Securities are not considered securities (*effecten*) for Curaçao purposes, no payment under the W&C Securities is contingent on the proceeds of any Curaçao enterprise or profession, nor on the quantities or proceeds of any product mined or processed in Curaçao; and
- (iii) if such holder is an individual, his W&C Securities do not form part of, and are not deemed to form part of, a substantial interest (*aanmerkelijk belang*) in the Issuer.

An individual's W&C Securities may form part of, or may be deemed to form part of, a substantial interest if he, either alone or together with his spouse and certain of their relatives in blood or by marriage (*bloed- of aanverwanten*) in the direct line, holds, directly or indirectly, (A) at least 5 per cent. of the issued share capital (*geplaatste kapitaal*) of a company, the capital of which is wholly or partly divided into shares, or (B) rights to acquire, directly or indirectly, shares to at least 5 per cent. of the issued share capital of such a company, or (C) profit participating certificates (*winstbewijzen*) that relate to 5 per cent. or more of the annual profit or to 5 per cent. or more of the liquidation proceeds of such a company.

### **Gift and Inheritance Taxes**

If a holder of W&C Securities disposes of W&C Securities by way of a gift, in form or in substance, or if a holder of W&C Securities who is an individual dies, no Curaçao gift tax or Curaçao inheritance tax, as applicable, will be due, unless the donor is, or the deceased was resident or deemed to be resident in Curaçao for purposes of Curaçao gift tax or Curaçao inheritance tax, as applicable.

### Sales Tax

No sales tax (*omzetbelasting*), turnover tax (*belasting op bedrijfsomzetten*) or similar tax will arise in Curaçao on the invoicing or payment of principal and interest on the W&C Securities provided that the W&C Securities will neither be offered or deemed to be offered nor sold or deemed to be sold directly or indirectly to, nor will W&C Securities be acquired or deemed to be acquired or owned or deemed to be owned by:

- (i) an individual who is resident or deemed to be resident in Curaçao; or
- (ii) an entity which is resident or deemed to be resident in Curaçao if and to the extent such entity qualifies as an entrepreneur (*ondernemer*); or
- (iii) an individual who or an entity which is neither resident nor deemed to be resident in Curaçao and who or which is engaged in trade or business in Curaçao through a permanent establishment or through a permanent representative;

in each case: for the purposes of the Sales Tax Ordinance (*Landverordening Omzetbelasting 1999*).

### Other Taxes and Duties

No Curaçao registration tax, transfer tax, stamp duty or any other similar documentary tax or duty will be payable in Curaçao in respect of, or in connection with, the execution, delivery and/or enforcement by legal proceedings of the documents relating to the issue of W&C Securities or the performance by the Issuer or the Guarantor of its obligations under such documents or under W&C Securities, provided these actions take place outside Curaçao. Stamp tax amounting to not more than NAFL 10 (U.S.\$5.60) per page and registration tax of NAFL 5 (U.S.\$2.80) per document are payable in the case of registration in Curaçao of documents or if such documents are brought into the courts of Curaçao and court fees will be due in the case of litigation in the courts of Curaçao.

A holder of W&C Securities will not incur or become liable for any Curaçao registration tax, transfer tax, stamp duty or any other similar documentary tax or duty by reason only of the acquisition, ownership or disposal of W&C Securities.

### FRANCE

**Any discussion of French tax issues set forth in this Base Prospectus is not intended or written to be tax advice to any person. The following discusses certain French income tax consequences which may be of interest to purchasers of Securities who are resident in France for tax purposes. It is based on laws and regulations in force as at 1 May 2012 and does not purport to discuss all of the tax consequences that may be relevant to a particular purchaser of Securities in light of the purchaser's specific circumstances (such as a purchaser that is a financial institution, dealer, trader, partnership, investment fund or other tax exempt entity). It does not, in particular, discuss French registration duties or the newly introduced French tax on financial transactions. Attention is drawn to the fact that such French tax on financial transactions will apply as from 1 August 2012, that its scope could be extended in the future and that it could affect the Securities. Each person considering an investment in the Securities should seek advice based on its particular circumstances from an independent tax adviser.**

### French Withholding Tax

All payments of interest and redemption premium made under the Securities should be free of withholding tax in France, as long as the Issuer is not incorporated or otherwise acting through a French permanent establishment.

French resident individuals may however elect in certain circumstances to be subject to a final withholding tax – see below “French Income Taxation of an Investor that is a French resident individual”.

### French Income Taxation of an Investor that is a French resident individual (“French Individual Investor”)

#### *Characterisation of the Securities for French tax purposes*

Depending on their characteristics the Securities issued under the Programme may either be classified as warrants (*bons d'option*) (“**French Warrants**”) or as notes (*obligations*) (“**French Notes**”) for French tax purposes.

The exact characterisation of the Securities will need to be determined on a case by case basis according to their terms. Hence, a French Individual Investor should seek tax advice from an independent tax adviser in order to determine the appropriate characterisation of the Securities.

#### *Securities classified as French Warrants for French tax purposes*

A French Individual Investor holding Securities which are classified as French Warrants would be subject to tax on gains or profits arising from a sale or exercise of the Securities. In the absence of listing on a French recognised exchange, any gains realised by a French Individual Investor upon the disposal or exercise of such Securities will be subject to income tax at the progressive rate of up-to 41 per cent. (plus 15.5 per cent. of social levies). Such gains would also be included in the “reference income” for the purpose of the *contribution exceptionnelle* (see below). Losses incurred by a French Individual Investor holding Securities (and acting as a non-professional) in respect of a given tax year may only be offset against gains of a similar nature (for instance, gains arising from French Warrants that are not listed in France) realised by such French Individual Investor during the aforesaid tax year or any of the six following tax years.

Income tax at the rate of 19 per cent. plus the 15.5 per cent. social contributions may apply to similar profits realised in France (e.g. in case of listing on a French recognised exchange), provided the individual does not act on an habitual basis. The *contribution exceptionnelle* could also apply (see below). Losses may be set off against profits of the same nature realised during the year or during one of the ten following years.

#### *Securities classified as French Notes for French tax purposes*

Any income received by a French Individual Investor holding Securities which are classified as French Notes (including in connection with the redemption of such Securities by the Issuer) is subject to income tax at the progressive rate (up to 41 per cent. plus social levies at the rate of 15.5 per cent. and the *contribution exceptionnelle* if applicable (see below)). However a French Individual Investor holding Securities which are classified as French Notes may, subject to certain conditions, elect to submit any income received on such Securities to a 39.5 per cent. levy (i.e. 24 per cent. income tax plus 15.5 per cent. of social levies noting that such income would remain included in the “reference income” for the purpose of the *contribution exceptionnelle* if applicable (see below)) to the extent the Issuer and the paying agent are established in the European Union or in an EEA Member State which has signed with France a convention on mutual administrative assistance to prevent international tax avoidance and tax evasion. If such election is made and the paying agent is French or acting through a permanent establishment in France, the paying agent is responsible for making the withholding. If acting from an EU or an EEA Member State other than France, the paying agent is in principle not involved in any French tax withholding obligation except where it is specifically appointed by the beneficiary of the income to do so.

Gains realised by a French Individual Investor upon disposal of Securities which are classified as French Notes are subject to income tax at the rate of 19 per cent., plus 15.5 per cent. of social levies. Such gains would also be included in the “reference income” for the purpose of the *contribution exceptionnelle* (see below). Any losses incurred by the French Individual Investor upon disposal of the Securities may be offset against capital gains of a similar nature (i.e. deriving from the disposal of eligible securities as defined under section 150-0 A of the French *Code Général des Impôts*) realised during the same tax year or any of the ten following tax years.

#### *Contribution exceptionnelle sur les hauts revenus*

An exceptional contribution could be applicable to French Individual Investors. This tax takes the form of a levy equal to 3 per cent. of the fraction of the “reference income” above EUR 250,000 (or EUR 500,000 for a couple taxed on a joint basis) and 4 per cent. on “reference income” over EUR 500,000 (EUR 1,000,000 for a couple). The contribution is levied on the “reference income” for the tax year in question, which would include income and gains realised in relation to Securities.

#### **French Corporation Tax of an Investor that is a French Company (“French Corporate Investor”)**

Any income or capital gains realised by a French Corporate Investor that is subject to French corporation tax, would in principle be subject to corporation tax at the standard rate of 33.33 per cent. (plus a 3.3 per cent. and a 5 per cent. surtaxes in certain circumstances) regardless of whether the Securities are classified as French Warrants or French Notes. Losses are in principle treated as ordinary losses which may be set off against operational profits and any remaining balance carried forward in accordance with standard rules (i.e. unlimited carry forward, in principle, it being noted however that carry forward losses can only

be offset against profits of a given year up to an amount of EUR 1,000,000 plus 60 per cent. of the taxable profit of that year).

However, the timing of recognition of income, gains and losses in relation to the holding or disposal of the Securities may vary, depending on the characteristics of the Securities.

### **French Implementation of the EU Savings Directive**

The Savings Directive (as defined below) has been implemented in French law under article 242 ter of the French *Code Général des Impôts*. These provisions impose on paying agents based in France an obligation to report to the French tax authorities, certain information with respect to interest payments made to beneficial owners (individuals or certain entities) domiciled in another Member State (or certain territories), including, among other things, the identity and address of the beneficial owner and a detailed list of the different categories of interest (within the meaning of the Savings Directive) paid to that beneficial owner.

### **FINLAND**

The following is a summary of certain Finnish withholding tax consequences for holders of the Securities who are residents of Finland for tax purposes. The summary does not cover Securities held on or through so called investment savings account (*ps-tili*) or through so-called investment insurances (*sijoitusvakuutus*). The summary is based on tax laws and taxation practice, as in effect and applied as at the date of this document and is intended to provide general information only. Tax laws, taxation practices and their interpretation are constantly under change, which changes may sometimes have a retroactive effect and may change the conclusions set out in the summary.

Each prospective investor should consult a tax adviser as to the tax consequences relating to its particular circumstances resulting from subscription, purchase, ownership and disposition of the Securities.

#### ***Withholding Tax – Individuals***

Payment of interest or compensation comparable to interest on the Securities is subject to an advance tax withholding (*ennakonpidätys*) by the Finnish paying agent at the rate of 30 per cent. Depending on the classification of the Securities for tax purposes, also the payment of any gain on the redemption (other than the disposal thereof) or exercise of the Securities may be subject to an advance tax withholding by the Finnish paying agent at the rate of 30 per cent. Generally, this is likely to apply to the payment of any redemption gain on the Notes, but not necessarily with respect to any gain arising from the exercise (i.e. the realisation of the net value through cash settlement) of the Warrants or Certificates. Any advance tax withholding will be used for the payment of the individual's final taxes.

#### ***Withholding Tax – Corporate Entities***

Payment of interest or compensation comparable to interest on the Securities or any gain on the redemption or the exercise (i.e. the realisation of the net value through cash settlement) of the Securities to a corporate entity resident in Finland will not be subject to any Finnish withholding tax to be levied or deducted by the Issuer.

### **SWEDEN**

*The following discussion is a summary of certain material Swedish tax considerations relating to (i) Securities issued by any of the Issuers where the Holder is tax resident in Sweden or has a tax presence in Sweden or (ii) Securities where the Paying Agent or custodian is located in Sweden. This summary of certain tax issues that may arise as a result of holding Securities is based on current Swedish tax legislation and is intended only as general information for Holders of Securities who are resident or domiciled in Sweden for tax purposes. This description does not deal comprehensively with all tax consequences that may occur for Holders of Securities, nor does it cover the specific rules where Securities are held by a partnership or are held as current assets in a business operation. Moreover, this summary does not cover Securities held on a so-called investment savings account (Sw: investeringsparkonto) Special tax consequences that are not described below may also apply for certain categories of taxpayers, including investment companies, mutual funds and persons who are not resident or domiciled in Sweden. It is recommended that potential applicants for Securities consult their own tax advisers for information with respect to the special tax consequences that may arise as a result of Securities, including the applicability and effect of foreign income tax rules, provisions contained in double taxation treaties and other rules which may be applicable.*

## **Taxation of individuals resident in Sweden**

### **Income from capital category**

For individuals and estates of deceased Swedish individuals capital gains, interest payments, dividends and other income derived from the holding of an asset should be reported as income from capital category.

### **Capital gains and losses**

Individuals and estates of deceased Swedish individuals, who sell their Securities, are subject to capital gains taxation. The current tax rate is 30 per cent. of the gain. The capital gain or loss is equal to the difference between the sales proceeds after deduction of sales costs and the acquisition cost of the Securities. The acquisition cost is calculated according to the so-called average method. This means that the costs of acquiring all Securities of the same type and class are added together and calculated collectively, with respect to changes to the holding. Optionally, the so-called standard rule under which the acquisition cost is deemed to be the equivalent of 20 per cent. of the net sales price may be applied on the disposal of listed notes that are taxed in the same manner as shares. A note should be regarded as listed for Swedish tax purposes if it is listed on the Regulated Market of the Luxembourg Stock Exchange or any other foreign market that is considered as a stock exchange under Swedish tax law.

As a main rule, 70 per cent. of a capital loss is deductible against any other taxable income derived from capital.

Capital losses on listed Securities that are taxed in the same manner as shares, are, however, fully deductible against taxable capital gains on such assets or capital gains on listed as well as non-listed shares in Swedish limited liability companies and foreign legal entities. Any excess amount is deductible at 70 per cent., according to the main rule.

Capital losses on listed Securities qualifying as Swedish receivables (i.e. denominated in SEK) are currently fully deductible in the capital income category. Moreover, under EC law even such receivables denominated in foreign currency are fully deductible.

If a deficit arises in the income from capital category, a reduction of the tax on income from employment and from business, as well as the tax on real estate, is allowed. The tax reduction allowed amounts to 30 per cent. of any deficit not exceeding SEK 100,000 and 21 per cent. of any deficit in excess of SEK 100,000. Deficits may not be carried forward to a subsequent fiscal year.

### **Interest**

Interest as well as other income derived from the holding of an asset is subject to tax at a rate of 30 per cent. The tax liability arises when the interest (or other income) is actually paid, in accordance with the so-called cash method.

### **Classification of various Notes and return on such Notes for tax purposes**

#### *Zero-coupon bonds*

No formal interest accrues on zero-coupon bonds.

The profit from a redemption of a zero-coupon bond is regarded as interest, subject to tax at the time of redemption. However, the appreciation in value is regarded as interest compensation, should the zero-coupon bond be disposed of prior to maturity. If there is a loss on the bond, this is deductible as a capital loss in accordance with the principles referred to above.

#### *FX linked notes*

FX linked notes constitute receivables and are taxed as such under the capital income category. An appreciation or depreciation in value is recognised at disposal or redemption as a capital gain or loss in accordance with the principles referred to above.

#### *Commodity linked notes*

Commodity linked notes constitute receivables and are taxed as such under the capital income category. An appreciation or depreciation in value is recognised at disposal or redemption as a capital gain or loss in accordance with the principles referred to above.



*Equity linked notes*

Equity linked notes constitute securities that are taxed in the same manner as shares.

Any fixed, guaranteed return is taxed as interest and does not form part of any capital gain. Floating payments that cannot be predicted (based on the performance of a Reference Item, such as an index) are classified as capital gains or, if the payoff is provided before the note is sold, other income derived from the holding of an asset.

Upon disposal prior to maturity an annual guaranteed return shall be regarded as interest compensation. Any remaining amount shall be treated as capital gain or loss. The acquisition cost for the instrument is calculated to equal the difference between the price paid for the note and any interest compensation amount.

At redemption, a yearly guaranteed return is regarded as interest, whereas any remaining part of a yearly floating return shall be treated as other income derived from the holding of an asset. The remainder is taxed as a capital gain or loss.

*Combination notes*

Combination notes are considered as receivables for tax purposes (i.e. not as notes taxed in the same manner as shares) if more than 50 per cent. of the return on the instrument derives from assets other than equity. The assessment is made at the time of the issue.

**Classification of various securities for tax purposes**

Certificates and Warrants linked to equity (e.g. an equity index) are taxed in the same manner as shares provided that the return derives from equity.

Certificates and Warrants, whose underlying assets are related to claims in SEK, or to one or several interest indices, are treated as Swedish receivables. If the underlying assets are related to foreign currency or claims in foreign currency, or if the securities relate to one or several indices depending on foreign currency, the securities are treated as foreign receivables.

Commodity linked certificates and warrants should qualify as so-called “other assets”.

Certificates and Warrants with a return deriving from a combination of equity and other assets, are taxed in the same manner as shares should more than 50 per cent. of the return on the security derive from equity. The assessment is made at the time of the issue.

**Withholding of tax**

There is no Swedish withholding tax at source (*källskatt*) applicable on payments made by the Issuer in respect of the Securities. Sweden operates a system of preliminary tax (*preliminärskatt*) to secure payment of taxes. In the context of the Securities a preliminary tax of 30 per cent. will be deducted from all payments treated as interest in respect of the Securities made to any individuals or estates that are resident in Sweden for tax purposes provided the paying entity is tax resident in Sweden and subject to reporting obligations. Depending on the relevant Holder's overall tax liability for the relevant fiscal year the preliminary tax may contribute towards, equal or exceed the Holder's overall tax liability with any balance subsequently to be paid by or to the relevant Holder, as applicable.

**Stamp duty**

There is no stamp duty on the issuing, transfer or redemption of Securities in Sweden.

**Taxation of Swedish legal entities**

Limited liability companies and other legal entities, except for estates of deceased Swedish individuals, are taxed on all income (including income from the sale of Securities) as income from business activities at a flat rate of 26.3 per cent. Regarding the calculation of a capital gain or loss and the acquisition cost, see “Taxation of individuals resident in Sweden” above. However, interest income as well as other income derived from the holding of an asset is taxed on an accruals basis.

Capital losses on Securities that are taxed in the same manner as shares (see further above) incurred by a corporate holder of a Security may only be offset against taxable capital gains on shares or such notes. Such capital losses may also, under certain circumstances, be deductible against capital gains on shares and Securities that are taxed in the same manner as shares within the same group of companies, provided the requirements for group contributions (tax consolidation) are met.

Capital losses on shares and Securities that are taxed in the same manner as shares which are not deducted against capital gains within a certain year may be carried forward and offset against taxable capital gains on shares and notes taxed in the same manner as shares in the future.

For limited liability companies and economic associations, capital gains on shares and certain share related rights held for business purposes are tax exempt. As a result, capital losses on shares and share related rights that are held for business purposes are not deductible. Securities under this offer are not treated as share related rights held for business purposes. However, a capital loss on the Securities is not deductible should the underlying assets, directly or indirectly, consist of shares or certain share related rights held for business purposes.

As mentioned above, there is no stamp duty on the issuing, transfer or redemption of Securities in Sweden.

## **SWITZERLAND**

The following is a summary based on legislation as of the date of this Base Prospectus. It does not aim to be a comprehensive description of all the Swiss tax considerations that may be relevant for a decision to invest in Securities. The tax treatment for each investor depends on the particular situation. All investors are advised to consult with their professional tax advisors as to the respective Swiss tax consequences of the purchase, ownership, disposition, lapse, exercise or redemption of Securities (or options embedded therein) in light of their particular circumstances.

### ***Swiss Federal Stamp Taxes***

The issuance of Securities to the initial holders at the original offering price (primary market) is not subject to Swiss federal issuance stamp tax or Swiss federal securities turnover tax (*Umsatzabgabe*), although the issuance of Securities classified as fund-like instruments may be subject to Swiss federal securities turnover tax of up to 0.3 per cent. on the offering price, but only if a Swiss securities dealer (as defined in the Swiss federal stamp tax act) is a party or an intermediary to the transaction and no exemption applies.

Dealings in Securities (secondary market) classified as pure derivative financial instruments (such as pure call and put options, including low exercise price options with maturities not exceeding twelve months, pure futures with maximum pre-financings of 25 per cent., fully-funded Securities which statically replicate an index or a basket of at least five shares and with a fixed maturity or annual redemption right) are exempt from Swiss federal securities turnover tax. Dealings in other Securities may be subject to Swiss federal securities turnover tax of up to 0.3 per cent. on the consideration paid if a Swiss securities dealer (as defined in the Swiss federal stamp tax act) is a party or an intermediary to the transaction and no exemption applies.

The physical delivery of a Security at exercise or redemption to the holder of such Security may be subject to Swiss federal securities turnover tax of (i) 0.3 per cent., in the event that a security issued by an issuer outside Switzerland is delivered and (ii) 0.15 per cent., in the event that a security issued by a Swiss domestic issuer is delivered, in each case, only if a Swiss domestic securities dealer (as defined in the Swiss federal stamp tax act) is a party or an intermediary to the delivery and no exemption applies.

### **Swiss Withholding Tax**

Payments under the Securities are not subject to Swiss federal withholding tax.

On 24 August 2011 the Swiss Federal Council issued draft legislation, which, if enacted, may require a paying agent in Switzerland to deduct Swiss withholding tax at a rate of 35 per cent. on any payment under a Security which is classified as interest to an individual resident in Switzerland (including if such payment is made to an entity treated as fiscally transparent and interest therein is held by such an individual resident in Switzerland) or to a person (not only individual) resident outside Switzerland (see below “—Income Taxation, Securities held as Private Assets by a Swiss resident Holder, paragraph (a) Structured Securities” as concerns the interest classification of payments). If this legislation or similar legislation were enacted and a payment in respect of a Security were to be made or collected through Switzerland and an amount of, or in respect of, Swiss withholding tax were to be deducted or withheld from that payment, neither the relevant Issuer, nor the Guarantor nor any paying agent nor any other person would, pursuant to the Terms and Conditions of the Notes or the Terms and Conditions of the W&C Securities, be obliged to pay additional amounts with respect to any Security as a result of the deduction or imposition of such withholding tax.

## Income Taxation

### *Non-Swiss resident Holders*

A holder of a Security who is not resident in Switzerland and who during the tax year has not engaged in a trade or business carried on through a permanent establishment or fixed place of business in Switzerland will not be subject to income tax in Switzerland in respect of such Security.

### *Securities held as Private Assets by a Swiss resident Holder*

#### (a) *Pure Derivative Financial Instruments*

A capital gain realised by an individual on the sale or redemption of a Security which is classified as a true derivative financial instrument for tax purposes (such as a true call or put option on equities or commodities (including low exercise price options provided their term does not exceed one year or, if the term does exceed one year, the premium paid at issuance does not exceed 50 per cent. of the value of the underlying at the time of issuance), a future on equities or commodities, a certificate replicating an index or a fixed basket of at least five shares and with a fixed maturity or an annual redemption right or a discount certificate with a maturity not exceeding twelve months) and which is held as part of the individual's private assets is a tax-free private capital gain. Conversely, a capital loss realised on the sale or redemption of such a Security cannot be set off against taxable income. Dividend equivalents paid under such a Security constitute taxable investment income.

#### (b) *Structured Notes*

If a Security is composed of one or more derivatives and a bond (resulting, for example, from prepayment of the exercise price, the purchase price, etc.) and therefore is classified as a structured financial instrument for tax purposes, its income taxation depends on whether (i) the embedded bond component and the embedded derivative financial instrument(s) are reported separately from each other, or, alternatively, if the Security is a standard product, the value of the embedded bond component and the value of the embedded derivative financial instrument(s) can at any time be determined analytically by using standard valuation programmes, and (ii) the Security is classified as a structured instrument with or without a predominant one-time interest payment:

- *Non-transparent derivative financial instruments:* If the embedded bond is not recorded separately from the embedded derivative financial instrument(s) and if the values of the embedded bond and the embedded derivative financial instrument(s) cannot be determined analytically (as described above), then the Security is classified as a non-transparent structured financial instrument and any return over the initial investment is classified as a taxable interest payment. Non-transparent derivative financial instruments generally include a predominant one-time interest payment and are taxed in accordance with the principles set forth below under “—Transparent derivative financial instruments with a predominant one-time interest payment”.
- *Transparent derivative financial instruments without a predominant one-time interest payment:* If the embedded bond is recorded separately from the embedded derivative financial instrument(s) or if the values of the embedded bond and the embedded derivative financial instrument(s) can be determined analytically (as described above) and if the yield-to-maturity predominantly derives from periodic interest payments and not from a one-time interest payment such as an original issue discount or a repayment premium (see below “—Transparent derivative financial instruments with a predominant one-time interest payment”), then a person who is an individual resident in Switzerland holding such a Security as a private asset is required to include any periodic and one-time interest payments received on the Security in his or her personal income tax return for the relevant tax period and will be liable for tax on any net taxable income (including such amounts) for the relevant tax period. An option premium received by such a person under such security, and a gain, (including in respect of accrued interest), or a loss, realised on the sale of such a Security will be treated as a tax-free private capital gain or a non-tax-deductible private capital loss, respectively.
- *Transparent derivative financial instruments with a predominant one-time interest payment:* If the embedded bond is recorded separately from the embedded derivative financial instrument(s) or if the values of the embedded bond and the embedded derivative financial instrument(s) can be determined analytically (as described above) and if the yield-to-maturity predominantly derives from a one-time-interest-payment such as an original issue discount or

a repayment premium and not from periodic interest payments, then a person who is an individual resident in Switzerland holding such a Security as a private asset is required to include any periodic interest payments received on such Security and any amount equal to the difference between the value of the Security at redemption or sale, as applicable, and its value at issuance or secondary market purchase, as applicable, converted in each case into Swiss Francs at the exchange rate prevailing at the time of sale or redemption, issuance or purchase, respectively, in his or her personal income tax return for the relevant tax period and will be taxable on any net taxable income (including, *inter alia*, any gain in respect of interest accrued, interest rate or foreign exchange rate) for the relevant tax period. Any compensation received by such a holder for the embedded derivative, i.e., an option premium received under, and any residual gain, and a loss, respectively, realised on the sale of, such a Security is a tax-free private capital gain or a non-tax-deductible private capital loss, respectively. Notwithstanding the foregoing, such a holder may offset any decrease in value realised by him or her within the same taxation period on sale or redemption of such a Security against any gain (including periodic interest payments) realised by him or her from other securities with a predominant one-time interest payment.

(c) *Bonds*

*Bonds without a predominant one-time interest payment:* If a Security is classified for tax purposes as a straight bond, i.e. as an instrument without derivative financial instruments embedded therein, and if such Security does not include a predominant one-time interest payment (i.e., its yield-to-maturity predominantly derives from periodic interest payments and not from a one-time-interest-payment such as an original issue discount or a repayment premium), then a person who is an individual resident in Switzerland holding such a Security as a private asset is required to include any periodic and one-time interest payments received on such Security, converted into Swiss Francs at the exchange rate prevailing at the time of payment, in his or her personal income tax return for the relevant tax period and is liable for tax on any net taxable income (including such amounts) for the relevant tax period. A gain, including, *inter alia*, in respect of interest accrued or the rate of interest or foreign exchange rate or a loss, realised on the sale of such a Security is a tax-free private capital gain or a non-tax-deductible private capital loss, respectively.

*Bonds with a predominant one-time interest payment:* If a Security classifies for tax purposes as straight bond, i.e. as instrument without derivative financial instruments embedded therein, and if such Security includes a predominant one-time interest payment (i.e., its yield-to-maturity predominantly derives from a one-time-interest-payment such as an original issue discount or a repayment premium and not from periodic interest payments), then a person who is an individual resident in Switzerland holding such a Security as a private asset, is required to include any periodic interest payments received on the Security and, in addition, any amount equal to the difference between the value of the Security at redemption or sale, as applicable, and its value at issuance or secondary market purchase, as applicable, converted in each case into Swiss Francs at the exchange rate prevailing at the time of sale or redemption, issuance or purchase, respectively, in his or her personal income tax return for the relevant tax period and will be liable for tax on any net taxable income (including such amounts, i.e., including, *inter alia*, any gain in respect of interest accrued, interest rate or foreign exchange rate) for the relevant tax period. Notwithstanding the foregoing, such a holder may offset any decrease in value realised by him or her within the same taxation period on sale or redemption of such a Security against any gain (including periodic interest payments) realised by him or her from other securities with a predominant one-time interest payment.

(d) *Fund-like Securities*

A Security which is classified as a fund-like instrument will be considered a pass-through instrument for Swiss tax purposes if dividend and interest income (less attributable costs) from, and capital gains and losses (less costs attributable) realised on, the underlying investments are reported and distributed separately. Under such conditions, an individual holding a fund-like Security as part of his or her private assets receives taxable income (which he or she must report annually) over such portion of distributions (if the fund is distributing the income realised on the underlying investments) or credits (if the fund is reinvesting the income realised on the underlying investment) as derive from dividends and interest (less attributable costs) on the underlying instruments. Any distributions or credits deriving from capital gains realised on the underlying investments constitute a tax-free private capital gain, and any respective loss a non-tax-deductible private capital loss. Any

gain realised within a taxation period on the sale of a fund-like Security (including accrued dividends and interest) is exempt from income taxation as a private capital gain, and, conversely, any loss realised on such a Security is treated as a non-tax-deductible capital loss.

***Securities held as Assets of a Swiss Business (including deemed “Professional Securities Dealers”)***

Corporate entities and individuals who hold Securities as part of a trade or business in Switzerland or in the case of residents abroad carried on through a permanent establishment or a fixed place of business in Switzerland, are required to recognise any payments on, and any capital gains or losses realised on the sale or redemption of, such Securities (irrespective of their classification) in their income statement for the respective taxation period and will be taxed on any net taxable earnings for such period.

The same taxation treatment also applies to Swiss-resident individuals who, for income tax purposes, are classified as “professional securities dealers” for reasons of, inter alia, frequent dealing and leveraged investments in securities.

***EU Savings Directive***

Interest payments on a Security made by a Swiss paying agent to an individual resident in an EU Member State are subject to EU savings tax. The tax is withheld at a rate of 35 per cent. The individual can opt to have the Swiss paying agent provide the tax authorities of the EU member state with the details of the interest payments in lieu of the withholding amount. The individual may be entitled to a tax credit or refund of the withholding, provided that he or she is the beneficial owner of the interest payments and certain other conditions are met.

***Final Foreign Withholding Taxes***

On 21 September 2011, 6 October 2011 and 13 April 2012, the Swiss Federal Council signed treaties with Germany, the UK and Austria (each a “**Contracting State**”), respectively, regarding the implementation, inter alia, of a flat-rate withholding tax (*Abgeltungssteuer*) to be withheld by a Swiss paying agent, as defined in the treaties, on certain capital gains and income items (interest, dividends, other income items, all as defined in the treaties) deriving from assets held in accounts or deposits with a Swiss paying agent by (i) an individual being tax resident of a Contracting State or, (ii) if certain requirements are met, by a domiciliary company (*Sitzgesellschaft*), an insurance company in connection with a so-called insurance wrapper (*Lebensversicherungsmantel*) or other individuals if the beneficial owner is an individual resident of a Contracting State. According to the treaties, the flat-rate tax to be withheld substitutes the ordinary income tax on the respective capital gains and income items in the contracting state where the individual is tax resident. In order to avoid such flat-rate tax being withheld by the Swiss paying agent, such individuals shall be entitled to disclose their respective capital gains and income items to the tax authorities of the Contracting State where they are tax residents. The treaties are in the process of being approved by the Swiss Federal Parliament and the parliaments of the Contracting States and may come into force on 1 January 2013, provided that such approvals are given. The guidelines in respect of the implementation of the treaties have not yet been published. Several other European countries are aiming to enter into similar treaties with Switzerland.

**UNITED KINGDOM TAXATION**

The following is a summary of the United Kingdom withholding taxation treatment in relation to payments of principal and interest in respect of the Securities, certain other material UK tax considerations and of certain aspects of the UK stamp duty and stamp duty reserve tax treatment of the Securities at the date hereof. It is based on the current United Kingdom tax law and United Kingdom HM Revenue & Customs (“**HMRC**”) practice. The comments only apply to Holders that are the beneficial owners of Securities who acquire and hold Securities as an investment and do not apply to certain classes of person (such as unit trusts, open-ended investment companies, persons connected with the Issuer and persons carrying on a trade of dealing in financial instruments) to whom special rules may apply. The comments are intended as a general guide and should be treated with appropriate caution, particularly since the precise provisions of the Final Terms could alter the tax treatment. This summary is not intended to be exhaustive and does not cover any issues or taxes not expressly covered; nor should it be considered legal or tax advice to any person. Each potential purchaser is advised to consult its own tax adviser as to the UK tax consequences attributable to acquiring, holding and disposing of Securities and as to other UK and non-UK applicable taxes.



Potential purchasers who are resident for tax purposes in the UK but who are not UK-domiciled should consult their own tax advisers as to which investments do or do not benefit from a non-UK situs treatment for the purposes of the relevant UK taxes.

### **United Kingdom Withholding Tax on Securities**

A payment which constitutes interest on a Security will only be subject to UK withholding tax if it has a “UK source” in which case it may fall to be paid under deduction of United Kingdom income tax at the basic rate (currently 20 per cent.) subject to such relief as may be available under the provisions of any applicable double taxation treaty or to any other exemption which may apply.

It is not expected that interest paid under the Securities will have a UK source, provided that the following conditions are both met:

- (i) the Securities are not issued by or for a UK branch of an Issuer; and
- (ii) no security is taken on behalf of the Holders over UK assets or over any swap transaction with a UK counterparty.

In any event under current law (although see below for proposed amendments), no withholding or deduction on account of UK income tax will apply if either of the following circumstances apply in respect of the Securities:

- (a) The Securities have a maturity of less than one year from the date of issue provided that the Securities are not issued under arrangements the effect of which is to render such Securities part of a borrowing with a total term that could be a year or more.
- (b) If such Securities are and continue to be quoted Eurobonds. Securities issued by MLSA which carry a right to interest will constitute “quoted Eurobonds” provided they are and continue to be “listed” on a recognised stock exchange within the meaning of section 1005 of the Income Tax Act 2007. Securities will be treated as “listed” on a recognised stock exchange outside the United Kingdom if (and only if) they are admitted to trading on that exchange and they are officially listed in a country outside the United Kingdom in which there is a recognised stock exchange in accordance with provisions corresponding to those generally applicable in the European Economic Area states. HMRC has published and maintains a list of stock exchanges designated as recognised stock exchanges, and of the markets on which securities meet the HMRC definition of “listed” for these purposes. By way of example, securities listed on the Main Market of the Luxembourg Stock Exchange or the London Stock Exchange, or on the Main Standard of the SIX Swiss Exchange are “listed” on a recognised stock exchange within the meaning of section 1005 of the Income Tax Act 2007.

HMRC published a consultation on 27 March 2012 that, if implemented in the proposed form would change the position set out at (a) and (b) above. The two relevant changes are that:

- (i) it is proposed that the withholding tax exemption set out at (a) above for securities with a maturity of less than one year be repealed; and
- (ii) the exemption set out at paragraph (b) above for quoted Eurobonds would be disapplied for “intra-group” Eurobonds where there is no substantial or regular trading. Detailed legislation has not been published but it is thought unlikely that any final proposals implemented would prejudice investors that do not consider themselves to be affiliates of MLSA.

The references to “interest” above and in the remainder of this United Kingdom taxation section mean “interest” as understood in United Kingdom tax law. The statements above and below do not take account of any different definitions of “interest” or “principal” which may prevail under any other law or which may be created by the terms and conditions of the Securities or any related documentation. In particular, any premium element of the redemption amount of any Securities redeemable at a premium may constitute a payment of interest subject to the withholding tax provisions discussed above.

### **Provisions of information in respect of certain payments of interest**

Holders (or beneficial owners) should note that where any interest on Securities is paid to them (or to any person acting on their behalf) by any person in the United Kingdom acting on behalf of the Issuers (a “**paying agent**”), or is received by any person in the United Kingdom acting on behalf of the relevant Holder (or beneficial owner) (other than solely by clearing or arranging the clearing of a cheque) (a “**collecting agent**”), the paying agent or the collecting agent (as the case may be) may, in certain cases, be

required to supply to HMRC details of the payment and certain details relating to the Holder (including the Holder's name and address) (or of the beneficial owner (as the case may be)). These provisions will apply whether or not the interest has been paid subject to withholding or deduction for or on account of UK income tax and whether or not the Holder or beneficial owner is resident in the United Kingdom for UK taxation purposes. Where the Holder or beneficial owner is not so resident, the details provided to HMRC may, in certain cases, be passed by HMRC to the tax authorities of the jurisdiction in which the Holder or beneficial owner is resident for taxation purposes.

### **Warrants**

Paragraphs (i) and (ii) below relate only to Warrants which satisfy all of the following conditions:

- (a) there are no interim payments payable under the terms of the Warrants;
- (b) there is no element of principal protection under the terms of the Warrants;
- (c) the return on the Warrants is calculated with direct reference to fluctuations in the value of an Underlying Reference Item or Items; and
- (d) the Warrants are not designed to produce a return equivalent to money invested at interest.

Where conditions (a) to (d) are not all met, potential purchasers should refer to the section below entitled "Other Certificates and Notes", however further considerations may affect the analysis, depending on the terms of the Warrant. The taxation of Warrants is particularly complex and each potential purchaser of Warrants is advised to consult its own tax adviser as to the UK tax consequences of acquiring, holding and disposing of Warrants.

#### *(i) United Kingdom resident individuals*

Where Warrants are held as investments, any gain arising may, depending on the Holder's personal circumstances, give rise to a charge to UK tax on capital gains or an allowable loss. Where Warrants fall within the definition of "financial option" for the purposes of UK capital gains tax the rules as to wasting assets which might restrict the amount of the acquisition costs of the warrant for the purposes of calculating any chargeable gain or allowable loss will not apply.

Any Warrant which either alone or, taken together with other related transactions, is designed to produce a guaranteed return equivalent to money invested at interest will not be taxed in accordance with the rules described above. Instead any profit or gain arising in relation to such a warrant will be charged to tax as income under Chapter 12 of Part IV of the Income Tax (Trading and Other Income) Act 2005.

#### *(ii) Holders within the charge to UK corporation tax*

A company which is resident for tax purposes in the United Kingdom or which is not so resident but carries on a trade in the United Kingdom through a United Kingdom permanent establishment to which the Warrants are attributable will generally be chargeable to corporation tax in respect of the returns on the Warrants. The way in which amounts are brought into the corporation tax charge differs depending upon whether or not the Warrant constitutes a derivative contract for the purposes of Part 7 of the Corporation Tax Act 2009.

Where a Warrant does constitute a derivative contract for the purposes of Part 7 of the Corporation Tax Act 2009, such a Holder will generally be chargeable to corporation tax on all income, profits and gains on an income basis deriving from the Warrant (whether they arise from acquiring, holding, disposing or exercising rights under the Warrant) consistently with the way those profits are recognised in accordance with generally accepted accounting practice. Accordingly, any income, profits or gains in relation to Warrants will generally be charged to tax as income. In certain limited cases, some or all of the above amounts may be treated as capital gains rather than income for corporation tax purposes (but without many of the consequent advantages such as indexation relief).

Warrants which are not treated as derivative contracts and which do not carry a right to interest are likely to be taxed in accordance with the rules set out in (i) above. United Kingdom companies may also be entitled to an indexation allowance on the disposal of a Warrant which in effect increases the base cost of an asset (such as a Warrant) in line with inflation.

### **Non principal protected Certificates**

For United Kingdom resident individuals holding certain non-principal protected Certificates the UK tax treatment should be the same as that described above under the heading “Warrants” at section (i) above, provided that the Certificates satisfy all of the following conditions:

- (a) there are no interim payments payable under the terms of the Certificates;
- (b) there is no element of principal protection under the terms of the Certificates;
- (c) the return on the Certificates is calculated with direct reference to fluctuations in the value of an Underlying Reference Item or Items;
- (d) A Holder Put Option is applicable under the Final Terms; and
- (e) the Certificates are not designed to produce a return equivalent to money invested at interest.

### **Other Certificates and Notes**

*(i) United Kingdom resident individuals holding other Certificates or Notes*

The discussion in this section relates to:

- (a) Certificates that do not satisfy all the conditions set out in the section above; and
- (b) Notes.

Any interest, discount or premium payable on the Certificates or Notes may be subject to UK income tax by direct assessment even where paid without withholding.

### *Accrued Income Scheme*

Holders that are UK resident individuals should also have regard to the provisions of the Accrued Income Scheme (the “**Scheme**”) which may apply to individuals transferring Certificates or Notes that bear interest or to individuals to whom such Certificates or Notes are transferred. The charge to tax on income that may arise under the Scheme will be in respect of an amount representing interest on the Certificates or Notes which has accrued since the preceding interest payment date. This amount will be taken into account in determining any chargeable gain or loss arising on a disposal of the Certificates or Notes.

However, where a Certificate or Note constitutes a variable rate security for the purposes of the Scheme, the amount of accrued interest deemed to be received as income by a Holder upon transfer would be such amount as HMRC decides is just and reasonable and the transferee will not be entitled to any credit under the Scheme to set against any actual or deemed interest that is received or is deemed received.

### *Taxation of discount and premium*

Generally where the amount payable on maturity, or any other occasion when the Certificate or Note can be redeemed, will or may exceed the issue price by more than 0.5 per cent. of the redemption amount for each year in the redemption period, up to a maximum of 30 years, those Certificates or Notes will constitute deeply discounted securities, subject to certain exceptions. It is not considered that Certificates or Notes would be regarded as deeply discounted securities merely by reason of the fact that they are denominated in a currency other than sterling. Where Certificates or Notes constitute “deeply discounted securities”, a Holder of such Certificates or Notes who is within the scope of UK income tax may be liable to UK income tax on any profits (the amount by which any sum payable on the transfer or redemption of the Certificate or Note exceeds its acquisition price) made on the sale or other disposal (including redemption) of such Certificates or Notes.

Where Certificates or Notes are issued at a redemption premium as opposed to being issued at a discount, then where such premium does not constitute a payment of interest such Certificates or Notes may constitute “deeply discounted securities” (as mentioned above).

Certificates or Notes which are deeply discounted securities are qualifying corporate bonds and are therefore not subject to tax on chargeable gains.

Certificates or Notes which are “excluded indexed securities” will, notwithstanding that they may satisfy the above requirements, not be treated as deeply discounted securities and therefore any gain will be, subject to the Holder’s personal circumstances, within the charge to UK tax on capital gains. A security will only be an excluded indexed security for these purposes if the amount payable on redemption is

determined by applying to the amount for which the Certificate or Notes was issued the percentage change (if any) over the Certificate or Note's redemption period in (a) the value of chargeable assets of a particular description, or (b) an index of the value of such assets. The fact that the Certificate or Note provides for a minimum amount payable on redemption not exceeding 10 per cent. of the issue price will not prevent it from satisfying this requirement and any interest payable on redemption is ignored in determining the amount payable on redemption for these purposes.

### *Capital gains tax*

Where Certificates or Notes are denominated in sterling and not capable of redemption in or by reference to any foreign currency they may be treated as qualifying corporate bonds so that no UK taxation on chargeable gains or allowable losses will arise on any sale, redemption or other disposal. This depends upon the Certificates or Notes comprising normal commercial loans at all times which may not be the case where the Certificates or Notes contain a right to acquire other shares or securities, or a return which depends on the results of the Issuers' business or any part of it.

Where Certificates or Notes are denominated in a currency other than sterling or do not comprise normal commercial loans, then provided they are not deeply discounted securities they will be chargeable assets for the purposes of UK capital gains tax with the result that any gain arising may, depending on the Holder's personal circumstances, give rise to a charge to United Kingdom tax on capital gains or an allowable loss.

### *(ii) Holders within the charge to UK corporation tax*

A Holder who is within the charge to UK corporation tax, in particular a company which is resident for tax purposes in the United Kingdom or which is not so resident but carries on a trade in the United Kingdom through a United Kingdom permanent establishment to which the Certificates or Notes are attributable, will generally be chargeable to corporation tax on all the returns on, and profits and gains (whether of an income or capital nature) arising from the holding or disposal of, the Certificates or Notes broadly in accordance with their statutory accounting treatment provided that accounting treatment complies with generally accepted accounting practice. This means in particular that any discount element (together with any interest) and any foreign exchange profits or loss may be taxed (or relived) as it accrues over the term of the Certificate or Note and not when it is paid or received.

Where a Certificate or Note is split for accounting purposes into a derivative contract and a host loan relationship, the host loan relationship will be taxed as described above. In respect of the derivative contract, where the underlying subject matter is qualifying ordinary shares or mandatory convertible preference shares or a contract for differences where the underlying subject matter is qualifying ordinary shares listed on a recognised stock exchange and the contract exactly tracks the value of such underlying subject matter, any excess of accounting credits over debits will generally be chargeable to corporation tax on chargeable gains consistently with the way those credits and debits are recognised for accounting purposes but without the benefit of any indexation allowance.

For the purposes of the above, "qualifying ordinary shares" means shares which represent some or all of the issued share capital of the company and which carry a right to share in the profits of the company by way of a dividend or otherwise (provide the rights to share in profits are not restricted to a right to receive fixed rate dividends) and mandatory convertible preference shares means shares which are not qualifying ordinary shares and which are issued on such terms that stipulate that they must be converted into, or exchanged for, qualifying ordinary shares by a specified time.

### **Holders Not Resident in the United Kingdom**

Where interest, discount or premium amounts are received without withholding or deduction for or on account of UK tax, such amounts will not be chargeable in the hands of a Holder (other than certain trustees) who is not resident for tax purposes in the United Kingdom unless that Holder carries on a trade, profession or vocation in the United Kingdom through a United Kingdom branch or agency or, in the case of a company, a permanent establishment in connection with which such amounts are received or to which the Securities are attributable.

Where interest on Securities has been paid under deduction of UK income tax, Holders who are not resident in the United Kingdom may be able to recover part of the tax deducted if that is provided for in an applicable double tax treaty between the country of residence of the Holder and the United Kingdom.

Holders not resident or ordinarily resident in the United Kingdom will not be within the charge to UK tax on chargeable gains in respect of any Securities save broadly where Securities are held in or used for the purposes of a trade carried on by the non-resident through a branch or agency or, in the case of a company, a permanent establishment, and subject also to certain rules that apply in the case of individuals that are temporary non-residents.

### **United Kingdom Stamp Duty and Stamp Duty Reserve Tax (“SDRT”)**

#### *Issue*

No UK stamp duty should be payable in respect of the issue of the Securities by the Issuers on the basis that the relevant Security is executed and retained outside the United Kingdom, and that the relevant register in which the Securities are registered if in registered form is also kept outside the United Kingdom.

#### *Transfer*

The Issuers do not intend to keep or maintain any register of securities in the United Kingdom and on the basis that no such register is kept or maintained in the United Kingdom:

- (a) no SDRT should be payable in respect of any agreement to transfer securities;
- (b) no stamp duty should be payable on any instrument transferring securities which is executed and retained outside the United Kingdom; and
- (c) stamp duty at 0.5 per cent. could be payable in respect of any document executed in the United Kingdom transferring any security which does not constitute “exempt loan capital” but, as a practical matter, it is unlikely that any such stamp duty would have to be paid.

SDRT at 0.5 per cent. may be payable in relation to any agreement to transfer Securities such as Physical Delivery Warrants or Physical Delivery Certificates which give the Holder the right on exercise to acquire stock, shares or loan capital in certain companies with a UK connection unless such stock, shares or loan capital would qualify as “exempt loan capital”. A company will have a UK connection for these purposes if (i) the company is incorporated in the UK; (ii) a register of the relevant stock, shares or loan capital is kept in the UK by or on behalf of the company; or (iii) the shares are “paired” with shares in a UK incorporated company within the meaning of s 99(6B) FA 1986.

Stamp duty at up to 1.5 per cent. may also be payable on the first transfer in the United Kingdom of any security in bearer form which does not constitute loan capital.

#### *Exercise*

United Kingdom stamp duty may be required to be paid in relation to the transfer of an asset (such as stock or marketable securities) following the exercise of a Physical Delivery Warrant or Physical Delivery Certificate. SDRT may be payable in respect of the agreement to transfer an asset pursuant to a Physical Delivery Warrant or Physical Delivery Certificate following the exercise of the Warrant or Certificate. However, any such liability to SDRT will be cancelled (or, if already paid, will be repaid) if the instrument effecting the transfer is chargeable with stamp duty (or is otherwise required to be stamped) and has been duly stamped within six years of the agreement being made or, in the case of a conditional agreement, within six years of all conditions being satisfied.

### **EU SAVINGS DIRECTIVE**

Under EC Council Directive 2003/48/EC on the taxation of savings income (the “**Savings Directive**”), Member States are required to provide to the tax authorities of another Member State details of payments of interest (or similar income) paid by a person within its jurisdiction to, or collected by such person for, an individual resident or certain limited types of entities established in that other Member State. However, for a transitional period, Luxembourg and Austria are instead required (unless during that period they elect otherwise) to operate a withholding system in relation to such payments (the ending of such transitional period being dependent upon the conclusion of certain other agreements relating to information exchange with certain other countries). A number of non-EU countries and territories including Switzerland have adopted similar measures (a withholding system in the case of Switzerland).

Investors should note that the European Commission adopted an amending proposal to the Savings Directive, which, among other changes, seeks to extend the application of the Savings Directive to (i)



payments channelled through certain intermediate structures (whether or not established in a Member State) for the ultimate benefit of an EU resident individual, and (ii) a wider range of income similar to savings income. Further developments in this respect should be monitored on a continuing basis, since no certainty exists over whether and when the proposed amendments to the Savings Directive will be implemented. Investors who are in any doubt as to their position should consult their professional advisors.

## OFFERING AND SALE

The Dealers, as applicable, have entered into an Amended and Restated Programme Agreement, dated 24 May 2012 (as the same may be amended or supplemented, from time to time, in accordance with the terms thereof, the “**Programme Agreement**”), with MLSA, MLICo. and BAC, which sets forth a basis upon which they may from time to time agree to purchase the Securities. In the Programme Agreement, the Issuers have agreed to reimburse the Dealers for certain of their expenses in connection with the issue of Securities under the Programme.

Save for the approval of this Base Prospectus by the Commission de Surveillance du Secteur Financier for the purposes of the Prospectus Directive, no action has been or will be taken by MLSA, MLICo. or BAC that would permit a public offering of any Securities or possession or distribution of any offering material in relation to any Securities in any jurisdiction where action for that purpose is required. No offers, sales, re-sales or deliveries of any Securities, or distribution of any offering material relating to any Securities, may be made in or from any jurisdiction except in circumstances which will result in compliance with any applicable laws and regulations and which will not impose any obligation on MLSA, MLICo. or BAC.

## UNITED STATES

### *Notes and Certificates*

None of the Notes or Certificates of any series, the related Guarantee of BAC, or certain of the Entitlements (if any) with respect thereto, have been, or will be, registered under the U.S. Securities Act of 1933, as amended (the “**Securities Act**”) or under any U.S. state securities laws. No Notes or Certificates of any series, or interests therein or Entitlements (if any) with respect thereto, may at any time be offered, sold, resold, traded, pledged, exercised, redeemed, transferred or delivered, directly or indirectly, in the United States of America (including the U.S. states and the District of Columbia), its territories, its possessions and other areas subject to its jurisdiction (the “**United States**”) or directly or indirectly offered, sold, resold, traded, pledged, exercised, redeemed, transferred or delivered to, or for the account or benefit of, any United States Person. “**United States Person**” means a person which is a “U.S. person” as defined by Regulation S under the Securities Act or a “United States person” as defined in Section 7701(a)(30) of the Internal Revenue Code of 1986, as amended and in U.S. Treasury regulations. Consequently, any offer, sale, resale, trade, pledge, exercise, redemption, transfer or delivery of any Notes or Certificates made, directly or indirectly, within the United States or to, or for the account or benefit of, a United States Person will not be recognised.

Each Dealer has represented and agreed, and each further Dealer in respect of an issue of Notes or Certificates will be required to agree that it, its affiliates and any person acting on its or their behalf will not at any time offer, sell, resell, trade, pledge, exercise, redeem, transfer or deliver, directly or indirectly, Notes or Certificates of such series in the United States or to, or for the account or benefit of, any United States Person or to others for offer, sale, resale, trade, pledge, exercise, redemption, transfer or delivery, directly or indirectly, in the United States or to, or for the account or benefit of, any such United States Person. Any person purchasing Notes or Certificates of any series must represent and agree, or by its purchase will be deemed to represent and agree, with the Issuer, the Guarantor, the Dealer or the seller of such Notes or Certificates that (i) it is not a United States Person and it is not located in the United States and was not solicited to purchase the Notes or Certificates, as applicable, while present in the United States, (ii) it will not at any time offer, sell, resell, trade, pledge, exercise, redeem, transfer or deliver, directly or indirectly, any Notes or Certificates, as applicable, of such series so purchased in the United States or to, or for the account or benefit of, any United States Person or to others for offer, sale, resale, trade, pledge, exercise, redemption, transfer or delivery, directly or indirectly, in the United States or to, or for the account or benefit of any United States Person, (iii) it is not purchasing any Notes or Certificates, as applicable, of such series for the account or benefit of any United States Person and (iv) it will not make offers, sales, resales, trades, pledges, exercises, redemptions, transfers or deliveries of any Notes or Certificates, as applicable, of such series (otherwise acquired), directly or indirectly, in the United States or to, or for the account or benefit of, any United States Person. Each Dealer has agreed and each further Dealer in respect of an issue of Notes or Certificates will also be required to agree, and any person purchasing Notes or Certificates of any series must agree, to send each person who purchases any Notes or Certificates of such series from it at or prior to confirmation of sale of any Notes or Certificates, a written confirmation (which shall include the definitions of “United States” and “United States Persons” set forth herein) stating that the Notes or the Certificates, as applicable, the relevant Guarantee and certain of the Entitlements (if any) have not been registered under the Securities Act or any U.S. state securities laws, and trading in the Notes or the Certificates, as applicable, and the relevant Guarantee has not been approved by the U.S. Commodity Futures Trading Commission under the

United States Commodity Exchange Act, as amended, and stating that such purchaser agrees that it will not at any time offer, sell, resell, trade, pledge, exercise, redeem, transfer or deliver Notes or Certificates, as applicable, directly or indirectly, in the United States or to, or for the account or benefit of, any United States Person.

Prior to the delivery of the Entitlement in respect of a Physical Delivery Security the holder thereof will be required to represent that, *inter alia*, he is not a United States Person, the Note or Certificate, as applicable, was not exercised on behalf of a United States Person and no cash, securities or other property have been or will be delivered within the United States or to, or for the account or benefit of, a United States Person in connection with any exercise thereof. In respect of Notes see Annex 10 to the Terms and Conditions – “Additional Terms and Conditions for Physical Delivery Notes” and in respect of Certificates see “W&C Securities Condition 29”.

The Notes and Certificates in bearer form are also subject to U.S. tax law requirements and may not be offered, sold or delivered within the United States or its possessions or to a United States Person. Unless otherwise noted, terms used in this paragraph and the next have the meanings given to them by the United States Internal Revenue code of 1986, as amended and applicable U.S. Treasury regulations.

Each Dealer has represented and agreed to the following matters with respect to compliance with applicable U.S. tax law and regulations:

- (a) except to the extent permitted under U.S. Treasury Regulation Section 1.163-5(c)(2)(i)(D), each Dealer (a) represents that it has not offered or sold, and agrees that during the restricted period it will not offer or sell, Notes or Certificates in bearer form to a person who is within the United States or its possessions or to a United States Person (as defined herein), and (b) represents that it has not delivered and agrees that it will not deliver within the United States or its possessions Notes or Certificates in bearer form that are sold during the restricted period;
- (b) each Dealer represents that it has, and has agreed that throughout the restricted period it will have, in effect procedures reasonably designed to ensure that its employees or agent who are directly engaged in selling Notes or Certificates in bearer form are aware that such Notes or Certificates in bearer form may not be offered or sold during the restricted period to a person who is within the United States or its possessions or to a United States Person, except as permitted by the U.S. Treasury Regulation Section 1.163-5(c)(2)(i)(D);
- (c) if it is a United States Person, each Dealer represents that it is acquiring the Notes or Certificates in bearer form for purposes of resale in connection with their original issuance and if it retains Notes or Certificates in bearer form for its own account it will only do so in accordance with requirements of U.S. Treasury Regulation Section 1.163-5(c)(2)(i)(D)(6);
- (d) with respect to each affiliate that acquires Notes or Certificates in bearer form from a Dealer for the purpose of offering or selling such Notes or Certificates in bearer form during the restricted period, such Dealer either (i) repeats and confirms the representations and agreements contained in sub-clauses (a), (b) and (c) on such affiliate’s behalf or (ii) agrees that it will obtain from such affiliate for the benefit of the Issuer the representations and agreements contained in sub-clauses (a), (b) and (c); and
- (e) each Dealer agrees that it will obtain from any distributor (within the meaning of U.S. Treasury Regulation Section 1.163-5(c)(2)(i)(D)(4)(ii)) that purchases any Notes or Certificates from it pursuant to a written contract with such Dealer (except a distributor that is one of its affiliates or is another Dealer), for the benefit of the Issuer and each other Dealer, the representations contained in, and such distributor’s agreement to comply with, the provisions of sub-clauses (a), (b), (c) and (d) as if such distributor were a Dealer hereunder.

### **Warrants**

None of the Warrants of any series, the related Guarantee of BAC, or certain of the Entitlements (if any) with respect thereto have been, or will be, registered under the Securities Act or any U.S. state securities laws. Unless a series of Warrants is eligible for sale to qualified institutions buyers (“**QIBs**”) as defined in Rule 144A under the Securities Act (“**Rule 144A**”) who are also qualified purchasers (“**QPs**”) within the meaning of Section 3(c)(7) and as defined in Section 2(a)(51) of the United States Investment Company Act of 1940, as amended, and the rules thereunder, as amended, in the United States or to, or for the account or benefit of, United States Persons who satisfy such criteria pursuant to an exemption from the registration requirements of the Securities Act (as indicated in the applicable Final Terms), no Warrants

of any series, or interests therein, may at any time be offered, sold, resold or delivered, directly or indirectly, in the United States or to, or for the account or benefit of, any United States Person or to others for offer, sale, resale or delivery, directly or indirectly, in the United States or to, or for the account or benefit of, any United States Person. Each Dealer has agreed, and each further Dealer in respect of an issue of Warrants will be required to agree, and each holder and each legal and beneficial owner of Warrants will be deemed on purchase to agree, not to engage in hedging transactions with regard to the Warrants unless in compliance with the Securities Act.

In the event that a series of Warrants is so eligible for sale (a) in the United States to QIBs who are also QPs or (b) to, or for the account or benefit of, United States Persons who are QIBs and also QPs pursuant to an exemption from the registration requirements of the Securities Act, any sale or transfer restrictions or certification requirements applicable to such Warrants in addition to those set out in the Terms and Conditions of the Warrants will be set out in the applicable Final Terms. Offers, sales, resales or deliveries of Warrants of any series, or interests therein, directly or indirectly, in the United States or to, or for the account or benefit of, United States Persons would constitute a violation of United States securities laws unless made in compliance with the registration requirements of the Securities Act or pursuant to an exemption therefrom.

Each Dealer has represented and agreed and each further Dealer in respect of an issue of Warrants will be required to agree that without the prior written agreement of MLICo. and BAC it will not at any time offer, sell, resell or deliver, directly or indirectly, Warrants of such series in the United States or to, or for the account or benefit of, any United States Person or to others for offer, sale, resale or delivery, directly or indirectly, in the United States or to, or for the account or benefit of, any such United States Person. MLICo. and BAC have agreed to sales by MLI to Merrill Lynch, Pierce, Fenner & Smith Incorporated or one of its affiliates for re-sale (a) to persons in the United States and (b) to, or for the account or benefit of, United States Persons, in either case, who are QIBs and also QPs.

Any person purchasing Warrants of any series (other than a series of Warrants eligible for sale (a) in the United States to QIBs who are also QPs or (b) to, or for the account or benefit of, any United States Person who is a QIB and also a QP) must agree with MLICo. or the seller of such Warrants that, (i) it will not at any time offer, sell, resell or deliver, directly or indirectly, any Warrants of such series so purchased in the United States or to, or for the account or benefit of, any United States Person or to others for offer, sale, resale or delivery, directly or indirectly, in the United States or to, or for the account or benefit of, any United States Person, (ii) it is not purchasing any Warrants of such series for the account or benefit of any United States Person and (iii) it will not make offers, sales, re-sales or deliveries of any Warrants of such series (otherwise acquired), directly or indirectly, in the United States or to, or for the account or benefit of, any United States Person.

Any person purchasing Warrants of a series eligible for sale (a) in the United States to a QIB that is also a QP or (b) to, or for the account or benefit of, any United States Person who is a QIB and also a QP must agree with MLICo. that any resales of such Warrants to, or for the account or benefit of, a United States Person may be effected only to or through MLICo. to a QIB that is also a QP that has executed an Investor Representation Letter. Each Dealer has agreed and each further Dealer in respect of an issue of Warrants will also be required to agree, and any person purchasing Warrants of such series must agree, to send each person who purchases any Warrants of such series from it at or prior to the confirmation of sale of any Warrants, a written confirmation (which shall include the definitions of “United States” and “United States Persons” set forth herein) stating that the Warrants, the relevant Guarantee and the Entitlements (if any) have not been registered under the Securities Act or any state securities laws, and any trading in the Warrants and the relevant Guarantee have not been approved by the Commodity Futures Trading Commission under the United States Commodity Exchange Act, as amended, and stating that such purchaser agrees that it will not at any time offer, sell, resell or deliver Warrants, directly or indirectly, in the United States or to, or for the account or benefit of, any United States Person. Unless a Warrant is eligible for sale exclusively (a) in the United States to QIBs who are also QPs or (b) to, or for the account or benefit of, any United States Person who is a QIB and also a QP, any person exercising a Warrant will be required to represent that it is not a United States Person. If a Warrant eligible for sale in the United States or to, or for the account or benefit of, United States Persons is concurrently eligible for sale to non-United States Persons, any person exercising such Warrants will be required to represent either that it is a QIB who is also a QP or that it is not a United States Person. See “Annex 11 to the Terms and Conditions – Additional Terms and Conditions for Rule 144A Warrants”.

Each QIB/QP purchasing Warrants in the United States will be required to sign and deliver an Investor Representation Letter pursuant to which it will agree, among other things, that any resales of such

Warrants may be effected only to or through MLICo. to another QIB/QP or in accordance with Regulation S and, if it intends to hold its interests in the Warrants through a Rule 144A Global Warrant in DTC, will be required to obtain from the DTC direct participant through which it intends to hold its interest in the Warrants a Custodian Letter in the form of Schedule 17 to the Agency Agreement unless such DTC direct participant is already an Authorised Custodian. Prior to the delivery of the Entitlement in respect of a Physical Delivery Warrant the holder thereof will be required to represent that, *inter alia*, he is not a United States Person, the Warrant was not exercised on behalf of a United States Person and no cash, and in the case of Physical Delivery Warrants, no securities or other property have been or will be delivered within the United States or its possessions or to, or for the account or benefit of, a United States Person in connection with any exercise thereof. See “Notice to Purchasers and Holders of Securities and Transfer Restrictions”.

## **PUBLIC OFFER SELLING RESTRICTION UNDER THE PROSPECTUS DIRECTIVE**

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a “**Relevant Member State**”), each Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State (the “**Relevant Implementation Date**”) it has not made and will not make an offer of Securities which are the subject of the offering contemplated by this Base Prospectus as completed by the final terms in relation thereto to the public in that Relevant Member State except that it may, with effect from and including the Relevant Implementation Date, make an offer of such Securities to the public in that Relevant Member State:

- (a) if the final terms in relation to the Securities specify that an offer of those Securities may be made other than pursuant to Article 3(2) of the Prospectus Directive in that Relevant Member State (a “**Non-exempt Offer**”), following the date of publication of a prospectus in relation to such Securities which has been approved by the competent authority in that Relevant Member State or, where appropriate, approved in another Relevant Member State and notified to the competent authority in that Relevant Member State, provided that any such prospectus has subsequently been completed by the final terms contemplating such Non-exempt Offer, in accordance with the Prospectus Directive, in the period beginning and ending on the dates specified in such prospectus or final terms, as applicable and the Issuer has consented in writing to its use for the purpose of that Non-exempt Offer;
  - (b) at any time to any legal entity which is a qualified investor as defined in the Prospectus Directive;
  - (c) at any time to fewer than 100 or, if the Relevant Member State has implemented the relevant provision of the 2010 PD Amending Directive, 150 natural or legal persons (other than qualified investors as defined in the Prospectus Directive), subject to obtaining the prior consent of the relevant Dealer or Dealers nominated by the Issuer for any such offer; or
  - (d) at any time in any other circumstances falling within Article 3(2) of the Prospectus Directive,
- provided that no such offer of Securities referred to in (b) to (d) above shall require the Issuer or any Dealer to publish a prospectus pursuant to Article 3 of the Prospectus Directive, or supplement a prospectus pursuant to Article 16 of the Prospectus Directive.

For the purposes of this provision, the expression “**an offer of Securities to the public**” in relation to any Securities in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the Securities to be offered so as to enable an investor to decide to purchase or subscribe the Securities, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State, the expression “**Prospectus Directive**” means Directive 2003/71/EC (and amendments thereto, including the 2010 PD Amending Directive, to the extent implemented in the Relevant Member State), and includes any relevant implementing measure in the Relevant Member State and the expression “**2010 PD Amending Directive**” means Directive 2010/73/EU.

## **UNITED KINGDOM**

Each Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that:

- (a) in relation to any Securities which have a maturity of less than one year (i) it is a person whose ordinary activities involve it in acquiring, holding, managing or disposing of investments (as



principal or agent) for the purposes of its business and (ii) it has not offered or sold and will not offer or sell any Securities other than to persons whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or as agent) for the purposes of their businesses or who it is reasonable to expect will acquire, hold, manage or dispose of investments (as principal or agent) for the purposes of their businesses where the issue of the Securities would otherwise constitute a contravention of section 19 of the Financial Services and Markets Act 2000 (the “FSMA”) by the relevant Issuer;

- (b) it has only communicated or caused to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of section 21 of the FSMA) received by it in connection with the issue or sale of any Securities in circumstances in which section 21(1) of the FSMA does not apply to the relevant Issuer or BAC; and
- (c) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to any Securities in, from or otherwise involving the United Kingdom.

### **CURAÇAO**

The sale of Securities to an Unauthorised Curaçao Person is prohibited under Curaçao law. An “**Unauthorised Curaçao Person**” for the purposes of this Base Prospectus means any citizen or inhabitant of Curaçao (including personal holding companies, corporations, partnerships or other legal entities created or organised under the laws of Curaçao), who is treated as a “resident” as defined in Article 1 of the Foreign Exchange Act of Curaçao and who has not obtained a licence and exemption from the Bank of Curaçao and Sint Maarten to participate in the relevant issue of the Securities as described in this Base Prospectus.

### **THE GRAND DUCHY OF LUXEMBOURG**

Each Dealer has represented, warranted and agreed, and each further Dealer appointed under the Programme will be required to represent, warrant and agree that in addition to the circumstances described above in “Offering and Sale – Public Offer Selling Restriction under the Prospectus Directive”, Dealers may also offer the Securities for sale in The Grand Duchy of Luxembourg:

- (a) at any time, to national and regional governments, central banks, international and supranational institutions (such as the International Monetary Fund, the European Central Bank, the European Investment Bank) and other similar international organisations;
- (b) at any time, to legal entities which are authorised or regulated to operate in the financial markets (including, credit institutions, investment firms, other authorised or regulated financial institutions, insurance companies, undertakings for collective investment and their management companies, pension and investment funds and their management companies, commodity dealers) as well as entities not so authorised or regulated whose corporate purpose is solely to invest in securities; and
- (c) at any time, to certain natural persons or small and medium-sized enterprises (as defined in the Luxembourg law dated 10 July 2005 on prospectuses for securities implementing the Prospectus Directive into Luxembourg law) recorded in the register of natural persons or small and medium-sized enterprises considered as qualified investors as held by the Commission de Surveillance du Secteur Financier as competent authority in Luxembourg in accordance with the Prospectus Directive.

### **ARGENTINA**

The Issuers have not made, and will not make, any application to obtain an authorisation from the Comisión Nacional de Valores (“CNV”) for the public offering of the Securities in Argentina. The CNV has not approved the Securities, the offering, nor any document relating to the offering of the Securities. Each Dealer has represented and agreed that it has not offered or sold, and will not offer or sell, any of such Securities in Argentina, except in transactions that will not constitute a public offering of Securities within the meaning of Section 16 of the Argentine Public Offering Law No 17,811. Argentine insurance companies may not purchase the Securities.

### **AUSTRALIA**

Each Dealer, and each further Dealer appointed under the Programme:

- (a) must not make any offer or invitation in Australia or which is received in Australia in relation to the issue, sale or purchase of any Securities unless the offeree or invitee is required to pay at least A\$500,000 for the Securities or its foreign currency equivalent (in either case disregarding amounts, if any, lent by the relevant Issuer or other person offering the Securities or its associates (within the meaning of those expressions in Part 6D.2 of the Corporations Act 2001 (Cth) of Australia (the “**Australian Corporations Act**”))), or it is otherwise an offer or invitation in respect of which by virtue of section 708 of the Corporations Act no disclosure is required to be made under Part 6D.2 of the Corporations Act and provided that in any case the offeree or invitee is not a retail client (within the meaning of section 761G of the Australian Corporations Act); and
- (b) has not circulated or issued and must not circulate or issue a disclosure document relating to the Securities in Australia or which is received in Australia which requires lodging under Division 5 of Part 6D.2 or under Part 7 of the Australian Corporations Act.

Neither Issuer nor BAC is authorised under the Banking Act 1959 of the Commonwealth of Australia (the “**Australian Banking Act**”) to carry on banking business and is not subject to prudential supervision by the Australian Prudential Regulation Authority. The Securities are not Deposit Liabilities under the Australian Banking Act.

## BAHRAIN

Any offer of Securities under this Base Prospectus does not constitute an offer of securities in the Kingdom of Bahrain in terms of Article (81) of the Central Bank and Financial Institutions Law 2006 (decree Law No. 64 of 2006). This document has not been and will not be registered as a prospectus with the Central Bank of Bahrain (the “**CBB**”). Accordingly, no Securities may be offered, sold or made the subject of an invitation for subscription or purchase nor will this document or any related document or material be used in connection with any offer, sale or invitation to subscribe or purchase Securities, whether directly or indirectly, to persons in the Kingdom of Bahrain. The CBB has not reviewed or approved this document and it has not in any way considered the merits of the Securities to be offered for investment, whether in or outside the Kingdom of Bahrain. Therefore, the CBB assumes no responsibility for accuracy and completeness of the statement and information contained in this document and expressly disclaims any liability whatsoever for any loss howsoever arising from reliance upon the whole or any part of the content of this document. The Securities are only available for subscription to existing accredited investors.

## PEOPLE’S REPUBLIC OF CHINA

No offering document has been filed with or approved by the People’s Republic of China (the “**PRC**”) (for such purposes, not including Hong Kong and Macau Special Administrative Regions or Taiwan) authorities, and is not an offer of Securities (whether public offering or private placement) within the meaning of the Securities Law or other pertinent laws and regulations of the PRC. No offering document shall be offered to the general public if used within the PRC, and the Securities so offered cannot be sold to anyone that is not a qualified purchaser of the PRC. Each Dealer has represented, warranted and agreed, and each further Dealer appointed under the Programme will be required to represent, warrant and agree, that the Securities are not being offered or sold and may not be offered or sold, directly or indirectly, in the PRC, except under circumstances that will result in compliance with applicable laws and regulations. Structured products shall not be offered and resold to the general public of the PRC, directly or indirectly.

## FRANCE

This Base Prospectus has not been approved by the *Autorité des marchés financiers* (“**AMF**”).

Each of the Dealers, each Issuer and BAC has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree that:

- (a) it has only made and will only make an offer of Securities to the public (*offre au public*) in France or an admission of Securities to trading on a regulated market in France in the period beginning (i) when a prospectus in relation to those Securities has been approved by the AMF, on the date of such publication or, (ii) when a prospectus in relation to those Securities has been approved by the competent authority of another Member State of the European Economic Area which has implemented the EU Prospectus Directive 2003/71/EC, on the date of notification of such approval to the AMF and, in either case, when the formalities required by French laws and regulations have

been carried out, and ending at the latest on the date which is 12 months after the date of the approval of the prospectus, all in accordance with articles L.412-1 and L.621-8 to L.621-8-3 of the French *Code monétaire et financier* and the *Règlement général* of the AMF; or

- (b) it has only made and will only make an offer of Securities to the public in France or an admission of Securities to trading on a regulated market in France in circumstances which do not require the publication by the offeror of a prospectus pursuant to the French *Code monétaire et financier* and the *Règlement général* of the AMF; and
- (c) otherwise, it has not offered or sold and will not offer or sell, directly or indirectly, Securities to the public in France, and it has not distributed or caused to be distributed and will not distribute or cause to be distributed this Base Prospectus, the applicable Final Terms or any other offering material relating to the Securities to the public in France, and such offers, sales and distributions have been and will be made in France only to (i) providers of the investment service of portfolio management for the account of third parties and/or, (ii) qualified investors (*investisseurs qualifiés*) other than individuals, acting for their own account, all as defined in, and in accordance with, articles L.411-2, D.411-1 to D.411-3, D.744-1, D.754-1 and D.764-1 of the French *Code monétaire et financier*. The direct or indirect resale of Securities to the public in France may be made only as provided by, and in accordance with, articles L.411-1, L.411-2, L.412-1 and L.621-8 to L.621-8-3 of the French *Code monétaire et financier*.

In addition, each of the Dealers, each Issuer and BAC has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that it has not distributed or caused to be distributed and will not distribute or cause to be distributed in France, this Base Prospectus, the applicable Final Terms, or any other offering material relating to the Securities other than to investors to whom offers and sales of Securities in France may be made as described above.

## HONG KONG

Each Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that:

- (a) it has not offered or sold and will not offer or sell in the Hong Kong Special Administrative Region of the People's Republic of China (“**Hong Kong**”), by means of any document, any Securities (except for Securities which are a “structured product” as defined in the Securities and Futures Ordinance (Cap. 571) of Hong Kong (the “**SFO**”)) other than (i) to “professional investors” as defined in the SFO and any rules made under the SFO, or (ii) in other circumstances which do not result in the document being a “prospectus” as defined in the Companies Ordinance (Cap. 32) of Hong Kong (the “**CO**”) or which do not constitute an offer to the public within the meaning of the CO; and
- (b) it has not issued or had in its possession for the purposes of issue, and will not issue or have in its possession for the purposes of issue, whether in Hong Kong or elsewhere, any advertisement, invitation, or document relating to the Securities, which is directed at, or the contents of which are likely to be accessed or read by, the public in Hong Kong (except if permitted to do so under the securities laws of Hong Kong) other than with respect to the Securities that are or are intended to be disposed of (i) only to persons outside Hong Kong or (ii) only to “professional investors” as defined in the SFO and any rules made under the SFO.

## INDONESIA

**THE SECURITIES OFFERED HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE INDONESIAN CAPITAL MARKET LAW (LAW NO. 8/1995) AND THEREFORE ARE NOT AUTHORISED BY THE CAPITAL MARKET AND FINANCIAL INSTITUTION SUPERVISORY AGENCY IN INDONESIA AS A PUBLIC OFFERING OF SECURITIES. DUE TO THE COMPLEXITY OF THE SECURITIES OFFERED, THE SECURITIES MAY NOT BE SUITABLE FOR CERTAIN INVESTORS. INVESTORS WHO INTEND TO BUY THE SECURITIES SHOULD CONSULT WITH THEIR FINANCIAL ADVISORS, BROKERS OR OTHER FINANCIAL EXPERTS BEFORE MAKING ANY DECISION TO BUY THE SECURITIES.**

**ISRAEL**

This offer is intended solely for investors listed in the First Supplement of the Israeli Securities Law of 1968, as amended. A prospectus has not been prepared or filed, and will not be prepared or filed, in Israel relating to the Securities offered hereunder. The Securities cannot be resold in Israel other than to investors listed in the First Supplement of the Israeli Securities Law of 1968, as amended.

**REPUBLIC OF ITALY**

The offering of the Securities has not been registered with *CONSOB-Commissione Nazionale per le Società e la Borsa* (the Italian Companies and Exchange Commission), pursuant to Italian securities legislation and, accordingly, no Securities may be offered, sold or delivered, nor may copies of this Base Prospectus or of any other document relating to the Securities be distributed in the Republic of Italy, except:

- (a) to qualified investors (*investitori qualificati*) as defined in Article 34-ter, first paragraph, letter b) of CONSOB Regulation No. 11971 of 14 May 1999, as amended (“**CONSOB Regulation No. 11971**”), pursuant to Article 100 of Legislative Decree No. 58 of 24 February 1998, as amended (the “**Italian Financial Services Act**”); or
- (b) in other circumstances which are exempted from the rules on offerings of securities to the public pursuant to Article 100 of the Italian Financial Services Act and Article 34-ter, first paragraph, of CONSOB Regulation No. 11971.

Any offer, sale or delivery of the Securities or distribution of copies of the Base Prospectus or any other document relating to the Securities in the Republic of Italy under (a) or (b) above must be:

- (i) made by an investment firm, bank or financial intermediary permitted to conduct such activities in the Republic of Italy in accordance with the Italian Financial Services Act, Legislative Decree No. 385 of 1 September 1993, as amended (the “**Consolidated Banking Act**”), and Regulation No. 16190 of 29 October 2007 (as amended from time to time); and
- (ii) in compliance with Article 129 of the Consolidated Banking Act, as amended, and the implementing guidelines of the Bank of Italy, as amended from time to time, pursuant to which the Bank of Italy may request information on the issue or the offer of securities in the Republic of Italy; and
- (iii) in compliance with any other applicable laws and regulations or requirement imposed by CONSOB or other Italian authority.

*Please note that in accordance with Article 100-bis of the Italian Financial Services Act, concerning the circulation of financial products, where no exemption from the rules on offerings of securities to the public applies under (a) and (b) above, the subsequent distribution of the Securities on the secondary market in Italy must be made in compliance with the public offer and the prospectus requirement rules provided under the Italian Financial Services Act and CONSOB Regulation No. 11971. Furthermore, Article 100-bis of the Italian Financial Services Act affects the transferability of the Securities in the Republic of Italy to the extent that any placing of the Securities is made solely with qualified investors and the Securities are then systematically resold to non-qualified investors on the secondary market at any time in the 12 months following such placing. Where this occurs, if a prospectus has not been published, purchasers of the Securities who are acting outside of the course of their business or profession may be entitled to declare such purchase null and void and to claim damages from any authorised intermediary at whose premises the Securities were purchased, unless an exemption provided for by the Italian Financial Services Act applies.*

**JAPAN**

The Securities have not been and will not be registered under the Financial Instruments and Exchange Law of Japan (the “**Financial Instruments and Exchange Law**”). Each Dealer has represented and agreed and each further Dealer appointed under the Programme will be required to represent and agree that it has not offered or sold and will not offer or sell any Securities, directly or indirectly, in Japan or to, or for the benefit of, any resident of Japan (which term as used herein means any person resident in Japan, including any corporation or other entity organised under the laws of Japan) or to others for re-offering or resale, directly or indirectly, in Japan or to, or for the benefit of, a resident of Japan, except pursuant to an exemption from the registration requirements of, and otherwise in compliance with, the Financial Instruments and Exchange Law and any other applicable laws, regulations and ministerial guidelines of Japan.

If the offer is made by way of Qualified Institutional Investors Private Placement as set out in Article 2, Paragraph 3, Item 2(i) of the Financial Instruments and Exchange Law, the Securities are being offered to qualified institutional investors (the “**QIIs**”) as defined in Article 10 of the Cabinet Office Ordinance Concerning the Definition of Terms provided in Article 2 of the Financial Instruments and Exchange Law and the investor of any Securities is prohibited from transferring such Securities in Japan to any person in any way other than to QIIs. As the offering of the Securities satisfies the requirements provided in Article 2, Paragraph 3, Item 2(i) of the Financial Instruments and Exchange Law, no securities registration statement has been or will be filed under Article 4, Paragraph 1 of the Financial Instruments and Exchange Law.

Except in the case the offering is made by way of Qualified Institutional Investors Private Placement or by way of secondary offering to a resident of Japan, the Securities are being offered only to a small number of potential investors (i.e., less than 50 offerees, except QIIs who are offered the Securities pursuant to the Qualified Institutional Investors Private Placement), and the investor of any Securities is prohibited from transferring such Securities in Japan to another person in any way other than as a whole to one transferee. As this offering of the Securities satisfies the requirements provided in Article 2, Paragraph 3, Item 2(ha) of the Financial Instruments and Exchange Law, no securities registration statement has been or will be filed under Article 4, Paragraph 1 of the Financial Instruments and Exchange Law.

## **MALAYSIA**

No approval from the Securities Commission of Malaysia is or will be obtained, nor will any prospectus be filed or registered with the Securities Commission of Malaysia for the offering of the Securities in Malaysia. This Base Prospectus does not constitute and is not intended to constitute an invitation or offer for subscription or purchase of the Securities, nor may this Base Prospectus or any other offering material or document relating to the Securities be published or distributed, directly or indirectly, to any person in Malaysia unless such invitation or offer falls within (i) Schedule 5 to the Capital Markets and Services Act 2007 (“**CMSA**”), (ii) Schedules 6 or 7 to the CMSA as an “excluded offer or excluded invitation” or “excluded issue” within the meaning of sections 229 and 230 of the CMSA, and (iii) Schedule 8 so the trust deed requirements in the CMSA are not applicable. No offer or invitation in respect of the Securities may be made in Malaysia except as an offer or invitation falling under Schedules 5 and 6 or 7 and 8 to the CMSA.

## **NETHERLANDS**

The Guarantor does not have an authorisation from the Dutch Central Bank (*De Nederlandsche Bank N.V.*) pursuant to the Dutch Financial Supervision Act (*Wet op het financieel toezicht*) for the pursuit of the business of a bank in the Netherlands and therefore does not have a licence pursuant to section 2.1(1), 2.12(1), 2.13(1) or 2.20(1) of the Dutch Financial Supervision Act.

## **PANAMA**

The Securities have not been and will not be registered with the National Securities Commission of the Republic of Panama under Decree Law No. 1 of 8 July 1999 (the “**Panamanian Securities Act**”) and may not be publicly offered or sold within Panama, except in certain limited transactions exempt from the registration requirements of the Panamanian Securities Act. The Securities do not benefit from the tax incentives provided by the Panamanian Securities Act and are not subject to regulation or supervision by the National Securities Commission of the Republic of Panama.

## **PHILIPPINES**

THE SECURITIES BEING OFFERED OR SOLD HAVE NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION UNDER THE SECURITIES REGULATION CODE. ANY FUTURE OFFER OR SALE THEREOF IS SUBJECT TO REGISTRATION REQUIREMENTS UNDER THE SECURITIES REGULATION CODE UNLESS SUCH OFFER OR SALE QUALIFIES AS AN EXEMPT TRANSACTION.

## **RUSSIA**

Each Dealer has represented, agreed and warranted, and each further Dealer appointed under the Programme will be required to represent, agree and warrant, that it has not offered or sold or transferred or otherwise disposed of, and will not offer or sell or transfer or otherwise dispose of, the Securities (as part of their initial distribution or at any time thereafter) to, or for the benefit of, any persons (including



legal entities) resident, incorporated, established or having their usual residence in the Russian Federation, or to any person located within the territory of the Russian Federation, unless and to the extent otherwise permitted under Russian law.

Under Russian law, the Securities are securities of a foreign issuer, therefore, Russian securities laws permit the placement and public offering of the Securities in Russia only upon fulfilment of certain admittance procedures (which may include registration of the securities prospectus with the regulator) provided for under Russian law. Neither the issue of the Securities nor a securities prospectus in respect of the Securities has been, or is intended to be, registered with the Federal Service for Financial Markets of the Russian Federation or any other state bodies that may from time to time be responsible for such registration. The information provided in this Base Prospectus is not an offer, advertisement, or invitation to make offers, sell, purchase, exchange or otherwise transfer the Securities in the Russian Federation or to or for the benefit of any Russian person or entity.

## SINGAPORE

This Base Prospectus has not been registered as a prospectus with the Monetary Authority of Singapore (the “MAS”) under the Securities and Futures Act, Chapter 289 of Singapore (the “SFA”).

Where the Securities are cash settled or where there is physical delivery of Reference Item Linked Securities which are shares or units of shares (other than shares or other units of a collective investment scheme) of a corporation (whether incorporated in Singapore or not) or debentures or units of debentures of an entity, interests in a limited partnership or limited liability partnership formed in Singapore or elsewhere, or such other product or class of products prescribed by the MAS, each Dealer has represented, warranted and agreed, and each further Dealer appointed under the Programme will be required to represent, warrant and agree, that it has not offered or sold any Securities or Reference Items or caused the Securities or Reference Items to be made the subject of an invitation for subscription or purchase nor will it offer or sell the Securities or cause the Securities to be made the subject of an invitation for subscription or purchase, nor has it circulated or distributed nor will it circulate or distribute this Base Prospectus and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the Securities or Reference Items, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor under Section 274 of the SFA, (ii) to a relevant person pursuant to Section 275(1), or any person pursuant to Section 275(1A), and in accordance with the conditions specified in Section 275, of the SFA, or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where Securities or Reference Items are subscribed or purchased under Section 275 of the SFA by a relevant person which is:

- (a) a corporation (which is not an accredited investor (as defined in Section 4A of the SFA)) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or
- (b) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary of the trust is an individual who is an accredited investor,

securities (as defined in Section 239(1) of the SFA) of that corporation or the beneficiaries' rights and interest (howsoever described) in that trust shall not be transferred within six months after that corporation or that trust has acquired the Securities or Reference Items pursuant to an offer made under Section 275 or the SFA except:

- (1) to an institutional investor or to a relevant person defined in Section 275(2) of the SFA, or to any person arising from an offer referred to in Section 275(1A) or Section 276(4)(i)(B) of the SFA;
- (2) where no consideration is or will be given for the transfer;
- (3) where the transfer is by operation of law; or
- (4) as specified in Section 276(7) of the SFA.

Where the Fund Linked Securities do not provide for any right or interest (including an option) in respect of units in an underlying fund (which is a “collective investment scheme” (as defined in the SFA) and therefore open-ended), each Dealer has represented, warranted and agreed, and each further Dealer appointed under the Programme will be required to represent, warrant and agree, that it has not offered or sold any Fund Linked Securities or caused the Fund Linked Securities to be made the subject of an invitation for subscription or purchase nor will it offer or sell the Fund Linked Securities or cause the

Fund Linked Securities to be made the subject of an invitation for subscription or purchase, nor has it circulated or distributed nor will it circulate or distribute this Base Prospectus and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of Fund Linked Securities whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor under Section 274 of the SFA, (ii) to a relevant person pursuant to Section 275(1), or any person pursuant to Section 275(1A), and in accordance with the conditions specified in Section 275, of the SFA, or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where Fund Linked Securities are subscribed or purchased under Section 275 of the SFA by a relevant person which is:

- (a) a corporation (which is not an accredited investor (as defined in Section 4A of the SFA)) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or
- (b) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary of the trust is an individual who is an accredited investor,

securities (as defined in Section 239(1) of the SFA) of that corporation or the beneficiaries' rights and interest (howsoever described) in that trust shall not be transferred within six months after that corporation or that trust has acquired the Fund Linked Securities pursuant to an offer made under Section 275 of the SFA except:

- (1) to an institutional investor or to a relevant person defined in Section 275(2) of the SFA, or to any person arising from an offer referred to in Section 275(1A) or Section 276(4)(i)(B) of the SFA;
- (2) where no consideration is or will be given for the transfer;
- (3) where the transfer is by operation of law; or
- (4) as specified in Section 276(7) of the SFA.

The offer or invitation of the Reference Items which constitute units in an underlying fund (the “**Fund**”) (which is a “collective investment scheme” (as defined in the SFA) (the “**CIS Reference Items**”)) do not relate to a collective investment scheme which is authorised under Section 286 of the SFA or recognised under Section 287 of the SFA. The Fund is not authorised or recognised by the MAS and the CIS Reference Items are not allowed to be offered to the retail public. This Base Prospectus and any other document or material issued in connection with the offer or sale is not a prospectus as defined in the SFA. Accordingly, statutory liability under the SFA in relation to the content of prospectuses would not apply. You should consider carefully whether the investment is suitable for you.

This Base Prospectus has not been registered as a prospectus with the MAS. Accordingly, this Base Prospectus and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the CIS Reference Items may not be circulated or distributed, nor may the CIS Reference Items be offered or sold or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor under Section 304 of the SFA, (ii) to a relevant person, or any person pursuant to Section 305(2), and in accordance with the conditions specified in Section 305 of the SFA or (iii) pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where CIS Reference Items are subscribed or purchased under Section 305 by a relevant person which is:

- (a) a corporation (which is not an accredited investor (as defined in Section 4A of the SFA)) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or
- (b) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary of the trust is an individual who is an accredited investor,

securities (as defined in Section 239(1) of the SFA) of that corporation or the beneficiaries' rights and interest (howsoever described) in that trust shall not be transferred within six months after that corporation or that trust has acquired the CIS Reference Items pursuant to an offer made under Section 305 of the SFA except:

- (1) to an institutional investor or to a relevant person defined in Section 305(5) of the SFA, or to any person arising from an offer referred to in Section 275(1A) or Section 305A(3)(i)(B) of the SFA;

- (2) where no consideration is or will be given for the transfer;
- (3) where the transfer is by operation of law; or
- (4) as specified in Section 305A(5) of the SFA.

Where the Fund Linked Securities do provide for a right or interest (including an option) in respect of units in a Fund (which is a “collective investment scheme” (as defined in the SFA) (the “**CIS Reference Item**”)), the offer or invitation of the Fund Linked Securities of the Programme, which is the subject of this Base Prospectus, does not relate to a collective investment scheme which is authorised under Section 286 of the SFA or recognised under Section 287 of the SFA. The Programme is not authorised or recognised by the MAS and the Fund Linked Securities and the CIS Reference Items are not allowed to be offered to the retail public. This Base Prospectus and any other document or material issued in connection with the offer or sale is not a prospectus as defined in the SFA. Accordingly, statutory liability under the SFA in relation to the content of prospectuses would not apply. You should consider carefully whether the investment is suitable for you.

This Base Prospectus has not been registered as a prospectus with the MAS. Each Dealer has represented, warranted and agreed, and each further Dealer appointed under the Programme will be required to represent, warrant and agree, that it has not offered or sold any Fund Linked Securities or CIS Reference Items or caused the Fund Linked Securities or CIS Reference Items to be made the subject of an invitation for subscription or purchase nor will it offer or sell the Fund Linked Securities or CIS Reference Items or cause the Fund Linked Securities or CIS Reference Items to be made the subject of an invitation for subscription or purchase, nor has it circulated or distributed nor will it circulate or distribute this Base Prospectus and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of Fund Linked Securities or Reference Items whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor under Section 304 of the SFA, (ii) to a relevant person, or any person pursuant to Section 305(2), and in accordance with the conditions specified in Section 305 of the SFA or (iii) pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where Fund Linked Securities or CIS Reference Items are subscribed or purchased under Section 305 by a relevant person which is:

- (a) a corporation (which is not an accredited investor (as defined in Section 4A of the SFA)) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or
- (b) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary of the trust is an individual who is an accredited investor,

securities (as defined in Section 239(1) of the SFA) of that corporation or the beneficiaries’ rights and interest (howsoever described) in that trust shall not be transferred within six months after that corporation or that trust has acquired the Fund Linked Securities or CIS Reference Items pursuant to an offer made under Section 305 of the SFA except:

- (1) to an institutional investor or to a relevant person defined in Section 305(5) of the SFA, or to any person arising from an offer referred to in Section 275(1A) or Section 305A(3)(i)(B) of the SFA;
- (2) where no consideration is or will be given for the transfer;
- (3) where the transfer is by operation of law; or
- (4) as specified in Section 305A(5) of the SFA.

## SWITZERLAND

If the applicable Final Terms state that the Securities may not be publicly offered in Switzerland, (i) each Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that it will not, directly or indirectly, (A) publicly offer, sell or advertise the Securities in or from Switzerland, as such term is defined or interpreted under the Swiss Code of Obligations or the Swiss Federal Act on Collective Investment Schemes, or (B) publicly distribute or otherwise make publicly available the Base Prospectus (including the applicable Final Terms) or any other document related to the Securities in Switzerland and (ii) each Dealer has acknowledged and agreed, and each further Dealer appointed under the Programme will be required to acknowledge and agree, that neither the Base Prospectus nor any other document related to the Securities constitutes a

prospectus in the sense of Article 652a or 1156 of the Swiss Code of Obligations, or a simplified prospectus in the sense of Article 5 of the Swiss Collective Investment Schemes Act.

Each Dealer has acknowledged and agreed, and each further Dealer appointed under the Programme will be required to acknowledge and agree, that the Securities do not constitute a participation in a collective investment scheme in the meaning of the Swiss Federal Act on Collective Investment Schemes and they are not subject to approval or supervision by the Swiss Financial Market Supervisory Authority (FINMA).

## **TAIWAN**

The Securities may not be issued, sold, or offered in Taiwan. No subscription or other offer to purchase the Securities shall be binding on the relevant Issuer or the Guarantor until received and accepted by the relevant Issuer or any Dealer outside of Taiwan (the “**Place of Acceptance**”), and the purchase/sale contract arising therefrom shall be deemed a contract entered into in the Place of Acceptance.

## **URUGUAY**

The Securities have not been registered under the Uruguayan Securities Market Law or recorded in the Uruguayan Central Bank. The Securities are not available publicly in Uruguay and are offered only on a private basis. No action may be taken in Uruguay that would render any offering of the Securities a public offering in Uruguay. No Uruguayan regulatory authority has approved the Securities or passed on the solvency of either of the relevant Issuers or the Guarantor. In addition, any resale of the Securities must be made in a manner that will not constitute a public offering in Uruguay.

## **GENERAL**

Each Dealer has agreed and each further Dealer appointed under the Programme will be required to agree that it will comply with all applicable securities laws and regulations in force known by it, or which reasonably should have been known by it in any jurisdiction in which it purchases, offers, sells or delivers Securities or possesses or distributes this Base Prospectus or any other offering material and will obtain any consent, approval or permission required by it for the purchase, offer, sale or delivery by it of Securities under the laws and regulations in force in any jurisdiction to which it is subject or in which it makes such purchases, offers, sales or delivery and neither the Issuers nor BAC shall have any responsibility therefor.

None of the Issuers, BAC or the Dealers represents that Securities may at any time lawfully be sold in compliance with any applicable registration or other requirements in any jurisdiction, or pursuant to any exemption available thereunder, or assumes any responsibility for facilitating such sale.

With regard to each Series, the relevant Dealer will be required to comply with such other restrictions as the relevant Issuer, the Guarantor and the relevant Dealer shall agree and as shall be set out in the applicable Final Terms.

Neither this Base Prospectus nor any Final Terms constitute, nor may be used for or in connection with, an offer or solicitation by anyone in any jurisdiction in which such offer or solicitation is not authorised or to any person to whom it is unlawful to make such an offer or solicitation. The distribution of this Base Prospectus and the offering and sale of the Securities may be restricted by law in certain jurisdictions. Persons into whose possession this Base Prospectus comes are required by the Issuers, the Guarantor and the Dealers to inform themselves about and to observe any such restrictions.

## GENERAL INFORMATION

### (1) **Authorisation**

The establishment and operation of the Programme was duly authorised by resolutions of the Directors of MLSA on 20 March 2008 and was duly authorised by the Partners of MLICo. on 2 April 1996, 22 August 2000 and 21 December 2008. The annual update of the Programme was duly authorised by a resolution of the Directors of MLSA on 24 April 2012 and was duly authorised by the Partners of MLICo. on 4 May 2012. The Guarantees will be issued pursuant to authority granted by the Board of Directors of the Guarantor on 9 December 2008 and with respect to the Original Guarantee, a Committee duly appointed by the Board of Directors of the Guarantor on 9 December 2008 and a Committee duly appointed by the Board of Directors of the Guarantor on 15 May 2012.

### (2) **Approval, Listing and Admission to Trading**

Application has been made to the CSSF to approve this Base Prospectus as a base prospectus. Application has also been made to the Luxembourg Stock Exchange for Securities to be admitted to trading on the regulated market of the Luxembourg Stock Exchange and to be listed on the Official List of the Luxembourg Stock Exchange. Application has also been made to the Luxembourg Stock Exchange for Securities issued under the Programme during the 12 months from the date of this Base Prospectus to be admitted to trading on the Luxembourg Stock Exchange's alternative market – Euro MTF – and to be admitted to the Official List of the Luxembourg Stock Exchange.

The Luxembourg Stock Exchange's regulated market is a regulated market for the purposes of the Markets in Financial Instruments Directive (Directive 2004/39/EC).

### (3) **Documents Available**

For the period of 12 months following the date of this Base Prospectus, copies of the following documents will, when published, be available from the specified office of each Agent:

- (i) the constitutional documents of each of MLSA, MLICo. and BAC;
- (ii) the BAC 2011 Annual Report;
- (iii) the BAC 31 March 2012 Quarterly Report;
- (iv) the BAC Forms 8-K;
- (v) the MLSA 2010 Accounts and the MLSA 2011 Accounts;
- (vi) the MLICo. 2010 Accounts and the MLICo. 2011 Accounts;
- (vii) the 2009 Base Prospectus;
- (viii) the 2010 Base Prospectus;
- (ix) the 2011 Base Prospectus;
- (x) the Original Guarantee and, once executed and delivered by BAC, the Swiss COSI Securities Guarantee;
- (xi) the Agency Agreement;
- (xii) the Programme Agreement;
- (xiii) a copy of this Base Prospectus;
- (xiv) the Framework Agreement;
- (xv) any future prospectuses, offering circulars, information memoranda and supplements to this Base Prospectus, any Final Terms or Securities Note and Summary (if any) (save that a Final Terms relating to a Security which is neither admitted to trading on a regulated market in the European Economic Area nor offered in the European Economic Area in circumstances where a prospectus is required to be published under the Prospectus Directive will only be available for inspection by a holder of such Security and such holder must produce evidence satisfactory to the relevant Issuer and the relevant Agent as to its holding of Securities and identity) and any other documents incorporated herein or therein by reference; and



(xvi) in the case of a syndicated issue of Securities admitted to trading on the Luxembourg Stock Exchange's regulated market, the syndication agreement (or equivalent document).

In addition, a copy of this Base Prospectus, each Final Terms relating to the Securities which are admitted to trading on the Luxembourg Stock Exchange's regulated market and the documents incorporated by reference herein will be published on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)).

BAC's filings with the SEC are available through (1) the SEC's website at [www.sec.gov](http://www.sec.gov), or the SEC's Public Reference Room, 100 F Street, N.E., Room 1580, Washington, D.C. 20549, and (2) BAC's website at [www.bankofamerica.com](http://www.bankofamerica.com).

In order to preserve the exemptions for permitted re-sales and transfers pursuant to Rule 144A, MLICo. and BAC have agreed to furnish, upon the request of any holder of a Rule 144A Warrant or a Regulation S/Rule 144A Warrant or of a beneficial interest therein, such information as is specified in Rule 144A(d)(4) under the Securities Act to such holder or beneficial owner or to a prospective purchaser of such Rule 144A Warrant or a Regulation S/Rule 144A Warrant or interest therein in order to permit such holder or beneficial owner to comply with the requirements of Rule 144A in connection with the re-sale, unless, at the time of such request, MLICo. is subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, or is included in the list of foreign private issuers that claim exemption from the registration requirements of Section 12(g) of the Exchange Act (and therefore is required to furnish the SEC with certain information pursuant to Rule 12g3-2(b) under the Exchange Act). This information may be obtained during normal business hours on any weekday at the specified office of the Principal Warrant Agent in Luxembourg or the U.S. Warrant Agent, as applicable.

The Issuer shall, upon request, provide the Framework Agreement to investors free of charge in the original German version or in an English translation. The Framework Agreement may be obtained from Merrill Lynch Capital Markets AG, Stockerhof, Stockerstrasse 23, 8002 Zurich, Switzerland via telephone +41 44 297 75 93, fax +41 44 291 33 41 or via e-mail: [dg.ogc\\_zurich@baml.com](mailto:dg.ogc_zurich@baml.com). The core elements of collateralisation of the Swiss COSI Securities are summarised in a SIX Swiss Exchange information sheet, which is available at «[www.six-swiss-exchange.com](http://www.six-swiss-exchange.com)».

#### (4) **Clearing Systems**

Information relating to the form of the Securities and the relevant Clearing Systems is set out in "Form of the Securities" on pages 97 to 104 of this Base Prospectus.

The address of Euroclear is 1 Boulevard du Roi Albert II B-1210 Brussels, Belgium.

The address of Clearstream Luxembourg is 42 avenue JF Kennedy, L-1855 Luxembourg.

The address of Euroclear France is 115 rue Réaumur, F-75081 Paris-CEDEX 02, France.

The address of Clearstream, Frankfurt is Mergenthalerallee 61, 65760, Eschborn, Germany.

The address of Euroclear Sweden is Klarabergsviadukten 63, Box 191, SE-101 23 Stockholm, Sweden.

The address of Euroclear Finland is P.O. Box 1110, 00 101 Helsinki, Finland.

The address of DTC is 55 Water Street, New York, New York 10041, United States.

The address of SIS is Baslerstrasse 100, CH-6400 Olten, Switzerland.

The address of Euroclear UK is 33 Cannon Street, London EC4M 5SB, United Kingdom.

#### (5) **Auditors and Financial Statements**

##### *MLSA*

On 27 April 2009, the Audit Committee of the board of directors of BAC, the parent corporation of ML&Co., approved the engagement of PricewaterhouseCoopers LLP ("PwC"), as ML&Co.'s principal independent registered public accounting firm to audit ML&Co.'s consolidated financial statements. MLSA is a wholly owned indirect subsidiary of ML&Co. Concurrent with PwC's appointment as independent accountant of ML&Co., PricewaterhouseCoopers S.à r.l. became the approved auditor ("*réviseur d'entreprises agréé*") for MLSA, subject to the formal signing of engagement letters specific to these entities. PricewaterhouseCoopers S.à r.l. is a member of I.R.E.

(“*Institut des Réviseurs d’Entreprises*”), which is the professional body of the audit profession in Luxembourg, a profession which is regulated by the Commission de Surveillance du Secteur Financier (“**CSSF**”). PricewaterhouseCoopers S.à r.l. is on the public register of approved auditors kept by the CSSF. The address of PricewaterhouseCoopers S.à r.l. is Route d’Esch 400, L-1471, Luxembourg.

#### *MLICo.*

On 27 April 2009, the Audit Committee of the board of directors of BAC, the parent corporation of ML&Co., approved the engagement of PwC as ML&Co.’s principal independent accountant to audit ML&Co.’s consolidated financial statements. MLICo. is a wholly owned indirect subsidiary of ML&Co. Concurrent with PwC’s appointment as independent accountant of ML&Co., PwC became the auditor for MLICo. subject to the formal signing of engagement letters specific to these entities. PwC is a member of the Institute of Chartered Accountants of England and Wales. The address of PwC in London is 1 Embankment Place, London WC2N 6RH.

#### *BAC*

The financial statements of BAC as of 31 December 2011 and 31 December 2010 and for each of the three years in the period ended 31 December 2011, which are incorporated by reference into this Base Prospectus, have been audited by PwC, an independent registered public accounting firm, with respect to BAC within the meaning of the applicable rules and regulations adopted by the SEC and the Public Company Accounting Oversight Board (United States), as stated in the report incorporated therein. PwC is a member of the American Institute of Certified Public Accountants and is registered with the Public Company Accounting Oversight Board (United States). The address of PwC in the United States is 214 North Tryon Street, Suite 3600, Charlotte, North Carolina 28202, United States.

### **(6) Significant or Material Change**

There has been no significant change in the financial or trading position of MLSA, MLICo. or BAC and its subsidiaries on a consolidated basis since (i) in the case of MLSA, 31 December 2011, (ii) in the case of MLICo. 31 December 2011 and (iii) in the case of BAC, 31 March 2012, and there has been no material adverse change in the prospects of MLSA, MLICo. or BAC and its subsidiaries on a consolidated basis since (i) in the case of MLSA, 31 December 2011, (ii) in the case of MLICo., 31 December 2011 and (iii) in the case of BAC, 31 December 2011.

In relation to any Securities listed on the SIX Swiss Exchange, there has been no material adverse change, nor any event involving a prospective material adverse change, in the assets and liabilities, financial position or profit and losses of MLSA, MLICo. or BAC since (i) in the case of MLSA, 31 December 2011, (ii) in the case of MLICo. 31 December 2011 and (iii) in the case of BAC, 31 March 2012.

### **(7) Litigation**

Save as disclosed on pages 22 and 222 to 234 of the BAC 2011 Annual Report and in the BAC 4 May 2012 Form 8-K, which reflects a realignment of BAC’s business segments, and pages 183 to 186 and 211 of the BAC 31 March 2012 Quarterly Report none of MLSA, MLICo. or BAC or any subsidiary of BAC is or has been involved in any governmental, legal or arbitration proceedings (including any such proceedings which are pending or threatened of which MLSA, MLICo. or BAC are aware) in the 12 months preceding the date of this Base Prospectus which may have or have in such period had a significant effect on the financial position or profitability of MLSA, MLICo. or BAC and its subsidiaries on a consolidated basis.

### **(8) Conditions for determining price**

The price and amount of Securities to be issued under the Programme will be determined by the Issuer and any Dealer at the time of issue in accordance with prevailing market conditions.

### **(9) Post-issuance Information**

Neither of the Issuers nor BAC will provide any post-issuance information, unless required by any applicable laws and regulations.

(10) **Passporting**

A request has been made to the CSSF to notify the competent authorities of the following jurisdictions of the approval of the Base Prospectus:

- (a) Finland (*Finanssivalvonta*);
- (b) France (*Autorité des Marchés Financiers*);
- (c) Ireland (Central Bank of Ireland);
- (d) Italy (*Commissione Nazionale per le Società e la Borsa*);
- (e) Netherlands (*Autoriteit Financiële Markten*);
- (f) Portugal (*Comissão do Mercado de Valores Mobiliários*);
- (g) Spain (*Comisión Nacional del Mercado de Valores*);
- (h) Sweden (*Finansinspektionen*); and
- (i) United Kingdom (Financial Services Authority).

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SUPPLEMENT No. 1 DATED 26 JUNE 2012 TO THE  
BASE PROSPECTUS DATED 24 MAY 2012

**Merrill Lynch S.A.**

*(a Luxembourg Limited Company)*

**Merrill Lynch International & Co. C.V.**

*(a Curaçao Limited Partnership)*

**NOTE, WARRANT AND CERTIFICATE PROGRAMME**

Unconditionally and irrevocably guaranteed as to payment and delivery obligations

by

**Bank of America Corporation**

*(a Delaware (U.S.A.) corporation)*

This supplement (the "**Supplement**") constitutes a supplement to the base prospectus dated 24 May 2012 (the "**Base Prospectus**"), prepared in connection with the Note, Warrant and Certificate Programme (the "**Programme**") of Merrill Lynch S.A. ("**MLSA**") and Merrill Lynch International & Co. C.V. ("**MLICo.**"). The Supplement is a supplement for the purposes of Article 13 of Chapter 1 of Part II of the Luxembourg Law dated 10 July 2005 on prospectuses for securities (the "**Luxembourg Law**"). On 24 May 2012, the Commission de Surveillance du Secteur Financier (the "**CSSF**") approved the Base Prospectus for the purposes of Article 7 of the Luxembourg Law. Terms defined in the Base Prospectus have the same meanings when used in this Supplement.

This Supplement is supplemental to, and shall be read in conjunction with, the Base Prospectus. To the extent that there is any inconsistency between (a) any statement in this Supplement or any statement incorporated by reference into the Base Prospectus by this Supplement and (b) any other statement in or incorporated by reference into the Base Prospectus, the statements in (a) above will prevail.

Each of MLSA, MLICo. and Bank of America Corporation ("**BAC**") accepts responsibility for the information contained in this Supplement and to the best of the knowledge of MLSA, MLICo. and BAC (each having taken all reasonable care to ensure that such is the case), the information contained in this Supplement is in accordance with the facts and does not omit anything likely to affect the import of such information.

Save as disclosed in this Supplement, there has been no other significant new factor, material mistake or material inaccuracy relating to the information included in the Base Prospectus since the publication of the Base Prospectus.

Copies of this Supplement will be available for collection and inspection as set out in the section entitled "*General Information – Documents Available*" in the Base Prospectus (at page 520) and on the Luxembourg Stock Exchange's website at [www.bourse.lu](http://www.bourse.lu).

In accordance with Article 13 paragraph 2 of the Luxembourg Law, investors in the European Economic Area who have already agreed to purchase or subscribe for Securities issued under the Programme before this Supplement is published have the right, exercisable within a time limit of a minimum of two working days after the publication of this Supplement, to withdraw their acceptances. The right to withdraw acceptances does not extend to investors in Securities offered in Switzerland.

### ***Recent Developments***

The following text shall be added as a new final paragraph on page 526 of the Base Prospectus:

"On 21 June 2012, Moody's announced that it had downgraded BAC's long-term senior unsecured debt from Baa1 (Review for Downgrade) to Baa2 (Outlook Negative)."

### ***Credit Ratings***

The credit rating of BAC referred to above was issued by Moody's Investors Service, Inc., which is not established in the European Union and has not applied for registration under Regulation (EC) No. 1060/2009, as amended by Regulation (EU) No. 513/2011 (the "**CRA Regulation**"). Credit ratings and outlooks may be adjusted over time, and so there is no assurance that these credit ratings and outlooks will be effective after this date.

The list of credit rating agencies registered under the CRA Regulation (as updated from time to time) is published on the website of the European Securities and Market Authority ([www.esma.europa.eu](http://www.esma.europa.eu)).



SUPPLEMENT No. 2 DATED 25 JULY 2012 TO THE  
BASE PROSPECTUS DATED 24 MAY 2012

**Merrill Lynch S.A.**

*(a Luxembourg Limited Company)*

**Merrill Lynch International & Co. C.V.**

*(a Curaçao Limited Partnership)*

**NOTE, WARRANT AND CERTIFICATE PROGRAMME**

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*(a Delaware (U.S.A.) corporation)*

This supplement (the "**Supplement**") constitutes a supplement to the base prospectus dated 24 May 2012 (the "**Original Base Prospectus**", and, as supplemented on 26 June, 2012, the "**Base Prospectus**"), prepared in connection with the Note, Warrant and Certificate Programme (the "**Programme**") of Merrill Lynch S.A. ("**MLSA**") and Merrill Lynch International & Co. C.V. ("**MLICo.**"). The Supplement is a supplement for the purposes of Article 13 of Chapter 1 of Part II of the Luxembourg Law dated 10 July 2005 and amended on 3 July 2012 on prospectuses for securities (the "**Luxembourg Law**"). On 24 May 2012, the Commission de Surveillance du Secteur Financier (the "**CSSF**") approved the Base Prospectus for the purposes of Article 7 of the Luxembourg Law. Terms defined in the Base Prospectus have the same meanings when used in this Supplement.

This Supplement is supplemental to, and shall be read in conjunction with, the Base Prospectus. To the extent that there is any inconsistency between (a) any statement in this Supplement or any statement incorporated by reference into the Base Prospectus by this Supplement and (b) any other statement in or incorporated by reference into the Base Prospectus, the statements in (a) above will prevail.

Each of MLSA, MLICo. and Bank of America Corporation ("**BAC**") accepts responsibility for the information contained in this Supplement and to the best of the knowledge of MLSA, MLICo. and BAC (each having taken all reasonable care to ensure that such is the case), the information contained in this Supplement is in accordance with the facts and does not omit anything likely to affect the import of such information.

Save as disclosed in this Supplement, there has been no other significant new factor, material mistake or material inaccuracy relating to the information included in the Base Prospectus since the publication of the Base Prospectus.

Copies of this Supplement and the document incorporated by reference will be available for collection and inspection as set out in the section entitled "*General Information – Documents Available*" in the Original Base Prospectus (at page 520) and on the Luxembourg Stock Exchange's website at [www.bourse.lu](http://www.bourse.lu).

In accordance with Article 13 paragraph 2 of the Luxembourg Law, investors in the European Economic Area who have already agreed to purchase or subscribe for Securities issued under the Programme before this Supplement is published have the right, exercisable within two working days after the publication of this Supplement, to withdraw their acceptances. This right will expire on 27 July, 2012. The right to withdraw acceptances does not extend to investors in Securities offered in Switzerland.

### ***Incorporation by Reference of Form 8-K***

The current report on Form 8-K dated 18 July 2012 which was filed with the U.S. Securities and Exchange Commission (the "SEC") on 18 July 2012 (the "**Form 8-K**"), has been filed with the CSSF in its capacity as competent authority under Article 21(1) of the Prospectus Directive and, by virtue of this Supplement, the Form 8-K is incorporated into and forms part of the Base Prospectus.

Any information included in the Form 8-K that is not listed in the column "*Information incorporated by reference*" below is not relevant for investors.

#### ***Information incorporated by reference***

##### ***From the Form 8-K***

##### **Page Number\***

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Exhibit 99.1. Press release dated July 18, 2012 with respect to BAC's financial results for the second quarter ended June 30, 2012	Pages 5 to 31
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\*These page numbers are references to the PDF pages included in the Form 8-K.

SUPPLEMENT No. 3 DATED 8 AUGUST 2012 TO THE  
BASE PROSPECTUS DATED 24 MAY 2012

**Merrill Lynch S.A.**

*(a Luxembourg Limited Company)*

**Merrill Lynch International & Co. C.V.**

*(a Curaçao Limited Partnership)*

**NOTE, WARRANT AND CERTIFICATE PROGRAMME**

Unconditionally and irrevocably guaranteed as to payment and delivery obligations

by

**Bank of America Corporation**

*(a Delaware (U.S.A.) corporation)*

This supplement (the "**Supplement**") constitutes a supplement to the base prospectus dated 24 May 2012 (the "**Original Base Prospectus**", and, as supplemented on 26 June 2012 and 25 July 2012, the "**Base Prospectus**"), prepared in connection with the Note, Warrant and Certificate Programme (the "**Programme**") of Merrill Lynch S.A. ("**MLSA**") and Merrill Lynch International & Co. C.V. ("**MLICo.**"). The Supplement is a supplement for the purposes of Article 13 of Chapter 1 of Part II of the Luxembourg Law dated 10 July 2005 and amended on 3 July 2012 on prospectuses for securities (the "**Luxembourg Law**"). On 24 May 2012, the Commission de Surveillance du Secteur Financier (the "**CSSF**") approved the Base Prospectus for the purposes of Article 7 of the Luxembourg Law. Terms defined in the Base Prospectus have the same meanings when used in this Supplement.

This Supplement is supplemental to, and shall be read in conjunction with, the Base Prospectus. To the extent that there is any inconsistency between (a) any statement in this Supplement or any statement incorporated by reference into the Base Prospectus by this Supplement and (b) any other statement in or incorporated by reference into the Base Prospectus, the statements in (a) above will prevail.

Each of MLSA, MLICo. and Bank of America Corporation ("**BAC**") accepts responsibility for the information contained in this Supplement and to the best of the knowledge of MLSA, MLICo. and BAC (each having taken all reasonable care to ensure that such is the case), the information contained in this Supplement is in accordance with the facts and does not omit anything likely to affect the import of such information.

Save as disclosed in this Supplement, there has been no other significant new factor, material mistake or material inaccuracy relating to the information included in the Base Prospectus since the publication of the Base Prospectus.

Copies of this Supplement and the document incorporated by reference will be available for collection and inspection as set out in the section entitled "*General Information – Documents Available*" in the Original Base Prospectus (at page 520) and on the Luxembourg Stock Exchange's website at [www.bourse.lu](http://www.bourse.lu).

In accordance with Article 13 paragraph 2 of the Luxembourg Law, investors in the European Economic Area who have already agreed to purchase or subscribe for Securities issued under the Programme before this Supplement is published have the right, exercisable within two working days after the publication of this Supplement, to withdraw their acceptances. This right will expire on 10 August 2012. The right to withdraw acceptances does not extend to investors in Securities offered in Switzerland.

## ***Incorporation by Reference of Form 10-Q***

The quarterly report on Form 10-Q relating to the publication of the unaudited interim financial statements of BAC for the six months ended 30 June 2012 which was filed with the U.S. Securities and Exchange Commission (the "SEC") on 2 August 2012 (the "**Form 10-Q**"), has been filed with the CSSF in its capacity as competent authority under Article 21(1) of the Prospectus Directive and, by virtue of this Supplement, the Form 10-Q is incorporated into and forms part of the Base Prospectus.

Any information included in the Form 10-Q that is not listed in the column "*Information incorporated by reference*" below is not relevant for investors.

### ***Information incorporated by reference***

#### ***From the 30 June 2012 Form 10-Q***

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\*This page number is a reference to the PDF pages included in the Form 10-Q.

### ***Credit ratings***

The credit ratings and outlooks of BAC referred to on page 6 of the Form 10-Q under the heading "Credit Ratings" and on pages 80 to 81 of the Form 10-Q under the heading "Credit Ratings", are assigned by Moody's Investors Service, Inc., Standard and Poor's Ratings Services, a division of The McGraw Hill Companies, Inc., and Fitch, Inc., each of which is established outside the European Union and are therefore not captured by Regulation (EC) No 1060/2009. Credit ratings and outlooks may be adjusted over time, and so there is no assurance that these credit ratings and outlooks will be effective after this date.



SUPPLEMENT No. 4 DATED 30 AUGUST 2012 TO THE  
BASE PROSPECTUS DATED 24 MAY 2012

**Merrill Lynch S.A.**

*(a Luxembourg Limited Company)*

**Merrill Lynch International & Co. C.V.**

*(a Curaçao Limited Partnership)*

**NOTE, WARRANT AND CERTIFICATE PROGRAMME**

Unconditionally and irrevocably guaranteed as to payment and delivery obligations

by

**Bank of America Corporation**

*(a Delaware (U.S.A.) corporation)*

This supplement (the "**Supplement**") constitutes a supplement to the base prospectus dated 24 May 2012 (the "**Original Base Prospectus**"), and, as supplemented on 26 June, 2012, 25 July, 2012 and 8 August, 2012, the "**Base Prospectus**"), prepared in connection with the Note, Warrant and Certificate Programme (the "**Programme**") of Merrill Lynch S.A. ("**MLSA**") and Merrill Lynch International & Co. C.V. ("**MLICo.**"). The Supplement is a supplement for the purposes of Article 13 of Chapter 1 of Part II of the Luxembourg Law dated 10 July 2005 and amended on 3 July 2012 on prospectuses for securities (the "**Luxembourg Law**"). On 24 May 2012, the Commission de Surveillance du Secteur Financier (the "**CSSF**") approved the Base Prospectus for the purposes of Article 7 of the Luxembourg Law. Terms defined in the Base Prospectus have the same meanings when used in this Supplement.

This Supplement is supplemental to, and shall be read in conjunction with, the Base Prospectus. To the extent that there is any inconsistency between (a) any statement in this Supplement or any statement incorporated by reference into the Base Prospectus by this Supplement and (b) any other statement in or incorporated by reference into the Base Prospectus, the statements in (a) above will prevail.

Each of MLSA, MLICo. and Bank of America Corporation ("**BAC**") accepts responsibility for the information contained in this Supplement and to the best of the knowledge of MLSA, MLICo. and BAC (each having taken all reasonable care to ensure that such is the case), the information contained in this Supplement is in accordance with the facts and does not omit anything likely to affect the import of such information.

Save as disclosed in this Supplement, there has been no other significant new factor, material mistake or material inaccuracy relating to the information included in the Base Prospectus since the publication of the Base Prospectus.

Copies of this Supplement and the document incorporated by reference will be available for collection and inspection as set out in the section entitled "*General Information – Documents Available*" in the Original Base Prospectus (at pages 564-565) and on the Luxembourg Stock Exchange's website at [www.bourse.lu](http://www.bourse.lu).

In accordance with Article 13 paragraph 2 of the Luxembourg Law, investors in the European Economic Area who have already agreed to purchase or subscribe for Securities issued under the Programme before this Supplement is published have the right, exercisable within two working days after the publication of this Supplement, to withdraw their acceptances. This right will expire on 3 September 2012. The right to withdraw acceptances does not extend to investors in Securities offered in Switzerland.

### ***Incorporation by Reference of Form 8-K***

The current report on Form 8-K dated 23 August 2012 which was filed with the U.S. Securities and Exchange Commission (the "**SEC**") on 23 August 2012 (the "**Form 8-K**"), has been filed with the CSSF in its capacity as competent authority under Article 21(1) of the Prospectus Directive and, by virtue of this Supplement, the Form 8-K is incorporated into and forms part of the Base Prospectus.

Any information included in the Form 8-K that is not listed in the column "*Information incorporated by reference*" below is not relevant for investors.

### ***Information incorporated by reference***

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Item 5.02. Departure of directors or certain officers; election of directors; appointment of certain officers; compensatory arrangements of certain officers	Page 2
Item 9.01. Financial Statements and Exhibits	Page 2
Signatures	Page 3
Index to Exhibits	Page 4
Exhibit 99.1. Press release dated August 23, 2012	Pages 5 to 7

\*These page numbers are references to the PDF pages included in the Form 8-K.