

Prospectus

**MLUDI STEERS NOTES SERIES 2007-2**  
**MXN 100,000,000 (equivalent to UDI 25,726,288) up to MXN10,000,000,000 Face Amount of Zero Coupon Certificates**

The Certificates (the "Certificates") offered pursuant to this Prospectus (the "Prospectus") represent a direct payment obligation of the MLUDI STEERS NOTES Series 2007-2 (the "Trust" or the "Issuer"), a trust established on September 5, 2007 under the laws of the State of Delaware pursuant to a Declaration of Trust and Trust Agreement (the "Trust Agreement") (as defined herein), and executed by HSBC Bank USA, National Association, as trustee (the "Trustee"), and as Delaware trustee (the "Delaware Trustee"), and Transfer Agent (the "Transfer Agent"), and by Merrill Lynch International as distributor and trustor. The assets of the Trust (the "Trust Property") will consist primarily of (i) the Underlying Collateral described herein, (ii) the Trust's rights under the Swap Agreement described herein, (iii) any bank accounts in the Trust's name and (iv) the proceeds of the foregoing. The face amount of Certificates has changed from the Initial Closing Date due to redemptions made under the Distributor's Right to Redeem Own Certificates (as described herein), bringing the total face amount of Certificates to MXN 100,000,000 (equivalent to UDI 25,726,288). Additional Certificates may be issued by the Trust pursuant to Upsizes as described herein. References to "UDI" are to "Unidades de Inversión", a MXN equivalent unit of account indexed to inflation on a daily basis, published by Banco de Mexico (Mexico's central bank, "Banco de Mexico") in the "Diario Oficial de la Federación" and, if the UDI is abolished or replaced, "UDI" shall mean the new inflationary index published by the Banco de Mexico (or any successor index sponsor) in place of the UDI. References to "MXN" "Pesos", "Ps" and "P\$" mean Mexican Pesos, the lawful currency of Mexico. As used herein, "USD" means United States dollars, the lawful currency of the United States of America. All references to "Dollars" or "\$" herein shall refer to USD, unless otherwise stated.

The Trust Property, which includes rights under the swap agreement, will provide the sole source of funds redemption of the Certificates. Redemptions shall be payable in MXN. The Counterparty (as defined herein) under the Swap Agreement (as defined herein) is required to pay to the Trust on the Maturity Date the redemption amount specified herein under "*The Certificates*".

Unless on or prior to January 29, 2037 (the "Scheduled Maturity Date") there has been a Special Redemption Event (as defined herein), on the Scheduled Maturity Date each Holder will receive a final liquidating distribution payable in MXN. On the Maturity Date, HSBC Bank USA, National Association (the "Collateral Agent") shall deliver the Underlying Collateral to the Counterparty and the Counterparty shall pay to the Trust an amount equal to the Final UDI Redemption Amount of the Certificates (as per the Trust, including the Schedule thereto), as of the Maturity Date. Amounts paid to the Trust in accordance with the foregoing shall be paid by the Trust to Holders on the Maturity Date.

***Holders of the Certificates will be exposed to inflation risk and the credit risk of Merrill Lynch & Co., Inc.***

This Prospectus (including the Annexes hereto) comprises a prospectus for the purpose of Directive 2003/71/EC (the "Prospectus Directive") and for the purpose of giving information with regard to the Issuer which, according to the particular nature of the Issuer and the Certificates, is necessary to enable investors to make an informed assessment of the assets and liabilities, financial position, profits and losses and prospects of the Issuer.

Application has been made to the Financial Services Authority (the "FSA") in its capacity as competent authority under the Financial Services and Markets Act 2000 (the "UK Listing Authority") for the Certificates to be admitted to the official list of the UK Listing Authority (the "Official List") and to the London Stock Exchange plc (the "London Stock Exchange") for the Certificates to be admitted to trading on the London Stock Exchange's regulated market (the "Market"). References in this Prospectus to Certificates being listed (and all related references) shall mean that Certificates have been admitted to trading on the Market and have been admitted to the Official List. The Market is a regulated market for the purposes of the Directive 2004/39/EC (the "Markets in Financial Instruments Directive").

An application has also been made to list the Certificates at the *Bolsa Mexicana de Valores, S.A. de C.V.*, under the *Sistema Internacional de Cotizaciones*.

The Certificates are evidenced by a global certificate (the "Global Certificate") which will be deposited with HSBC Issuer Services Common Depositary Nominee (UK) Limited (the "Depositary" or "Common Depositary"), acting as common depositary for Euroclear Bank S.A./N.V. ("Euroclear") and Clearstream Banking, société anonyme ("Clearstream" and together with Euroclear, the "Clearing Systems") and registered in the name of HSBC Issuer Services Common Depositary Nominee (UK) Limited, a limited liability company ("HSBC Issuer Services" or "Registered Holder"), as common nominee of Euroclear and Clearstream.

Holders of the Certificates may own beneficial interests in the Global Certificate through the facilities of S.D. Indeval, Institución para el Depósito de Valores, S.A. de C.V. ("Indeval"), which is a participant in each of Clearstream, and Euroclear. Indeval is a privately owned securities depository that is authorized and acts as a clearinghouse, depositary and central custodian for securities in Mexico. As such, Indeval provides settlement and transfer services and is the registration agent for Mexican securities transactions, eliminating the need for physical transfer of securities. In addition, holders who own beneficial interests in the Certificates through Indeval may be required to certify as to their residency in accordance with the procedures of Indeval.

The Certificates have not and will not be registered under the U.S. Securities Act of 1933, as amended (the "Securities Act"), or any state securities laws. The Certificates are being offered outside the United States, to persons who are not U.S. Persons ("non-U.S. Persons") as defined in Regulation S under the Securities Act ("Regulation S") in offshore transactions in reliance on Regulation S. The Certificates are being offered outside the United States, to persons who are not U.S. Persons ("non-U.S. Persons") as defined in Regulation S under the Securities Act ("Regulation S") in offshore transactions in reliance on Regulation S. The Certificates may not be offered, sold, transferred or delivered, directly or indirectly, in the United States, its territories or possessions or to "U.S. Persons" (as defined in Regulation S and in the U.S. Internal Revenue Code of 1986, as amended). Neither the Certificates nor any interest therein may be beneficially owned by any U.S. Person. The Certificates are subject to other restrictions on transferability and resale, and each purchaser of the Certificates in making its purchase will be deemed to have made certain acknowledgements, representations and agreements as set forth thereunder. See "*The Certificates—Transfer Restrictions*."

The Issuer accepts responsibility for the information contained in this Prospectus. To the best of the knowledge and belief of the Issuer (having taken all reasonable care to ensure that such is the case) the information contained in this Prospectus is in accordance with the facts and does not omit anything likely to affect the import of such information.

The information contained in the sections "Description of Merrill Lynch & Co., Inc." and "Description of the Swap Counterparty" has been accurately reproduced from information provided to the Issuer by Merrill Lynch & Co., Inc. and Merrill Lynch Capital Services, Inc. (respectively). So far as the Issuer is aware and is able to ascertain from information published by Merrill Lynch & Co., Inc. or Merrill Lynch Capital Services, Inc., no facts have been omitted from this Prospectus which would render the information in such sections inaccurate or misleading.

**THE INFORMATION CONTAINED IN THIS PROSPECTUS HAS NOT BEEN REVIEWED BY THE NATIONAL BANKING AND SECURITIES COMMISSION OF MEXICO (*COMISIÓN NACIONAL BANCARIA Y DE VALORES*).**

**THE CERTIFICATES HAVE NOT BEEN REGISTERED IN THE MEXICAN NATIONAL SECURITIES REGISTRY (*REGISTRO NACIONAL DE VALORES*) AND THEREFORE THEY ARE NOT THE SUBJECT OF A PUBLIC OFFER IN MEXICO. ANY INVESTOR OF MEXICAN NATIONALITY THAT PURCHASES THESE CERTIFICATES, WILL DO SO UNDER ITS OWN RESPONSIBILITY. INTERMEDIATION OF THE CERTIFICATES IN MEXICO IS SUBJECT TO THE RESTRICTIONS OF THE MEXICAN SECURITIES MARKET LAW.**

The Certificates are offered by Merrill Lynch International (the "Distributor"), subject to prior sale, when, as and if issued, with a minimum subscription as set forth in this Prospectus. The Distributor reserves the right to offer Certificates at a price different from the initial offering price at any time.

Prospective investors should inform themselves as to the legal requirements for and tax consequences of the acquisition, holding and disposal of interests in the Certificates within the countries of their residence and domicile and any related foreign exchange restrictions.

The International Securities Identification Number for the Certificates is XS0319463526.

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**Merrill Lynch International**

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The date of this Prospectus is 27 January 2009.

## **NOTICE TO INVESTORS; INVESTOR DEEMED REPRESENTATIONS**

**The Certificates have been sold in offshore transactions in reliance on Regulation S and will be represented by a Global Certificate.**

The Certificates shall be represented by a Temporary Global Certificate (as defined in the Trust Agreement). Interests in each such Global Certificate shall be exchanged on the 40th day after commencement of the Offering (as defined herein), for interests in the relevant Permanent Global Certificate (as defined in the Trust Agreement); provided each holder of such beneficial interests provides to the Common Depository a certification in the form provided in the Trust Agreement that it is a non-U.S. Person. The Global Certificate will be deposited with or to the order of the Common Depository for the account of Euroclear and Clearstream, Luxembourg. Each of Euroclear and Clearstream, Luxembourg will record the beneficial interests in the Certificates attributable to the relevant Global Certificate (“Book-Entry Interests” and each, a “Book-Entry Interest”). Book-Entry Interests in the Certificates will be shown on, and transfers thereof will be effected only through, records maintained in book entry form by Euroclear or Clearstream, Luxembourg, and their respective participants. No person who owns a Book-Entry Interest will be entitled to receive a Certificate in definitive form (a “Definitive Certificate”) unless Definitive Certificates are issued in the limited circumstances described in the Trust Agreement. Definitive Certificates will be issued in registered form only. See also “The Certificates”.

The Certificates have not been, and will not be, registered under the U.S. Securities Act of 1933, as amended (the “Securities Act”) nor under the securities laws of any other jurisdiction. The Certificates are being offered outside the United States, to persons who are not U.S. Persons as defined in Regulation S in offshore transactions in reliance on Regulation S. The Certificates may not be offered, sold, transferred or delivered, directly or indirectly (including by any Holder), in the United States, its territories or possessions or to “U.S. Persons” (as defined in Regulation S and in the U.S. Internal Revenue Code of 1986, as amended (the “Code”). See “*The Certificates—Transfer Restrictions*” and “*Offering*” herein. Neither the Certificates nor any interest therein may be beneficially owned by any U.S. Person.

No Certificates may be offered or sold in any jurisdiction unless such offer and sale is in compliance with all laws of such jurisdiction. The distribution of this Prospectus and the offering of the Certificates in certain jurisdictions may be restricted by law. Persons receiving this Prospectus are required to inform themselves about and to observe any such restriction. This Prospectus does not constitute, and may not be used for or in connection with, an offer or solicitation by anyone in any jurisdiction in which such offer or solicitation is not authorized or to any person to whom it is unlawful to make such offer or solicitation. For a further description of certain restrictions on offerings and sales of Certificates and on distributions of this Prospectus. See “*The Certificates—Transfer Restrictions*” and “*Offering*” herein.

This Prospectus is not authorized for distribution or use in the United States and may not be used or distributed in the United States.

Purchase of Certificates will expose Holders to the credit risk of Merrill Lynch & Co., Inc., the guarantor of the obligations of Merrill Lynch Capital Services, Inc. (“MLCS”) under the Swap Agreement. See “*Risk Factors—Risks Associated with the Swap Agreement*” herein.

This Prospectus contains summaries of certain documents. All such summaries are qualified by reference to the actual documents, copies of which may be obtained on a confidential basis from the Distributor.

The information in this Prospectus is current as of the date of this Prospectus. No representation or warranty is made as to the accuracy or completeness of such information as of any other date, and nothing contained in this Prospectus is, or should be relied on as, a promise or representation as to the future. Neither the subsequent delivery of this Prospectus nor any sale of the Certificates after the date of this

Prospectus implies that there has not been any change in the affairs of the Trust or the information presented here after the date of this Prospectus.

The Certificates are a highly illiquid investment. There is currently no secondary market in the Certificates and it is highly unlikely that a significant secondary market in the Certificates will develop or that, if a significant secondary market does develop, such market will continue or will be sufficient to provide you with needed liquidity. The Certificates are subject to restrictions on transfer which will also limit their liquidity. See “*The Certificates—Transfer Restrictions*” and “*Offering*” herein. The purchase of Certificates is suitable only for, and should be made only by, investors who can bear the risks of limited liquidity and understand and can bear the financial and other risks of such an investment for a significant period of time.

No person is authorized to give any information or to make any representation not contained in this Prospectus. You should not rely on any information or representation not contained herein as having been authorized by or on behalf of the Counterparty, the Distributor or their affiliates (collectively, the “Merrill Lynch Affiliates”) or the Trustee. Neither the delivery of this Prospectus nor any sale made hereunder should, at any time, imply that the information contained herein is correct as of any date subsequent to the date hereof.

As a purchaser of Certificates, you will be deemed to have represented to and agreed with the Distributor, the Counterparty and the Trustee, on behalf of yourself and each account for which you purchase any Certificates, as follows:

- (i) You understand that the information in this Prospectus is not investment advice or a recommendation to purchase the Certificates.
- (ii) You understand that the Certificates will not be registered under the Securities Act and any securities law of any state of the United States.
- (iii) You are:
  - 1.1 not a U.S. Person (as defined in the regulations under the Securities Act and you are not a U.S. person as defined in Section 7701(a)(30) of the Internal Revenue code (the “Code”);
  - 1.2 acquiring the Certificates pursuant to Rule 903 or 904 of Regulation S; and
  - 1.3 an entity which is not, and for so long as it holds any Certificates will not be, (i) an employee benefit plan as defined in Section 3(3) of the U.S. Employee Retirement Income Security Act of 1974, as amended (“ERISA”) which is subject to Title I of ERISA, a plan as defined in Section 4975(e)(1) of the Code, or any entity or other person whose assets constitute (or are deemed for purposes of ERISA or the Code to constitute) the assets of any such plan or (ii) an employee benefit plan, including governmental, church or non-U.S. plans, subject to U.S. federal, state or local laws, or non-U.S. laws, which are substantially similar to Section 406 of ERISA or Section 4975 of the Code unless its purchase and holding of the Certificates would not violate such substantially similar laws.
- (iv) You understand that the Certificates may only be held by persons who satisfy the requirements of clause (iii) above (such person, an “Eligible Investor”) and you will not reoffer, sell, pledge or otherwise transfer the Certificates except to an Eligible Investor.
- (v) You understand that you are bound by the terms and conditions of the Declaration of Trust and Trust Agreement (the “Trust Agreement”) dated as of the Initial Closing Date among HSBC Bank USA, National Association as Trustee, Delaware Trustee and Transfer Agent and Merrill Lynch International as Distributor and Trustor, and of this Prospectus.
- (vi) You are acquiring the Certificates for your own account.

- (vii) **You:**
- (a) will hold at least the minimum denominations of the Certificates; and
  - (b) have all necessary power and authority to acquire the Certificates and your acquisition of the Certificates will not contravene any law, rule or regulation binding on you or such account or any investment guideline or restriction applicable to you or such account.
- (viii) **In deciding whether or not to purchase Certificates,**
- (a) you have carefully read and fully understood this Prospectus (including the Swap Agreement attached hereto and including the Risk Factors herein) and have had an opportunity to review, and have reviewed (to the extent you deemed necessary), the Trust Agreement and the other agreements executed by the Trust (the "Trust Documents");
  - (b) you understand you are exposed to the credit of the Counterparty and its guarantor and you have made your own independent evaluation (based upon such investigation and analysis as you deem appropriate), of the Counterparty and its guarantor, and of the terms and provisions of the Certificates and the Trust Documents;
  - (c) you are not relying (and will not at any time rely on) any communication (written or oral) of the Trustee, the issuer of the Underlying Collateral, the Distributor or the Counterparty as investment advice or as a recommendation to purchase the Certificates, it being understood that information and explanations related to the terms and conditions of the Certificates and the other Trust Documents that are described in this Prospectus shall not be considered investment advice or a recommendation to purchase the Certificates; and
  - (d) you have the knowledge, expertise and experience in financial matters to evaluate the risks involved in purchasing the Certificates.
- (ix) Neither the Issuer, the Trustee nor any Merrill Lynch Affiliate has made any representation to you regarding the legality of your investment in the Certificates and you understand that the appropriate characterization of the Certificates under various legal investment restrictions may be subject to significant interpretative uncertainties.
- (x) There is no action, suit or proceeding before or by any court or governmental agency or body, now pending, or, to your knowledge, threatened against or affecting you, which might result in any material adverse change in your condition, financial or otherwise, your business affairs or business prospects, or which might materially and adversely affect your properties or assets.
- (xi) You will comply with all applicable laws and regulations in effect in any jurisdiction in which you purchase or sell your Certificates and you will obtain any required consent, approval or permission for such purchase or sale under the laws and regulations of each such jurisdiction and you will comply with all transfer restrictions imposed on the Certificates as described herein.
- (xii) You will not act as, and will not hold yourself out as, an agent or representative of any Merrill Lynch Affiliate in any offers or sales of the Certificates.
- (xiii) You understand that if the Distributor determines that a Certificate is being held by or for the benefit of a person who is not an Eligible Investor or that such holding is unlawful under the laws of a relevant jurisdiction then the Distributor shall require the Holder to transfer such Certificate to an Eligible Investor or cause such Certificate to be held for the benefit of an Eligible Investor as the case may be within fourteen days, failing which the Distributor may sell or otherwise dispose of the Certificate on behalf of the Holder at the then current value of the Certificate or otherwise in such manner as it may deem appropriate and pay over the proceeds of such sale or disposition to such Holder. By your acceptance of the Certificates,

you authorize the Distributor to take such action if required and understand that the Distributor will not be responsible for any losses you may incur as a result of any such transfer or sale.

(xiv) If you are at any time in breach of any of your representations and agreements herein or if you make a transfer to a transferee that, at the time of acquisition of its Certificates, is in breach of its representations and agreements set forth herein, you shall hold the Trustee and Distributor and their respective affiliates harmless for their actions taken in connection with the Certificates and shall indemnify the Trustee and Distributor and their respective affiliates for any reasonable costs they may incur in finding and transferring the Certificates to an Eligible Investor capable of making such representations and agreements.

(xv) You will irrevocably waive any and all right to trial by jury with respect to any legal proceeding arising out of or relating to any offers, purchases or sales of Certificates.

(xvi) With respect to any suit, action or proceedings relating to any dispute arising out of or in connection with any offers, purchases or sales of the Certificates ("Proceedings"), you irrevocably submit to the jurisdiction of the courts of the United States District Court located in the Borough of Manhattan in New York City, which submission shall be exclusive unless none of such courts has lawful jurisdiction over such Proceedings.

(xvii) Your purchase of the Certificates will be governed by the laws of the State of New York.

**CIRCULAR 230 NOTICE:**

THE FOLLOWING NOTICE IS BASED ON U.S. TREASURY REGULATIONS GOVERNING PRACTICE BEFORE THE INTERNAL REVENUE SERVICE: (1) ANY U.S. FEDERAL TAX ADVICE CONTAINED HEREIN, IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED BY ANY TAXPAYER FOR THE PURPOSE OF AVOIDING U.S. FEDERAL TAX PENALTIES THAT MAY BE IMPOSED ON THE TAXPAYER; (2) ANY SUCH ADVICE IS WRITTEN TO SUPPORT THE PROMOTION OR MARKETING OF THE TRANSACTIONS DESCRIBED HEREIN; AND (3) EACH TAXPAYER SHOULD SEEK ADVICE BASED ON THE TAXPAYER'S PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.

NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, EFFECTIVE FROM THE DATE OF COMMENCEMENT OF DISCUSSIONS, RECIPIENTS OF THIS PROSPECTUS AND EACH EMPLOYEE, REPRESENTATIVE OR OTHER AGENT OF ANY SUCH RECIPIENT MAY DISCLOSE TO ANY AND ALL PERSONS, WITHOUT LIMITATION OF ANY KIND, THE U.S. FEDERAL INCOME TAX TREATMENT AND TAX STRUCTURE OF THIS OFFERING AND ALL MATERIALS OF ANY KIND, INCLUDING OPINIONS OR OTHER TAX ANALYSES, THAT ARE PROVIDED TO THE RECIPIENTS RELATING TO SUCH TAX TREATMENT AND TAX STRUCTURE. HOWEVER, ANY SUCH INFORMATION RELATING TO THE TAX TREATMENT OR TAX STRUCTURE IS REQUIRED TO BE KEPT CONFIDENTIAL TO THE EXTENT NECESSARY TO COMPLY WITH ANY APPLICABLE FEDERAL OR STATE SECURITIES LAWS. FURTHERMORE, THIS AUTHORIZATION TO DISCLOSE SUCH TAX TREATMENT AND TAX STRUCTURE DOES NOT PERMIT DISCLOSURE OF INFORMATION IDENTIFYING THE TRUST OR ANY OTHER PARTY TO THE TRANSACTION, THIS OFFERING OR THE PRICING (EXCEPT TO THE EXTENT PRICING IS RELEVANT TO TAX STRUCTURE OR TAX TREATMENT) OF THIS OFFERING.

This Prospectus does not constitute an offer to sell or a solicitation of any offer to buy any security other than the Certificates offered hereby, nor constitute an offer to sell or a solicitation of an offer to buy any of the Certificates to any person in any jurisdiction in which it is unlawful to make such an offer or solicitation to such person.

**The Trustee has not participated in the preparation of this Prospectus and assumes no responsibility for its contents. The Trustee refers you to the actual documents herein described for complete information and will provide you with copies, upon request, on a confidential basis. The Trustee qualifies all summaries by reference to the actual documents.**

**The Trust does not have a place of business in the United Kingdom.**

**The Certificates have been rated "AA-" by Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. ("S&P") (the "Rating Agency") on the Initial Closing Date. The rating assigned to the Certificates applies only as of and for the purposes of the Initial Closing Date and is not subject to ongoing surveillance by S&P. The rating does not address any risks associated with any Upsizes, nor any risks associated with inflation as measured by the UDI Index Level. A credit rating is not a recommendation to buy, sell or hold a security.**

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## OVERVIEW OF PRINCIPAL TERMS

The following overview contains basic information about the Certificates being offered and is qualified in its entirety by, and should be read in conjunction with, the more detailed information appearing elsewhere in this Prospectus.

Issuer of Certificates

MLUDI STEERS NOTES Series 2007-2 (the “**Trust**”), a trust established on September 5, 2007 under the laws of the State of Delaware. See “*The Certificates—The Trust*” herein.

References to “**UDI**” are to “Unidades de Inversión” a MXN equivalent unit of account indexed to inflation on a daily basis, published by Banco de Mexico (Mexico’s central bank, “Banco de Mexico”) in the “*Diario Oficial de la Federación*” and, if the UDI is abolished or replaced, “**UDI**” shall mean the new inflationary index published by the Banco de Mexico (or any successor index sponsor) in place of the UDI.

“**MXN**” means Mexican Pesos, the lawful currency of Mexico (or if such currency is not at the time of any payment on the Certificates legal tender for the payment of public and private debts, in such other currency of Mexico as at the time of such payment is legal tender for the payment of debts).

Certificates

MXN 100,000,000 face amount of Certificates (the “**Certificates**”) (equivalent to UDI 25,726,288) of the Trust issued on or prior to the date of this Prospectus. See “*The Certificates—Securities Offered*” herein.

All Certificates issued by the Trust will constitute direct payment obligations of the Trust.

Initial Purchase Price

The Initial Purchase Price of the Certificates is 28.52% of the Final UDI Redemption Amount.

Underlying Collateral

As of the date of this Prospectus: registered USD8,885,000 principal amount of Floating Rate Notes issued by Merrill Lynch & Co., Inc. (“**ML**”) maturing January 29, 2037, CUSIP 59018YT43 (the “**Initial Collateral**”), which Initial Collateral, or any Substitute Collateral may be substituted at the direction of MLCS, in whole or in part in case any of the Underlying Collateral is redeemed following the Initial Closing Date (any such substitute collateral, the “**Substitute Collateral**” and together with the Initial Collateral, the “**Underlying Collateral**”) by (i) USD cash, (ii) Euro cash or (iii) senior or subordinated debt obligations issued by the Distributor or any of its affiliates, provided that at the time of such substitutions (the “**Substitution Time**”) such Substitute Collateral is assigned a Credit Rating equal to or higher than that assigned at the Substitution Time to the Underlying Collateral. For this purpose, a “Credit Rating” shall mean a rating assigned to the Underlying Collateral, as the case may be, by any of Moody’s Investors Service Inc. (or any successor to the ratings business thereof) (“**Moody’s**”), Standard & Poor’s Rating Services, a division of the McGraw-Hill Companies, Inc. (“**S&P**”) or Fitch

Ratings (“**Fitch**”) (any of S&P, Moody’s or Fitch, the “**Rating Agency**”), provided that if the Substitute Collateral is rated by S&P and at least one other Rating Agency, where S&P has assigned the Substitute Collateral a lower Credit Rating than any such other Rating Agency, then the S&P Credit Rating shall govern for purposes of this provision. The face amount of the Underlying Collateral will be increased on the date of any Upsize by an amount specified in the Upsize Notice.

The Underlying Collateral has characteristics that demonstrate capacity to produce funds to service any payments due and payable on the Certificates.

Initial Issue Date of Certificates

September 5, 2007 (the “**Initial Closing Date**”).

Rating

The Certificates have been rated "AA-" by S&P on the Initial Closing Date. The rating assigned to the Certificates applies only as of and for the purposes of the Initial Closing Date and is not subject to ongoing surveillance by S&P. The rating does not address any risks associated with any Upsizes, nor any risks associated with inflation as measured by the UDI Index Level.

UDI Index Level

In respect of a relevant date (the “**Relevant Date**”), the “Unidad de Inversión” (“**UDI**”), expressed as the number of MXN per one UDI, determined by Banco de Mexico as applicable to the Relevant Date, as published in the “*Diario Oficial de la Federación*”.

If the method by which the UDI Index Level is calculated is modified or if the UDI Index Level is replaced or substituted by another unit by the Banco de Mexico, then references herein to UDI Index Level shall be revised accordingly, *provided that* such methodology or unit (a) is applicable to cash lending transactions payable under the same conditions as the UDI Index Level, (b) is determined by the Banco de Mexico, (c) is published in an official publication in respect of the relevant date, and (d) is used to calculate an amount equivalent to the UDI Adjustment in connection with any Mexican government bond that references inflation. In addition, if the Banco de Mexico is recalculating an amount equivalent to the UDI Adjustment in connection with any outstanding Mexican government bond that references inflation, then the Calculation Agent shall recalculate payments using the methodology so applied by the Banco de Mexico.

If, in respect of any Relevant Date, the UDI Index Level, or any unit or methodology replacing or substituting such UDI Index Level is not determined and published by the Banco de Mexico for any reason whatsoever in respect of such date or is not used in respect of such date to calculate an amount equivalent to the UDI Adjustment in connection with any Mexican government bond that references inflation, then references herein to the UDI Index Level shall be calculated using whichever commercially reasonable methodology as determined in the sole discretion of the Calculation Agent is actually used by the government of

Mexico to make payments on any government bond that references inflation or any other instrument issued into the Mexican market that references inflation. If no such methodology is used or available in the calculation of an amount equivalent to the UDI Adjustment in connection with any Mexican government bond that references inflation, then the Calculation Agent shall determine a comparable indexing figure, acting in good faith and in a commercially reasonable manner based on the methodology last used by the Banco de Mexico to calculate the UDI Index Level prior to its becoming unavailable; *provided that* the Calculation Agent shall not be obligated to incur unreasonable costs in calculating such methodology and would be entitled to alter such methodology to avoid excess expense.

No amount payable by the Counterparty hereunder shall be subject to adjustment in the event that the UDI Index Level used in calculation of such amount is modified after the payment by the Counterparty.

Maturity Date

The earlier of (i) the Scheduled Maturity Date and (ii) the date the Trust terminates pursuant to Article IX of the Trust Agreement.

Scheduled Maturity Date

January 29, 2037.

Payment at Maturity

On the Maturity Date, the Collateral Agent shall deliver the Underlying Collateral to the Counterparty and the Counterparty shall pay to the Trust an amount equal to the Final UDI Redemption Amount. Amounts paid to the Trust in accordance with the foregoing shall be paid by the Trust to Holders on the Maturity Date.

Following one of the above actions, the parties' obligations shall cease and the parties shall have no further obligations.

Business Day

A day on which commercial banks and foreign exchange markets settle payments and are open for business (including dealings in foreign exchange and foreign currency deposits) in Mexico City, Mexico, New York, New York and London, United Kingdom.

Swap Agreement

The Swap Agreement consists of the 1992 ISDA Master Agreement (Multicurrency-Cross Border) published by the International Swaps and Derivatives Association, Inc. (“**ISDA**”) ([www.isda.org](http://www.isda.org)) and the schedule (the “**Schedule**”) and a confirmation (the “**Confirmation**”) relating to the transaction (the 1992 ISDA Master Agreement, together with the Schedule and the Confirmation, the “**Swap Agreement**”) executed by the Trust and the Counterparty, each dated as of the Initial Closing Date. The Confirmation was amended and restated on November 8, 2007.

Swap Counterparty or Counterparty

Merrill Lynch Capital Services, Inc. with guarantee from Merrill Lynch & Co., Inc.

Calculation Agent	Merrill Lynch Capital Services.
Special Redemption Event	If the Swap Agreement is terminated early for any reason, the Issuer will redeem the Certificates in full, and in complete satisfaction of the Certificates, the Trust shall pay the Early Redemption Amount.
Early Redemption Amount	An amount in MXN equal to the present value of the Final Exchange Amount on the basis that such amount will be paid on the Scheduled Termination Date multiplied by the UDI Index Level in respect of the Termination Date.
	The Calculation Agent will determine the appropriate discount rate by polling Applicable Dealers for the mid-market UDI interest rate applicable from the date of polling to the Scheduled Termination Date. Should no Applicable Dealer provide a quotation, or should the Calculation Agent determine in its sole and absolute discretion that the quotation is not reflective of market conditions, the Calculation Agent will determine the appropriate discount rate in a commercially reasonable manner.
Applicable Dealers:	Two leading dealers in the MXN/USD foreign exchange market selected by the Calculation Agent.
Hedging Transactions:	One or more derivative transactions entered into by ML in order to hedge any risks arising from the Swap Agreement. The determination of whether a derivative transaction constitutes a "Hedging Transaction" shall be made by the Calculation Agent in its sole and absolute discretion.
Upsize	Merrill Lynch International may require the Trust to issue additional Certificates at any time. Such additional Certificates shall be issued on the same terms, and shall be fungible with, existing Certificates. Additional Certificates issued as the result of an Upsize will rank <i>pari passu</i> with respect to existing certificates.
UDI Upsize Amount	In respect of any Upsize Notice, the amount specified in such Upsize Notice (as defined in the Trust Agreement).

## **RISK FACTORS**

The purchase of the Certificates involves substantial risks, including without limitation, credit, liquidity and market risk as well as the additional risks described below. Each of Merrill Lynch International, its affiliates, and the Issuer believes that the factors described below represent the principal risks inherent in investing in the Certificates, but the inability of the Issuer to pay interest, principal or other amounts on or in connection with the Certificates may occur for other reasons which may not be considered significant risks by the Issuer based on information current available to it or which it may not currently be able to anticipate. Prospective investors should also read the detailed information set out elsewhere in this Prospectus and reach their own views prior to making any investment decision. Merrill Lynch International, its affiliates and the Trustee disclaim any responsibility to advise prospective investors on such risks as they exist as of the date of this Prospectus or as they change from time to time. Prospective investors should understand the risks involved and should reach an investment decision after careful consideration with their tax, accounting and legal advisors of the suitability of the Certificates in light of their particular financial circumstances and financial objective.

**Holders of the Certificates will be exposed to inflation risk and the credit risk of Merrill Lynch & Co., Inc. The Certificates are a speculative and risky investment suitable only for those sophisticated investors who have a high risk tolerance and who can afford to lose their entire investment.**

### **Limited Recourse; Certificates Payable Solely from the Trust Property**

The Certificates will not be obligations or responsibilities of, and will not be guaranteed by, the Trustee, the Counterparty, the Distributor or any company in the same group of companies as, or any affiliate of, any of the foregoing. Distributions on the Certificates will be made solely from the Trust Property. Each Holder of Certificates, by its investment in the Certificates, will be deemed to agree that the obligations of the Trust will be payable solely from, and only to the extent of, the Trust Property, which includes the obligations of Merrill Lynch & Co., Inc. under the terms of the Swap Agreement.

### **Limited Liquidity; Resale Restrictions**

The Certificates are a highly illiquid investment. There is currently no secondary market for the Certificates. The Distributor may, but is not obligated to, make a secondary market in the Certificates and there is no guarantee or assurance that a secondary market will develop, or that if a secondary market does develop that it will continue or will be sufficient to provide the Holders with needed liquidity. If the Distributor makes a secondary market in the Certificates, it may, in its sole discretion, discontinue any market-making activities at any time without notice. The Certificates are subject to significant restrictions on transfer which will also limit their liquidity. The Certificates may only be transferred to Eligible Investors.

The purchase of Certificates is suitable only for, and should be made only by, investors who understand and can bear the risks of such an investment (including without limitation the substantial credit, financial and liquidity risks of such an investment) for a significant period of time.

*See “The Certificates—Transfer Restrictions” herein.*

### **Holders have NO put right**

Holders have no right to put the Certificates to Merrill Lynch International at any price or at all, so there are no protections that would prevent Merrill Lynch International from not bidding for the notes or bidding below the price the Holders believe to be at market.

### **No assurance of future levels of the value of the UDI Index**

Prevailing levels of the UDI Index should not be taken as an indication of the future levels of the UDI Index over the term of the Certificates. No assurance can be given that the value of the UDI Index will not depreciate and thereby

reduce the amount of any payment on the Certificates. The rating of the Certificates does not address any risk related to inflation as measured by the UDI Index Level.

### **Risks Associated with the Trust Property**

The Certificates will represent an indirect investment in the Underlying Collateral and the Swap Agreement. Accordingly, Holders should review the terms and risks of the Underlying Collateral and the Swap Agreement to the same extent as if they were making a direct investment in the Underlying Collateral and the Swap Agreement. The Underlying Collateral refers to the specific principal amount of Registered USD8,885,000 principal amount of Floating Rate Notes issued by ML maturing January 29, 2037, CUSIP 59018YT43, referenced in section *Overview of Principal Terms* herein. The principal amount of the Underlying Collateral will be increased on the date of any Upsize by an amount equivalent to the UDI Upsize Amount in respect of such Upsize. The Underlying Collateral will have characteristics that demonstrate capacity to produce funds to service any payments due and payable on the Certificates. However, there can be no assurance that the Underlying Collateral will produce such funds. The Swap Agreement is an over-the-counter derivative transaction and involves the risk of adverse and unanticipated market developments, the risk of illiquidity and other risks including, without limitation, principal, interest rate, credit, political, liquidity and market risk and is not suitable for all investors. Changes in the value of the Swap Agreement will affect the value of the Certificates.

An investment in the Certificates involves significant risks that are not generally associated with similar investments in traditional fixed rate debt securities.

The receipt by Holders of the distributions on their Certificates on the Maturity Date will be dependent on the Trust timely receipt of payment from, and therefore the credit of, the Counterparty.

### **Risks Associated with the Swap Agreement**

**The Holders will be exposed to the credit risk of the Counterparty to the full extent of their investment in the Certificates.** Under the terms of the Swap Agreement, (i) on each date that the Trust receives a payment in respect of the Underlying Collateral, the full amount of such payment will be transferred to the Counterparty and (ii) on the Maturity Date, the Underlying Collateral will be transferred to the Counterparty. Regardless of the amounts received from the above payments, the Counterparty will be obligated upon the Maturity Date to pay to the Issuer the Final UDI Redemption Amount. Therefore, the Issuer is relying on the payments to be made by the Counterparty under the Swap Agreement in order to make the payments to the Holders of the Certificates as set forth herein. To the extent the Counterparty is unable to make the relevant payments under the Swap Agreement, the Issuer will likely be unable to make the related payments to the Holders of the Certificates.

### **Credit Ratings**

The Certificates have been rated "AA-" by S&P. The rating assigned to the Certificates applies only as of and for the purposes of the Initial Closing Date and will not be subject to ongoing surveillance by S&P. The rating does not address any risks associated with any future Upsizes, nor any risks associated with inflation as measured by the UDI Index Level.

Credit ratings of the Certificates represent a rating agency's opinion regarding their credit quality and are not a guarantee of quality. The rating does not guarantee the Holders return on their investment in the Certificates, as this is related to inflation, a market risk factor that is not addressed by the rating. Rating agencies attempt to evaluate the probability of payment of interest and repayment of principal from the sources of collateral securing the Certificates (including the Trust Property) but do not evaluate the risks of fluctuations in market value. Nor are all risks in respect of the Certificates susceptible of analysis under rating methodologies. Accordingly, credit ratings are not a recommendation to purchase, hold or sell the Certificates, do not provide assurance as to market price or suitability for a particular investor and may not fully reflect the true risks of an investment.

## **Inflation Risk**

Payment of the Final UDI Redemption Amount is linked to the UDI Index. However, the UDI Index may not be an accurate indicator of, or correlate with, actual inflation in Mexico, including without limitation the inflation rate a Holder actually experiences.

## **Conflicts of Interest**

Merrill Lynch Capital Services, Inc., as Calculation Agent, will make determinations and calculations relating to the Certificates, which may affect the amount, if any, that Holders of the Certificates will receive following a Special Redemption Event, if applicable.

## **No Reliance; Legal Investment**

Neither the Distributor nor any of its affiliates give tax, accounting, legal or regulatory advice or, except to certain private clients of the Merrill Lynch Affiliates, financial advice.

The Issuer and/or its affiliates make no representation and have given you no advice concerning the appropriate accounting treatment or possible tax consequences of this indicative transaction. Prior to purchasing the security, you should discuss with your professional advisers how such purchase would or could affect you. Investors with any questions regarding the impact of an investment in the Certificates on their tax position should consult their tax adviser. Merrill Lynch does not give tax or legal advice.

The appropriate characterization of the Certificates under various legal investment restrictions, and thus the ability of investors subject to those restrictions to purchase the Certificates, may be subject to significant interpretative uncertainties. No representation is made as to the proper characterization of the Certificates for legal investment purposes, or for risk-weighting, securities valuation, regulatory accounting or other financial institution regulatory regimes of any regulatory body. Investors should consult with their own legal advisors in determining whether, and to what extent, the Certificates will constitute legal investments for them and the consequences of such an investment.

## **No Deduction or Withholding Gross-Up will be Paid to Holders**

If, in respect of any funds owed by the Counterparty to the Trust or by the Trust to the Holders, any deduction or withholding is required by any applicable law, as modified by the practice of any relevant governmental revenue authority, then neither of the Counterparty nor the Trust will be obligated to pay any gross up or other additional amounts in respect of such withholding or deduction.

## **Tax Considerations**

Prospective investors in the Certificates should carefully consider the tax treatment of the Certificates as described herein and are urged to consult their tax advisers regarding the income and other tax consequences of the purchase, ownership and disposition of the Certificates. *See “Tax Considerations” herein.*

## **Counterparty Security Interest**

The Trust’s obligations to the Counterparty under the Swap Agreement will be secured by a security interest in the Trust Property (as defined in the Trust Agreement). For such purpose, the Trustee will, if and as requested by the Counterparty, assist in the perfection and enforcement of such security interest.

## **Delays in Communicating with the Holders**

The Certificates are evidenced by one Global Certificate, which has been deposited with the Common Depositary, acting as common depositary for Euroclear and Clearstream. The Global Certificate is in registered form in the name of the Common Depositary. The Holders’ interests are maintained in book-entry form through the

Accountholders (as defined herein) (except as described below under “*Issuance of Physical Certificates to Holders in Certain Circumstances*”).

Accordingly, there may be a delay in communicating from the Trustee to the Holders (or from the Holders to the Trustee) through the Common Depositary, Euroclear and Clearstream and the relevant Accountholders. Such communication may relate to a vote to terminate the Swap Agreement in the case of a default by the Counterparty. See “*The Swap Agreement—Early Termination of Swap Agreement*.”

### **Limited Information**

This Prospectus does not provide detailed information concerning the Trust Agreement, the Underlying Collateral, or the Swap Agreement. Holders should review for themselves the Trust Agreement setting forth the terms of the Certificates, the Underlying Collateral, and the rights and obligations of the Trustee under the Swap Agreement. A summary of the general terms and conditions of the Underlying Collateral is attached as Annex D hereto. A copy of the Swap Schedule, the Confirmation and the ISDA Master Agreement forming part of the Swap Agreement is attached hereto as Annex B-1, B-2 and B-3 respectively. A Copy of the Trust Agreement is attached as Annex C hereto. Copies of the offering materials related to the Underlying Collateral and the ISDA Definitions forming part of the Swap Agreement are available upon request from the Distributor. To the extent any information in this Prospectus summarizes or purports to summarize information contained in other documents or agreements, Holders will be bound by the provisions of such documents or agreements to the extent of any inconsistency with information contained herein.

## THE CERTIFICATES

Prospective purchasers should review the Trust Agreement and the Swap Agreement, as well as the offering materials for the Underlying Collateral in making their decision to purchase any Certificates. An index of defined terms used in this Prospectus is set forth at Annex A hereto.

Securities Issued	MXN 100,000,000 (equivalent to UDI 25,726,288) up to MXN10,000,000,000 Face Amount of Certificates (the “Certificates”) of the Trust.
The Trust	MLUDI STEERS NOTES Series 2007-2 (the “Trust”), a trust established on September 5, 2007 under the laws of the State of Delaware pursuant to the Trust Agreement. The Trust is being established primarily to (i) issue the Certificates, (ii) purchase the Underlying Collateral and (iii) enter into the Swap Agreement.
	A sole, first priority, security interest in the Trust Property is granted by the Trust to the Counterparty to secure the Trust’s obligations to the Counterparty under the Swap Agreement.
Trust Property	After the Initial Closing Date, the Trust will not purchase or otherwise acquire any additional securities or financial instruments and will not dispose of or create any additional liens on the Trust Property, except at the Maturity Date or in connection with an Upsize as described herein.
	The assets of the Trust (the “Trust Property”) will primarily consist of (i) the Underlying Collateral described herein, (ii) the Trust’s rights under the Swap Agreement described herein, (iii) any bank accounts in the Trust’s name and (iv) the proceeds of the foregoing.
	As of the date of this Prospectus: registered USD8,885,000 principal amount of Floating Rate Notes issued by Merrill Lynch & Co., Inc. (“ML”) maturing January 29, 2037, CUSIP 59018YT43 (the “Initial Collateral”), which Initial Collateral, or any Substitute Collateral may be substituted at the direction of MLCS, in whole or in part in case any of the Underlying Collateral is redeemed following the Initial Closing Date (any such substitute collateral, the “Substitute Collateral” and together with the Initial Collateral, the “Underlying Collateral”)) by (i) USD cash, (ii) Euro cash or (iii) senior or subordinated debt obligations issued by the Distributor or any of its affiliates, provided that at the time of such substitutions (the “Substitution Time”) such Substitute Collateral is assigned a Credit Rating equal to or higher than that assigned at the Substitution Time to the Underlying Collateral. For this purpose, a "Credit Rating" shall mean a rating assigned to the Underlying Collateral by any of Moody's Investors Service Inc. (or any successor to the ratings business thereof) (“Moody's”), Standard & Poor's Rating Services, a division of the McGraw-Hill Companies, Inc. (“S&P”) or Fitch Ratings (“Fitch”) (any of S&P, Moody's or Fitch, the “Rating Agency”), provided that if the Substitute Collateral is rated by S&P and at least one other

Rating Agency, where S&P has assigned the Substitute Collateral a lower Credit Rating than any such other Rating Agency, then the S&P Credit Rating shall govern for purposes of this provision. The face amount of the Underlying Collateral will be increased on the date of any Upsize by an amount specified in the Upsize Notice.

The Underlying Collateral will have characteristics that demonstrate capacity to produce funds to service any payments due and payable on the Certificates. However, there can be no assurance that the Underlying Collateral will produce such funds.

The Underlying Collateral will be held by the Collateral Agent.

Trustee

HSBC Bank USA, National Association (the “**Trustee**”).

Trust’s Agent

Merrill Lynch International will act as agent for the Trust (the “**Trust’s Agent**”). The Trust’s Agent may select a substitute Trustee upon the resignation of the Trustee.

Paying Agent

HSBC Bank USA, National Association (“**Paying Agent**”).

Common Depository

HSBC Issuer Services Common Depository Nominee (UK) Limited will act as the Common Depository for the Trust (“**Common Depository**”) and in such capacity will make distributions to the Holders and global certificate for Euroclear and Clearstream.

Collateral Agent

HSBC Bank USA, National Association (“**Collateral Agent**”)

Transfer Agent

HSBC Bank USA, National Association (“**Transfer Agent**”)

Trade Date

August 20, 2007 (the “**Trade Date**”).

Initial Issue Date of Certificates

September 5, 2007 (the “**Initial Closing Date**”).

Scheduled Maturity Date

January 29, 2037 (“**Scheduled Maturity Date**”).

Maturity Date

The earlier of (i) the Scheduled Maturity Date and (ii) the date the Trust terminates pursuant to Article IX of the Trust Agreement.

## UDI Index Level

In respect of a relevant date (the “**Relevant Date**”), the “Unidad de Inversión” (“**UDI**”), expressed as the number of MXN per one UDI, determined by Banco de Mexico (Mexico’s central bank, “**Banco de Mexico**”) as applicable to the Relevant Date, as published in the “Diario Oficial de la Federación”.

If the method by which the UDI Index Level is calculated is modified or if the UDI Index Level is replaced or substituted by another unit by the Banco de Mexico, then references herein to UDI Index Level shall be revised accordingly, *provided that* such methodology or unit (a) is applicable to cash lending transactions payable under the same conditions as the UDI Index Level, (b) is determined by the Banco de Mexico, (c) is published in an official publication in respect of the relevant date, and (d) is used to calculate an amount equivalent to the UDI Adjustment in connection with any Mexican government bond that references inflation. In addition, if the Banco de Mexico is recalculating an amount equivalent to the UDI Adjustment in connection with any outstanding Mexican government bond that references inflation, then the Calculation Agent shall recalculate payments using the methodology so applied by the Banco de Mexico.

If, in respect of any Relevant Date, the UDI Index Level, or any unit or methodology replacing or substituting such UDI Index Level is not determined and published by the Banco de Mexico for any reason whatsoever in respect of the such date or is not used in respect of such date to calculate an amount equivalent to the UDI Adjustment in connection with any Mexican government bond that references inflation, then references herein to the UDI Index Level shall be calculated using whichever commercially reasonable methodology as determined in the sole discretion of the Calculation Agent is actually used by the government of Mexico to make payments on any government bond that references inflation or any other instrument issued into the Mexican market that references inflation. If no such methodology is used or available in the calculation of an amount equivalent to the UDI Adjustment in connection with any Mexican government bond that references inflation, then the Calculation Agent shall determine a comparable indexing figure, acting in good faith and in a commercially reasonable manner based on the methodology last used by the Banco de Mexico to calculate the UDI Index Level prior to its becoming unavailable; *provided that* the Calculation Agent shall not be obligated to incur unreasonable costs in calculating such methodology and would be entitled to alter such methodology to avoid excess expense.

No amount payable by the Counterparty hereunder shall be subject to adjustment in the event that the UDI Index Level used in calculation of such amount is modified after the payment by the Counterparty.

UDI Upsize Amount	The amount specified in any Upsize Notice (as defined in the Trust Agreement).
Rating	The Certificates have been rated "AA-" by S&P on the Initial Closing Date. The rating assigned to the Certificates applies only as of and for the purposes of the Initial Closing Date and is not subject to ongoing surveillance by S&P. The rating does not address any risks associated with any Upsizes, nor any risks associated with inflation as measured by the UDI Index Level.
Record Date	The Business Day immediately preceding the Maturity Date.
Business Day	A day on which commercial banks and foreign exchange markets settle payments and are open for business (including dealings in foreign exchange and foreign currency deposits) in Mexico City, Mexico, New York, New York and London, United Kingdom.
Final Redemption	Unless there is a Special Redemption Event, each Holder, on the Scheduled Maturity Date, will receive such Holder's pro-rata share of the Final UDI Redemption Amount.
Final UDI Redemption Amount	On the Maturity Date, the Collateral Agent shall deliver the Underlying Collateral to the Counterparty and the Counterparty shall pay to the Trust an amount equal to the product of (a) the UDI Face Amount and (b) the Final UDI Index Level (the " <b>Final UDI Redemption Amount</b> "). Amounts paid to the Trust in accordance with the foregoing shall be paid by the Trust to Holders on the Maturity Date.
Special Redemption Event	Following one of the above actions, the parties' obligations shall cease and the parties shall have no further obligations.
Early Redemption Amount	If the Swap Agreement is terminated early for any reason, the Issuer will redeem the Certificates at the Early Redemption Amount. An amount in MXN equal to (i) the present value of the Final Exchange Amount on the basis that such amount will be paid on the Scheduled Termination Date multiplied by the UDI Index Level in respect of the Termination Date.
Distributor's Right to Redeem Own Certificates	The Calculation Agent will determine the appropriate discount rate by polling Applicable Dealers for the mid-market UDI interest rate applicable from the date of polling to the Scheduled Termination Date. Should no Applicable Dealer provide a quotation, or should the Calculation Agent determine in its sole and absolute discretion that the quotation is not reflective of market conditions, the Calculation Agent will determine the appropriate discount rate in a commercially reasonable manner. If the Distributor or any of its affiliates holds any Certificates for its own account, the Trustee is authorized and directed, upon the request of the Distributor or such affiliate, to redeem any Certificates held for the account of the Distributor or any such

affiliate, as more fully described in the Trust Agreement.

As of the date of this Prospectus the Trust has redeemed (i) on November 9, 2007, MXN 50,000,000 Face Amount of Certificates; (ii) on November 13, 2007, MXN 70,000,000 Face Amount of Certificates; and (iii) on April 1, 2008, MXN 30,000,000 Face Amount of Certificates. As a result of the abovementioned partial redemptions, the total outstanding face amount of Certificates as of the date of this Prospectus is MXN 100,000,000.

Applicable Dealers

Two leading dealers in the MXN/USD foreign exchange market selected by the Calculation Agent.

Hedging Transactions

One or more derivative transactions entered into by ML in order to hedge any risks arising from the Swap Agreement. The determination of whether a derivative transaction constitutes a "Hedging Transaction" shall be made by the Calculation Agent in its sole and absolute discretion

Upsize

Merrill Lynch International may require the Trust to issue additional Certificates at any time. Such additional Certificates shall be issued on the same terms, and shall be fungible with, existing Certificates. Additional Certificates issued as the result of an Upsize will rank *pari passu* with respect to existing Certificates.

Expenses

The Distributor or an affiliate thereof will pay the costs of establishing the Trust and issuing the Certificates as well as the customary ongoing expenses of the Trust (including, for greater certainty, any costs, actions, claims, damages, expenses or demands to which the Trustee may incur in its capacity as Trustee) and the expenses of the Trust's Agent (collectively, "**Ordinary Expenses**").

Payment Currency

MXN.

Denomination(s)

The minimum denomination shall be MXN1,000,000 (equivalent to the Final UDI Redemption Amount, divided by the number of Certificates outstanding upon Maturity Date (including any Certificates that may have been issued under an Upsize), in the understanding that for the initial issuance this minimum denomination is equivalent to UDI 902,000 per bond) with integral multiples of MXN1,000,000 in excess thereof.

Tax Considerations

*See "Tax Considerations" herein.*

Book-Entry System

The Certificates shall initially be represented by one or more Temporary Global Certificates. Interests in each such Temporary Global Certificates shall be exchangeable on the 40<sup>th</sup> day after the commencement of the offering of such certificates for interests in the Permanent Global Certificates; provided each holder of such beneficial interest provides to the Common Depositary a certification in the form provided in the Trust Agreement that it is not a U.S. Person. Permanent Global

Certificates shall be represented by a Global Certificate (“**Global Certificate**”). The Global Certificate has been deposited with HSBC Issuer Services Common Depositary Nominee (UK) Limited, acting as common depositary for Euroclear Bank S.A./N.V. (“**Euroclear**”) and Clearstream Banking, société anonyme (“**Clearstream**” and together with Euroclear, the “**Clearing Systems**”) and registered in the name of HSBC Issuer Services Common Depositary Nominee (UK) Limited (“**HSBC Issuer Services**” or **Registered Holder**”), as nominee of Euroclear and Clearstream. No person who owns a Book Entry Interest will be entitled to receive a Certificate in definitive form (a “**Definitive Certificate**”) unless Definitive Certificates are issued in the limited circumstances described in the Trust Agreement. Definitive Certificates will be issued in registered form only.

Holders of the Certificates may own beneficial interests in the Global Certificate through the facilities of Indeval, which is a participant in each of Clearstream, and Euroclear. Indeval is a privately owned securities depositary that is authorized and acts as a clearinghouse, depositary and central custodian for securities in Mexico. As such, Indeval provides settlement and transfer services and is the registration agent for Mexican securities transactions, eliminating the need for physical transfer of securities. In addition, holders who own beneficial interests in the Certificates through Indeval may be required to certify as to their residency in accordance with the procedures of Indeval.

The Trustee may treat the Common Depositary as the sole and exclusive registered holder of the Certificates for the purpose of (i) payments with respect to the Certificates, (ii) giving any notice permitted or required to be given to the holders under the Trust Agreement, and (iii) registering the transfer of Certificates. Purchasers of the Certificates will not be considered Registered Holders of the Certificates except in the limited circumstances described herein. *See “Issuance of Physical Certificates to Holders in Certain Circumstances.”* Rather, Holders’ interests will be maintained in book-entry form through entities (“**Accountholders**”) that have accounts at Euroclear or Clearstream.

The Trustee will not have any obligation to any Accountholder, Holder or other person claiming a beneficial ownership interest in Certificates, or in the Global Certificates representing Certificates, who is not named in the registration books maintained by or on behalf of the Trustee.

Notices and other relevant communications received by the Common Depositary will be forwarded to the relevant Accountholders by Euroclear or Clearstream, as applicable. The forwarding to Holders of notices and other communications received by Accountholders will be governed by arrangements between them subject to any statutory and regulatory requirements that may be in effect from time to time.

Payments	Where a payment is required to be made in respect of the Certificates, such payment will be made to the Common Depositary, which will transfer such amounts to Euroclear or Clearstream, as the case may be, which will in turn credit such amounts to the Accountholders (as defined below) in accordance with their respective ownership interests in the Certificates. <i>See “Book-Entry System” above.</i>
Issuance of Physical Certificates to Holders in Certain Circumstances	The Trust will issue physical certificates in registered form in exchange for the Global Certificate as soon as practicable if (i) either Euroclear or Clearstream is closed for business for a continuous period of 14 days (other than by reason of holiday, statutory or otherwise) or announces an intention permanently to cease business or in fact does so and the Trust is advised by the Common Depositary that no alternative clearing system satisfactory to the Accountholders is available, (ii) the Trust is notified by the Distributor that on the occasion of the next distribution in respect of the Certificates it would be required to make any deduction or withholding from any payment in respect of the Certificates that would not be required if the Certificates were represented by physical certificates issued to Accountholders or Holders or (iii) the Trust is notified by the Common Depositary that an Accountholder has determined that on the occasion of the next distribution in respect of the Certificates such Accountholder would be required to make any deduction or withholding from any payment in respect of the Certificates on its books which would not be required if such Certificates were represented by physical certificates issued to Accountholders or such Holders. Any such physical certificates issued by the Trust shall be issued in the name of the Accountholders or, at the direction of the relevant Accountholders, in the names of the Holders. The Trust Agreement will be amended in such manner as may be deemed appropriate to take account of the issuance of such physical certificates.
Transfer Restrictions	The Certificates will not be registered under the Securities Act. The Certificates may not be offered, sold, transferred or delivered, directly or indirectly, in the United States, its territories or possessions or to “U.S. Persons” (as defined in Regulation S and in the Code).
	The Certificates may only be held by investors permitted in “ <i>Notice to Investors; Investors Deemed Representations</i> ” herein and may only be transferred to other investors who meet those qualifications. <i>See also “ERISA and Other Considerations” and “Offering” herein.</i>
	The Certificates may be sold or transferred (including by any Holder) only in accordance with any applicable laws in each relevant jurisdiction.
	The Certificates have not been registered in the Mexican National Securities Registry ( <i>Registro Nacional de Valores</i> ) and

therefore they are not the subject of a public offer in Mexico. Any investor of Mexican nationality that purchases these Certificates, will do so under its own responsibility. Intermediation of the Certificates in Mexico is subject to the restrictions of the Mexican securities market law.

Accountholders may obtain such certifications from Holders as may be appropriate to verify that each such Holder holds such Certificate in compliance with the restrictions outlined above. The Trustee has no duty to monitor or enforce any restrictions on transfer of the Certificates or beneficial interests therein.

For every transfer of Certificates following their initial issuance, Holders may be charged a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in relation thereto, as well as any commission or fee charged by the relevant Accountholder and any other securities broker or dealer involved. Neither Euroclear nor Clearstream has any duty to monitor or enforce any restrictions on transfer of the Certificates.

If the Distributor determines that a Certificate is being held by, or for the benefit of, a person who does not comply with the terms of "*Notice to Investors*" herein or if such holding is unlawful under the laws of a relevant jurisdiction, then the Distributor shall require such Holder to transfer such Certificate to an eligible investor or cause such Certificate to be held for the benefit of an eligible investor as the case may be within fourteen days failing which the Distributor may sell or otherwise dispose of the Certificate on behalf of such Holder at the then current value of the Certificate or otherwise in such manner as it may deem appropriate and pay over the proceeds of such sale or disposition to such Holder.

If a Holder is at any time in breach of its representations and agreements as described herein or transfers its Certificates to a person which is in breach of its representations and agreements as set forth herein, such Holder shall hold the Trustee and the Distributor and their respective affiliates harmless for their actions taken hereunder and shall indemnify the Trustee and the Distributor and their respective affiliates for any reasonable costs they may incur in finding and transferring the Certificates to an Eligible Investor capable of making such representations and agreements.

#### Governing Law

The Certificates are governed by Delaware law.

## **THE SWAP AGREEMENT**

Prospective purchasers should review the Swap Agreement (including the Confirmation executed thereunder) in making their decision to purchase any Certificates. A copy of the Schedule, the Confirmation and the ISDA Master Agreement executed by the Trust and the Counterparty, is attached as Annex B hereto. A copy of the form of the Guarantee delivered by the Counterparty Guarantor is attached as Annex E hereto. Copies of the ISDA Definitions forming part of the Swap Agreement are available upon request from the Distributor. Terms used in this section and in the section below labeled "Terms Specific to the Confirmation," if not defined here, will have the meaning specified in the Swap Agreement.

### Swap Agreement

The Swap Agreement will consist of the 1992 ISDA Master Agreement (Multicurrency-Cross Border) published by the International Swaps and Derivatives Association, Inc. ("ISDA") ([www.isda.org](http://www.isda.org)) and the schedule (the "Schedule") and the confirmation (the "Confirmation" and together with the 1992 ISDA Master Agreement and the Schedule, the "Swap Agreement") to be executed by the Trust and the Counterparty, each dated as of the Initial Closing Date. The Confirmation was amended and restated on November 8, 2007.

The Swap Agreement is governed by New York law.

### Grant of Security Interest to Counterparty

On the Initial Closing Date, the Trust will, pursuant to the Swap Agreement, grant a sole, first priority, perfected security interest in the Trust Property to the Counterparty, ranking senior to any other security interest in the Trust Property, granted to secure the Trust's obligations to the Counterparty under the Swap Agreement. Under the Swap Agreement, the Counterparty has agreed that it will authorize the Trust to release its lien on the Trust Property on the Maturity Date. See "Certificates—Final Distribution."

### Counterparty

Merrill Lynch Capital Services, Inc. ("MLCS"), a wholly-owned indirect subsidiary of the Counterparty Guarantor. The Counterparty was incorporated under the laws of the State of Delaware.

### Counterparty Guarantor

The payment obligations of the Counterparty under the Swap Agreement are unconditionally and irrevocably guaranteed by Merrill Lynch & Co., Inc. (in such capacity the "Counterparty Guarantor"). The Guarantee to be delivered by the Counterparty Guarantor is attached as Annex E hereto.

The Counterparty Guarantor is a holding company, formed in 1973. The obligations of the Counterparty and the Counterparty Guarantor are unsecured.

The Counterparty Guarantor was incorporated under the laws of Delaware in 1973. Its principal executive office is located at 4 World Financial Center, New York, New York 10080; its telephone number is (212) 449-1000. Its registered office in Delaware is c/o The Corporation Trust Company, Corporation Center, and 1209 Orange Street, Wilmington, Delaware 19801.

The Counterparty Guarantor is subject to the informational requirements of the Securities Exchange Act of 1934 and in accordance therewith files reports and other information with the Securities and Exchange Commission. The Counterparty Guarantor will provide without charge to each person to whom this Prospectus is delivered, on written request of such person, a copy (without exhibits other than exhibits specifically incorporated by reference) of any or all such documents so filed since January 1, 1999. Requests for such copies should be directed to Judy A. Witterschein, Corporate Secretary, Merrill Lynch & Co., Inc., 222 Broadway, 17th Floor, New York, N.Y. 10038, telephone (212) 670-0432.

Scheduled Termination Date

The Scheduled Maturity Date of the Certificates.

Early Termination of Swap Agreement

The Swap Agreement will be subject to termination prior to the Scheduled Maturity Date upon the occurrence of an Event of Default or a Termination Event (such event, a “**Swap Termination Event**”).

The “**Events of Default**” under the Swap Agreement (each, a “**Default**”) will be limited to: (i) the failure of the Trust or the Counterparty to make, when due, any payment or delivery required to be made under the Swap Agreement after giving effect to the applicable grace period, if any, (ii) the breach or repudiation of the Guarantee or other event that would result in the Guarantee being ineffective prior to what would otherwise be the Termination Date under the Swap Agreement, and (iii) the occurrence of certain events of insolvency or bankruptcy of the Trust or the Counterparty as described in Section 5(a)(vii) of the ISDA Master Agreement.

The “**Termination Events**” under the Swap Agreement will consist of the following: (i) certain standard termination events under the ISDA Master Agreement including “Illegality,” “Tax Event,” and “Tax Event Upon Merger,” as described in Sections 5(b)(i), 5(b)(ii), and 5(b)(iii), respectively, of the ISDA Master Agreement, and (ii) the occurrence of a Securities Default (as defined below).

A “**Securities Default**” will occur if (i) Merrill Lynch & Co., Inc. or the issuer of the Underlying Collateral, including, for the avoidance of doubt, any Substitute Collateral not issued by Merrill Lynch & Co., Inc., fails to pay on the date due any scheduled interest then payable and such failure is not cured prior to the expiration of the later of three Business Days after such failure and any applicable grace period or deferral period or (ii) the occurrence of certain events of insolvency or bankruptcy of Merrill Lynch & Co., Inc., as set forth in the Swap Agreement.

Designation of Early Termination Date

Upon the occurrence of any Event of Default under the Swap Agreement, the Trustee will have the right to designate an “**Early Termination Date**” (as defined in the Swap Agreement). With respect to Termination Events, an Early

Termination Date may be designated by one of the parties (as specified in each case in the Swap Agreement) and will occur only upon notice and, in certain cases, only after any Affected Party (as defined in the Swap Agreement) has used reasonable efforts to transfer its rights and obligations under the Swap Agreement to a related entity within a limited period after notice has been given of the Termination Event, all as set forth in the Swap Agreement.

A majority (by face amount of Certificates held) of the Holders of the Certificates may direct the time, method and place of conducting any proceeding for any remedy available to the Trust under the Swap Agreement, including, if so directed by the Holders of the Certificates, terminating the Swap Agreement. Holders will have no right directly to enforce any rights of the Trust in the Swap Agreement or directly to receive any payments thereunder. The Trustee is not obligated to pursue any action on behalf of the Trust or the Holders unless the Trustee is satisfied that it has received adequate indemnification for such action and the expenses related thereto.

Payment on an Early Termination

In the event of an early termination of the Swap Agreement in connection with an Event of Default or Termination Event, the Counterparty shall pay the Early Redemption Amount to the Trustee and the Collateral Agent shall deliver the Underlying Collateral to the Counterparty. No other payments or deliveries shall be required to be made by the parties.

Early Redemption Amount

An amount in MXN equal to (i) the present value of the Final Exchange Amount on the basis that such amount will be paid on the Scheduled Termination Date multiplied by the UDI Index Level in respect of the Termination Date.

The Calculation Agent will determine the appropriate discount rate by polling Applicable Dealers for the mid-market UDI interest rate applicable from the date of polling to the Scheduled Termination Date. Should no Applicable Dealer provide a quotation, or should the Calculation Agent determine in its sole and absolute discretion that the quotation is not reflective of market conditions, the Calculation Agent will determine the appropriate discount rate in a commercially reasonable manner.

Applicable Dealers

Two leading dealers in the MXN/USD foreign exchange market selected by the Calculation Agent.

Hedging Transactions

One or more derivative transactions entered into by ML in order to hedge any risks arising from the Swap Agreement. The determination of whether a derivative transaction constitutes a "Hedging Transaction" shall be made by the Calculation Agent in its sole and absolute discretion.

Manner of Payment	Cash payments under the Swap Agreement will be made in immediately available funds by wire transfer to any account designated by the Trustee or the Counterparty as applicable.
Payment Currency	MXN.
Transfer of Swap Agreement	The Swap Agreement may, without the consent of any Holder or the Trustee, be transferred by the Counterparty to the Counterparty Guarantor or any affiliate of the Counterparty Guarantor; provided that if the Swap Agreement is transferred to an affiliate of the Counterparty Guarantor, such transfer shall not be effective until the Counterparty Guarantor provides a guarantee of the obligations of the transferee in respect of the Swap Agreement in the same form as the guarantee it is delivering to the Trust on the Initial Closing Date.
Risk Factors	Since payments due in respect of the Certificates depend on the payments received under the Swap Agreement, Holders will be exposed to the credit risk of the Counterparty Guarantor and the terms of the Swap Agreement to the full extent of their investment in the Certificates. Holders should review the terms of the Swap Agreement as well as information concerning the Counterparty and the Counterparty Guarantor in the same manner as if they were directly entering into the Swap Agreement.

## TERMS SPECIFIC TO THE CONFIRMATION

This is not, nor is it meant to be, a complete description of the Confirmation. Holders should review the copy of the Confirmation attached as part of Annex B hereto to understand all of the terms of the Confirmation. Terms used in this section, if not defined here, will have the meaning specified in the Swap Agreement.

### Definitions

The Confirmation will incorporate certain terms from the 1998 ISDA FX and Currency Option Definitions (the “**1998 ISDA Definitions**”) and the 2000 ISDA Definitions and certain Supplements thereto (the “**2000 ISDA Definitions**”) (as specified in the Confirmation). All references herein to the Confirmation include any definitions and Supplements incorporated therein. **A copy of the 1998 ISDA Definitions and the 2000 ISDA Definitions and any Supplements incorporated in the Confirmation are available from the Distributor or the Trustee or directly from ISDA.**

### UDI Index Level

In respect of a relevant date (the “**Relevant Date**”), the “Unidad de Inversión” (“**UDI**”), expressed as the number of MXN per one UDI, determined by Banco de Mexico as applicable to the Relevant Date, as published in the “*Diario Oficial de la Federación*”.

If the method by which the UDI Index Level is calculated is modified or if the UDI Index Level is replaced or substituted by another unit by the Banco de Mexico, then references herein to UDI Index Level shall be revised accordingly, *provided that* such methodology or unit (a) is applicable to cash lending transactions payable under the same conditions as the UDI Index Level, (b) is determined by the Banco de Mexico, (c) is published in an official publication in respect of the relevant date, and (d) is used to calculate an amount equivalent to the UDI Adjustment in connection with any Mexican government bond that references inflation. In addition, if the Banco de Mexico is recalculating an amount equivalent to the UDI Adjustment in connection with any outstanding Mexican government bond that references inflation, then the Calculation Agent shall recalculate payments using the methodology so applied by the Banco de Mexico.

If, in respect of any Relevant Date, the UDI Index Level, or any unit or methodology replacing or substituting such UDI Index Level is not determined and published by the Banco de Mexico for any reason whatsoever in respect of the such date or is not used in respect of such date to calculate an amount equivalent to the UDI Adjustment in connection with any Mexican government bond that references inflation, then references herein to the UDI Index Level shall be calculated using whichever commercially reasonable methodology as determined in the sole discretion of the Calculation Agent is actually used by the government of Mexico to make payments on any government bond that references inflation or any other instrument issued into the Mexican market that references

inflation. If no such methodology is used or available in the calculation of an amount equivalent to the UDI Adjustment in connection with any Mexican government bond that references inflation, then the Calculation Agent shall determine a comparable indexing figure, acting in good faith and in a commercially reasonable manner based on the methodology last used by the Banco de Mexico to calculate the UDI Index Level prior to its becoming unavailable; *provided that* the Calculation Agent shall not be obligated to incur unreasonable costs in calculating such methodology and would be entitled to alter such methodology to avoid excess expense.

No amount payable by the Counterparty hereunder shall be subject to adjustment in the event that the UDI Index Level used in calculation of such amount is modified after the payment by the Counterparty.

UDI Upsize Amount

In respect of any Upsize Notice (as defined in the Trust Agreement), the amount specified in such Upsize Notice.

Final Exchanges

On the Maturity Date, the Collateral Agent shall pay an amount equal to the Liquidation Price to the Counterparty and the Counterparty shall pay to the Trust an amount equal to the Final UDI Redemption Amount as of the Termination Date.

The Final UDI Redemption Amount shall be paid by the Counterparty in MXN.

Liquidation Price of the Underlying Collateral

Except to the extent the Underlying Collateral (i) is maturing on such date, or (ii) is represented by cash, the Trust will liquidate the Underlying Collateral on the Termination Date by soliciting, on an arm's length basis, firm bids from third parties selected by Merrill Lynch International, as Trust's Agent, and selling the Underlying Collateral to the bidder selected by the Trust's Agent. Such solicitation shall occur in accordance with the normal business practice of the Trust's Agent for sale of obligations of substantially the same type as the Underlying Collateral. The proceeds received by Party B in connection with such liquidation shall be the "**Liquidation Price**".

## **THE TRUST**

The trust was established on September 5, 2007 as a statutory trust under the laws of the State of Delaware and is governed by the Trust Agreement. The Trust has been established solely to issue the Certificates representing direct payment obligations of the Trust, to purchase and hold the Trust Property (except as set forth in the next sentence) and to enter into a Swap Agreement with the Counterparty. The Trust will be administered by the Trustee pursuant to the terms of the Trust Agreement. The Underlying Collateral will be held by the Collateral Agent.

After the Initial Closing Date, the Trust will not purchase or otherwise acquire any additional securities, and will not dispose of or create any lien on the Underlying Collateral except as described in this Prospectus and the Trust Agreement. The Trust may issue additional Certificates after the Initial Closing Date as described in this Prospectus and the Trust Agreement.

By purchasing Certificates, each Holder appoints the Trustee to act on its behalf pursuant to the terms of the Trust Agreement.

### **The Trustee**

Pursuant to the Trust Agreement, the Trustee will administer the Trust and will hold an ownership interest valid against third parties in the Underlying Collateral and the Swap Agreement on behalf of the Trust. Trust Property held by the Trustee will be held in a separately identified and segregated account. The Trust Agreement provides for indemnification of the Trustee by the Trust and exculpates the Trustee for acts of or omissions in respect of the Trust except for its own willful misconduct or negligence. The Trustee is not obligated to pursue any action on behalf of the Trust unless it is satisfied that it has adequate indemnification for such action and any related expenses. The Trustee may from time to time delegate certain of its responsibilities to third parties in accordance with the terms of the Trust Agreement. The Trustee will also maintain the register for Certificates. For its services, the Trustee will be paid a fee by the Distributor and will also be reimbursed for its out-of-pocket expenses. See "The Certificates—Expenses."

The Trustee's liability in connection with the issuance and sale of the Certificates is limited solely to the express obligations of the Trustee set forth in the Trust Agreement. Neither the Certificates, the Swap Agreement nor the Underlying Collateral will represent an interest in or obligation of, or be guaranteed or insured by, the Trustee. Payments by the Counterparty pursuant to the Swap Agreement will be the sole sources of payment on the Certificates, and there will be no recourse to the Trustee or any other entity in the event that such proceeds and payments are insufficient or otherwise unavailable to make all payments provided for under the Certificates.

The following persons, all of whom are full time employees of the Trustee, hold the offices indicated in the following table as of the date hereof:

<b>Name</b>	<b>Office</b>
Fernando Acebedo	Vice President  Corporate Trust Officer of HSBC Trust Company (Delaware), National Association
Frank J. Godino	Vice President  Corporate Trust Officer of HSBC Trust Company (Delaware), National Association
Thomas G. Mackay	Vice President  Corporate Trust Officer of HSBC Trust Company (Delaware), National Association

The business address of each of the executive officers of the trustee is 452 Fifth Avenue, New York, NY, 10018, USA. Telephone: +1 212 525 1316

## **The Trust's Agent**

The Trust will on the Initial Closing Date enter into an agreement (the “**Agency Agreement**”) with Merrill Lynch International, which will serve as an agent of the Trust (the “**Trust’s Agent**”). The Trust’s Agent will determine any tax or governmental charges that may be due in connection with any transfer or exchange of Certificates. The Trust’s Agent may also select a substitute Trustee upon the resignation or removal of the Trustee. The Trust’s Agent will also endeavor to arrange for the delivery, if requested, of other information as available with respect to the Trust in connection with transfers of Certificates. The Trust’s Agent may be removed by the Trustee upon 30 days prior written notice and may resign upon 60 days prior written notice to the Trustee. The Trust provides for indemnification and reimbursement of all the Trust’s Agent expenses, losses, damages and liabilities incurred under the Agency Agreement, subject all to compliance with the applicable standard of care, as provided therein, and limited to the extent of Trust Property.

## **Rights of Holders**

The terms and conditions of the Trust Agreement shall inure to the benefit of, and be binding on, each Holder as if each Holder had been a party to and had executed the Trust Agreement, and as if each Holder had covenanted to observe and be bound by all the provisions of the Trust Agreement and had thereby authorized the Trust and the Trustee to do all such acts and things as the Trust Agreement may or shall require the Trust and the Trustee to do or which the Trust and the Trustee shall do in accordance with the provisions thereof.

No Holder will have the contractual right to act directly with respect to the Underlying Collateral (in connection with their conversion, redemption, tender for purchase or otherwise) or the Swap Agreement or to proceed directly against the issuer of the Underlying Collateral or the Counterparty. Such rights are reserved to the Trustee. In addition, no Holder will have any right to bring an action in the right of the Trust except in accordance with applicable law and unless Holders owning more than 50% in interest in the Trust join in bringing such action.

If there is an Event of Default (as defined in the Swap Agreement) with respect to which the Counterparty is the defaulting party under the Swap Agreement, or any other event occurs thereunder which pursuant to the terms of the Swap Agreement would give the Trust the right to terminate the Swap Agreement in its entirety, the Trustee shall so notify the Counterparty and the Holders, and shall thereafter, at the direction of Holders whose Certificates represent more than 50% of the face amount of all Certificates for which such Swap Agreement constitutes a part of the Trust Property (the “**Majority Holders**”), exercise the rights and remedies of the Trust under the Swap Agreement, including if so directed by the Majority Holders, terminating the Swap Agreement. Notwithstanding the above, if the Event of Default is the result of the bankruptcy of the Swap Counterparty or the Swap Guarantor’ or of a Securities Default, the Trustee shall immediately seek to terminate all transactions under the Swap Agreement, without the need for a previous instruction from any of the Holders.

## **Termination of the Trust**

The Trust will be terminated upon the Trustee’s receipt and distribution of all amounts owed to the Trust in respect of all Trust Property held by the Trust following the final Periodic Distribution Date or, if earlier, following a Special Redemption Event as described in this Prospectus.

Upon a termination of the Trust, the Collateral Agent will deliver the Underlying Collateral to the Counterparty, along with any amounts due the Counterparty under the Swap Agreement, and the Trust will receive the amounts paid to the Trust by the Counterparty under the Swap Agreement. The Trust will then distribute the remaining proceeds to each Holder in accordance with its proportionate interest in the Trust.

## **Resignation, Removal and Replacement of the Trustee**

The Trustee may resign upon 60 days’ written notice to the Trust’s Agent and the Holders. The Distributor may remove the Trustee at any time for cause by giving at least 30 days’ prior written notice to the Holders and the Trustee. Such resignation or removal shall not take effect until a successor trustee is appointed by the Trust’s Agent (or otherwise) and has assumed the duties of trustee as set forth in the Trust Agreement. Holders may not remove the Trustee.

A resigning or removed Trustee shall continue, following appointment of any successor, to have the benefit of all indemnities, powers and privileges and rights of recourse against the property of the Trust conferred upon it pursuant to the Trust Agreement or applicable law in respect of the period during which it acted as Trustee.

#### **Modification of the Trust Agreement and other Trust Documents**

The Trustee may, without the approval of the Holders, amend the Trust Agreement or other agreements to which the Trust is a party in such manner and to such extent as appropriate to cure any ambiguity or to address any question arising under the Agreement, which amendment may not be materially inconsistent with other provisions, or to add or change any provision or modify the rights of Holders, provided that any such amendment may not materially adversely affect the interests of the Holders. Without the approval of the Holders, the Trustee may, upon Opinion of Counsel (as defined in the Trust Agreement), amend the restrictions on resales and transfers of Certificates as provided in the Trust Agreement.

#### **Governing Law**

The Certificates and the Trust Agreement are governed by the laws of the State of Delaware.

## **TRUST PROPERTY**

The assets of the Trust (the “**Trust Property**”) will primarily consist of (i) the Underlying Collateral, (ii) the Trust’s rights under the Swap Agreement described in this Prospectus and attached hereto as Annex B, (iii) any bank accounts in the Trust’s name, and (iv) the proceeds of the foregoing. The Trust Property will provide the sole source of funds for distributions on the Certificates.

This Prospectus does not provide detailed information concerning the Underlying Collateral or the issuer thereof but merely identifies the Underlying Collateral. Any information concerning the Underlying Collateral or the issuer thereof that is set forth in this Prospectus will, unless otherwise specified, be based upon publicly available sources, will not have been independently checked or verified by the Distributor, the Counterparty, the Trustee or anyone else. Prospective purchasers should review the offering materials for the Underlying Collateral in making their decision to purchase any Certificates.

Unless otherwise indicated in this Prospectus, the Swap Agreement will consist of the 1992 ISDA Master Agreement (Multicurrency-Cross Border) published by the International Swaps and Derivatives Association, Inc. (“**ISDA**”) ([www.isda.org](http://www.isda.org)), the schedule thereto and the credit swap confirmation (the “**Credit Confirmation**”) executed thereunder. The Swap Agreement is appended to this Prospectus and should be reviewed carefully by any prospective purchaser of the Certificates.

Upon the occurrence of any Event of Default under the Swap Agreement, the non-defaulting party will have the right to designate an “Early Termination Date” (as defined in the Swap Agreement). With respect to Termination Events, an Early Termination Date may be designated by one of the parties (as specified in each case in the Swap Agreement) and will occur only upon notice and, in certain cases, after any Affected Party (as defined in the Swap Agreement) has used reasonable efforts to transfer its rights and obligations under the Swap Agreement to a related entity within a limited period after notice has been given of the Termination Event, all as set forth in the Swap Agreement. The Majority Holders may direct the time, method and place of conducting any proceeding for any remedy available to the Trust under the Swap Agreement, including, if so directed by the Majority Holders, terminating the Swap Agreement. Holders will have no right directly to enforce any rights of the Trust in the Swap Agreement or directly to receive any payments thereunder. The Trustee is not obligated to pursue any action on behalf of the Trust or the Holders unless the Trustee is satisfied that it has received adequate indemnification for such action and the expenses related thereto.

The obligations of the Trust to the Counterparty under the Swap Agreement will be secured by a security interest in the Trust Property (as defined in the Trust Agreement) granted by the Trust in favor of the Counterparty. For such purpose, the Trustee will, if and as requested by the Counterparty, assist in the perfection of such security interest.

## TAX CONSIDERATIONS

**CIRCULAR 230 NOTICE:** THE FOLLOWING NOTICE IS BASED ON U.S. TREASURY REGULATIONS GOVERNING PRACTICE BEFORE THE INTERNAL REVENUE SERVICE: (1) ANY U.S. FEDERAL TAX ADVICE CONTAINED HEREIN, IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED BY ANY TAXPAYER FOR THE PURPOSE OF AVOIDING U.S. FEDERAL TAX PENALTIES THAT MAY BE IMPOSED ON THE TAXPAYER; (2) ANY SUCH ADVICE IS WRITTEN TO SUPPORT THE PROMOTION OR MARKETING OF THE TRANSACTIONS DESCRIBED HEREIN; AND (3) EACH TAXPAYER SHOULD SEEK ADVICE BASED ON THE TAXPAYER'S PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.

### In General

The following general summary describes certain U.S. federal income tax with respect to the purchase, ownership and disposition of the Certificates for beneficial owners of Certificates that are not “U.S. persons” (within the meaning of section 7701(a)(30) of the Internal Revenue Code of 1986, as amended (the “**Code**”)) (“**Non U.S. Holders**”). This summary addresses only the U.S. federal income tax considerations of Non-U.S. Holders that purchase the Certificates in the initial offering pursuant to this Prospectus and does not address the indirect effects on the holders of equity interests in a holder of the Certificates. This summary does not purport to be a comprehensive description of all tax considerations that may be relevant to a decision to purchase the Certificates or with respect to tax considerations applicable to Non-U.S. Holders that are subject to special tax rules. In addition, this summary does not describe any tax consequences arising under the laws of any state, locality or taxing jurisdiction other than the U.S. federal government.

This summary is based on United States tax laws, regulations, rulings and decisions in effect or available on the date of this Prospectus. All of the foregoing are subject to change, which change may apply retroactively and could affect the continued validity of this summary. This summary is included herein for general information only and there can be no assurance that the United States Internal Revenue Service (the “**IRS**”) or the Courts will take a similar view of the U.S. federal income tax consequences of an investment in Certificates as described herein.

**U.S. PERSONS ARE NOT PERMITTED, DIRECTLY OR INDIRECTLY, TO OWN CERTIFICATES (OR ANY BENEFICIAL INTEREST THEREIN) AT ANY TIME.**

**PROSPECTIVE PURCHASERS OF THE CERTIFICATES SHOULD CONSULT THEIR TAX ADVISORS AS TO THE U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PURCHASE, OWNERSHIP AND DISPOSITION OF THE CERTIFICATES, AND THE POSSIBLE APPLICATION OF STATE, LOCAL, NON-U.S. OR OTHER TAX LAWS.**

### Certain U.S. Federal Tax Considerations

The Trust, and each holder by acquiring a Certificate, will agree to treat the Trust as a grantor trust and not as an association or publicly traded partnership taxable as a corporation for U.S. federal income tax purposes. As such, the Trust will not be subject to U.S. federal income tax. For U.S. federal income tax purposes, each Holder of a Certificate will be required to take into account its pro rata share of the income from the Trust Property, as determined under the U.S. federal income tax rules applicable to the assets comprising the Trust Property.

Prospective investors should be aware that no rulings have been sought from the Internal Revenue Service (the “**IRS**”), and that legal opinions are not binding on the IRS or the courts. Accordingly, there can be no absolute assurance that the IRS will agree that the Trust should be treated as a grantor trust and not as an association or publicly traded partnership taxable as a corporation. If the Trust were not properly classified as a grantor trust, it would be treated as a partnership under its default classification for U.S. federal income tax purposes and, assuming that it was not a publicly traded partnership, it would be subject to the partnership tax provisions under the Code. In this regard, the Trust Agreement will provide for a protective election under Section 761 of the Code to exclude the

Trust from the partnership tax provisions of the Code, although the eligibility of the Trust for such an election is uncertain. If the Trust were subject to the partnership tax provisions, the consequences to U.S. Holders could potentially vary from those described below. If the Trust were classified as a publicly traded partnership taxable as a corporation, amounts payable to the Holders would constitute nondeductible dividends, the Trust would be subject to tax on its income at corporate tax rates, and distributions to the Holders would be materially impaired.

The Counterparty, the Trust and each holder will agree to treat the Swap Agreement as a notional principal contract for U.S. federal income tax purposes.

Subject to the discussion of backup withholding below, a Non-U.S. Holder generally will not be subject to income or withholding tax on amounts received with respect to the Underlying Collateral to the extent such amounts are treated as “interest” for U.S. federal income tax purposes, assuming that (i) the recipient is not actually or constructively a “10 percent shareholder” of the issuer of the Underlying Collateral or a “controlled foreign corporation” with respect to which the issuer is a “related person” within the meaning of the Code, (ii) the recipient is not a bank with respect to which the purchase of the Certificates represents an extension of credit made pursuant to a loan agreement entered into in the ordinary course of its trade or business, (iii) such payments are not effectively connected with a trade or business within the United States by the Non-U.S. Holder, and (iv) the Non-U.S. Holder provides appropriate certification that such Non-US Holder is a foreign person (typically, on an IRS Form W-8BEN, W-8EXP or W-8IMY) including any applicable attachments and signed under penalties of perjury, and providing the Non-U.S. Holder’s name and address). If the conditions set forth in the preceding sentence are not satisfied, a withholding agent for U.S. federal tax purposes will be required to withhold U.S. tax on payments beneficially owned by such Non-U.S. Holder (including payments that represent accrued original issue discount) at a rate of 30%, unless (x) such withholding is reduced or eliminated by an applicable income tax treaty and the Non-U.S. Holder that is the beneficial owner of such Certificates provides a IRS Form W-8BEN claiming the benefits of such treaty, or (y) such withholding is not required because the Non-U.S. Holder provides the withholding agent with a completed and duly executed IRS Form W-8ECI certifying that the payments received by the Non-U.S. Holder (including payments that represent accrued original issue discount) are effectively connected with the conduct of a trade or business within the United States by the Non-U.S. Holder.

Generally, a Non-U.S. Holder that provides appropriate certification that such Non-U.S. Holder is a foreign person (on an IRS Form W-8BEN, W-8EXP or W-8IMY, as described in the preceding paragraph) will not be subject to U.S. federal income or withholding taxes with respect to any payments under the Swap Agreement that are attributable to deemed periodic payments under a notional principal contract for U.S. federal income tax purposes (unless such income is effectively connected with a trade or business within the United States by a Non U.S. Holder).

Subject to the discussion of backup withholding below, generally, a Non-U.S. Holder will not be subject to U.S. federal income or withholding tax on any gain or income (other than any gain attributable to accrued interest or original issue discount, which is taxable in the manner described above) realized upon the sale, exchange, retirement or other disposition of the Underlying Collateral, the Swap Agreement or the Certificates unless (i) the gain or income is effectively connected with a trade or business within the United States or (ii) in the case of a Non-U.S. Holder that is an individual, such Non-U.S. Holder is present in the United States for 183 days or more during the taxable year of such sale, exchange, retirement or other disposition and certain other conditions are met.

### **Information Reporting and Backup Withholding**

Under certain circumstances, the Code requires “information reporting” annually to the IRS and to each Holder, and “backup withholding” with respect to certain payments made on or with respect to the Certificates. These requirements generally do not apply with respect to certain Holders, including corporations, tax-exempt organizations, qualified pension and profit sharing trusts, and individual retirement accounts.

A Non-U.S. Holder that provides the withholding agent with an applicable IRS Form W-8BEN, IRS Form W-8IMY or other applicable form, together with all appropriate attachments, signed under penalties of perjury, identifying the Non-U.S. Holder and stating that the Non-U.S. Holder is not a U.S. person will not be subject to IRS information reporting requirements or backup withholding.

Backup withholding is not an additional tax and may be refunded (or credited against the Holder's U.S. federal income tax liability, if any), provided that certain required information is furnished. The information reporting requirements may apply regardless of whether withholding is required. Copies of the information returns reporting such withholding also may be made available to the tax authorities in the country in which a Non-U.S. Holder holding Certificates is a resident under the provisions of an applicable income tax treaty or agreement.

**Prospective investors should consult their own tax advisors regarding the application of the information reporting and backup withholding rules to their particular circumstances.**

In the event that any withholding tax or any other tax is or becomes applicable to distributions in respect of the Certificates, no additional amount will be payable by the Trustee to compensate for any such tax.

**PROSPECTIVE INVESTORS SHOULD CONSULT THEIR TAX ADVISORS AS TO THE U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PURCHASE, OWNERSHIP AND DISPOSITION OF THE CERTIFICATES, AND THE POSSIBLE APPLICATION OF STATE, LOCAL, NON-U.S. OR OTHER TAX LAWS.**

## CERTAIN ERISA CONSIDERATIONS AND OTHER CONSIDERATIONS

The Certificates may not be purchased or held by (i) employee benefit plans as defined by Section 3(3) of U.S. Employee Retirement Income Security Act of 1974, as amended ("ERISA") which is subject to Title I of ERISA, (ii) plans as defined in Section 4975(e)(1) of the U.S. Internal Revenue Code of 1986, as amended ("the Code") ((i) and (ii) shall collectively be referred to as "Plans"), or (iii) any entity or other person whose assets constitute (or are deemed for purposes of ERISA or the Code to constitute) the assets of any Plan (such entities collectively with Plans shall be referred to as "Benefit Plan Investors").

Section 406 of ERISA and/or Section 4975 of the Code prohibits Plans from engaging in certain transactions with persons that are "parties in interest" under ERISA or "disqualified persons" under the Code with respect to Plans (collectively, "Parties in Interest"), unless certain exemptions apply. Certain Parties in Interest that participate in a non-exempt prohibited transaction may be subject to an excise tax under ERISA or the Code. In addition, the persons involved in the prohibited transaction may have to rescind the transaction and pay an amount to the Plan for any losses or profits the plan realized by such persons and certain other liabilities could result that have a significant adverse effect on such persons. Certain employee benefit plans, including governmental plans (as defined in Section 3(32) of ERISA), certain church plans (as defined in Section 3(33) of ERISA), and non-U.S. plans (as described in Section 4(b)(4) of ERISA) are not subject to the prohibited transaction rules of ERISA or the Code but may be subject to similar rules under other applicable laws or documents. Accordingly, assets of such plans may be invested in the Certificates without regard to the prohibited transaction considerations under ERISA and the Code, but they may be subject to the provisions of other applicable federal, state or non-U.S. law ("Similar Law"). Fiduciaries of such plans should consult with their counsel before purchase any of the Certificates or any interest therein.

Each purchaser and subsequent transferee of any Certificate will be deemed by such purchase or acquisition of any Certificate to have represented and warranted, on each day from the date on which the purchaser or transferee acquires the Certificate through and including the date on which the purchaser or transferee disposes of such Certificate, that (i) it is not a Benefit Plan Investor, is not using the assets of a Benefit Plan Investor to acquire the Certificate, and shall not at any time hold such Certificate for or on behalf of a Benefit Plan Investor and (ii) it is not a governmental, church or non-U.S. plan which is not subject to ERISA but is subject to Similar Law unless its acquisition and holding of the Certificate does not constitute a non-exempt prohibited transaction under any Similar Law.

## **DESCRIPTION OF MERRILL LYNCH & CO., INC.**

Merrill Lynch & Co., Inc. (“ML”) is the issuer of the Initial Collateral and is also the Counterparty Guarantor.

ML is a holding company that, through its subsidiaries and affiliates, provides investment, financing, insurance and related services to individuals and institutions on a global basis through its broker dealer, insurance and other financial services subsidiaries. Its principal subsidiaries include Merrill Lynch, Pierce, Fenner & Smith Incorporated, Merrill Lynch International, Merrill Lynch Government Securities, Inc., Merrill Lynch Capital Services, Inc., Merrill Lynch Bank USA, Merrill Lynch Bank & Trust Co., FSB, Merrill Lynch International Bank Limited, Merrill Lynch Mortgage Capital Inc., Merrill Lynch Japan Securities Co., Ltd., Merrill Lynch Life Insurance Company, Merrill Lynch Life Insurance Company of New York, Merrill Lynch Derivative Products AG and Merrill Lynch IBK Positions, Inc. The services which ML and its principal subsidiaries provide include:

- Securities brokerage, trading, and underwriting;
- Investment banking, strategic advisory services (including mergers and acquisitions) and other corporate finance activities;
- Wealth management products and services, including financial, retirement and generational planning;
- Investment management and advisory and related record keeping services;
- Origination, brokerage, dealer and related activities in swaps, options, forwards, exchange-traded futures, other derivatives, commodities and foreign exchange products;
- Securities clearance, settlement financing services and prime brokerage;
- Private equity and other principal investing activities;
- Proprietary trading of securities, derivatives and loans;
- Banking, trust and lending services, including deposit taking, consumer and commercial lending, including mortgage loans, and related services;
- Insurance and annuities sales; and
- Research across the following disciplines: global fundamental equity research, global fixed income and equity-linked research, global economics and foreign exchange research and global investment strategy.

ML's accounting year for 2007 ended on 28th December, 2007.

ML was incorporated under the laws of the State of Delaware, U.S.A., on 27th March, 1973 with file number 0790151. The principal executive office of ML is located at 4 World Financial Center, New York, New York 10080, United States of America, with telephone number +1 212 449 1000. ML's registered office in the State of Delaware in c/o The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801, United States of America.

ML has securities admitted to trading on the following regulated markets: the Market, Eurolist by Euronext Amsterdam N.V. and the Official List of the Luxembourg Stock Exchange.

On September 15, 2008, ML entered into an Agreement and Plan of Merger (the “Merger Agreement”) with Bank of America Corporation (“Bank of America”). The Merger Agreement provides that, upon the terms and subject to the conditions set forth in the Merger Agreement, a wholly owned subsidiary of Bank of America will merge with and into ML with ML continuing as the surviving corporation and as a wholly owned subsidiary of Bank of America.

The merger has been approved by the board of directors of each of ML and Bank of America and is subject to shareholder votes at both companies.

Upon completion of the merger, each outstanding share of ML common stock will be converted into the right to receive 0.8595 shares of Bank of America common stock, and the Bank of America board of directors will be expanded to include three existing directors of ML. The Merger Agreement contains certain termination rights for both ML and Bank of America and is subject to customary closing conditions, including standard regulatory approvals. The transaction is expected to close in the first quarter of 2009 or earlier subject to shareholder approval, customary closing conditions and regulatory approvals. ML has securities admitted to trading on the following regulated markets: the Market, Eurolist by Euronext Amsterdam N.V. and the Official List of the Luxembourg Stock Exchange.

## **DESCRIPTION OF MERRILL LYNCH CAPITAL SERVICES, INC.**

Merrill Lynch Capital Services, Inc. (“MLCS”) is the Swap Counterparty. MLSC is a wholly-owned indirect subsidiary of Merrill Lynch and was incorporated under the laws of Delaware on 1st August, 1984.

MLCS is one of Merrill Lynch's primary interest rate and currency derivative product dealers. MLCS primarily acts as a counterparty for certain derivative financial products, including interest rate and currency swaps, caps and floors and options. MLCS maintains positions in interest-bearing securities, financial futures and forward contracts to hedge its interest rate and currency risk related to derivative exposures. In the normal course of its business, MLCS enters into repurchase and resale agreements with certain affiliated companies. MLCS's subsidiaries, Merrill Lynch Commodities, Inc., Merrill Lynch Commodities (Europe) Trading Limited trade as principal in physically and financially settled contracts in energy, weather and a broad range of other commodities. These subsidiaries also provide asset optimisation and other energy management and risk management services for third parties.

The office is MLCS is Merrill Lynch World Headquarters, 4 World Financial Center, 18th Floor, New York, New York 10080.

## **OFFERING**

Merrill Lynch International (“**Merrill Lynch**” or the “**Distributor**”) has been appointed as the sole distributor of the Trust for the offering of the Certificates pursuant to a Distribution Agreement (as amended or supplemented from time to time, and together with any replacement agreement, the “**Distribution Agreement**”) between the Trust and Merrill Lynch (the “**Offering**”). Certificates are being offered by Merrill Lynch, subject to prior sale, when, as and if issued, approval of certain legal matters by counsel for Merrill Lynch and certain other conditions. Merrill Lynch reserves the right to offer Certificates at a price different from the initial offering price at any time.

The Certificates may not be directly or indirectly offered, sold or delivered in any jurisdiction except in compliance with applicable law.

No dealer, salesperson or other person has been authorized to give any information or to make any representation other than those contained in this Prospectus in connection with the offer contained herein, and, if given or made, such information or representation must not be relied upon as having been authorized by the Trustee or the Distributor. This Prospectus does not constitute an offer to sell, or a solicitation of an offer to buy, any Certificate in any jurisdiction where, or to any person to whom, it is not lawful to make any such offer or solicitation. Neither the delivery of this Prospectus nor any sale made hereunder shall, under any circumstance, create an implication that there has been no change in the affairs of the Trust since the date hereof or that the information herein or therein is correct as of any time subsequent to its date. Although no assurance can be given that a secondary market will develop in the Certificates, the Distributor intends to make or cause an affiliate to make a market in the Certificates but is not obligated to do so.

By acquiring a Certificate, each Holder appoints the Trustee to act on its behalf pursuant to the terms of the Trust Agreement and agrees to be bound by the terms and conditions of the Trust Agreement to the same extent as if such Holder were a signatory thereto. The Certificates and related documentation (including, without limitation, the Trust Agreement and the Distribution Agreement) may be amended or supplemented from time to time, without the consent of, but upon notice to, the holders of Certificates sent to their registered addresses, on the terms and conditions set forth herein and in the Trust Agreement.

### **United States**

The Certificates will not be registered under the Securities Act. The Certificates may not be offered, sold, transferred or delivered, directly or indirectly, in the United States, its territories or possessions or to “**U.S. Persons**” (as defined in Regulation S and in the Code).

### **European Economic Area**

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a “**Relevant Member State**”), the Distributor has represented and agreed 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 Certificates 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 Certificates to the public in that Relevant Member State:

- (a) in (or in Germany, where the offer starts within) the period beginning on the date of publication of a Prospectus in relation to those Certificates 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, all in accordance with the Prospectus Directive and ending on the date which is 12 months after the date of such publication;
- (b) at any time to legal entities which are authorized or regulated to operate in the financial markets or, if not so authorized or regulated, whose corporate purpose is solely to invest in securities;

- (c) at any time to any legal entity which has two or more of (1) an average of at least 250 employees during the last financial year; (2) a total balance sheet of more than EUR 43,000,000 and (3) an annual net turnover of more than EUR 50,000,000, as shown in its last annual or consolidated accounts; or
- (d) at any time in any other circumstances which do not require the publication by the Issuer of a Prospectus pursuant to Article 3 of the Prospectus Directive.

For the purposes of this provision, the expression an “offer of Certificates to the public” in relation to any Certificates 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 Certificates to be offered so as to enable an investor to decide to purchase or subscribe the Certificates, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State and the expression Prospectus Directive means Directive 2003/71/EC and includes any relevant implementing measure in each Relevant Member State.

**Mexico:**

THE INFORMATION CONTAINED IN THIS PROSPECTUS IS THE EXCLUSIVE RESPONSIBILITY OF THE TRUST AND HAS NOT BEEN REVIEWED BY THE NATIONAL BANKING AND SECURITIES COMMISSION OF MEXICO (*COMISIÓN NACIONAL BANCARIA Y DE VALORES*).

THE CERTIFICATES HAVE NOT BEEN REGISTERED IN THE MEXICAN NATIONAL SECURITIES REGISTRY (*REGISTRO NACIONAL DE VALORES*) AND THEREFORE THEY ARE NOT THE SUBJECT OF A PUBLIC OFFER IN MEXICO. ANY INVESTOR OF MEXICAN NATIONALITY THAT PURCHASES THESE CERTIFICATES, WILL DO SO UNDER ITS OWN RESPONSIBILITY. INTERMEDIATION OF THE CERTIFICATES IN MEXICO IS SUBJECT TO THE RESTRICTIONS OF THE MEXICAN SECURITIES MARKET LAW.

## **GENERAL INFORMATION**

1. The Certificates will be admitted to trading in the London Stock Exchange's regulated market and will be admitted the Official List of the UK Listing Authority.  
An application has also been made to list the Certificates at the *Bolsa Mexicana de Valores, S.A. de C.V.* under the *Sistema Internacional de Cotizaciones*.
2. The Issuer is not and has not been involved in any governmental, legal or arbitration proceedings (including any proceedings which are pending or threatened of which the Issuer is aware) since the date of its formation which may have, or have in such period had, a significant effect on the financial position or profitability of the Issuer.
3. There has been no material adverse change in the financial position or prospects of the Issuer since its formation.
4. Copies of the Trust Agreement may be inspected at the offices of Allen & Overy LLP, One Bishops Square, London, E1 6AD, during usual business hours on any weekday (Saturdays, Sundays and public holidays excepted) for 14 days from the date of this document.
5. The total expenses related to the admission to trading of the Certificates on the London Stock Exchange's regulated market will be £2,725.
6. Interests of Holders of the Certificates to receive redemption amounts rank senior to other creditors of the Issuer up to the amount of the redemption amount.
7. The Trust Property has characteristics that demonstrate capacity to produce funds to service any payments due and payable on the Certificates.
9. The Trust will have a fiscal year consisting of each successive twelve-month period commencing on the Closing Date. It is not anticipated that audited financial statements will be prepared. No financial statements have been made up as of the date of this Prospectus.
10. The Issuer does not intend to provide post-issuance information in relation to the Certificates.

## **LEGAL MATTERS**

Certain New York law matters in connection with the offering of the Certificates by the Distributor have been opined upon by Allen & Overy LLP, New York, New York.

Certain Delaware law matters in connection with the Certificates have been opined upon by Richards, Layton & Finger P.A., Wilmington, Delaware.

## **THE ISSUER**

**MLUDI STEERS NOTES Series 2007-2**  
c/o HSBC Bank USA, National Association  
Corporate Trust and Loan Agency  
452 Fifth Avenue  
New York, NY 10018

## **THE TRUSTEE AND PAYING AGENT**

HSBC Bank USA, National Association  
Corporate Trust and Loan Agency  
452 Fifth Avenue  
New York, NY 10018

## **THE SWAP COUNTERPARTY**

Merrill Lynch Capital Services, Inc.  
Merrill Lynch World Headquarters  
4 World Financial Center, 18th Floor  
New York, New York 10080

## **THE ISSUER OF THE NOTES AND THE SWAP COUNTERPARTY GUARANTOR**

Merrill Lynch & Co., Inc.  
Merrill Lynch World Headquarters  
4 World Financial Center, 18th Floor  
New York, New York 10080

## **DISTRIBUTOR AND TRUST'S AGENT**

Merrill Lynch International  
2 World Financial Center  
New York, NY 10080

## **CALCULATION AGENT**

Merrill Lynch Capital Services, Inc.  
2 World Financial Center  
New York, NY 10080

## **LEGAL ADVISERS TO THE DISTRIBUTOR AND THE SWAP COUNTERPARTY**

Allen & Overy LLP  
1221 Avenue of the Americas  
New York, NY 10020  
United States of America

## ANNEX A

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**ANNEX B-1**

**SWAP SCHEDULE**

**SCHEDULE  
to the  
Master Agreement  
dated as of September 5, 2007**

between MERRILL LYNCH CAPITAL SERVICES, INC. ("MLCS" or "Party A") and MLUDI STEERS NOTES SERIES 2007-2 (the "Trust" or "Party B"), a trust created pursuant to a Declaration of Trust and Trust Agreement dated as of September 5, 2007 (the "Trust Agreement").

Capitalized terms used and not defined herein have the meanings specified in the Trust Agreement (as defined above). All references herein to the Transaction shall mean the Transactions to be evidenced by the Confirmation of even date herewith.

**Part 1. Termination Provisions**

(a) **"Specified Entity"** means in relation to MLCS for the purpose of: -

Section 5(a)(v), Not Applicable  
Section 5(a)(vi), Not Applicable  
Section 5(a)(vii), Not Applicable  
Section 5(b)(iv), Not Applicable

and in relation to the Trustee for the purpose of: -

Section 5(a)(v), Not Applicable  
Section 5(a)(vi), Not Applicable  
Section 5(a)(vii), Not Applicable  
Section 5(b)(iv), Not Applicable

(b) **"Specified Transaction"** will have the meaning specified in Section 14 of this Agreement.

(c) **Events of Default.** Notwithstanding Section 5(a), the only Events of Default that shall apply are: Section 5(a)(i) ("Failure to Pay"), which shall apply to both parties; Section 5(a)(iii) ("Credit Support Default"), which shall apply to MLCS but not to the Trust; and Section 5(a)(vii) ("Bankruptcy"), which shall apply to both parties. No other Section 5(a) Events of Default shall apply to either party.

(d) The **"Credit Event Upon Merger"** provisions of Section 5(b)(iv) will not apply to MLCS or to the Trust.

(e) **Cost of Funds.** The cost of funding of MLCS for each month of the relevant period, as set forth in the definition of "Default Rate," shall be deemed to equal the one-month USD-LIBOR-BBA, as such term is defined in the Annex to the 2000 ISDA Definitions (June 2000 Version), as published by the International Swaps and Derivatives Association, Inc.

(f) The **"Automatic Early Termination"** provision of Section 6(a) will not apply to MLCS or to the Trust.

(g) **Payments on Early Termination.** For purposes of Section 6(e) of this Agreement (i) Loss will

apply, and (ii) the Second Method will apply.

- (h) "**Termination Currency**" means Mexican Pesos.
- (i) "**Additional Termination Event**" means the occurrence of a Collateral Default. A "Collateral Default" will occur if any of the following events occur:
  - (A) Merrill Lynch & Co., Inc. as issuer, or the issuer of any other portion of the Underlying Collateral, including, for the avoidance of doubt, any Substitute Collateral not issued by Merrill Lynch and Co., Inc., (each, as "Issuer") fails to pay on any date when due (each an "Underlying Collateral Payment Date") any interest then payable on the relevant portion of the Underlying Collateral (the "Scheduled Interest") and such failure is not cured prior to the expiration of the later of three Business Days after such failure and any applicable grace period or deferral period, or
  - (B) an event occurs with respect to the Issuer of the Underlying Collateral which would be an "event of default" under Section 5(a)(vii) hereof if the Issuer were a party hereto.

If a Collateral Default occurs, MLCS will be the Affected Party.

As used herein, "Underlying Collateral" has the meaning specified in the relevant Confirmation.

## **Part 2. Tax Representations.**

- (a) **Payer Representation.** For the purpose of Section 3(e) of this Agreement, MLCS and the Trust will each make the following representation:

It is not required by any applicable law, as modified by the practice of any relevant governmental revenue authority, of any Relevant Jurisdiction to make any deduction or withholding for or on account of any Tax from any payment (other than interest under Section 2(e), 6(d)(ii) or 6(e) of this Agreement) to be made by it to the other party under this Agreement. In making this representation, it may rely on (i) the accuracy of any representation made by the other party pursuant to Section 3(f) of this Agreement, (ii) the satisfaction of the agreement of the other party contained in Section 4(a)(i) or 4(a)(iii) of this Agreement and the accuracy and effectiveness of any document provided by the other party pursuant to Section 4(a)(i) or 4(a)(iii) of this Agreement and (iii) the satisfaction of the agreement of the other party contained in Section 4(d) of this Agreement, provided that it shall not be a breach of this representation where reliance is placed on clause (ii) and the other party does not deliver a form or document under Section 4(a)(iii) of this Agreement by reason of material prejudice to its legal or commercial position.

- (b) **Payee Representations.** For the purpose of Section 3(f) of this Agreement, MLCS and the Trust will each make the following representation:

- (i) For the purpose of Section 3(f) of this Agreement, Party A makes the following representations:
  - (A) Party A is a corporation created or organized in the United States or under the laws of the United States or of any State or of the District of Columbia.
  - (B) Party A is a "United States person" for U.S. federal tax purposes as that term is defined in

section 7701(a)(30) (or any applicable successor provision) of the U.S. Internal Revenue Code of 1986, as amended.

- (ii) For the purpose of Section 3(f) of this Agreement, Party B makes the following representation:
- (A) Party B is a statutory trust established under the laws of Delaware.

**Part 3. Agreement to Deliver Documents.**

For the purpose of Section 4(a)(i) and 4(a)(ii) of this Agreement, MLCS and the Trust each agree to deliver the following documents to the other as applicable: -

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

<b>Party Required to Deliver Document</b>	<b>Form / Document / Certificate</b>	<b>Date by which to be Delivered</b>
Party B	A complete and executed United States Internal Revenue Service Form W-9 (or any successor thereto), including appropriate attachments that eliminates U.S. federal backup withholding tax on payments under this Agreement.	(i) Before the first Fixed Payment Date, (ii) promptly upon reasonable demand and (iii) promptly upon learning that any Form W-9 (or any successor thereto) previously provided has become obsolete or incorrect
Party A	A complete and executed United States Internal Revenue Service Form W-9 (or any successor thereto), including appropriate attachments that eliminates U.S. federal backup withholding tax on payments under this Agreement.	(i) Before the first Payment Date, (ii) promptly upon reasonable demand and (iii) promptly upon learning that any Form W-9 (or any successor thereto) previously provided has become obsolete or incorrect
Party A & Party B	Any form or document reasonably requested by the other party to permit payments without (or with minimal) withholding for or account of any Tax as specified in Section 4(a)(iii) of this Agreement	As soon as practicable after request

(b) Other documents to be delivered are:

<b>PARTY REQUIRED TO DELIVER DOCUMENT</b>	<b>FORM/ DOCUMENT/ CERTIFICATE</b>	<b>DATE BY WHICH TO BE DELIVERED</b>	<b>COVERED BY SECTION 3(d) REPRESENTATION</b>
Party A and Party B	Certificate of Incumbency and Signing Authority of each person executing any document on its behalf in connection with this Agreement	Upon execution of this Agreement.	Yes
Party A	Duly executed copy of the Credit Support Document	At or within 3 days of execution of this Agreement	
Party B	Trust Agreement	Upon execution of this Agreement.	Yes

#### **Part 4. Miscellaneous**

(a) **Addresses for Notices:** For the purpose of MLCS:

Address: Merrill Lynch World Headquarters  
4 World Financial Center, 18th Floor  
New York, New York 10080

Attention: Swaps Group  
Telephone No.: 212-449-7403  
Facsimile No. 646-805-0218

(with copy to)

Address: Merrill Lynch & Co., Inc.  
Merrill Lynch World Headquarters  
4 World Financial Center, 7<sup>th</sup> Floor  
New York, NY 10080

Attention: Global Credit Derivatives  
Telephone No. 212-449-9001  
Facsimile No. 212-449-9054

Additionally, a copy of all notices pursuant of Sections 5, 6 and 7 as well any changes to the Trustee's address, telephone number or facsimile number should be sent to:

Address: GMI Counsel  
Merrill Lynch World Headquarters  
4 World Financial Center, 12<sup>th</sup> Floor  
New York, NY 10080

Attention: Swaps Legal  
Facsimile No. 212-449-6993

Address for notices or communications to the Trust or Trustee:

Address: HSBC Bank USA, National Association,  
452 Fifth Avenue  
New York, NY 10018,  
Attention: Corporate Trust and Loan Agency - International Finance Unit  
Telephone No.: 212-525-1316  
Facsimile No.: 212-525-1300

- (b) **Process Agent.** For the purpose of Section 13(c) of this Agreement:

MLCS appoints as its Process Agent: Not Applicable

The Trust appoints as its Process Agent: Not Applicable.

- (c) **Offices.** The provisions of Section 10(a) will apply to this Agreement.

- (d) **Multibranch Party.** For the purpose of Section 10(c) of this Agreement:-

MLCS is not a Multibranch Party.

The Trust is not a Multibranch Party.

- (e) **Calculation Agent.** The Calculation Agent is Merrill Lynch International, unless otherwise specified in the Confirmation. The failure of Merrill Lynch International to perform its obligations as Calculation Agent hereunder shall not be construed as an Event of Default or Termination Event.

- (f) **Credit Support Document.** With respect to MLCS, Guarantee of Merrill Lynch & Co., Inc. (the "Guarantor") in the form attached hereto as Exhibit A. With respect to the Trust, not applicable.

- (g) **Credit Support Provider.** With respect to MLCS, the Guarantor. With respect to the Trust, not applicable.

- (h) **Governing Law.** This Agreement will be governed by and construed in accordance with New York law.

- (i) **Netting of Payments.** Sub-paragraph (ii) of Section 2(c) of this Agreement will apply to all Transactions hereunder.

- (j) "**Affiliate**" will have the meaning specified in Section 14 of this Agreement except that the Trust shall be deemed not to have any Affiliates.

## Part 5. Other Provisions

- (a) **Indemnifiable Tax.** If a Tax in respect of payments under this Agreement is required to be paid pursuant to Section 2(d), neither Party A nor Party B will in any circumstances be required to pay additional amounts in respect of any Indemnifiable Tax or be under any obligation to pay to the other party any amount in respect of any liability of the other party for or on account of such Tax and accordingly Section 2(d)(i)(4) and Section 2(d)(ii) of this Agreement shall not apply.

- (b) **Amendment to 5(b)(ii).** There shall be added, following the word "will" as it appears both times

on the fourth line of Section 5(b)(ii) the following words: "(but for the effect of paragraph (a) of Part 5 of the schedule to the Agreement)".

(c) **Additional Representations.** Section 3 of this Agreement is hereby amended by adding the following, which shall constitute additional representations for all purposes of this Agreement, including, without limitation, Sections 3, 4, 5(a)(ii) and 5(a)(iv):

- (i) **Eligible Contract Participant.** It is an "eligible contract participant" as such term is defined in Section 1a(12) of the Commodity Exchange Act, as amended.
- (ii) **Transactions are Arm's Length.** It is entering into this Agreement and each Transaction in reliance upon its own judgment and upon any tax, accounting, regulatory and financial advice as it has deemed necessary and not upon any view expressed by the other party, and all trading decisions are and will be the result of arm's length negotiations between the parties.
- (iii) **Risks are Fully Understood.** It is entering into this Agreement and each Transaction with full understanding of all materials risks thereof, and it is capable (including having the financial wherewithal) of assuming and willing to assume those risks and it has relied upon such tax, accounting, regulatory, legal and financial advice as it deems necessary and not upon any view expressed by the other party.

(d) **Change of Account.** Section 2(b) of this Agreement is hereby amended by the addition of the following after the word "delivery" in the first line thereof:

"to another account in the same legal and tax jurisdiction as the original account"

(e) **Consent to Telephonic Recording.** Each party hereto consents to the monitoring or recording, at any time and from time to time, by the other party of any and all communications between officers or employees of the parties, waives any further notice of such monitoring or recording, agrees to notify its officers and employees of any such monitoring or recording, and agrees that any such tape recordings may be submitted in evidence in any Proceedings relating to this Agreement and any Transaction hereunder.

(f) **Transfer/Assignment.** Notwithstanding the provisions of Section 7 of this Agreement, MLCS may, without the consent of the Trust or any Holder, transfer or assign its rights and obligations under any Transaction, in whole or in part, to the Guarantor or any affiliate of the Guarantor (any such transferee or assignee, a "Transferee"); *provided* that, (i) as of the date of such transfer neither the transferee nor Party B will be required to withhold or deduct on account of any Tax from any payments under this Agreement in excess of what would have been required to be withheld or deducted in the absence of such transfer; (ii) each of the transferor and transferee will be a dealer in notional principal contracts as that term is used in U.S. Treasury Regulations Section 1.1001-4(a); (iii) Party A will be responsible for any costs or expenses (including any Stamp Tax) incurred by the Trust or Party B (or its agents) in connection with such transfer; and *provided further* that no such transfer or assignment shall be effective until the Trust has received (a) an executed acceptance and assumption by the Transferee of the transferred obligations of MLCS under the Transaction(s) (the "Transferred Obligations") and an executed ISDA Master Agreement between the said Transferee and the Trust (the "New Master Agreement"); and (b) unless the Transferee is the Guarantor, an executed guarantee of the Transferred Obligations by the Guarantor, in substantially the same form as delivered by the Guarantor on the Issue Date. MLCS may not otherwise transfer or assign its rights and obligations hereunder to any other

Person. Upon the date such transfer is effective, (i) MLCS shall be released from all obligations and liabilities arising under the Transferred Obligations; and (ii) the Transferred Obligations shall cease to be Transaction(s) under this Agreement and shall be deemed to be Transaction(s) under the New Master Agreement between the Transferee and the Trust. Except as provided in this paragraph, no party may assign or transfer this Agreement.

- (g) **Method of Notice.** Section 12(a)(ii) of the Master Agreement is deleted in its entirety.
- (h) **Security Interest.** As security for the prompt and complete payment and performance when due of the obligations of the Trust hereunder, the Trust hereby grants to MLCS a continuing first priority security interest in all of the Trust's right, title and interest in the Underlying Collateral described in the Trust Agreement and all other property comprising the Trust Property (as also described in the Trust Agreement). Such security interest shall remain in full force and effect until the Trust has fulfilled all of its obligations under this Agreement.
- (i) **Further Assurances.** Promptly following a demand made by MLCS, the Trustee will execute, deliver, file and record any financing statement, specific assignment or other document and take any other action that may be necessary or desirable and reasonably requested by MLCS to create, preserve, perfect or validate any security interest or lien granted hereunder to enable MLCS to enforce its rights under this Agreement or to effect or document a release of such security interest.
- (j) **Severability.** Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of the Agreement or affecting the validity or enforceability of such provision in any other jurisdiction. The parties hereto shall endeavor in good faith negotiations to replace the prohibited or unenforceable provision with a valid provision, the economic effect of which comes as close as possible to that of the prohibited or unenforceable provision.
- (k) **Limited Recourse.** Notwithstanding any other provision of this Agreement, MLCS acknowledges and agrees that it shall have recourse only to the Trust Property in respect of any claim, action, demand or right arising in respect of, or against, the Trust under the terms of this Agreement and that it shall in no circumstances have any recourse to any other assets or property of the Trustee save in respect of any action, cost, claim, damage, expense or demand which results from any act or omission occasioned by the willful misconduct or negligence of the Trustee. Any such claim, action, demand or right existing after the assets of the Trust have been exhausted shall be deemed to be discharged and extinguished save in respect of any action, cost, claim, damage, expense or demand which results from any act or omission occasioned by the willful misconduct or negligence of the Trustee.
- (l) **No Petition for Bankruptcy.** MLCS shall not, prior to one year and one day after the Trust has paid in full to the Holders all amounts due in respect of the Certificates, (i) commence or sustain an action against the Trustee or cause or join in any action against the Trustee under any federal or state bankruptcy, insolvency or similar law, or (ii) appoint a receiver or other similar official of the Trustee, or (iii) make an assignment for the benefit of creditors, or (iv) order the winding up or liquidation of the Trust; provided that the foregoing shall not prevent MLCS from filing any proof of claim or taking any similar action if any other parties initiate any of the foregoing actions.
- (m) **Set-Off.** Neither party may (i) Set-Off against amounts owed to it hereunder any amounts which

it may owe to the other party under any other agreement it may have with the other party or  
(ii) Set-Off against amounts which it owes hereunder amounts owed to it by the other party under any other agreement it may have with the other party.

- (n) **Amendments.** Each of the parties agrees that it will not amend this Agreement in any manner other than as set forth in the Trust Agreement; provided that without the consent of any Holder the Trustee and MLCS may amend this Agreement or any Transaction or enter into a new Transaction under the same circumstances as amendments to the Trust Agreement are permitted under Section 12.01 of the Trust Agreement.

IN WITNESS WHEREOF, the parties have executed and delivered this document as of the date specified on the first page of this document.

**MERRILL LYNCH CAPITAL SERVICES, INC.** **MLUDI STEERS NOTES SERIES 2007-2**  
By: HSBC BANK USA, NATIONAL ASSOCIATION, not in its individual capacity but solely as Trustee under the Trust Agreement

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

**ANNEX B-2**  
**CONFIRMATION**



FAX: 917-778-0836

DATE: November 8, 2007

TO: MLUDI STEERS Notes Series 2007-2

ATTENTION: CORPORATE TRUST AND LOAN AGENCY - INTERNATIONAL FINANCE UNIT

FROM: MERRILL LYNCH CAPITAL SERVICES, INC. ("MLCS")

RE: Amendment and restatement of Confirmation dated September 5, 2007.

MLCS REF: Admin ID: 07EM16224

Dear Sir or Madam:

The purpose of this communication is to amend and restate the terms and conditions of the Confirmation between Merrill Lynch Capital Services, Inc. ("MLCS") and MLUDI STEERS Notes Series 2007-2 ("the Trust") regarding the transaction between MLCS and the Trust entered into on the Trade Date specified below (the "Transaction"). This communication constitutes a "Confirmation" as referred to in the Agreement specified below, and replaces the Confirmation originally entered into on September, 5 2007 by the parties in its entirety.

The definitions and provisions contained in the 1998 ISDA FX and Currency Option Definitions, as published by the International Swaps and Derivatives Association, Inc. ("ISDA"), the Emerging Markets Traders Association and the Foreign Exchange Committee (the "1998 Definitions"), as supplemented by the 2000 ISDA Definitions (as supplemented from time to time), as published by ISDA (the "Swap Definitions") are incorporated into this Confirmation. For these purposes, all references in those Definitions to a "Swap Transaction" shall be deemed to apply to the Transaction referred to herein. In the event of any inconsistency between the Definitions and this Confirmation, the terms of this Confirmation shall govern. In the event of any inconsistency between the 1998 Definitions and the Swap Definitions, the 1998 Definitions will govern. In the event of any inconsistency between either set of Definitions and this Confirmation, this Confirmation will govern.

This Confirmation supplements, forms a part of, and is subject to, the ISDA Master Agreement dated as of September 5, 2007, as amended and supplemented from time to time (the "Agreement") between you and us. All provisions contained in the Agreement govern this Confirmation except as expressly modified below.

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

Trade Date:	August 20, 2007
Effective Date:	September 5, 2007
Termination Date:	The earlier of (i) January 29, 2037 (the "Scheduled Termination Date"), and (ii) the Early Termination Date, subject to adjustment in accordance with the Following Business Day Convention.
Calculation Agent:	MLCS

Calculation Agent City:	New York
Business Day:	New York, Mexico City
Settlement Currency:	MXN.
<b>Floating Payments</b>	
Floating Amount Payer:	The Trust
Floating Amount Payment Date:	Each date on which the Trust receives any payment on the Underlying Collateral.
Floating Amount:	The aggregate payments received by the Trust on the Underlying Collateral since the immediately prior Floating Amount Payment Date.
Underlying Collateral:	<p>As of the Initial Closing Date: registered \$22,208,000.00 face amount of 6.11% Subordinated Notes issued by Merrill Lynch &amp; Co., Inc. (“ML”) maturing January 29, 2037, CUSIP 59022CAJ2 (the “<b>Initial Collateral</b>”), which Initial Collateral, or any Substitute Collateral may be substituted at the direction of MLCS, in whole or in part in case any of the Underlying Collateral is redeemed following the Initial Closing Date (any such substitute collateral, the “<b>Substitute Collateral</b>” and together with the Initial Collateral, the “<b>Underlying Collateral</b>”) by (i) USD cash, (ii) Euro cash or (iii) senior or subordinated debt obligations issued by the Distributor or any of its affiliates, provided that at the time of such substitutions (the “<b>Substitution Time</b>”) such Substitute Collateral is assigned a Credit Rating equal to or higher than that assigned at the Substitution Time to the Underlying Collateral. For this purpose, a “Credit Rating” shall mean a rating assigned to the Underlying Collateral, as the case may be, by any of Moody’s Investors Service Inc. (or any successor to the ratings business thereof) (“<b>Moody’s</b>”), Standard &amp; Poor’s Rating Services, a division of the McGraw-Hill Companies, Inc. (“<b>S&amp;P</b>”) or Fitch Ratings (“<b>Fitch</b>”) (any of S&amp;P, Moody’s or Fitch, the “<b>Rating Agency</b>”), provided that if the Substitute Collateral is rated by S&amp;P and at least one other Rating Agency, where S&amp;P has assigned the Substitute Collateral a lower Credit Rating than any such other Rating Agency, then the S&amp;P Credit Rating shall govern for purposes of this provision. The face amount of the Underlying Collateral will be increased on the date of any Upsize by an amount specified in the Upsize Notice.</p>
Liquidation Price of the Underlying Collateral:	Except to the extent the Underlying Collateral (i) is maturing on such date, or (ii) is represented by cash; the Trust will liquidate the Underlying Collateral on the Termination Date by soliciting, on an arm’s length basis, firm bids from third parties selected by Merrill Lynch International, as the Trust’s Agent, and selling the Underlying Collateral to the bidder selected by the Trust’s Agent. Such solicitation shall occur in

accordance with the normal business practice of the Trust's Agent for sale of obligations of substantially the same type as the Underlying Collateral. The proceeds received by the Trust in connection with such liquidation shall be the "Liquidation Price".

### **Final Exchange**

On the Scheduled Maturity Date, MLCS shall pay to the Trust the relevant Final Exchange Amount:

UDI Face Amount:	As of any date, an amount equal to UDI 225,500,000, plus the aggregate of all UDI Upsize Amounts in respect of any Upsize Notices (as defined in the Trust Agreement) delivered prior to such date.
UDI Upsize Amount:	In respect of any Upsize Notice (as defined in the Trust Agreement), the amount specified in such Upsize Notice.
UDI Index Level	In respect of a relevant date (the " <b>Relevant Date</b> "), the "Unidad de Inversión" (" <b>UDI</b> "), expressed as the number of MXN per one UDI, determined by Banco de Mexico (Mexico's central bank, " <b>Banco de Mexico</b> ") as applicable to the Relevant Date, as published in the " <i>Diario Oficial de la Federación</i> ".
	If the method by which the UDI Index Level is calculated is modified or if the UDI Index Level is replaced or substituted by another unit by the Banco de Mexico, then references herein to UDI Index Level shall be revised accordingly, <i>provided that</i> such methodology or unit (a) is applicable to cash lending transactions payable under the same conditions as the UDI Index Level, (b) is determined by the Banco de Mexico, (c) is published in an official publication in respect of the relevant date, and (d) is used to calculate an amount equivalent to the UDI Adjustment in connection with any Mexican government bond that references inflation. In addition, if the Banco de Mexico is recalculating an amount equivalent to the UDI Adjustment in connection with any outstanding Mexican government bond that references inflation, then the Calculation Agent shall recalculate payments using the methodology so applied by the Banco de Mexico.
	If, in respect of any Relevant Date, the UDI Index Level, or any unit or methodology replacing or substituting such UDI Index Level is not determined and published by the Banco de Mexico for any reason whatsoever in respect of the such date or is not used in respect of such date to calculate an amount equivalent to the UDI Adjustment in connection with any Mexican government bond that references inflation, then references herein to the UDI Index Level shall be calculated using whichever commercially reasonable methodology as determined in the sole discretion of the Calculation Agent is actually used by the government of Mexico to make payments

on any government bond that references inflation or any other instrument issued into the Mexican market that references inflation. If no such methodology is used or available in the calculation of an amount equivalent to the UDI Adjustment in connection with any Mexican government bond that references inflation, then the Calculation Agent shall determine a comparable indexing figure, acting in good faith and in a commercially reasonable manner based on the methodology last used by the Banco de Mexico to calculate the UDI Index Level prior to its becoming unavailable; *provided that* the Calculation Agent shall not be obligated to incur unreasonable costs in calculating such methodology and would be entitled to alter such methodology to avoid excess expense.

No amount payable by MLCS hereunder shall be subject to adjustment in the event that the UDI Index Level used in calculation of such amount is modified after the payment by MLCS thereof.

MXN:

The Peso, being the lawful currency of Mexico or any lawful successor currency thereto.

Final Exchange Date:

The Termination Date, subject to adjustment in accordance with the Final UDI Valuation provision.

Final UDI Valuation Date:

The earlier of: (a) two Business Days prior to the Termination Date, and (b) 22 January 2037 (the "**Scheduled Final Valuation Date**"), subject to adjustments as follows:

If the Final UDI Valuation Date is not a Business Day, the next succeeding Business Day shall be the Final UDI Valuation Date, provided that (i) there are at least two Business Days between the Final UDI Valuation Date and the Termination Date and (ii) if there are not at least two Business Days between the Final Valuation Date and the Termination Date, the Termination Date shall be postponed until the second Business Day after the Final Valuation Date, subject to the Deferral Period.

Notwithstanding anything herein to the contrary, if the Final Valuation Date has not occurred on or before the thirtieth consecutive calendar day after the Scheduled Final Valuation Date (a "**Deferral Period**"), then the next following day after the Deferral Period that would have been a Business Day shall be deemed the Final Valuation Date and the Calculation Agent shall determine the Final UDI Index Level taking into consideration all available information that in good faith it deems relevant.

No interest or other amount shall be payable in respect of the delay in the payment date caused by any postponement of the Termination Date in accordance with the above.

Trust	
Final Exchange Amount:	The Liquidation Price.
MLCS Final Exchange Amount:	Unless a Special Termination Event occurs, MLCS will pay to the Trust on the Final Exchange Date an amount equal to the product of (a) the UDI Face Amount, and (b) the UDI Index Level in respect of the Termination Date.
Special Termination Event:	If at any time the Notes become repayable in full prior to the Scheduled Termination Date or the ISDA Master Agreement is terminated early for any reason, Section 6(e) of the ISDA Master Agreement will not apply for purposes of Section 6(d)(ii), and instead MLCS shall pay the Trust the Early Redemption Amount and the Trust shall deliver the Underlying Collateral to MLCS. Therefore, the parties will have no further obligations with respect to the ISDA Master Agreement.
Early Redemption Amount:	An amount in MXN equal to (i) the present value of the Final Exchange Amount (on the basis that such amount will be paid on the Scheduled Termination Date) multiplied by the UDI Index Level in respect of the Termination Date.
	The Calculation Agent will determine the appropriate discount rate by polling Applicable Dealers for the mid-market UDI interest rate applicable from the date of polling to the Scheduled Termination Date. Should no Applicable Dealer provide a quotation, or should the Calculation Agent determine in its sole and absolute discretion that the quotation is not reflective of market conditions, the Calculation Agent will determine the appropriate discount rate in a commercially reasonable manner.
Applicable Dealers:	Two leading dealers in the MXN/USD foreign exchange market selected by the Calculation Agent.
Hedging Transactions:	One or more derivative transactions entered into by ML in order to hedge any risks arising from the Swap Agreement. The determination of whether a derivative transaction constitutes a "Hedging Transaction" shall be made by the Calculation Agent in its sole and absolute discretion
Non-Reliance:	Each party represents to the other party that it is acting for its own account, and has made its own independent decisions to enter into this Transaction and as to whether this Transaction is appropriate or proper for it based on its own judgment and upon advice from such advisors as it has deemed necessary. It is not relying on any communication (written or oral) of the other party as investment advice or as a recommendation to enter into this Transaction, it being understood that information and explanations related to the terms and conditions of this Transaction shall not be considered investment advice or a recommendation to enter into this

Transaction. No communication (written or oral) received from the other party shall be deemed to be an assurance or guarantee as to the expected results of this Transaction.

Account Details:

Account for Payments to MLCS:

Bank Name: CITIBANK N.A., MEXICO CITY  
FAO: MERRILL LYNCH INTERNATIONAL BANK  
LIMITED, DUBLIN  
Swift: CITIUS33MER  
Acct: 0009758003

REF: Admin ID: 07EM03820, 3322905

Account for Deliveries to MLCS:

MXN  
Bank Name: BANAMEX, MEXICO  
FAO: MERRILL LYNCH CAPITAL SERVICES, NY  
Swift: BNMXMXMM  
Acct: 0000728012

USD  
DEUTSCHE BANK TRUST COMPANY AMERICAS, NY  
Fed ABA: 021001033  
FAO: MERRILL LYNCH CAPITAL SERVICES, NY  
Swift: MLMBIE2X  
Acct: 00-811-874

REF:

Account for Payments to the Trust:

Bank Name: HSBC Bank plc  
Swift Code: MIDLGB22  
Account Name: Corporate Trust Ops (MXN) Paying Agent  
Account Number: 67417079

REF: MLUDI Steers Notes Series 2007-2

Offices:

The Office of the Trust for the Transaction is:

MLUDI Steers Notes Series 2007-2  
c/o HSBC Bank USA, National Association, as Trustee of  
MLUDI Steers Notes Series 2007-2  
Address: 452 Fifth Avenue  
New York, NY 10018  
Attn: Corporate Trust and Loan Agency - International  
Finance Unit,  
Telephone: +1 212 525 1316  
Facsimile: +1 212 525 1300

The Office of MLCS for the Transaction is:

Merrill Lynch World Headquarters  
4 World Financial Center, 18th Floor  
New York, New York 10080  
Attention: Swaps Group  
Telephone Number.: 212-449-7403  
Facsimile Number. 646-805-0218

Copies to:  
Merrill Lynch & Co., Inc.  
250 Vesey Street  
North Tower  
NY, NY 10080  
Attention: Joe Spadaro  
Telephone Number: 1 212 449 4965  
Fax Number: 1 212 449 3087

and

GMI Counsel  
Merrill Lynch World Headquarters  
4 World Financial Center, 12th Floor  
New York, NY 10080  
Attention: Swaps Legal  
Facsimile Number: 212-449-6993

Please confirm that the foregoing correctly sets the terms of our agreement by executing this Confirmation and returning it to us by facsimile transmission.

Sincerely,

MERRILL LYNCH CAPITAL SERVICES, INC.

By: \_\_\_\_\_  
Authorized Signatory

Accepted and confirmed as  
of the Trade Date written above:

MLUDI STEERS NOTES SERIES 2007-2

By: HSBC BANK USA, NATIONAL ASSOCIATION,  
not in its individual capacity but solely as Trustee under  
the Trust Agreement

By: \_\_\_\_\_  
Authorized Signatory  
Name:

Title:

**ANNEX B-3**

**ISDA MASTER AGREEMENT**

(Multicurrency—Cross Border)



International Swap Dealers Association, Inc.

# MASTER AGREEMENT

dated as of  
September 5, 2007

MERRILL LYNCH CAPITAL  
SERVICES, INC. ("Party A")

And

MLUDI STEERS NOTES SERIES 2007-2, a  
trust created pursuant to a Declaration of  
Trust and Trust Agreement dated as of  
September 5, 2007 (the "Trust Agreement").  
(the "Trust" or "Party B")

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

Accordingly, the parties agree as follows:—

## 1. Interpretation

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

## 2. Obligations

### (a) General Conditions.

- (i) Each party will make each payment or delivery specified in each Confirmation to be made by it, subject to the other provisions of this Agreement.
- (ii) Payments under this Agreement will be made on the due date for value on that date in the place of the account specified in the relevant Confirmation or otherwise pursuant to this Agreement, in freely transferable funds and in the manner customary for payments in the required currency. Where settlement is by delivery (that is, other than by payment), such delivery will be made for receipt on the due date in the manner customary for the relevant obligation unless otherwise specified in the relevant Confirmation or elsewhere

in this Agreement.

(iii) Each obligation of each party under Section 2(a)(i) is subject to (1) the condition precedent that no Event of Default or Potential Event of Default with respect to the other party has occurred and is continuing, (2) the condition precedent that no Early Termination Date in respect of the relevant Transaction has occurred or been effectively designated and (3) each other applicable condition precedent specified in this Agreement.

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

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

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

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

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

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

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

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

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

(ii) **Liability.** If:—

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

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

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

### 3. Representations

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

(a) **Basic Representations.**

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

which it is a party constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).

(b) **Absence of Certain Events.** No Event of Default or Potential Event of Default or, to its knowledge, Termination Event with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement or any Credit Support Document to which it is a party.

(c) **Absence of Litigation.** There is not pending or, to its knowledge, threatened against it or any of its Affiliates any action, suit or proceeding at law or in equity or before any court, tribunal, governmental body, agency or official or any arbitrator that is likely to affect the legality, validity or enforceability against it of this Agreement or any Credit Support Document to which it is a party or its ability to perform its obligations under this Agreement or such Credit Support Document.

(d) **Accuracy of Specified Information.** All applicable information that is furnished in writing by or on behalf of it to the other party and is identified for the purpose of this Section 3(d) in the Schedule is, as of the date of the information, true, accurate and complete in every material respect.

(e) **Payer Tax Representation.** Each representation specified in the Schedule as being made by it for the purpose of this Section 3(e) is accurate and true.

(f) **Payee Tax Representations.** Each representation specified in the Schedule as being made by it for the purpose of this Section 3(f) is accurate and true.

#### 4. Agreements

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

(a) **Furnish Specified Information.** It will deliver to the other party or, in certain cases under subparagraph (iii) below, to such government or taxing authority as the other party reasonably directs:

(i) any forms, documents or certificates relating to taxation specified in the Schedule or any Confirmation;

(ii) any other documents specified in the Schedule or any Confirmation; and

(iii) upon reasonable demand by such other party, any form or document that may be required or reasonably requested in writing in order to allow such other party or its Credit Support Provider to make a payment under this Agreement or any applicable Credit Support Document without any deduction or withholding for or on account of any Tax or with such deduction or withholding at a reduced rate (so long as the completion, execution or submission of such form or document would not materially prejudice the legal or commercial position of the party in receipt of such demand), with any such form or document to be accurate and completed in a manner reasonably satisfactory to such other party and to be executed and to be delivered with any reasonably required certification,

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

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

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

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

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

## 5. Events of Default and Termination Events

(a) ***Events of Default.*** The occurrence at any time with respect to a party or, if applicable, any Credit Support Provider of such party or any Specified Entity of such party of any of the following events constitutes an event of default (an “Event of Default”) with respect to such party:—

(i) ***Failure to Pay or Deliver.*** Failure by the party to make, when due, any payment under this Agreement or delivery under Section 2(a)(i) or 2(e) required to be made by it if such failure is not remedied on or before the third Local Business Day after notice of such failure is given to the party;

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

(iii) ***Credit Support Default.***

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

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

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

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

(v) ***Default under Specified Transaction.*** The party, any Credit Support Provider of such party or any applicable Specified Entity of such party (1) defaults under a Specified Transaction and, after giving effect to any applicable notice requirement or grace period, there occurs a liquidation of, an acceleration of obligations under, or an early termination of, that Specified Transaction, (2) defaults, after giving effect to any applicable notice requirement or grace period, in making any payment or delivery due on the last payment, delivery or exchange date of, or any payment on early termination of, a Specified Transaction (or such default continues for at least three Local Business Days if there is no applicable notice requirement or grace period) or (3) disaffirms, disclaims, repudiates or rejects, in whole or in part, a Specified Transaction (or such action is taken by any person or entity appointed or empowered to operate it or act on its behalf);

(vi) ***Cross Default.*** If “Cross Default” is specified in the Schedule as applying to the party, the occurrence

or existence of (1) a default, event of default or other similar condition or event (however

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

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

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

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

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

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

(b) **Termination Events.** The occurrence at any time with respect to a party or, if applicable, any Credit Support Provider of such party or any Specified Entity of such party of any event specified below constitutes an Illegality if the event is specified in (i) below, a Tax Event if the event is specified in (ii) below or a Tax Event Upon Merger if the event is specified in (iii) below, and, if specified to be applicable, a Credit Event

Upon Merger if the event is specified pursuant to (iv) below or an Additional Termination Event if the event is specified pursuant to (v) below:—

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

(1) to perform any absolute or contingent obligation to make a payment or delivery or to receive a payment or delivery in respect of such Transaction or to comply with any other material provision of this Agreement relating to such Transaction; or

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

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

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

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

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

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

## 6. Early Termination

(a) ***Right to Terminate Following Event of Default.*** If at any time an Event of Default with respect to a party

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

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

(i) ***Notice.*** If a Termination Event occurs, an Affected Party will, promptly upon becoming aware of it, notify the other party, specifying the nature of that Termination Event and each Affected Transaction and will also give such other information about that Termination Event as the other party may reasonably require.

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

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

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

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

(iv) ***Right to Terminate.*** If:—

(1) a transfer under Section 6(b)(ii) or an agreement under Section 6(b)(iii), as the case may be, has not been effected with respect to all Affected Transactions within 30 days after an Affected Party gives notice under Section 6(b)(i); or

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

either party in the case of an Illegality, the Burdened Party in the case of a Tax Event Upon Merger, any Affected Party in the case of a Tax Event or an Additional Termination Event if there is more than one Affected Party, or the party which is not the Affected Party in the case of a Credit Event Upon Merger or an Additional Termination Event if there is only one Affected Party may, by not more than 20 days notice to the other party and provided that the relevant Termination Event is then

continuing, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect of all Affected Transactions.

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

- (i) If notice designating an Early Termination Date is given under Section 6(a) or (b), the Early Termination Date will occur on the date so designated, whether or not the relevant Event of Default or Termination Event is then continuing.
- (ii) Upon the occurrence or effective designation of an Early Termination Date, no further payments or deliveries under Section 2(a)(i) or 2(e) in respect of the Terminated Transactions will be required to be made, but without prejudice to the other provisions of this Agreement. The amount, if any, payable in respect of an Early Termination Date shall be determined pursuant to Section 6(e).

(d) ***Calculations.***

- (i) ***Statement.*** On or as soon as reasonably practicable following the occurrence of an Early Termination Date, each party will make the calculations on its part, if any, contemplated by Section 6(e) and will provide to the other party a statement (1) showing, in reasonable detail, such calculations (including all relevant quotations and specifying any amount payable under Section 6(e)) and (2) giving details of the relevant account to which any amount payable to it is to be paid. In the absence of written confirmation from the source of a quotation obtained in determining a Market Quotation, the records of the party obtaining such quotation will be conclusive evidence of the existence and accuracy of such quotation.
- (ii) ***Payment Date.*** An amount calculated as being due in respect of any Early Termination Date under Section 6(e) will be payable on the day that notice of the amount payable is effective (in the case of an Early Termination Date which is designated or occurs as a result of an Event of Default) and on the day which is two Local Business Days after the day on which notice of the amount payable is effective (in the case of an Early Termination Date which is designated as a result of a Termination Event). Such amount will be paid together with (to the extent permitted under applicable law) interest thereon (before as well as after judgment) in the Termination Currency, from (and including) the relevant Early Termination Date to (but excluding) the date such amount is paid, at the Applicable Rate. Such interest will be calculated on the basis of daily compounding and the actual number of days elapsed.

(e) ***Payments on Early Termination.*** If an Early Termination Date occurs, the following provisions shall apply based on the parties' election in the Schedule of a payment measure, either "Market Quotation" or "Loss", and a payment method, either the "First Method" or the "Second Method". If the parties fail to designate a payment measure or payment method in the Schedule, it will be deemed that "Market Quotation" or the "Second Method", as the case may be, shall apply. The amount, if any, payable in respect of an Early Termination Date and determined pursuant to this Section will be subject to any Set-off.

- (i) ***Events of Default.*** If the Early Termination Date results from an Event of Default:—
  - (1) ***First Method and Market Quotation.*** If the First Method and Market Quotation apply, the Defaulting Party will pay to the Non-defaulting Party the excess, if a positive number, of (A) the sum of the Settlement Amount (determined by the Non-defaulting Party) in respect of the Terminated Transactions and the Termination Currency Equivalent of the Unpaid Amounts owing to the Non-defaulting Party over (B) the Termination Currency Equivalent of the Unpaid Amounts owing to the Defaulting Party.
  - (2) ***First Method and Loss.*** If the First Method and Loss apply, the Defaulting Party will pay to the Non-defaulting Party, if a positive number, the Non-defaulting Party's Loss in respect of this Agreement.
  - (3) ***Second Method and Market Quotation.*** If the Second Method and Market Quotation apply, an amount will be payable equal to (A) the sum of the Settlement Amount (determined by the Non-defaulting Party) in respect of the Terminated Transactions and the Termination Currency Equivalent of the Unpaid Amounts owing to the Non-defaulting Party less (B) the Termination Currency Equivalent of the Unpaid Amounts owing to the Defaulting Party. If that amount is a positive number, the Defaulting Party will pay it to the Non-defaulting Party; if it is a negative number, the Non-defaulting Party will pay the absolute value of that amount to the Defaulting Party.
  - (4) ***Second Method and Loss.*** If the Second Method and Loss apply, an amount will be payable equal to the Non-defaulting Party's Loss in respect of this Agreement. If that amount is a positive number, the Defaulting

Party will pay it to the Non-defaulting Party; if it is a negative number, the Non-defaulting Party will pay the absolute value of that amount to the Defaulting Party.

- (ii) **Termination Events.** If the Early Termination Date results from a Termination Event:—

(1) *One Affected Party.* If there is one Affected Party, the amount payable will be determined in accordance with Section 6(e)(i)(3), if Market Quotation applies, or Section 6(e)(i)(4), if Loss applies, except that, in either case, references to the Defaulting Party and to the Non-defaulting Party will be deemed to be references to the Affected Party and the party which is not the Affected Party, respectively, and, if Loss applies and fewer than all the Transactions are being terminated, Loss shall be calculated in respect of all Terminated Transactions.

(2) *Two Affected Parties.* If there are two Affected Parties:—

(A) if Market Quotation applies, each party will determine a Settlement Amount in respect of the Terminated Transactions, and an amount will be payable equal to (I) the sum of (a) one-half of the difference between the Settlement Amount of the party with the higher Settlement Amount (“X”) and the Settlement Amount of the party with the lower Settlement Amount (“Y”) and (b) the Termination Currency Equivalent of the Unpaid Amounts owing to X less (II) the Termination Currency Equivalent of the Unpaid Amounts owing to Y; and

(B) if Loss applies, each party will determine its Loss in respect of this Agreement (or, if fewer than all the Transactions are being terminated, in respect of all Terminated Transactions) and an amount will be payable equal to one-half of the difference between the Loss of the party with the higher Loss (“X”) and the Loss of the party with the lower Loss (“Y”).

If the amount payable is a positive number, Y will pay it to X; if it is a negative number, X will pay the absolute value of that amount to Y.

- (iii) **Adjustment for Bankruptcy.** In circumstances where an Early Termination Date occurs because “Automatic Early Termination” applies in respect of a party, the amount determined under this Section 6(e) will be subject to such adjustments as are appropriate and permitted by law to reflect any payments or deliveries made by one party to the other under this Agreement (and retained by such other party) during the period from the relevant Early Termination Date to the date for payment determined under Section 6(d)(ii).

- (iv) **Pre-Estimate.** The parties agree that if Market Quotation applies an amount recoverable under this Section 6(e) is a reasonable pre-estimate of loss and not a penalty. Such amount is payable for the loss of bargain and the loss of protection against future risks and except as otherwise provided in this Agreement neither party will be entitled to recover any additional damages as a consequence of such losses.

## 7. Transfer

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

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

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

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

## **8. Contractual Currency**

- (a) ***Payment in the Contractual Currency.*** Each payment under this Agreement will be made in the relevant currency specified in this Agreement for that payment (the “Contractual Currency”). To the extent permitted by applicable law, any obligation to make payments under this Agreement in the Contractual Currency will not be discharged or satisfied by any tender in any currency other than the Contractual Currency, except to the extent such tender results in the actual receipt by the party to which payment is owed, acting in a reasonable manner and in good faith in converting the currency so tendered into the Contractual Currency, of the full amount in the Contractual Currency of all amounts payable in respect of this Agreement. If for any reason the amount in the Contractual Currency so received falls short of the amount in the Contractual Currency payable in respect of this Agreement, the party required to make the payment will, to the extent permitted by applicable law, immediately pay such additional amount in the Contractual Currency as may be necessary to compensate for the shortfall. If for any reason the amount in the Contractual Currency so received exceeds the amount in the Contractual Currency payable in respect of this Agreement, the party receiving the payment will refund promptly the amount of such excess.
- (b) ***Judgments.*** To the extent permitted by applicable law, if any judgment or order expressed in a currency other than the Contractual Currency is rendered (i) for the payment of any amount owing in respect of this Agreement, (ii) for the payment of any amount relating to any early termination in respect of this Agreement or (iii) in respect of a judgment or order of another court for the payment of any amount described in (i) or (ii) above, the party seeking recovery, after recovery in full of the aggregate amount to which such party is entitled pursuant to the judgment or order, will be entitled to receive immediately from the other party the amount of any shortfall of the Contractual Currency received by such party as a consequence of sums paid in such other currency and will refund promptly to the other party any excess of the Contractual Currency received by such party as a consequence of sums paid in such other currency if such shortfall or such excess arises or results from any variation between the rate of exchange at which the Contractual Currency is converted into the currency of the judgment or order for the purposes of such judgment or order and the rate of exchange at which such party is able, acting in a reasonable manner and in good faith in converting the currency received into the Contractual Currency, to purchase the Contractual Currency with the amount of the currency of the judgment or order actually received by such party. The term “rate of exchange” includes, without limitation, any premiums and costs of exchange payable in connection with the purchase of or conversion into the Contractual Currency.
- (c) ***Separate Indemnities.*** To the extent permitted by applicable law, these indemnities constitute separate and independent obligations from the other obligations in this Agreement, will be enforceable as separate and independent causes of action, will apply notwithstanding any indulgence granted by the party to which any payment is owed and will not be affected by judgment being obtained or claim or proof being made for any other sums payable in respect of this Agreement.
- (d) ***Evidence of Loss.*** For the purpose of this Section 8, it will be sufficient for a party to demonstrate that it would have suffered a loss had an actual exchange or purchase been made.

## **9. Miscellaneous**

- (a) ***Entire Agreement.*** This Agreement constitutes the entire agreement and understanding of the parties with respect to its subject matter and supersedes all oral communication and prior writings with respect thereto.
- (b) ***Amendments.*** No amendment, modification or waiver in respect of this Agreement will be effective unless in writing (including a writing evidenced by a facsimile transmission) and executed by each of the parties or confirmed by an exchange of telexes or electronic messages on an electronic messaging system.
- (c) ***Survival of Obligations.*** Without prejudice to Sections 2(a)(iii) and 6(c)(ii), the obligations of the parties under this Agreement will survive the termination of any Transaction.
- (d) ***Remedies Cumulative.*** Except as provided in this Agreement, the rights, powers, remedies and privileges provided in this Agreement are cumulative and not exclusive of any rights, powers, remedies and privileges provided by law.
- (e) ***Counterparts and Confirmations.***

(i) This Agreement (and each amendment, modification and waiver in respect of it) may be executed and delivered in counterparts (including by facsimile transmission), each of which will be deemed an original.

(ii) The parties intend that they are legally bound by the terms of each Transaction from the moment they agree to those terms (whether orally or otherwise). A Confirmation shall be entered into as soon as practicable and may be executed and delivered in counterparts (including by facsimile transmission) or be created by an exchange of telexes or by an exchange of electronic messages on an electronic messaging system, which in each case will be sufficient for all purposes to evidence a binding supplement to this Agreement. The parties will specify therein or through another effective means that any such counterpart, telex or electronic message constitutes a Confirmation.

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

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

## **10. Offices; Multibranch Parties**

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

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

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

## **11. Expenses**

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

## **12. Notices**

(a) **Effectiveness.** Any notice or other communication in respect of this Agreement may be given in any manner set forth below (except that a notice or other communication under Section 5 or 6 may not be given by facsimile transmission or electronic messaging system) to the address or number or in accordance with the electronic messaging system details provided (see the Schedule) and will be deemed effective as indicated:—

- (i) if in writing and delivered in person or by courier, on the date it is delivered;
- (ii) if sent by telex, on the date the recipient's answerback is received;
- (iii) if sent by facsimile transmission, on the date that transmission is received by a responsible employee of the recipient in legible form (it being agreed that the burden of proving receipt will be on the sender and will not be met by a transmission report generated by the sender's facsimile machine);
- (iv) if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), on the date that mail is delivered or its delivery is attempted; or

(v) if sent by electronic messaging system, on the date that electronic message is received,

unless the date of that delivery (or attempted delivery) or that receipt, as applicable, is not a Local Business Day or that communication is delivered (or attempted) or received, as applicable, after the close of business on a Local Business Day, in which case that communication shall be deemed given and effective on the first following day that is a Local Business Day.

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

### **13. Governing Law and Jurisdiction**

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

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

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

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

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

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

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

### **14. Definitions**

As used in this Agreement:—

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

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

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

to any other Termination Event, all Transactions.

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

**“Applicable Rate”** means:—

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

**“Burdened Party”** has the meaning specified in Section 5(b).

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

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

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

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

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

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

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

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

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

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

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

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

**“Local Business Day”** means, subject to the Schedule, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) (a) in relation to any obligation under Section 2(a)(i), in the place(s) specified in the relevant Confirmation or, if not so specified, as otherwise agreed by the parties in writing or determined pursuant to provisions contained, or incorporated by reference, in this Agreement, (b) in relation to any other payment, in the place where the relevant account is located and, if different,

in the principal financial centre, if any, of the currency of such payment, (c) in relation to any notice or other communication, including notice contemplated under Section 5(a)(i), in the city specified in the address for notice provided by the recipient and, in the case of a notice contemplated by Section 2(b), in the place where the relevant new account is to be located and (d) in relation to Section 5(a)(v)(2), in the relevant locations for performance with respect to such Specified Transaction.

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

**“Market Quotation”** means, with respect to one or more Terminated Transactions and a party making the determination, an amount determined on the basis of quotations from Reference Market-makers. Each quotation will be for an amount, if any, that would be paid to such party (expressed as a negative number) or by such party (expressed as a positive number) in consideration of an agreement between such party (taking into account any existing Credit Support Document with respect to the obligations of such party) and the quoting Reference Market-maker to enter into a transaction (the “Replacement Transaction”) that would have the effect of preserving for such party the economic equivalent of any payment or delivery (whether the underlying obligation was absolute or contingent and assuming the satisfaction of each applicable condition precedent) by the parties under Section 2(a)(i) in respect of such Terminated Transaction or group of Terminated Transactions that would, but for the occurrence of the relevant Early Termination Date, have

been required after that date. For this purpose, Unpaid Amounts in respect of the Terminated Transaction or group of Terminated Transactions are to be excluded but, without limitation, any payment or delivery that would, but for the relevant Early Termination Date, have been required (assuming satisfaction of each applicable condition precedent) after that Early Termination Date is to be included. The Replacement Transaction would be subject to such documentation as such party and the Reference Market-maker may, in good faith, agree. The party making the determination (or its agent) will request each Reference Market-maker to provide its quotation to the extent reasonably practicable as of the same day and time (without regard to different time zones) on or as soon as reasonably practicable after the relevant Early Termination Date. The day and time as of which those quotations are to be obtained will be selected in good faith by the party obliged to make a determination under Section 6(e), and, if each party is so obliged, after consultation with the other. If more than three quotations are provided, the Market Quotation will be the arithmetic mean of the quotations, without regard to the quotations having the highest and lowest values. If exactly three such quotations are provided, the Market Quotation will be the quotation remaining after disregarding the highest and lowest quotations. For this purpose, if more than one quotation has the same highest value or lowest value, then one of such quotations shall be disregarded. If fewer than three quotations are provided, it will be deemed that the Market Quotation in respect of such Terminated Transaction or group of Terminated Transactions cannot be determined.

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

**“Non-defaulting Party”** has the meaning specified in Section 6(a).

**“Office”** means a branch or office of a party, which may be such party’s head or home office.

**“Potential Event of Default”** means any event which, with the giving of notice or the lapse of time or both, would

constitute an Event of Default.

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

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

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

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

**“Settlement Amount”** means, with respect to a party and any Early Termination Date, the sum of:—

(a) the Termination Currency Equivalent of the Market Quotations (whether positive or negative) for each Terminated Transaction or group of Terminated Transactions for which a Market Quotation is determined; and

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

**“Specified Entity”** has the meanings specified in the Schedule.

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

**“Specified Transaction”** means, subject to the Schedule, (a) any transaction (including an agreement with respect thereto) now existing or hereafter entered into between one party to this Agreement (or any Credit Support Provider of such party or any applicable Specified Entity of such party) and the other party to this Agreement (or any Credit Support Provider of such other party or any applicable Specified Entity of such other party) which is a rate swap transaction, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option or any other similar transaction (including any option with respect to any of these transactions), (b) any combination of these transactions and (c) any other transaction identified as a Specified Transaction in this Agreement or the relevant confirmation.

**“Stamp Tax”** means any stamp, registration, documentation or similar tax.

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

**“Tax Event”** has the meaning specified in Section 5(b).

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

**“Terminated Transactions”** means with respect to any Early Termination Date (a) if resulting from a Termination Event, all Affected Transactions and (b) if resulting from an Event of Default, all Transactions (in either case) in effect immediately before the effectiveness of the notice designating that Early Termination Date (or, if “Automatic Early Termination” applies, immediately before that Early Termination Date).

**“Termination Currency”** has the meaning specified in the Schedule.

**“Termination Currency Equivalent”** means, in respect of any amount denominated in the Termination Currency,

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

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

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

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

IN WITNESS WHEREOF, the parties have executed and delivered this document as of the date specified on the first page of this document.

<b>MERRILL LYNCH CAPITAL SERVICES, INC.</b>	<b>MLUDI STEERS NOTES SERIES 2007-2</b> By: HSBC BANK USA, NATIONAL ASSOCIATION, not in its individual capacity but solely as Trustee under the Trust Agreement
By: _____ Name: Title:	By: _____ Name: Title:

**ANNEX C**

**TRUST AGREEMENT**

MLUDI STEERS NOTES SERIES 2007-2

AMENDED AND RESTATED DECLARATION OF TRUST  
AND  
TRUST AGREEMENT

AMONG

HSBC Bank USA, National Association, as Trustee,

HSBC Bank USA, National Association, as Delaware Trustee,

HSBC Bank USA, National Association, as Transfer Agent

AND

Merrill Lynch International, as Distributor and Trustor

dated as of November 8, 2007

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AMENDED AND RESTATED DECLARATION OF TRUST AND TRUST AGREEMENT dated as of the date set forth on the cover page hereof, by (i) HSBC Bank USA, National Association, as Trustee (the "Trustee"), (ii) HSBC Bank USA, National Association, as Delaware Trustee (the "Delaware Trustee"), (iii) HSBC Bank USA, National Association, as Transfer Agent (the "Transfer Agent") and (iv) Merrill Lynch International, as Distributor and Trustor (the "Distributor" or "Trustor"), which amends and restates in its entirety the Declaration of Trust and Trust Agreement dated as of September 5, 2007 among the parties hereto.

## ARTICLE I

### DEFINITIONS

1.01. Definitions. As used herein:

"Affiliate" with respect to any Person has the meaning specified in the Swap Agreement.

"Agency Agreement" means the agency agreement dated as of the Initial Issue Date, including any amendments or supplements thereto, between the Trust and the Trust's Agent, relating to the performance of certain administrative duties under this Agreement.

"Agreement" means this Amended and Restated Declaration of Trust and Trust Agreement, as supplemented or amended pursuant to Section 12.01 hereof.

"Applicants" has the meaning specified in Section 3.06.

"Available Redemption Amount" means, with respect to the Maturity Date and any Trust Certificates for which the Final Redemption Amount is then due, the greater of (a) zero and (b) the lesser of (i) the amount of any payments received by the Trust from the Counterparty, pursuant to the Swap Agreement, and (ii) the Final Redemption Amount due on such Trust Certificates on the Maturity Date.

"Beneficial Owner" means, with respect to any Trust Certificate, the Person who is the beneficial owner of such Certificate as reflected on the books of Euroclear or Clearstream or on the books of a Person maintaining an account with Euroclear or Clearstream (directly or indirectly, in accordance with the rules of Euroclear).

"Benefit Plan Investor" has the meaning specified in Section 3.08(b).

"Book-Entry Certificates" means Certificates that are issued as Global Certificates.

"Business Day" has the meaning specified in Schedule 1.

"Calculation Agent" has the meaning specified in the Swap Agreement.

"Certificate" means a physical Trust Certificate, executed and delivered by the Trustee on behalf of the Trust, which is either a Temporary Global Certificate in the form set forth in Exhibit A or a Permanent Global Certificate in the form set forth in Exhibit B.

"Certificate Account" means the trust account or accounts created and maintained pursuant to Section 5.01

"Certificate Register" means the register maintained pursuant to Section 3.02(a).

"Certificate Registrar" means the Transfer Agent or the agent appointed pursuant to Section 3.02(a).

"Certificate Registrar Office" means the office of the Certificate Registrar at which at any particular time it may receive and exchange Trust Certificates as described herein, which office at the Initial Issue Date is located at HSBC Bank USA, National Association, 452 Fifth Avenue, New York, New York 10018, Attn: Corporate Trust & Loan Agency – International Finance Unit.

"Clearstream" means Clearstream Banking, société anonyme.

"Code" means the Internal Revenue Code of 1986, as amended and the regulations promulgated thereunder.

"Collateral Agent" means HSBC Bank USA, National Association.

"Common Depository" means HSBC Issuer Services Common Depository Nominee (UK) Limited or any of its successors or assignees.

"Corporate Trust Office" means the office of the Trustee at which at any particular time its corporate trust business shall be administered, which office at the Initial Issue Date is located at HSBC Bank USA, National Association, 452 Fifth Avenue, New York, New York 10018, Attention: Corporate Trust & Loan Agency – International Finance Unit.

"Counterparty" means, unless otherwise specified in Schedule 1, Merrill Lynch Capital Services, Inc. or its permitted successors and assigns under the Swap Agreement.

"Definitive Certificates" means Certificates issued in definitive form, issued to and registered in the name of the Holder.

"Delaware Trustee" means HSBC Bank USA, National Association, not in its individual capacity but solely as Delaware Trustee hereunder, and any successor Delaware Trustee hereunder.

"Distribution Agreement" means the Distribution Agreement dated as of the date hereof between the Trust and the Distributor.

"Distribution Compliance Period" means, in respect of a Tranche, the period ending on the 40th day after the completion of the distribution of the Trust Certificates of such Tranche.

"Distribution Date" means each date identified as a Distribution Date on Schedule 1 and any additional Distribution Date established pursuant to Section 5.06.

"Distributor" means Merrill Lynch International, and its successors and assigns, acting as Distributor of Trust Certificates pursuant to the Distribution Agreement.

"Dollars" or "\$" means United States Dollars, the currency of the United States of America.

"Early Termination Event" means the occurrence of an Event of Default or a Termination Event, each as defined in the Swap Agreement.

"Eligible Account" means an account that is either (i) maintained with a depository institution the long-term deposit rating or the long-term unsecured debt obligations of which (or in the case of the principal bank in a bank holding company system, the long-term unsecured debt obligations of such bank

holding company) have been rated at least AAA/Aaa/AAA by S&P, Moody's and Fitch, respectively, or maintained with a depository institution the commercial paper of which (or, in the case of a principal bank in a bank holding company system, of such bank holding company) is rated at least A-1+/P-1 by S&P and Moody's, respectively, or (ii) a trust account maintained with the Trustee in its corporate trust department.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended, including any successor or amendatory statutes.

"Euroclear" means Eurodollar Bank S.A./NY.

"Expense Liquidation Event" has the meaning specified in Section 8.02(b).

"Extraordinary Expenses" means all fees, costs, expenses and disbursements of the Trust, the Trustee and the Delaware Trustee relating to this Agreement, the other Trust Documents, any other agreements related hereto or thereto and/or the transactions contemplated herein or therein (including legal fees and expenses) other than (a) Ordinary Expenses and (b) any costs and expenses arising or resulting from the willful misconduct or negligence of the Trustee.

"Fee and Expense Agreement" means the Fee and Expense Agreement, dated as of the Initial Issue Date, between the Distributor, the Trustee and the Delaware Trustee.

"Final Redemption Amount" has the meaning specified in the Swap Confirmation under "*MLCS Final Exchange Amount*".

"Fiscal Year" means each January 1 to December 31 of a given year except that the first Fiscal Year of the Trust shall commence on the Initial Issue Date.

"Fitch" means Fitch Inc.

"Global Certificate" shall mean any Temporary Global Certificate and the Permanent Global Certificate.

"Holder" means, with respect to any Certificate at any time, the Person in whose name such Certificate is registered at such time in the Certificate Register.

"Initial Collateral" means the registered \$22,208,000.00 face amount of 6.11% Subordinated Notes issued by Merrill Lynch & Co., Inc. maturing January 29, 2037, CUSIP 59022CAJ2.

"Initial Issue Date" means the date of the first issuance of Trust Certificates hereunder, which is the date of this Agreement, as set forth on the cover page hereof.

"ISDA Master Agreement" means the 1992 ISDA Master Agreement (Multicurrency-Cross Border) published by the International Swaps and Derivatives Association, Inc. ("ISDA") ([www.isda.org](http://www.isda.org)) (including the schedule thereto).

"Issue Date" means, for any Trust Certificates issued hereunder, the date of original issuance thereof, which shall be set forth as such in Schedule 1.

"Issuer" means the issuer of the Underlying Collateral.

"Majority Holders" means Holders of Trust Certificates evidencing Percentage Interests aggregating greater than fifty (50) percent of the face amount of all Trust Certificates.

"Maturity Date" means the earlier to occur of (a) the Scheduled Maturity Date and (b) the date the Trust terminates pursuant to Article IX.

"Moody's" means Moody's Investors Service Limited, Inc.

"Opinion of Counsel" means a written opinion of counsel, who may be the counsel for the Trustee, the Distributor or the Counterparty.

"Ordinary Expenses" means all fees, costs, disbursements and expenses of the initial formation of the Trust and the initial issuance of the Trust Certificates and all fees, costs, disbursements and expenses incurred in the administration of the Trust (including the fees and expenses of the Trustee, including without limitation all fees and expenses of counsel and other experts, and all fees and expenses of the Trust Accountants).

"Owner" has the meaning specified in Section 3.04 hereof.

"Paying Agent" means the Paying Agent, if any, appointed pursuant to Section 3.09.

"Percentage Interest" means, as to each Trust Certificate, the percentage interest expressed in percentage terms to the fourth decimal place evidenced thereby in the Trust Property, such percentage interest being equal to the percentage obtained by dividing the face amount of such Trust Certificate by the aggregate face amount of all of the outstanding Trust Certificates.

"Permanent Global Certificate" shall mean the permanent Certificate, issued to HSBC Issuer Services Common Depositary Nominee (UK) Limited and registered in the name of HSBC Issuer Services Common Depositary Nominee (UK) Limited or its nominee in substantially the form of Exhibit B, as it may be updated from time to time pursuant to Section 3.01.

"Person" means any individual, corporation, partnership, joint venture, association, joint stock company, trust (including any beneficiary thereof), unincorporated organization or government or any agency or political subdivision thereof.

"Prospectus" means, for any Trust Certificates issued hereunder, the prospectus delivered by the Distributor, including any Supplement delivered in conjunction therewith, on behalf of the Trust to each prospective Holder in connection with the private placement of such Trust Certificates.

"Rating Agency" means S&P.

"Record Date" means the fifteenth calendar day immediately preceding the Maturity Date, as applicable.

"Regulation S" means Regulation S under the Securities Act.

"Schedule 1" means Schedule 1 hereto, as such Schedule may be amended pursuant to the terms of this Agreement.

"Scheduled Maturity Date " means the date set forth as such on Schedule 1.

"Securities Act" means the Securities Act of 1933, as amended.

"Securities Default" has the meaning specified in the Swap Agreement.

"S&P" means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies.

"Swap Agreement" means the ISDA Master Agreement (including the schedule thereto) between the Counterparty and the Trust dated as of the Issue Date, together with the confirmation thereunder.

"Swap Guarantee" means the guarantee issued by the Swap Guarantor to the Trust.

"Swap Guarantor" means Merrill Lynch & Co.

"Temporary Global Certificate" shall mean a temporary Certificate, issued to HSBC Issuer Services Common Depositary Nominee (UK) Limited and registered in the name of HSBC Issuer Services Common Depositary Nominee (UK) Limited or its nominee in substantially the form of Exhibit A.

"Tranche" means all Trust Certificates issued on the same Issue Date.

"Transfer Agent" means HSBC Bank USA, National Association.

"Transfer Agent Office" means the office of the Transfer Agent, which office at the Initial Issue Date is located at HSBC Bank USA, National Association, Corporate Trust and Loan Agency, 452 Fifth Avenue, New York, NY 10018, or to such other address as the Transfer Agent may set forth in a written notice.

"Trust" means the trust established by this Agreement.

"Trust Accountants" means PricewaterhouseCoopers, or such other firms as may be appointed according to Section 5.05.

"Trust Certificate" means a certificate issued hereunder representing an undivided beneficial interest in the Trust and the Trust Property.

"Trust Documents" means this Agreement (including Schedule 1), the Trust Certificates, the Swap Agreement, the Agency Agreement and the Distribution Agreement and any other document executed by or for the benefit of the Trust (including without limitation any engagement letter with respect to the Trust Accountants).

"Trust Property" means the Underlying Collateral; the Trust's rights under the Swap Agreement, the Agency Agreement and the Distribution Agreement; the Certificate Account; any bank accounts in the Trust's name; and all proceeds of the foregoing.

"Trust Termination Event" has the meaning specified in Schedule 1.

"Trustee" means HSBC Bank USA, National Association, not in its individual capacity but solely as trustee under this Agreement, and any successor Trustee hereunder.

"Trustor" means Merrill Lynch International.

"Trust's Agent" means, with respect to particular obligations and duties under this Agreement, Merrill Lynch International and its successors and assigns, acting as agent for the Trust pursuant to the Agency Agreement.

"Underlying Collateral" means the securities, loans and/or financial instruments described in

Schedule 1.

"UDI Upsize Amount" has the meaning specified in an Upsize Notice.

"Upsize Notice" has the meaning specified in Section 3.05.

## ARTICLE II

### ORGANIZATION

2.01. Name. The name of the Trust shall be the name set forth in Schedule 1, in which name the Trustee may engage in transactions contemplated hereby; make and execute contracts and other instruments; acquire the Underlying Collateral and other Trust Property; enter into the Swap Agreement; sue and be sued; and enter into such other transactions and take such other actions as are necessary or desirable to carry out the provisions hereof, all in accordance with the provisions of this Agreement.

2.02. Office. The office of the Trust shall be in care of the Trustee, at the address set forth in Section 12.04 hereof or at such other address as the Trustee may designate by notice to the Holders.

2.03. Purpose and Power. The purposes for which the Trust is created and established are, and the Trust shall have the power and authority (a) to acquire and hold the Trust Property and to transfer the Underlying Collateral to the Collateral Agent to hold for the benefit of the Trust, (b) to issue the Trust Certificates, (c) to enter into and perform its obligations under the Distribution Agreement, the Agency Agreement, the Swap Agreement and any other Trust Documents to which it is a party and (d) to take such other action necessary, appropriate and incidental to the foregoing. After the Initial Issue Date, the Trust will not issue additional Trust Certificates or purchase or otherwise acquire any additional securities, loans or other financial instruments and will not dispose of Underlying Collateral, except as described herein. The Trust shall not have power to perform any act or engage in any business whatsoever except for the foregoing and any activity reasonably incidental thereto or appropriate therefor. The primary investment to be made by the Trust is the Underlying Collateral which shall be held by the Collateral Agent. The Trust may in no event make investments other than in the Underlying Collateral and the Swap Agreement.

2.04. Appointment of the Trustee and the Delaware Trustee. By this Agreement, (a) the Holders, by their purchase of their Trust Certificates, do agree to the terms and conditions of this Agreement, appoint the Trustee and the Delaware Trustee to act on their behalf hereunder and under the other Trust Documents to which the Trustee and the Delaware Trustee are parties, respectively, with all the rights, powers and duties set forth herein and therein and direct the Trustee on behalf of the Trust to (i) execute and deliver the Trust Documents to which it is a party, and (ii) engage the Trust Accountants on behalf of the trust (subject to Section 5.09 (a) of this Agreement), and (iii) acquire the Underlying Collateral from the Distributor in exchange for issuing the Trust Certificates to the Distributor, and (b) the Trustee does hereby declare and agree that it shall act as Trustee in accordance with the terms of this Agreement and hold and employ the Trust Property in accordance with the terms hereof and, in furtherance thereof, does hereby acknowledge that it shall acquire the Underlying Collateral in exchange for issuing Trust Certificates to the Distributor and enter into the Swap Agreement on behalf of the Trust. The Underlying Collateral shall be held by the Collateral Agent. In connection therewith, the Trustee may accept from the Distributor cash in an amount equal to the purchase price of the Underlying Collateral (including any Underlying Collateral purchased in connection with an Upsize) and exchange such cash for the Underlying Collateral or accept the Underlying Collateral from the Distributor and deliver the Trust Certificates to the Distributor in exchange therefor. The Delaware Trustee does hereby declare and agree that it shall act as Delaware Trustee in accordance with the terms of this Agreement. The Trust Certificates evidence all of the beneficial interest in the Trust.

2.05. Declaration of Trust. The Trustee hereby declares that it will hold the Trust Property in trust upon the trusts set forth herein and for the benefit of the Holders. It is the intention of the parties hereto that the Trust constitute a statutory trust under Title 12 of the Delaware Code, Chapter 38 and that this Agreement constitute the governing instrument of the Trust. The Trustee and the Delaware Trustee

shall execute and file a certificate of trust with the Secretary of State of the State of Delaware pursuant to 12 Del. C. § 3810.

2.06. Tax Treatment; Construction.

(a) It is intended that the Trust be characterized as a grantor trust for United States federal income tax purposes and not as an association or publicly traded partnership taxable as a corporation. The treatment described in the preceding sentence is referred to herein as the "Intended Tax Treatment." The terms of this Agreement shall be interpreted to further the Intended Tax Treatment.

(b) Unless otherwise required by the appropriate tax authorities, the Trustee, on behalf of the Trust, hereby agrees under this Section and Section 6.01 herein that the Trust shall file or cause to be filed all necessary United States federal, state, local and other tax returns, information reports and other forms consistent with, and shall take no action inconsistent with, the Intended Tax Treatment.

(c) Each Holder, by acquiring a Certificate, and each Beneficial Owner, by acquiring a beneficial interest in any Certificate, will be considered an owner of its Percentage Interest in the Trust Property. Unless otherwise required by the appropriate tax authorities, each Holder and Beneficial Owner agrees to file its own tax returns and reports in a manner consistent with, and to take no action inconsistent with, the Intended Tax Treatment.

(d) If, notwithstanding the Intended Tax Treatment, the Trust will be treated as a disregarded entity for federal income tax purposes, then each Beneficial Owner will be treated as the direct owner of the Trust Property and will take into account on its federal income tax return, if any, any items of income, gain, loss, deduction or credit with respect to the Trust Property.

(e) If, notwithstanding the Intended Tax Treatment, the Trust were determined to be a partnership for United States federal income tax purposes, the parties hereto agree, each Holder by acquiring any Certificate agrees, and each Beneficial Owner by acquiring any beneficial interest in any Certificate agrees:

(i) that the Trust shall be excluded from the application of Subchapter K of the Code beginning with the first taxable year of the Trust, and each such party, Holder and Beneficial Owner consents to, and agrees to take, any action necessary to enable the Trustee, on behalf of the Trust, in accordance with this Paragraph, to make an election under Section 761(a) of the Code to exclude the Trust from the application of Subchapter K of the Code;

(ii) in the case of a Holder or Beneficial Owner, not to irrevocably authorize any Person acting in a representative capacity to purchase, sell or exchange the Trust Certificates, unless such authorization is for a period of not more than one year; and

(iii) not to take any action inconsistent with the foregoing.

(f) If, notwithstanding the Intended Tax Treatment, the Trust were determined to be a partnership for United States federal income tax purposes and the election to be excluded from Subchapter K of the Code is not allowable under existing law, then the provisions of Article XI herein shall be applicable.

(g) No election shall be made under Treasury Regulation Section 301.7701-3 to treat the Trust as an association taxable as a corporation for United States federal income tax purposes.

2.07. Sale. The parties hereto agree and intend that the transfer of the Underlying Collateral to the Trust, and all proceeds of any of the foregoing, shall be a sale to the Trust and not a loan or a pledge to secure a loan. If for any reason such transfer is deemed to be a loan or a pledge to secure a loan, the parties intend that this Agreement shall be a security agreement pursuant to which there shall be deemed to have been granted to the Trust, for the benefit of the Holders, a security interest in all right, title and interest in the Underlying Collateral, the Swap Agreement and all proceeds of any of the foregoing.

2.08. No Merger. The Trust will not consolidate with or merge into any other Person or transfer or convey all or substantially all of its assets to any Person except as expressly contemplated by this Agreement and the other Trust Documents.

## ARTICLE III

### ISSUANCE, OWNERSHIP AND TRANSFER OF TRUST CERTIFICATES

3.01. The Trust Certificates. (a) The Trust Certificates of any Tranche shall initially be represented by one or more Temporary Global Certificates in fully registered form. The Trust shall deposit the Temporary Global Certificate with the Common Depository, registered in the name of a nominee of the Common Depository, for the accounts of each of Clearstream and Euroclear, for credit by Clearstream or Euroclear, as applicable, to the respective accounts designated by the Beneficial Owners (or to such other accounts as they may direct) at each of Clearstream and/or Euroclear. The Temporary Global Certificate shall be exchanged for interests in the Permanent Global Certificate as set forth below. The Certificates evidencing an interest in the Trust Certificates shall be substantially in the form annexed hereto in Exhibits A and B, with such changes as the Trustee approves, including any changes necessary to conform the Certificates to the terms of this Trust Agreement or any other immaterial changes. On original issue, the Certificates shall be executed by manual signature or facsimile by a duly authorized officer of the Trustee on behalf of the Trust and shall be issued in the name of the purchaser thereof, unless otherwise arranged with the Distributor.

(b) After the expiration of the Distribution Compliance Period in respect of a Tranche, beneficial interests in the Temporary Global Certificate in respect of such Tranche shall be exchanged for beneficial interests in the Permanent Global Certificate pursuant to the following procedure. The Temporary Global Certificate shall be surrendered by the Common Depository to the Transfer Agent, as the Trust's agent for such purpose, and the Transfer Agent shall deliver to the Common Depository, in exchange for the Temporary Global Certificate, the Permanent Global Certificate reflecting a face amount equal to the sum of the face amount of such Temporary Global Certificate and the aggregate face amount of all Temporary Global Certificates previously so exchanged; provided that, on or prior to such presentation by the Common Depository: (i) the Common Depository has received from each Beneficial Owner, and delivered to the Transfer Agent, written certification substantially in the form set forth in Exhibit C attached hereto, and (ii) none of the Trustee, the Common Depository or the Transfer Agent has actual knowledge, nor have they received notification from the Distributor, that any Beneficial Owner is a U.S. Person. The Permanent Global Certificate issued in exchange for any Temporary Global Certificate (as defined in Regulation S under the Securities Act) may not be delivered within the United States or its territories.

Neither the Trustee nor the Transfer Agent shall have any duty, obligation or liability with respect to any Beneficial Owners, including without limitation the identities thereof and/or any certifications delivered by such Beneficial Owners.

(c) The Transfer Agent, Certificate Registrar and the Trustee shall be entitled to deal with the Common Depository for all purposes of this Agreement (including without limitation the payment of and interest on the Trust Certificates and the giving of instructions, notices or directions hereunder) as the sole Holder of the Global Certificates, and shall have no obligation to the Beneficial Owners of the Certificates. The rights of the Beneficial Owners shall be exercised only through the Common Depository on behalf of Euroclear and Clearstream and shall be limited to those established by law and the rules and procedures of Euroclear and Clearstream. The Common Depository will receive and transmit payments of principal of and interest on the Global Certificates to Euroclear or Clearstream to be credited to the accounts of the relevant account holders.

(d) Whenever a notice or other communication to the Holders is required under this Agreement, unless and until Definitive Certificates shall have been issued to Beneficial Owners pursuant to Section 3.01(j) and (k), the Trustee shall give all such notices and communications to the Common

Depository, and shall have no obligation to the Beneficial Owners.

(e) In addition to the legends required by Section 3.07, each Global Certificate shall bear a legend in substantially the following form:

This Certificate is a Global Certificate within the meaning of the Trust Agreement hereinafter referred to and is registered in the name of the Common Depository. This Certificate is exchangeable for Certificates registered in the name of a Person other than the Common Depository or its nominee only in the limited circumstances described in the Trust Agreement, and may not be transferred except as a whole by the Common Depository or its nominee to another depositary on behalf of Euroclear and Clearstream.

(f) If Trust Certificates are redeemed pursuant to Section 5.08 or if any Trust Certificates are called or redeemed pursuant to any other provision of this Agreement, the Trustee is authorized and directed to reduce the outstanding face amount of Trust Certificates evidenced by the Global Certificate to reflect such redemption.

(g) The minimum denomination and minimum subscription of the Trust Certificates shall be as set forth in Schedule 1. No Trust Certificates will be issued by the Trust after the Initial Issue Date except pursuant to Sections 3.02, 3.03 and 3.05 hereof.

(h) No Trust Certificate shall be entitled to any benefit under this Agreement, or be valid for any purpose, unless the Certificate evidencing such Trust Certificate has been executed manually or by facsimile by a duly authorized officer of the Trustee, and such signature upon any Certificate shall be conclusive evidence, and the only evidence, that such Certificate has been duly executed and delivered hereunder. All Certificates shall be dated the date of their execution.

(i) A Person shall be entitled to the rights and subject to the obligations of a Holder hereunder upon such Person's acceptance of a Trust Certificate duly registered in such Person's name pursuant to Section 3.02 or Section 3.05, as applicable.

(j) If at any time (other than during a Distribution Compliance Period) (i) Euroclear or Clearstream (A) is closed for business for a continuous period of 14 days (other than by reason of holiday, statutory or otherwise) or (B) announces an intention permanently to cease business, and no alternative clearance system satisfactory to the Distributor is available; (ii) the Trust is notified by the Distributor that as a result of any amendment to, or change in, the laws or regulations of the State of Delaware or the United States or of any authority therein or thereof having power to tax or in the interpretation or administration of such laws or regulations which becomes effective on or after the Initial Issue Date, the Trust or any Paying Agent is or will be required to make any deduction or withholding from any payment in respect of the Trust Certificates which would not be required were the Trust Certificates in definitive registered form or (iii) (A) the Trust so elects by notice to the Holders and (B) Euroclear or Clearstream, as the case may be, does not object, then the Trust will issue Definitive Certificates in exchange for the Global Certificates within 30 days of the occurrence of the relevant event set forth in (i), (ii) or (iii) above.

(k) Upon the occurrence of any of the events referred to in the immediately preceding paragraph, the Trustee shall promptly give notice thereof to the Holders. Upon giving such notice, the Trustee shall cancel such Global Certificates upon the issuance of Definitive Certificates. The Distributor shall prepare a sufficient number of Definitive Certificates not later than the 20th day following the date of the Trustee's notice, and the Trustee (on behalf of the Trust) shall then promptly execute and deliver such

Definitive Certificates in accordance with the instructions received from the Common Depository.

3.02. Registration of Transfer and Exchange of Certificates. If, pursuant to the terms of Section 3.01(j) and (k) herein, Global Certificates are to be exchanged for Definitive Certificates, the following provisions shall apply:

(a) Initially, the Transfer Agent shall serve as Certificate Registrar, through its Transfer Agent Office, and shall maintain or cause to be maintained at its Transfer Agent Office, a Certificate Register in which, subject to such reasonable regulations as it may prescribe, it shall provide for the registration of the initial Holders and transfers and exchanges of Certificates in accordance herewith. The Trustee shall give prompt written notice to the Holders of any change in the location of the Certificate Register or the appointment of any other Certificate Registrar.

(b) Subject to Sections 3.07 and 3.08, upon surrender of any Certificate for registration of transfer at the office or agency of the Certificate Registrar maintained for such purpose, the Trustee shall execute and deliver, to each applicable Holder (or to the Distributor, as nominee) in the name of the designated transferee or transferees, one or more new Certificates of authorized denomination of a like aggregate face amount and dated the date of execution by the Trustee.

(c) Subject to Sections 3.07 and 3.08, at the option of the Holders, Certificates may be exchanged for other Certificates in authorized denominations of a like aggregate face amount upon surrender of the Certificates to be exchanged. Upon surrender of any Certificate for such an exchange at the office or agency of the Certificate Registrar maintained for that purpose, the Trustee shall execute and deliver one or more new Certificates that such Holder has requested and is entitled to receive.

(d) In addition, upon receiving a request from a Holder of a Definitive Certificate to exchange the Definitive Certificate for a beneficial interest in a Book-Entry Certificate, the Trustee may, pursuant to written instructions of the Distributor, cancel such Definitive Certificate, issue one or more Global Certificates and take any other necessary and incidental actions directed by the Distributor to effect the requested exchange.

(e) If the Trustee so requires, every Trust Certificate presented or surrendered for transfer or exchange shall be duly endorsed, or accompanied by a written instrument of transfer (or in another form satisfactory to the Trustee) duly executed, by the Holder thereof or its attorney duly authorized in writing. The costs of any of the certifications set forth in Sections 3.07 or 3.08 shall not be charged to either the Trustee or the Trust.

(f) No service charge shall be payable by a Holder for any transfer or exchange of Certificates, but the Trustee may require payment of a sum calculated by the Counterparty sufficient to cover any tax, stamp tax or governmental charge that may be imposed in connection with any transfer or exchange of Certificates.

(g) The Trustee shall cancel and retain or destroy, in accordance with the Trustee's retention policy then in effect, all Certificates surrendered for transfer or exchange and shall upon written request certify to the Distributor as to such retention or destruction.

3.03. Mutilated, Destroyed, Lost or Stolen Certificates. If (i) any mutilated Certificate is surrendered to the Certificate Registrar or the Trustee receives evidence to its satisfaction of the destruction, loss or theft of any Certificate, and (ii) there is delivered to the Trustee and the Certificate Registrar such security or indemnity as may be required by it to save each of them harmless, then, in the absence of notice to the Trustee or the Certificate Registrar that such Certificate has been acquired by a

bona fide purchaser, the Trustee shall execute and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Certificate, a new Certificate of like tenor and face amount at which time such mutilated, destroyed, lost or stolen Certificate shall cease to be outstanding. Upon the issuance of any new Certificate under this Section, the Trustee may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses connected therewith. Any replacement Certificate issued pursuant to this Section shall constitute complete and indefeasible evidence of ownership in the Trust, as if originally issued, whether or not the destroyed, lost or stolen Certificate shall be found at any time.

3.04. Persons Deemed Owners. The Trustee and the Certificate Registrar may treat the Person in whose name any Certificate is registered as the owner of the Trust Certificate evidenced thereby (an "Owner") for the purpose of receiving payments pursuant to Section 5.01 and for all other purposes whatsoever, and none of the Trustee, the Transfer Agent or the Certificate Registrar shall be affected by notice to the contrary.

3.05. Upsizes. From time to time after the Initial Issue Date, upon notice and direction from the Distributor (such notice, an "Upsize Notice") and without the consent of the Holders, the Trust shall issue additional Trust Certificates in the UDI Upsize Amount specified by the Distributor in an Upsize Notice, *provided that* the Trust purchases additional Underlying Collateral in a principal amount equivalent to such UDI Upsize Amount. Upon the additional issuance of Trust Certificates pursuant to this Section 3.05, Schedule 1 hereto shall be amended to reflect such additional Trust Certificates and other related changes.

3.06. Access to List of Holders' Names and Addresses. The Certificate Registrar will furnish to the Trustee (if the Trustee is not the Certificate Registrar) within five days after receipt by the Certificate Registrar of a request therefor from the Trustee, in writing, a list, in such form as the Trustee reasonably may require, of the names and addresses of the Holders as of the most recent Record Date. If Holders of Trust Certificates evidencing aggregate Percentage Interests of 25% or more (the "Applicants") apply in writing to the Trustee, and such application states that the Applicants desire to communicate with other Holders with respect to their rights under this Agreement, then the Trustee, within five Business Days after the receipt of such application, shall afford such Applicants access during normal business hours to the most recent list of Holders held by the Trustee. If such list is as of a date more than 90 days prior to the date of receipt of such Applicants' request, the Trustee promptly shall request from the Certificate Registrar a current list as provided above, and shall afford such Applicants access to such list promptly upon receipt. Every Holder, by receiving and holding a Trust Certificate, agrees with the Certificate Registrar and the Trustee that neither the Certificate Registrar nor the Trustee shall be held accountable by reason of the disclosure of any such information as to the names and addresses of the Holders hereunder, regardless of the source from which such information was derived.

3.07. Restriction on Transfers.(a) The Trust Certificates have not been and it is not intended that they be registered under the Securities Act, or any other applicable securities law and, accordingly, neither the Trust Certificates nor any interest therein may be offered, sold, transferred, pledged, hypothecated or otherwise disposed of, unless either registered pursuant to, or in a transaction exempt from registration under, the Securities Act and other applicable securities laws. No Trust Certificate may be transferred unless such transfer is made to a Person that is not in the United States, its territories or possessions and is not a "U.S. Person" (as defined in Regulation S under the Securities Act) and otherwise satisfies the requirements set forth in the Notice to Investors contained in the Prospectus. Notwithstanding any provision of this Agreement or any other Trust Document, in no event shall the Trustee have any duty, liability or obligation to monitor or enforce any restrictions on transfer of the Trust Certificates or beneficial interests therein.

(b) The Trust Certificates may only be held by Eligible Investors (as defined herein and in the "Notice to Investors; Investors Deemed Representations" in the Prospectus) and may only be transferred to an Eligible Investor. See also "ERISA and Other Considerations" and "Private Placement" in the Prospectus.

(c) A Holder desiring to effect a transfer of its Trust Certificates shall, and does hereby agree to, indemnify the Certificate Registrar, the Trustee, the Counterparty and the Distributor against any liability that may result if the transfer does not comply with the transfer restrictions set forth in the Prospectus or if the Holder is in breach of any of its representations and warranties (or deemed representations and warranties) as set forth in the Notice to Investors in the Prospectus.

(d) No transfer of any Trust Certificate shall be permitted except as expressly provided in this Section 3.07 and Section 3.08. Any transfer in violation of the provisions of this Section 3.07 or of Section 3.08 shall be null and void.

(e) Subject to Section 12.01, this Agreement, including the form of the Trust Certificates, may be amended or supplemented from time to time at the written request of the Distributor or the Counterparty and without the consent of the Holders to modify the restrictions on and procedures for resale and other transfers of the Trust Certificates and interests therein to reflect any change in applicable law or regulation (or the interpretation thereof) relating to the resale or other transfer of restricted securities generally.

(f) The Trust is an unregulated collective investment scheme as defined in the Financial Services and Markets Act 2000 ("FSMA 2000") and accordingly the Trust Certificates cannot be marketed in the United Kingdom to the general public and may only be transferred to the following Persons in the United Kingdom:

(a) investment professionals falling within article 14(5) of the Financial Services and Markets Act 2000 (Promotion of Collective Investment Schemes)(Exemptions) Order 2001 (the "CIS Order") and article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (the "FPO"), who have professional experience of participating in unregulated schemes and of matters relating to investments;

(b) Persons falling within article 2(2) of the CIS Order and article 49(2) of the FPO;  
and

(c) other persons to whom the Trust may be lawfully marketed under both the CIS Order and the FPO.

3.08. ERISA Restriction on Sale and Transfer.(a) The Trust Certificates may not be sold to Benefit Plan Investors and each purchaser of such Trust Certificates will be deemed to represent in connection with its purchase of a Trust Certificate that it is not a Benefit Plan Investor.

(b) For purposes hereof, the term "Benefit Plan Investor" means (A) any employee benefit plan (as defined in Section 3(3) of ERISA), subject to Title I of ERISA, (B) any plan described in Section 4975(e)(1) of the Code, or (C) any entity whose assets include plan assets by reason of a plan's investment in the entity (for purposes of Department of Labor Regulation § 2510.3-101 as modified by Section 3(42) of ERISA).

(c) Notwithstanding any provision of this Agreement or any other Trust Document, in no event shall the Trustee have any duty, liability or obligation to monitor or enforce any restrictions on transfer of the Trust Certificates or beneficial interests therein to Benefit Plan Investors.

3.09. Appointment of Paying Agent. (a) The Trustee may, but shall not be obligated to, appoint a Paying Agent of the Trust for the purpose of making distributions to Holders pursuant to Section 5.01. Any Paying Agent so appointed or its parent company either shall be a bank or trust company. In the event of any such appointment, on or prior to each Distribution Date, the Trustee shall deposit or cause to be deposited with the Paying Agent, from amounts in the Certificate Account, the amount required to be distributed pursuant to Section 5.03 or Section 9.02, as applicable, in respect of such Distribution Date, such amount to be held in trust for the benefit of the Holders. Initially the Trustee shall act as Paying Agent.

(b) The Trustee shall cause each Paying Agent (if so appointed as described above) to execute and deliver to the Trust an instrument in which such Paying Agent shall agree with the Trust that such Paying Agent is at all times acting as agent for the Trust, such Paying Agent waives all rights of set-off it may have with respect to the Trust and such Paying Agent will hold all amounts held by it for the payment to the Holders in trust in an account separated on the books and records of the Paying Agent for the benefit of the Holders entitled thereto until such amounts shall be paid to such Holders.

3.10. Invalid Transfers. If (a) the Trustee, the Transfer Agent or the Certificate Registrar determines that a transferee failed to deliver to the Trustee or the Distributor, or complete, any form, Trust Certificate or document required to be delivered hereunder or (b) the Distributor determines that a Holder or transferee is in breach of any representation or agreement set forth in any certificate or document delivered to the Trustee or the Distributor in connection with its purchase (or proposed purchase) of Trust Certificates or any of its deemed representations or agreements and the Distributor so notifies the Trustee, the Transfer Agent and the Certificate Registrar, none of the Trustee, the Transfer Agent or the Certificate Registrar will register such attempted or purported transfer and if a transfer has been registered, such transfer shall, to the fullest extent permitted by law, 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 that was not a Disqualified Transferee shall be restored to all rights as a Holder thereof, retroactively to the date of purported transfer of such Trust Certificate. Alternatively, the Certificate Registrar, acting at the direction of the Distributor, may require that the interest in the Trust Certificate referred to in (a) or (b) above be transferred to any Person designated by the Distributor at a price determined by the Distributor based upon its estimation of the prevailing price of such interest and each Holder, by acceptance of an interest in a Trust Certificate, authorizes the Trustee and the Distributor to take such action. In any case, the Trustee and the Distributor will not be held responsible for any losses that may be incurred as a result of any required transfer under this Section 3.10 and the Holder which transferred to the Disqualified Transferee its Trust Certificates as referred to in (a) or (b) shall be liable to indemnify the Trustee and the Distributor for their respective reasonable costs in taking such action.

Notwithstanding any provision of this Agreement or any other Trust Document, in no event shall the Trustee, the Transfer Agent or the Certificate Registrar have any duty, liability or obligation to monitor or enforce any restrictions on transfer of the Trust Certificates or beneficial interests therein, other than as expressly specified in this Section 3.10.

## ARTICLE IV

### THE TRUST'S AGENT

4.01. Appointment of Trust's Agent. Pursuant to the Agency Agreement, Merrill Lynch International shall act as agent for the Trust (in such capacity, the "Trust's Agent") until its resignation or removal. The Trust may remove the Trust's Agent upon 30 days prior written notice. The Trust shall endeavor to appoint a successor Trust's Agent upon any such removal or resignation.

## ARTICLE V

### CERTIFICATE ACCOUNTS, DISTRIBUTIONS, REPORTS AND DISTRIBUTOR OR COUNTERPARTY OPTION TO PURCHASE TRUST CERTIFICATES

5.01. Establishment of and Deposits in Certificate Accounts.(a) On or before the Initial Issue Date, the Trustee shall or shall cause the Paying Agent to establish, and thereafter shall or shall cause the Paying Agent to maintain for the Trust Certificates, one or more "Certificate Accounts" which are Eligible Accounts, in the form of trust accounts, with a title referencing the name of the Trust.

(b) The Trustee shall cause to be deposited in the Certificate Account, directly or upon receipt, all distributions on the Underlying Collateral.

(c) The Trustee shall cause to be deposited in a paying agent account, all payments received under the Swap Agreement.

(d) Funds shall be withdrawn from the Certificate Account as provided in Sections 5.02, 5.03 and 9.02, as applicable.

5.02. Payments on Swap Agreement. Subject to Section 9.02 , the Trustee shall withdraw from the Certificate Account, and pay to the Counterparty, as such amounts become due, such amounts as are required to be paid by the Trust to the Counterparty pursuant to the Swap Agreement. Notwithstanding any provision of any of the Trust Documents, in no event shall the Trustee have any obligation or liability to pay any amounts to the Counterparty, other than solely from funds on deposit in the Certificate Account and only to the extent thereof.

5.03. Redemption of Trust Certificates. (a) Subject to Sections 5.03(e) and 9.02, on the Maturity Date, the Trustee shall, after making any payments of amounts due to the Counterparty under the Swap Agreement as provided in Section 5.02, distribute to each Holder out of the Available Redemption Amount, the then Final Redemption Amount due on its Trust Certificates, provided that if the amount available to pay such Final Redemption Amount is less than the Final Redemption Amount then due, the Trustee shall distribute to each Holder its pro rata share of the Final Redemption Amount, such pro rata share to equal, for any Holder, the aggregate face amount of all Trust Certificates held by such Holder, divided by the aggregate face amount of all Trust Certificates.

(b) Notwithstanding the foregoing, if the Trustee receives any funds pursuant to this Agreement after 11:00 AM Eastern Standard Time on any Business Day, the Trustee shall use its best efforts to distribute or apply such funds on such Business Day in accordance with this Agreement but shall not be liable for its failure to distribute or apply such funds on such Business Day so long as any such funds which are not so distributed or applied are distributed or applied in accordance with this Agreement at the opening of business on the next Business Day.

(c) Subject to Section 9.02, if after the Maturity Date, the Trust receives amounts arising from the receipt by the Trust of overdue payments from the Counterparty under the Swap Agreement, the Trust shall, subject to Section 5.03 (e), distribute to each Holder its allocable share of such payments, such allocable share to be calculated in the same manner as was the distribution to such Holder on the Maturity Date.

(d) Distributions to a Holder pursuant to this Agreement will be made (i) if such Trust Certificates are Book-Entry Certificates, to the Common Depositary, which shall communicate through

Euroclear and Clearstream to credit the relevant Euroclear or Clearstream account on the applicable Distribution Dates, and (ii) if such Trust Certificates are Definitive Certificates, (A) by check sent by first class mail, postage prepaid, to the address of such Holder as it appears on the Certificate Register or (B) by wire transfer of immediately available funds to the account designated by such Holder in a written request received by the Trustee not later than 5 Business Days prior to the related Record Date; provided, that if a wire transfer cannot be made for any reason, payment shall be made by check. The Trustee shall round down any such payment to the nearest whole cent. The Trustee shall give 15 days prior written notice of the final payment on the Trust Certificates to each Holder of record as of the date of such notice, and, except as set forth in Section 3.03, such payment shall be made only upon presentation and surrender of the related Trust Certificate to the Trustee. Any final distribution of all Trust Property to the Holders shall satisfy all obligations of the Trust to such Holders.

(e) The Trustee may withhold the whole or any part of any distribution from the Holders in respect of amounts due or reserved for any Trust liabilities which have not been paid under any other provision of this Agreement; provided that no amounts may be withheld from any distribution to the Holders in respect of any amounts for which the Distributor is liable under the Fee and Expense Agreement or for which a Holder has agreed to be liable except to withhold such amounts from any distributions to such Holder who has failed to make any required payment. The Trustee may, whether or not expressly authorized so to do by any provision of this Agreement, make from any distribution or other payment in respect of any Trust Certificate such other deductions as by law the Trustee is required or entitled to make in respect of any taxes, charges or other assessments whatsoever. For purposes of allocating expenses of the Trust not payable by a third party, each Holder of a Trust Certificate will be liable for a proportionate share of such expenses based upon the percentage of the face amount of its Trust Certificates to the aggregate face amount of all Trust Certificates issued by the Trust.

5.04. Trustee Reliance on Counterparty. Unless there has been an Event of Default under the Swap Agreement and the Counterparty is the Defaulting Party, the Trustee may rely on the Counterparty in making any determinations as to actions to be taken under the Swap Agreement and shall not be liable for any action taken or not taken in reliance on written instructions from the Counterparty.

5.05. Accounting and Financial Reports, Internal Revenue Service and Others. (a) The Holders, through their purchase of the Trust Certificates, are deemed to have instructed the Distributor to appoint the Trust Accountants to perform the accounting services described in this Agreement.

(b) The Trust (acting through the Trust Accountants) shall (i) maintain (or cause to be maintained) the books of the Trust on a calendar year basis on the accrual method of accounting, (ii) deliver (or cause to be delivered) to each Holder, as may be required by the Code or otherwise, such information as may be required to enable each Holder to prepare its U.S. federal income tax returns, and (iii) file (or cause to be filed) such tax returns relating to the Trust and make such elections as may from time to time be required or appropriate under any applicable state or federal statute or rule or regulation thereunder. The Trustee shall sign on behalf of the Trust any and all tax returns of the Trust presented to it by the Trust Accountants in final execution form, and the Trustee shall not be responsible or liable in any way for such tax returns.

(c) Within 90 days of the termination of the Trust, the Trustee shall distribute or cause to be distributed unaudited financial statements of the Trust, prepared by the Trust Accountants, to all Holders. The Trustee will require an audit to be performed at the end of one or more of the Trust's Fiscal Years only if and to the extent the Holder or Holders have requested such an audit in writing and agreed to reimburse the Trust for any expenses incurred in connection with the audit in a manner satisfactory to the Trustee. If less than all Holders require an audit to be performed, the related cost shall be allocated to the Holders requesting the audit. However, if any Holder shall subsequently require a copy of such audit,

such Holder shall be required to reimburse each former Holder for a proportionate share of the cost.

(d) The Trust Accountant, on behalf of the Trust, shall:

(i) file (or caused to be filed) such information reports relating to the Trust and make (or cause to be made) such elections as may from time to time be required or appropriate under any applicable state or federal statute or rule or regulation thereunder; and

(ii) in the event the Trust is determined to be a partnership for U.S. federal income tax purposes, elect (or cause to be elected) on behalf of the Trust under Section 761(a) of the Code to exclude the Trust from the application of Subchapter K of the Code beginning with the first taxable year of the Trust. No election shall be made under Treasury Regulation Section 301.7701-3 to treat the Trust as an association taxable as a corporation for U.S. federal income tax purposes.

(e) In the event that the Trust Certificates are Definitive Certificates, the Trustee or the Paying Agent shall mail a notice to each Holder that has delivered a form pursuant to Section 5.07(b), reminding such Holder of its obligation to provide a new Form W-8ECI, Form W-8BEN, Form W-8EXP or Form W-8IMY (or applicable successor forms). Each Holder providing a Form W-8IMY shall also be reminded by the Trustee or Paying Agent that such Holder must deliver all other appropriate forms and certifications with respect to each Beneficial Owner that it represents that will enable each such Beneficial Owner to claim the portfolio interest exemption under either Section 871(h)(1) or Section 881(c)(1) of the Code.

(f) Notwithstanding anything herein to the contrary, the Trustee shall not be liable for any acts or omissions of the Trust Accountants and shall have no liability, duty or obligation to the Trust Accountants.

5.06. Distribution Reports. For each Trust Certificate, on the Maturity Date, if requested in writing by any Holder, the Trustee shall send to each such requesting Holder a report (the "Distribution Report"), setting forth the following information:

(i) the amount of interest received in respect of the Underlying Collateral in respect of the Maturity Date;

(ii) the amount of principal received in respect of the Underlying Collateral in respect of the Maturity Date; and

(iii) the amount, if any, of funds received from the Counterparty under the Swap Agreement that are included in distributions being made to the Holders on the Maturity Date and the amount being paid to the Counterparty under the Swap Agreement in respect of the Maturity Date.

5.07. Withholding on Distributions.

(a) If any withholding tax is imposed on the Trust's payment (or allocations of income) to a Holder or Beneficial Owner, the Trust shall have no obligation to gross up the amount otherwise distributable to the Holder in accordance with this Article V. In reliance upon a determination by the Trust Accountants, and if required by law, the Trustee shall and is hereby authorized and directed to retain from amounts otherwise distributable to Holders sufficient funds for the payment of any tax that is legally owed by the Trust (but such authorization shall not prevent the Trustee from contesting any such

tax in appropriate proceedings and withholding payment of such tax, if permitted by law, pending the outcome of such proceedings). The amount of any withholding tax imposed with respect to a Holder shall be treated as cash distributed to such Holder at the time it is withheld by the Trust and remitted to the appropriate taxing authority. If there is a possibility that withholding tax is payable with respect to a distribution, the Trustee may in its sole discretion withhold such amounts in accordance with this Section. If a Holder wishes to apply for a refund of any withholding tax, the Trustee shall reasonably cooperate with such Holder in making such claim so long as such Holder agrees to reimburse the Trustee for any out-of-pocket expenses incurred.

(b) Any Holder or Beneficial Owner that is a Non-U.S. Holder shall deliver to the Trustee (or applicable withholding agent) an effective Internal Revenue Service Form W-8ECI ("Form W-8ECI"), Form W-8BEN ("Form W-8BEN"), Form W-8EXP, ("Form W-8EXP") or Form W-8IMY ("Form W-8IMY") (or, in each case, applicable successor forms); provided, however, that in the case of a Holder that delivers an effective Form W-8IMY, such Holder also delivers all other appropriate forms and certifications with respect to each beneficial owner that it represents and that will enable such Beneficial Owner to claim the portfolio interest exemption under either Section 871(h)(1) or Section 881(c)(1) of the Code.

5.08. Distributor Right to Redeem Own Certificates. If the Distributor or any of its affiliates holds any Trust Certificates for its own account, the Trustee is hereby authorized and directed, upon the request of the Distributor or such affiliate, to redeem any Trust Certificates held for the account of the Distributor or any such affiliate provided that neither the Counterparty nor such affiliate shall request a redemption of its Trust Certificates unless the Distributor has reasonably determined that there is no material risk that such transfer will result in a violation of ERISA or Section 4975 of the Code. Upon such redemption of Trust Certificates held by the Distributor or its affiliate (i) the Counterparty and the Trust will agree, without the consent of any Holder, to amend the Swap Agreement, to the extent necessary, to reflect the reduction in the amount of the Transactions entered into thereunder (as defined therein) to reflect such redemption, and (ii) the Trustee will distribute to the Distributor or such affiliate the Underlying Securities with a face amount specified by the Distributor in the above mentioned request of redemption.

## ARTICLE VI

### DUTIES AND AUTHORITY OF THE TRUSTEE

6.01. In General. It shall be the duty of the Trustee, and the Trustee is hereby authorized and instructed by the Holders by their purchase of the Trust Certificates to:

- (a) establish and maintain the Certificate Account, and cause to be deposited, either directly or immediately upon its receipt, into the Certificate Account all distributions on the Trust Property received by it, to make demand for any distributions on the Underlying Collateral that are not timely made in accordance with the terms thereof, and to make demand for payment under the Swap Agreement in accordance with the terms thereof and of this Agreement;
- (b) discharge (or cause to be discharged) all responsibilities assigned to it pursuant to the terms of this Agreement and to enforce this Agreement if and when required;
- (c) enter into the Agency Agreement and to cause the Trust to appoint a successor Trust's Agent, if necessary, in accordance with the terms of the Agency Agreement;
- (d) furnish to the Trust's Agent, promptly upon receipt thereof, duplicates or copies of all reports, notices, requests, demands, certificates, financial statements and any other instruments furnished to the Trustee hereunder;
- (e) in the event of dissolution of the Trust and upon the written direction of the Distributor, take any action reasonably requested by the Distributor to enable the Distributor to wind up the affairs of and liquidate the Trust and prepare, sign and file the certificate of cancellation with the Secretary of State of the State of Delaware;
- (f) hold the Trust Property on behalf of the Trust (and have the Collateral Agent hold the Underlying Collateral) and administer the Trust, in accordance with (i) the express provisions of this Agreement, or (ii) a written direction from the Distributor and/or the Holders;
- (g) enter into the Distribution Agreement and to acquire the Underlying Collateral from the Distributor in exchange for the issuance to the Distributor of the Trust Certificates;
- (h) enter into the Swap Agreement and to comply with all terms of the Swap Agreement, including, but not limited to, making payments to the Counterparty under the Swap Agreement;
- (i) make, or cause the Paying Agent, if any, to make distributions to Holders pursuant to Sections 5.03 and 9.02, as applicable;
- (j) enforce the Swap Agreement;
- (k) enforce the Distribution Agreement and the Agency Agreement and any other Trust Document to which the Trust is a party for the benefit of the Trust; and
- (l) execute and deliver the Trust Certificates; and
- (m) enter into the Fee & Expense Agreement.

6.02. Further Authorizations. The Trustee is further authorized to:

(a) employ in good faith consultants, accountants, attorneys, expert persons and other professionals, employ or contract for clerical and other administrative assistance, delegate to agents and employees any matter whether ministerial or discretionary and act through such agents and employees and the advice of such professionals shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder or under the other Trust Documents to which the Trust is a party in good faith and in reliance thereon and in accordance with such advice. and shall have the right at any time to seek instructions concerning the administration of this Agreement from any court of competent jurisdiction.

(b) take any actions incidental to the foregoing as from time to time are necessary or advisable to protect and conserve the Trust Property.

6.03. No Duties Except as Specified in this Agreement; Discharge of Liens by Trustee; Permissible Indemnities; Tender, Conversion and Default under Underlying Collateral. (a) The Trustee shall not have any duty or obligation to manage, make any payment in respect of, register, record, sell, dispose of or otherwise deal with the Underlying Collateral or any other part of the Trust Property, or otherwise take or refrain from taking any action under, or in connection with, any document contemplated hereby to which the Trustee or the Trust is a party, except as expressly provided by the terms of this Agreement and the other Trust Documents to which the Trustee is a party, and no implied duties or obligations of the Trustee shall be read into this Agreement or the other Trust Documents. Notwithstanding the foregoing, the Trustee agrees that it will, at its own cost and expense, promptly take all action necessary to discharge any liens on any part of the Trust Property or the Underlying Collateral which are attributable to actions by or claims against the Trustee that are not related to the ownership of the Underlying Collateral or any other part of the Trust Property, or the administration of the Trust Property.

(b) The Trustee may , on the advice of an Opinion of Counsel, and to preserve or protect the interest or rights of the Trust in any Trust Property, without the consent of any Holders, promote, or join in, approve, acquiesce in, concur or agree to or carry into effect any scheme, proposal or offer for or leading to the alteration of the rights attached to any Trust Property but, notwithstanding the foregoing, the Trustee may not exercise any (1) conversion rights attaching to the Underlying Collateral nor (2) except as provided in Section 6.03(h) below, tender or put the Underlying Collateral to the Issuer for repurchase.

(c) The Trustee may not amend or terminate this Agreement, the Swap Agreement, the Distribution Agreement, the Agency Agreement or any paying agency agreement except in accordance with their respective terms. The Trustee shall not be required to agree to any modification of the Swap Agreement unless it receives an Opinion of Counsel from the Counterparty to the effect that (i) such modification will not adversely affect in any material respect the interests of the Trustee or the Delaware Trustee and (ii) such modification will not adversely affect in any material respect the interest of the Holders (unless, in the case of (ii), all of the Holders give written consent to such modification).

(d) The Trustee may, in the exercise of its powers hereunder, enter into or give such form of agreement, indemnity, warranty or undertaking as is required in the circumstances.

(e) If an Event of Default (as defined in the Swap Agreement) with respect to which the Counterparty is the defaulting party or any other event occurs under the Swap Agreement which pursuant to the terms of the Swap Agreement would give the Trust the right to terminate all of the Transactions under the Swap Agreement in their entirety, and a responsible officer of the Trustee obtains actual

knowledge of such event, the Trustee shall promptly so notify the Counterparty and the Holders, and shall thereafter, at the direction of the Majority Holders, exercise the rights and remedies of the Trust under the Swap Agreement, including, if so directed by the Majority Holders, terminating all of the Transactions under the Swap Agreement. Notwithstanding the above, if the Event of Default is the result of the bankruptcy of the Swap Counterparty or the Swap Guarantor' or of a Securities Default, the Trustee shall immediately seek to terminate all transactions under the Swap Agreement, without the need for a previous instruction from any of the Holders.

(f) The Trustee shall not be required to take any action hereunder or under any Trust Document if the Trustee shall have reasonably determined, or shall have been advised by counsel, that such action is likely to result in liability on the part of the Trustee (for which adequate indemnity (as determined by the Trustee) has not been received from another Person) or is contrary to the terms hereof or of any Trust Document or is otherwise contrary to law.

(g) Unless otherwise provided in Schedule 1, if any vote is required or requested with respect to the Underlying Collateral, the Trust shall vote the Underlying Collateral in accordance with the Trust's Agent's written direction. The Trustee shall not exercise any right of the Trust to tender or put the Underlying Collateral to the Issuer except to the extent so directed by the Majority Holders.

**6.04. No Action Except Under Specified Documents.** The Trustee agrees that it will not manage, control, use, sell, dispose of or otherwise deal with the Underlying Collateral or any other part of the Trust Property except in accordance with the express terms hereof.

**6.05. Direction by Holders.** Except as otherwise expressly provided in this Agreement and the other Trust Documents, the Holders shall have no right to direct the Trustee in the management of the Trust *provided that* the Trustee shall not be required to take or refrain from taking any action if the Trustee shall reasonably determine that such action (i) is likely to result in liability on the part of the Trustee for which adequate indemnity is not reasonably assured, (ii) is contrary to the terms hereof or of any Trust Document or (iii) is contrary to applicable law.

**6.06. Limitation on Actions of Holders.** Except as otherwise required by applicable law, no Holder shall have any right to bring an action in the right of the Trust except in accordance with Section 3816 of the Delaware Statutory Trust Act. A Holder's right to bring a derivative action is subject to the requirement that Holders owning Trust Certificates aggregating more than 50% in Percentage Interest join in the bringing of such derivative action.

**6.07. Non-Petition.** None of the Holders, the Trustee or the Delaware Trustee shall commence or sustain an action against the Trust under any federal or state bankruptcy, insolvency or similar law, or appoint a receiver or other similar official of the Trust, make an assignment for the benefit of creditors, or order the winding up or liquidation of the Trust under such federal or state bankruptcy, insolvency or similar law.

**6.08. Limited Recourse.** Each Holder agrees that the obligations of the Trust hereunder to make payments to it shall be satisfied solely out of the Trust Property.

**6.09. Restrictions on the Powers of the Trustee.**

(a) The Trustee shall not have any power to vary the investment of the Holders within the meaning of Section 301.7701-4(c) of the Treasury Regulations and shall not sell, assign, transfer, exchange, pledge, set-off or otherwise dispose of any of the assets of the Trust or interest therein, including to the Holders, except as described in this Agreement and the other Trust Documents to which it

is a party.

(b) The Trustee shall not be required to take any action that (i) is inconsistent with the purposes of the Trust set forth in Section 2.03, or (ii) would result in the Trust failing to qualify for U.S. federal income tax purposes as a grantor trust, and not as an association or a publicly traded partnership taxable as a corporation for U.S. federal income tax purposes; provided, however, the Trustee shall not be required to determine whether any action that it is expressly authorized or required to take pursuant to the terms of this Agreement or the other Trust Documents or at the direction of any of the Holders, the Trust's Agent, the Distributor or the Counterparty would result in such failure.

## ARTICLE VII

### THE TRUSTEES

7.01. Acceptance of Trusts and Duties. Each of the Trustee and the Delaware Trustee accepts the trusts hereby created and agrees to perform the same but only upon the terms of this Agreement. The Trustee also agrees to disburse all moneys actually received by it constituting part of the Trust Property upon the terms of this Agreement.

7.02. Role of Delaware Trustee. The duties and responsibilities of the Delaware Trustee shall be limited to (a) accepting legal process served on the Trust in the State of Delaware and (b) the execution of any certificates and other documents, as requested in writing by the Distributor, which are necessary to form and maintain the existence of the Trust under the Delaware Statutory Trust Act, and to the fullest extent permitted by applicable law, there shall be no other duties (including fiduciary duties) or responsibilities, express or implied, at law or in equity, of the Delaware Trustee. The Delaware Trustee shall have no duty or liability with respect to the administration of the Trust and shall not be liable for the acts or omissions of the Trustee in connection with its duties hereunder or otherwise in connection with its administration of the Trust. The Delaware Trustee shall not be answerable or accountable under any circumstances, except for its own willful misconduct or negligence. The Delaware Trustee shall be entitled to all of the rights, protections, immunities and indemnities afforded to the Trustee under this Agreement whether or not expressly referred to in any such provision.

7.03. Trustee Liability. Neither the Trustee nor the Delaware Trustee shall be answerable or accountable under any circumstances, except (a) for its own willful misconduct or negligence, (b) in the case of the inaccuracy of any representation or warranty contained in Section 7.04 hereof, (c) for liabilities arising from the failure by the Trustee to perform obligations expressly undertaken by it in the last sentence of Section 6.03(a) hereof, or (d) for taxes, fees or other charges on, based on or measured by any fees, commissions or compensation received by the Trustee in connection with any of the transactions contemplated by this Agreement or the other Trust Documents. In particular, but not by way of limitation:

(i) neither the Trustee nor the Delaware Trustee shall be liable for any error of judgment made in good faith by a responsible officer of the Trustee or the Delaware Trustee, as the case may be;

(ii) the Trustee shall not be liable with respect to any action taken or omitted to be taken by the Trustee in good faith in accordance with the instructions of any of the Holders, the Distributor, the Trust's Agent, or the Counterparty;

(iii) no provision of this Agreement or the other Trust Documents shall require the Trustee or the Delaware Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of the Trustee's or the Delaware Trustee's rights or powers hereunder or thereunder, if the Trustee or the Delaware Trustee, as the case may be, shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured or provided to it;

(iv) under no circumstance shall the Trustee or the Delaware Trustee be liable for distributions due on the Trust Certificates;

(v) the Trustee shall not be liable with respect to any action taken or omitted to be taken by the Trust's Agent under the Agency Agreement or by the Calculation Agent under the

Swap Agreement or by the Transfer Agent, the Certificate Registrar or any Paying Agent hereunder, and the Trustee shall not be liable for performing any obligations or duties under this Agreement or the other Trust Documents which are to be performed by the Trust's Agent under the Agency Agreement or the Calculation Agent under the Swap Agreement, or by the Transfer Agent, the Certificate Registrar or any Paying Agent hereunder;

(vi) the Trustee shall not be responsible for or in respect of, the validity or sufficiency of this Agreement or any of the other Trust Documents, the form, character, genuineness, sufficiency, value or validity of any Trust Certificate (other than its execution thereof), or any Underlying Collateral or any other Trust Property or the validity or sufficiency of the Swap Agreement. The Trustee shall in no event assume or incur any liability, duty or obligation to any Holder, other than as expressly provided for herein;

(vii) the Trustee shall not be liable for any interest on any moneys received by it; and money held by the Trustee need not be segregated from other funds held by it except to the extent otherwise required by law;

(viii) in the absence of bad faith on its part, the Trustee and the Delaware Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee or the Delaware Trustee and conforming to the requirements of this Agreement; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee or the Delaware Trustee, the Trustee or the Delaware Trustee shall be under a duty to examine the same to determine whether or not they conform on its face to the requirements of this Agreement; the Trustee and the Delaware Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture or other paper or document; and

(ix) neither the Trustee nor the Delaware Trustee shall be liable for the default or misconduct of the other, or the Trust's Agent, the Distributor, the Transfer Agent or the Counterparty.

7.04. Representations and Warranties. The Trustee hereby represents and warrants to the Distributor and for the benefit of the Holders, that:

(i) as applicable, it has been duly formed and is validly existing as a National Association in good standing and it holds all corporate power and all material franchises, grants, authorizations, consents, orders and approvals from all governmental authorities necessary under the laws of the United States of America to carry on its trust business as now conducted;

(ii) the execution, delivery and performance by the Trustee of this Agreement and by the Trust of the Agency Agreement and the Distribution Agreement, and the issuance of the Trust Certificates by the Trustee pursuant to this Agreement, are within the corporate power of the Trustee, have been or will have been duly authorized by all necessary corporate action on the part of the Trustee (no action by its shareholders being required) and do not and will not (A) violate or contravene any judgment, decree or order binding on the Trustee, (B) conflict with or result in a breach of, or constitute a default under, any provision of the articles of incorporation or by-laws of the Trustee or (C) result in the creation or imposition of any lien, charge or encumbrance on the Trust Property resulting from actions by or claims against the Trustee except as expressly contemplated by this Agreement and the other Trust Documents;

(iii) this Agreement has been duly executed and delivered by the Trustee and constitutes a legal, valid and binding agreement of the Trustee, enforceable against the Trustee in accordance with its terms, except to the extent enforcement may be limited by bankruptcy, insolvency, liquidation, reorganization and other laws of general application relating to or affecting the rights of creditors; and

(iv) this Agreement has been executed and delivered by its officers who are duly authorized to execute and deliver such document in such capacity on its behalf.

**7.05. Reliance; Employment of Agents and Advice of Counsel.** (a) Neither the Trustee nor the Delaware Trustee shall incur any liability to anyone in acting upon any signature, instrument, notice, resolution, request, consent, order, certificate, report, opinion, bond or other document or paper reasonably believed by it to be genuine and reasonably believed by it to be signed by the proper party or parties. Each of the Trustee and the Delaware Trustee may accept a certified copy of a resolution of the board of directors or other governing body of any corporate party as conclusive evidence that such resolution has been duly adopted by such body and that the same is in full force and effect. As to any fact or matter the manner of ascertainment of which is not specifically prescribed herein or in the other Trust Documents, the Trustee and the Delaware Trustee may for all purposes hereof rely on a certificate, signed by the president, any vice president, the treasurer or any assistant treasurer or the secretary or any assistant secretary of the relevant party, as to such fact or matter, and such certificate shall constitute full protection to each of the Trustee and the Delaware Trustee for any action taken or omitted to be taken by it in good faith in reliance thereon.

(b) In its exercise or administration of the trusts and powers hereunder and under the other Trust Documents to which it is a party, including its obligations hereunder and under the other Trust Documents to which it is a party, the Trustee may employ agents and attorneys and enter into agreements (including the Distribution Agreement and the Agency Agreement) with any of them, and the Trustee shall not be answerable for the default or misconduct of any such agents or attorneys.

(c) In the administration of the trusts hereunder and under the other Trust Documents to which it is a party, the Trustee may consult with counsel, accountants and other skilled persons to be selected and employed by it in good faith, and the Trustee shall not be liable for anything done, suffered or omitted in good faith by it in accordance with the advice or opinion of any such counsel, accountants or other skilled persons.

(d) If (i) in performing its duties under this Agreement and under the other Trust Documents to which it is a party, the Trustee or the Delaware Trustee is required to decide between alternative courses of action, (ii) in construing any of the provisions of this Agreement or the other Trust Documents to which it is a party, either the Trustee or the Delaware Trustee finds a provision ambiguous or inconsistent with any other provisions contained herein or therein or (iii) either the Trustee or the Delaware Trustee is unsure of the application of any provision of this Agreement or the other Trust Documents to which it is a party, then, the Trustee or the Delaware Trustee, as the case may be, shall deliver a notice to the Holders or the Distributor requesting the Holders' or the Distributors' written instruction as to the course of action to be taken, and the Trustee or the Delaware Trustee, as the case may be, shall take such action, or refrain from taking such action, as the Trustee or the Delaware Trustee shall be instructed in writing to take, or to refrain from taking, by the Majority Holders or the Distributor, as the case may be;

(e) Whenever in the administration of this Agreement or the other Trust Documents, the Trustee or the Delaware Trustee shall deem it desirable to receive instructions with respect to enforcing any remedy or right hereunder or thereunder, the Trustee or Delaware Trustee, as the case may be, (i)

shall request instructions from the Majority Holders or the Distributor, (ii) may refrain from enforcing such remedy or right or taking such other action until such instructions are received and (iii) shall be protected in acting in accordance with such instructions.

(f) Without prejudice to any other rights available to the Trustee or the Delaware Trustee under applicable law, when the Trustee or the Delaware Trustee incurs expenses or renders services in connection with a bankruptcy, such expenses (including legal fees and expenses of its agents and counsel) and the compensation for such services are intended to constitute expenses of administration under any bankruptcy law or law relating to creditors rights generally.

(g) Whenever in the administration of this Agreement or the other Trust Documents the Trustee or the Delaware Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder or thereunder, the Trustee or the Delaware Trustee (unless other evidence is herein specifically prescribed) may, in the absence of bad faith on its part, request and rely on certificates, statements or reports of Persons who the Trustee or the Delaware Trustee, as the case may be, reasonably believes to be knowledgeable and informed on the matter.

(h) Although certain provisions of this Agreement and the other Trust Documents permit or empower the Trustee to take certain actions, no such provision of this Agreement or the other Trust Documents shall be deemed to impose an obligation on the Trustee to take such action.

(i) No provision of this Agreement or the other Trust Documents shall be deemed to impose any duty or obligation on either the Trustee or the Delaware Trustee to perform any act or acts or exercise any right, power, duty or obligation conferred or imposed on it, in any jurisdiction in which it shall be illegal, or in which such Person shall be unqualified or incompetent in accordance with applicable law, to perform any such act or acts, or to exercise any such right, power, duty or obligation.

7.06. Not Acting in Individual Capacity. In accepting the trusts hereby created, the Trustee acts solely as trustee hereunder and not in its individual capacity, and all Persons asserting any claim against the Trustee, the Delaware Trustee or the Trust shall look only to the Trust Property for payment or satisfaction thereof. The Trustee is not responsible for, and shall have no liability in connection with, any of the representations made herein, or in any of the Trust Documents or the Prospectus, on behalf of the Trust. All representations made on behalf of the Trust (including without limitation in the Prospectus), are based on information supplied to the Trustee and not based on any of the Trustee's personal information.

7.07. Paying Agent; Transfer Agent. The Transfer Agent and any Paying Agent shall be entitled to all of the rights, protections, immunities and indemnities afforded the Trustee under this Agreement whether or not expressly referred to in any such provision. The Transfer Agent may resign and be replaced, and a successor Transfer Agent may be appointed, in the manner provided for the Trustee in Article X.

## ARTICLE VIII

### COMPENSATION AND EXPENSES

8.01. Compensation and Indemnities. The Distributor has agreed in the Fee and Expense Agreement to pay all Ordinary Expenses of the Trust (including without limitation the fees of the Trustee and the Delaware Trustee, respectively, for their services as Trustee and Delaware Trustee, as specified therein, and the fees and expenses of the Trust Accountants) and, to the extent provided therein, certain Extraordinary Expenses of the Trustee and the Delaware Trustee. No failure on the part of the Distributor to pay the Ordinary Expenses of the Trust shall relieve the Trustee or the Delaware Trustee of its responsibilities hereunder; provided that any failure of the Distributor to pay any fees or expenses of the Trust Accountants shall relieve the Trust and the Trustee from any responsibility, duty or obligation with respect to taxes, filings or other matters done, performed or monitored by the Trust Accountant under this Agreement, and provided further that in no event shall the Trustee have any duty to pay such fees in its individual capacity, any other capacity or out of the Trust Property.

(a) The Trustee and the Delaware Trustee shall be indemnified by the Distributor pursuant to and to the extent provided in the Fee and Expense Agreement.

(b) The Trust's Agent shall be indemnified by the Trust pursuant to and to the extent provided in the Agency Agreement.

(c) Notwithstanding the satisfaction and discharge of this Agreement, the obligations of the Distributor to the Trustee and the Delaware Trustee under this Section 8.01 and Section 8.02 shall survive.

(d) The Paying Agent, Trustee and the Transfer Agent agree that the fees under the Fee and Expense Agreement include the costs and fees of the Paying Agent and Transfer Agent.

8.02. Extraordinary Expenses; Expense Event. (a) The Trustee shall not incur any Extraordinary Expenses (including appearing in, instituting or conducting any action or suit hereunder or in relation hereto) unless the Trustee receives security or indemnity satisfactory to the Trustee from one or more Holders in respect of the payment of such Extraordinary Expenses or unless the Distributor agrees that the Trustee should incur such Extraordinary Expenses and agrees to pay any such Extraordinary Expenses. Notwithstanding the foregoing, the Trustee shall not be prohibited from taking any action to defend itself in any suit brought against it.

(b) Notwithstanding Section 8.02(a), if the Trustee anticipates (based on the facts then available to it) that Extraordinary Expenses will be incurred, the Trustee shall promptly (but by no later than two Business Days after making such determination) so notify the Distributor and each Holder (an "Expense Notice") of a Trust Certificate. Unless within the three Business Day period following the Trustee's delivery of an Expense Notice to the Distributor and each Holder, the Trustee has received indemnity or security satisfactory to the Trustee and reasonably satisfactory to the Distributor, or unless the Distributor agrees that the incurrence of such Extraordinary Expenses shall not constitute an Expense Liquidation Event and agrees to pay such Extraordinary Expenses, such event shall be deemed an "Expense Liquidation Event" and the Trust shall be dissolved in accordance with Section 9.01 hereof.

(c) For purposes of this Section 8.02, the Trustee shall have no liability for its failure to anticipate the incurrence of any Extraordinary Expenses as long as it acts in good faith based upon the facts reasonably available to it at the time of such determination.

## ARTICLE IX

### TERMINATION OF TRUST AGREEMENT

9.01. Dissolution of Trust. Unless otherwise specified in Schedule 1, the Trust shall dissolve upon the first to occur of the following:

- (a) the Trustee receives notice from the Trust's Agent that all amounts due to the Trust in respect of the Trust Property have been received and the Trustee has distributed the proceeds of the Trust Property in accordance with the terms hereof;
- (b) a Securities Default, if an Early Termination Date is designated as a result thereof under the Swap Agreement;
- (c) the Trustee receives written notice from the Distributor that all Transactions under the Swap Agreement have been terminated in their entirety; or
- (d) an Expense Liquidation Event.

9.02. Distribution upon Dissolution of Trust. Unless otherwise specified in Schedule 1, upon a dissolution of the Trust, subject to Section 5.03(e), upon receipt of any payments then due from the Counterparty under the Swap Agreement,

- (a) if any amounts are owed to the Counterparty under the Swap Agreement, the Collateral Agent shall transfer the Underlying Collateral to the Counterparty; and
- (b) the Trustee shall then distribute to each Holder its pro rata share of the Final Exchange Amount and any other assets then constituting the remaining Trust Property.

9.03. Action upon Dissolution of Trust. If the Trust dissolves, the Trustee, upon written direction from the Distributor, shall take any action reasonably requested by the Distributor to enable the Distributor to wind up the affairs of the Trust and have the Trust make a final distribution of the Trust Property in accordance with Section 9.02 (or as otherwise provided in Schedule 1); *provided, that* the Trustee shall have no duty to make any such final distribution unless and until the Distributor confirms that all liabilities of the Trust have been satisfied or reasonable provision for satisfaction of such liabilities has been made in accordance with Section 3808 of the Delaware Statutory Trust Act. After all distributions of Trust Property, the Distributor shall prepare, and cause to be filed, and the Trustee shall sign, the certificate of cancellation for the Trust under the Delaware Statutory Trust Act with the Secretary of State of the State of Delaware pursuant to 12 Del. C. § 3810. Upon completion of the foregoing steps, the Trust shall be terminated.

9.04. Holders No Right to Revoke Trust. No Holder shall be entitled to revoke the Trust.

ARTICLE X  
SUCCESSOR TRUSTEES AND ADDITIONAL TRUSTEES

10.01. Resignation or Removal of Trustee; Appointment of Successor. (a) The Trustee may resign at any time without cause by giving at least 60 days prior written notice to the Holders. In addition, the Distributor may remove the Trustee at any time for cause by giving at least 30 days prior written notice to the Holders and the Trustee. Such resignation or removal will be effective on the acceptance of appointment by a successor Trustee under Section 10.01(b) hereof. In case of the resignation or removal of the Trustee, the Trust's Agent shall promptly appoint a successor Trustee by an instrument signed by the Trust's Agent. If a successor Trustee shall not have been appointed within 30 days after the giving of written notice of such resignation, the Trustee may apply to any court of competent jurisdiction to appoint a successor Trustee to act until such time, if any, as a successor shall have been appointed by the Trust's Agent as above provided and such costs of application shall be deemed to be an Ordinary Expense. Any successor Trustee so appointed by such court shall immediately and without further act be superseded by any successor Trustee appointed by the Trust's Agent as above provided within one year from the date of the appointment by such court.

(b) Any successor Trustee, however appointed, shall execute and deliver to the predecessor Trustee an instrument accepting such appointment, and thereupon such successor Trustee, without further act, shall become vested with all the estates, properties, rights, powers, duties and trusts of the predecessor Trustee in the trusts hereunder with like effect as if originally named the Trustee herein and in the other Trust Documents and the predecessor Trustee shall be fully discharged from all duties and liabilities under this Agreement and in the other Trust Documents arising on and after such date, except for liabilities arising or resulting from any of the matters described in Section 7.03; provided that upon the written request of such successor Trustee, such predecessor Trustee shall execute and deliver an instrument transferring to such successor Trustee, upon the trusts herein expressed, all the estates, properties, rights, powers, duties and trusts of such predecessor Trustee, and such predecessor Trustee shall duly assign, transfer, deliver and pay over to such successor Trustee all moneys or other property then held or subsequently received by such predecessor Trustee upon the trusts herein expressed.

(c) Any successor Trustee, however appointed, shall be a bank or trust company with its principal place of business within the State of Delaware or New York and having a combined capital and surplus of at least \$50,000,000, if there be such an institution willing, able and legally qualified to perform the duties of the Trustee hereunder upon reasonable or customary terms.

(d) Any corporation into which the Trustee (or the institution serving as the Delaware Trustee) may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee (or the institution serving as the Delaware Trustee) shall be a party, or any corporation to which substantially all the corporate trust business of the Trustee (or the institution serving as the Delaware Trustee) may be transferred, shall, subject to the terms of Section 10.01(c) hereof, be the successor Trustee under this Agreement and in the other Trust Documents without further act.

10.02. Appointment of Additional Trustees. At any time or times for the purpose of meeting any legal requirements of any jurisdiction in which any part of the Trust Property may at the time be located, the Trustee, by an instrument in writing, may appoint one or more individuals or corporations to act as separate trustee or separate trustees of all or any part of the Trust Property to the full extent that a local law makes it necessary for such separate trustee or separate trustees to act alone.

10.03. Delaware Trustee. At all times the Trust shall have at least one trustee which meets the

requirements of 12 Del. C. § 3807. The Delaware Trustee may resign upon 30 days prior notice to the Trustee; provided, that a successor Delaware Trustee shall have been appointed by the Trust's Agent and agreed to serve. If a successor Delaware Trustee shall not have been appointed within such 30 day period, the Delaware Trustee may apply to the Court of Chancery of the State of Delaware for the appointment of a successor Delaware Trustee and the expense of such application shall be deemed to be an Ordinary Expense.

ARTICLE XI  
PARTNERSHIP CHARACTERIZATION

11.01. Trust Classification. If the Internal Revenue Service determines that the Trust will be characterized as a partnership for U.S. federal income tax purposes, each Holder recognizes and agrees that for federal income tax purposes, the Trust will be classified as such and will not be classified as a corporation or an association (or publicly traded partnership) taxable as a corporation. Each Holder agrees that it will not make any election or take any other deliberate action that would cause the Trust to be treated as an association taxable as a corporation.

11.02. Capital Contributions of the Holders. If the Trust is to be characterized as a partnership:

(a) On the Issue Date of any Trust Certificates, the Holders of such Trust Certificates shall be treated as having made a Capital Contribution to the Trust equal to the purchase price of their Trust Certificates.

(b) On any Business Day subsequent to the Issue Date of its Trust Certificates, with the consent of the Counterparty, any Holder may make additional Capital Contributions in such amount as agreed to by the Holder and the Counterparty.

(c) (i) No interest shall accrue on the Capital Contributions or the balance in the Capital Account (as defined below) of any Holder and (ii) except as expressly provided in this Agreement, no Holder shall have the right to withdraw its capital or profits from the Trust, to be repaid any part of its Capital Contributions or to be paid any part of its Capital Account balance.

11.03. Capital Accounts. If the Trust is to be characterized as a partnership:

(a) The Trust's Agent shall, in consultation with and reliance on the Trust Accountants, establish and maintain on behalf of the Trust a separate capital account (each, a "Capital Account") for each Holder in accordance with Section 704 of the Code and the Treasury Regulations promulgated thereunder, including Treasury Regulation § 1.704-1(b) and shall notify the Trustee of such establishment.

(b) Except as may be required by applicable law, no Holder with a negative balance in its Capital Account shall have any obligation, in connection with the liquidation of the Trust or otherwise, to restore such negative balance.

(c) Upon any transfer of a Trust Certificate, a proportionate share of the Capital Account of the transferor shall be transferred to the transferee, and the transferee shall be deemed to have made the contributions that were made by the transferor and to have received the distributions and allocations that were received by the transferor from the Trust, in each case to the extent of the interest in the Trust transferred.

(d) The maintenance of Capital Accounts pursuant to this Section 11.03 is intended to comply with the requirements of Code Section 704 and the Treasury Regulations promulgated thereunder, and the provisions of this Agreement regarding the maintenance of Capital Accounts shall be interpreted and applied consistently therewith. If, in the opinion of the Trust Accountants, the manner in which the Capital Accounts are to be maintained pursuant to this Section 11.03 should be modified in order to comply with the requirements of Code Section 704 and the Treasury Regulations promulgated thereunder, then, notwithstanding anything to the contrary contained in this Section 11.03, the Trust may, in its sole

discretion, change the manner in which the Capital Accounts are maintained to comply with any such requirements, and the Trustee shall have the right, upon delivery of written notice to each other Holder and without obtaining the consent of any Holder, to amend this Agreement to reflect any such change in the manner in which the Capital Accounts are maintained.

11.04. Allocations. If the Trust is to be characterized as a partnership, of which the Trustee shall be notified:

(a) The Trust's income, gain, loss and expense shall be allocated to the Capital Accounts of the Holders in accordance with this Section 11.04.

(b) On each Distribution Date and within ninety days after the end of each Fiscal Year and after giving effect to Section 11.04(f), the Trust's Agent shall allocate all items of income, gain, loss and deductions to the Capital Accounts of the Holders as follows:

(i) net income of the Trust shall be allocated first among the Holders, in proportion to and to the extent of prior allocations of net loss to the extent such prior allocations of net loss were not previously reversed hereunder, and second, among the Holders in proportion to their aggregate Percentage Interests.

(ii) net loss of the Trust shall be allocated among the Holders in proportion to their aggregate Percentage Interests.

(c) The purpose of the allocations set forth in this Section 11.04 is to allocate Net Income and Net Loss among the Holders in a manner that conforms, as possible, to the manner in which the amounts reflecting aggregate Net Income would be distributed among the Holders pursuant to Section 5.03. In all events, the basic economic arrangement of the Holders set forth in Section 5.03 shall be controlling. The Trust's Agent shall direct the Trustee to make such corrective allocations as the Trust's Agent, in consultation with the Trust Accountants, deems necessary to achieve the purpose described in the two immediately preceding sentences.

(d) The Trustee is hereby authorized and instructed that distributions from the Trust, whether pursuant to Section 5.03 or 8.02 or otherwise, and whether of unexpended or reimbursed contributions, profits, gains, credits or otherwise, shall be debited against the respective Capital Accounts of the Holders receiving such distributions.

(e) If any Holder unexpectedly receives any adjustment, allocation or distribution described in Treasury Regulation § 1.704-1(b)(2)(ii)(d)(4), § 1.704-1(b)(2)(ii)(d)(5) or § 1.704-1(b)(2)(ii)(d)(6) that creates or increases a deficit in the adjusted Capital Account of such Holder, then items or income and gain (consisting of a pro rata portion of each item of Trust income, including gross income, and gain for the relevant Fiscal Year and, if necessary, for subsequent Fiscal Years) shall be allocated by the Trust's Agent to such Holder in an amount and manner sufficient to eliminate such deficit as quickly as possible. This Section 11.04(c) is intended to constitute a "qualified income offset" within the meaning of Treasury Regulation § 1.704-1(b)(2)(ii)(d), and this Section 11.04(e) shall be interpreted and applied consistently therewith.

(f) Notwithstanding anything in this Agreement to the contrary, if the allocation of any item of income, gain, loss or expense pursuant to this Section 11.04 does not have substantial economic effect under Treasury Regulation § 1.704(b)(2) and is not in accordance with the interests of the Holders in the Trust within the meaning of Treasury Regulation § 1.704-1(b)(3), then such item shall be reallocated by the Trust's Agent in such manner as to (i) have substantial economic effect or be in accordance with such

Holders' interests in the Trust and (ii) result as nearly as possible in the respective balances of the Capital Accounts that would have been obtained if such item had instead been allocated under the provisions of this Section 11.04(f) without giving effect to this Section 11.04(f).

(g) With respect to any Fiscal Year during which any Holder's interest in the Trust changes, whether by reason of the admission of a new Holder, the withdrawal of a Holder, a non-pro rata contribution of capital to the Trust or otherwise as described in Section 706(d)(1) of the Code and Treasury Regulations issued thereunder, allocations of net income, net losses and other items of Trust income, gain, loss and expense shall be adjusted appropriately by the Trust's Agent to take into account the varying interests of the Holders during such accounting period. The Trust's Agent, in consultation with and reliance upon the Trust Accountants, shall select the method of making such adjustments.

**11.05. Distributions.** Distributions shall be made in accordance with Section 5.03 or 9.02, as applicable. No Holder shall be entitled to receive distributions in any accounting period in excess of its Capital Account balance, after taking into account allocations of net income or net loss for the applicable period.

**11.06. Tax Matters.** The Majority Holders shall appoint a "tax matters partner." Each Holder shall indemnify the Trust and the tax matters partner and hold each of them harmless from any liability with respect to any taxes, penalties or interest required to be withheld or paid to any taxing authority by the Trust or the tax matters partner for or on behalf of such Holder. No Holder other than the tax matters partner shall have the right to (i) participate in the audit of any Trust tax return, (ii) file any tax return, amended tax return or claim for refund inconsistent with any item of income, gain, loss or expense reflected on any Trust tax return, (iii) participate in any administrative or judicial proceeding arising out of or in connection with any Trust tax return, audit relating to a Trust tax return, claim for refund by the Trust or denial of such a claim, or (iv) appeal, challenge or otherwise protest any adverse findings in any such audit or with respect to any such tax return or in any such administrative or judicial proceedings.

**11.07. Income Tax Elections.** The Trust's Agent in consultation with and reliance upon the Trust Accountants shall have the right to make such elections under the tax laws of the United States, the several states and other relevant jurisdictions as to the treatment of items of Trust income, gain, loss, deduction and credit and to all other relevant matters as it believes, based on advice of the Trust Accountants, are necessary, appropriate and desirable.

**11.08. Additional Liquidation Provisions.** For tax purposes, liquidation of the Trust shall be made in accordance with the Capital Account balances of the Holders. If the Trust is "liquidated" within the meaning of Treasury Regulation § 1.704-1(b)(2)(ii)(g), the distributions pursuant to Section 9.02 shall be made, to the extent possible, within the time period required by Treasury Regulation § 1.704-1(b)(2)(ii)(b)(2). Where necessary or desirable to comply with the preceding sentence, distributions may be made to a trust established for the benefit of the Holders for the purposes of liquidating the Underlying Collateral, terminating the Transactions under the Swap Agreement, collecting amounts owed to the Trust and paying any contingent or unforeseen liabilities or obligations of the Trust or of the Holders arising out of or in connection with the Trust. The Trustee, upon direction from the Distributor, shall distribute the assets of any such trust to the Holders from time to time in the same proportions as the amount distributed to the trust by the Trust would otherwise have been distributed to the Holders pursuant to this Agreement.

**11.09. Trustee Not Responsible For Tax Matters.** Except as expressly provided herein, the Trustee shall have no duty, obligation or liability for the Trust's compliance with the partnership reporting requirements of the Code or this Article XI, nor shall the Trustee have any duty, obligation or liability with respect to any Capital Contributions, Capital Accounts or Allocations.

## ARTICLE XII

### MISCELLANEOUS

12.01. Amendments. (a) This Agreement and any other Trust Document may be amended from time to time by the Trustee, the Delaware Trustee and the Distributor, but without the consent of any of the Holders or any other Person,

- (i) to cure any ambiguity or to correct or supplement any provision herein which may be inconsistent with any other provision herein,
- (ii) to add to the duties or obligations of the Trustee or the Trust's Agent hereunder,
- (iii) to make any other provision with respect to matters or questions arising under this Agreement which shall not be materially inconsistent with the provisions of this Agreement or
- (iv) for the purpose of adding any provision to or changing in any manner or eliminating any provision of this Agreement or of modifying in any manner the rights of the Holders of Trust Certificates;

provided that no such amendment shall, as evidenced by an Opinion of Counsel, (1) reduce in any manner the amount of, or delay the timing of, distributions which are required to be made on any Trust Certificate or otherwise materially adversely affect the Holders; or (2) adversely affect in any material respect the status of the Trust for federal income tax purposes or amend this Section 12.01(a) without the unanimous consent of the Holders. With respect to the matters set forth in this Section 12.01(a), the Trustee shall be entitled to rely on the Opinion of Counsel described therein.

(b) This Agreement and any other Trust Document may, at the direction of the Distributors, be amended or supplemented from time to time by the Trustee without the consent of any of the Holders or any other Person, upon notice to Holders sent to their registered addresses, to modify the restrictions on and procedures for resales and other transfers of the Trust Certificates to reflect any change in applicable law or regulation (or the interpretation thereof) or in practices relating to the resale or transfer of restricted securities generally, and to accommodate the issuance, if any, of Trust Certificates in book-entry form through the facilities of a clearing agency, and the Trustee may, at the direction of the Distributors, in accordance with such procedure, amend or supplement the Trust Certificates and related documentation (including this Agreement and the Distribution Agreement), from time to time, to alter existing restrictions upon the resale or transfer of the Trust Certificates, and any other action may be taken, to enable the Trust to rely upon any exemption from registration under the 1933 Act (and to remove certain existing restrictions to the extent not required under such exemptions); provided that such action shall not, as evidenced by an Opinion of Counsel delivered by the Distributor, adversely affect in any material respect the interests of any Holder.

(c) If any amendment instrument required to be so executed adversely affects any right, duty or liability of, or immunity or indemnity in favor of, the Trustee, the Delaware Trustee or the Transfer Agent under this Agreement or any of the Trust Documents to which the Delaware Trustee, the Trustee or the Transfer Agent is a party, or would cause or result in any conflict with or breach of any terms, conditions or provisions of, or default under, the charter documents or by-laws of the Delaware Trustee, the Trustee or the Transfer Agent or any Trust Document to which the Delaware Trustee, the Trustee or the Transfer Agent is a party, the Delaware Trustee, the Trustee or the Transfer Agent may in its sole discretion decline to execute such instrument.

(d) Notwithstanding the foregoing, the Trustee at any time and from time to time may amend this Agreement to modify, eliminate or add to any of its provisions to such extent as shall be necessary or helpful to maintain the treatment of the Trust for federal income tax purposes or to avoid or minimize the risk of the imposition of any tax on the Trust pursuant to the Code; provided that (i) the Trustee has received an Opinion of Counsel from the Distributor to the effect that such action is necessary or appropriate to maintain such treatment or to avoid or minimize the risk of the imposition of such a tax; and (ii) such amendment does not have a material adverse effect on the Holders.

(e) Notwithstanding the foregoing, subject to paragraph (f) below, this Agreement may be amended by the Trustee with the written consent of Holders holding 100% of the outstanding Percentage Interests and the Counterparty. The Distributor shall provide to the Trustee a certificate certifying as to the consent of such Holders, upon which certificate the Trustee may conclusively rely and the Trustee shall be fully protected for acting on such certificate from the Distributor.

(f) Promptly after the execution of any such amendment the Trustee shall furnish written notification of the substance of such amendment to each Holder.

(g) Notwithstanding anything herein to the contrary, before executing any proposed supplement or amendment to this Agreement or any other Trust Document, the Trustee and/or the Delaware Trustee, as the case may be, shall be entitled to receive and be fully protected in relying upon: (i) direction from the Distributor, and (ii) an Opinion of Counsel, and (iii) an officer's certificate of the Distributor stating that such amendment or supplement is authorized by this Agreement.

12.02. No Legal Title to Trust Property in Holders. The Holders shall not have legal title to any part of the Trust Property and shall only be entitled to receive distributions with respect to their undivided beneficial interest therein pursuant to Sections 5.01 and 9.01 hereof. No transfer, by operation of law or otherwise, of any right, title or interest of the Holders in and to their undivided beneficial interests in the Trust Property shall operate to terminate this Agreement or the trusts hereunder or entitle any successor transferee to an accounting or to the transfer to it of legal title to any part of the Trust Property.

12.03. Limitations on Rights of Others. Nothing in this Agreement, whether express or implied, shall be construed to give to any Person other than the Trustee, the Delaware Trustee, the Trust's Agent, the Transfer Agent, the Counterparty and the Holders any legal or equitable right, remedy or claim in the Trust Property or under or in respect of this Agreement or any covenants, conditions or provisions contained herein.

12.04. Notices. Unless otherwise expressly specified or permitted by the terms hereof, all notices to the Trustee, the Delaware Trustee, the Distributor, the Trust's Agent, the Counterparty or Rating Agency shall be in writing and delivered by hand, sent by electronic facsimile (with hard copy to follow via first class mail) or mailed by certified mail, postage prepaid, or overnight courier if to the Trustee, addressed to the Trust c/o HSBC Bank USA, National Association, Corporate Trust & Loan Agency, 452 Fifth Avenue, New York, NY 10018-2706 or to such other address as the Trustee may have set forth in a written notice to the Holders; if to the Delaware Trustee, HSBC Bank USA, National Association, 90 Christiana Road, New Castle, Delaware 19720; if to the Transfer Agent, HSBC Bank USA, National Association, Corporate Trust & Loan Agency, 452 Fifth Avenue, New York, NY 10018-2706; if to the Distributor, the Trust's Agent or Counterparty, addressed to it at the notice address provided for in the Distribution Agreement, the Agency Agreement or Swap Agreement, as applicable; if to S&P, addressed to Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, 55 Water Street, New York, NY 10041, Attention Asset Backed Surveillance. All notices to a Holder shall be given by first class mail, postage prepaid, and addressed to such Holder at the address set forth for such Holder in the Certificate Register.

12.05. No Subdivision. No Holder shall subdivide any of its Trust Certificates (whether by way of sale of beneficial interests or otherwise).

12.06. Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

12.07. Separate Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

12.08. Successors and Assigns. All covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the Trustee and its successors and assigns and each Holder and its successors and permitted assigns, all as herein provided. Any request, notice, direction, consent, waiver or other instrument or action by a Holder shall bind the successors and assigns of such Holder.

12.09. Incorporation by Reference. If and to the extent references are made herein to terms set forth in Schedule 1, the relevant provisions of Schedule 1 shall be deemed incorporated herein by reference. In the event that there is a conflict between the provisions of Schedule 1 and the provisions of this Agreement, the provisions of Schedule 1 shall be controlling.

12.10. Headings. The Table of Contents and the headings of the various Articles and Sections herein are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

12.11. GOVERNING LAW. THIS AGREEMENT SHALL IN ALL RESPECTS BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF DELAWARE, INCLUDING ALL MATTERS OF CONSTRUCTIONS, VALIDITY AND PERFORMANCE.

12.12. Perfection of Counterparty Security Interest. At the request of the Counterparty, the Trustee, on behalf of the Trust, will assist the Counterparty in the perfection of its security interest in the Trust Property granted by the Trust to the Counterparty under the Swap Agreement.

IN WITNESS WHEREOF, the Trustee, the Delaware Trustee, the Transfer Agent and the Distributor have caused this Agreement to be duly executed by their appropriate officers hereunto duly authorized, on the day and year first above written.

**HSBC BANK USA, NATIONAL ASSOCIATION, as  
Trustee**

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

**HSBC BANK USA, NATIONAL ASSOCIATION, as  
Delaware Trustee**

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

**HSBC BANK USA, NATIONAL ASSOCIATION, as  
Transfer Agent**

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

**MERRILL LYNCH INTERNATIONAL, as  
Distributor**

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

## ANNEX D

### ADDITIONAL INFORMATION ON THE INITIAL COLLATERAL

As of the date of this Prospectus, the Trust holds USD 8,885,000 principal amount of Floating Rate Notes due January 29, 2037, issued by Merrill Lynch & Co., Inc. (the "Company") on September 22, 2008 (the "Notes") from Merrill Lynch International. A summary of the terms and conditions of the Notes appears below.

The following summary describes the terms and conditions of the **Notes** in general terms only. The **Notes** are described in full in a Terms Supplement dated January 22, 2007 (the "Supplement") which supplements a Base Prospectus and supplement, both dated March 31, 2006 issued by the Company (the "Base Prospectus"). These documents can all be accessed on the website of the U.S. Securities and Exchange Commission at [www.sec.gov](http://www.sec.gov).

Issuer of the Notes	The Company
Securities Offered	Floating Rate Notes due January 29, 2037
Maturity Date	January 29, 2037
Public Offering Price	100%
Ranking	The Notes will be unsecured and will rank equally with all other unsecured and unsubordinated indebtedness of the Company.
Interest Rate	The Notes will bear interest at a floating interest rate (as more fully described in the Supplement and Base Prospectus).
Interest Payment Dates	Quarterly, on the 29th of January, April, July and October, commencing on January 29, 2009, subject to modified following Business Day convention. Long first coupon interpolated.
Redemption at the Company's Option	The Notes cannot be redeemed prior to their maturity at Company's option.
Limited Events of Default and Acceleration	<p>Each of the following will be an Event of Default in respect of the Notes:</p> <ul style="list-style-type: none"><li>(1) default in the payment of any interest or Additional Amounts when due, and continuing for 30 days;</li><li>(2) default in the payment of any principal or premium, when due;</li><li>(3) default in the delivery or payment of the Maturity Consideration, as more fully described in the Base Prospectus;</li><li>(4) default in the deposit of any sinking fund payment, when due;</li></ul>

- (5) default in the performance of any other obligation of the Company contained in the applicable indenture, which is continuing for 60 days after written notice was provided as per the indenture or debt securities; and
- (6) specified events in bankruptcy, insolvency or reorganization of ML.

**Book-Entry**

The Notes will be issued in the form of one or more fully registered global securities which will be deposited with, or on behalf of, The Depository Trust Company, New York, New York, the “depositary” or “DTC,” and registered in the name of Cede & Co., the depositary’s nominee. Noteholders do not have the right to receive physical certificates evidencing their ownership except under limited circumstances.

Investors may elect to hold interests in the global securities through DTC, in the United States, or Clearstream Banking, *société anonyme*, or Euroclear Bank S.A./N.V., if they are participants in these systems, or indirectly through organizations which are participants in these systems.

**Governing Law**

New York

**CUSIP**

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The Issuer does not intend to provide any post-issuance information in relation to the Certificates or the Notes.

**ANNEX E**

**FORM OF GUARANTEE OF COUNTERPARTY OBLIGATIONS**

**GUARANTEE OF MERRILL LYNCH & CO., INC.**

**FOR VALUE RECEIVED**, receipt of which is hereby acknowledged, MERRILL LYNCH & CO., INC., a corporation duly organized and existing under the laws of the State of Delaware ("ML & Co."), hereby unconditionally guarantees to MLUDI STEERS NOTES Series 2007-2 (the "Trust"), the due and punctual payment of any and all amounts payable by MERRILL LYNCH CAPITAL SERVICES, INC., a Delaware corporation ("MLCS"), under the terms of the Master Agreement between the Trust and MLCS, dated as of September 5, 2007 (the "Agreement"), including, in case of default, interest on any amount due, when and as the same shall become due and payable, whether on the scheduled payment dates, at maturity, upon declaration of termination or otherwise, according to the terms thereof. In case of the failure of MLCS punctually to make any such payment, ML & Co. hereby agrees to make such payment, or cause such payment to be made, promptly upon demand made by the Trust to ML & Co. at 4 World Financial Center, New York, NY 10080; provided, however that delay by the Trust in giving such demand shall in no event affect ML & Co.'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 guaranteed hereunder, in whole or in part, is rescinded or must otherwise be returned by the Trust upon the insolvency, bankruptcy or reorganization of MLCS or otherwise, all as though such payment had not been made.

ML & Co. hereby agrees that its obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Agreement; the absence of any action to enforce the same; any waiver or consent by the Trust concerning any provisions thereof; the rendering of any judgment against MLCS or any action to enforce the same; or any other circumstances that might otherwise constitute a legal or equitable discharge of a guarantor or a defense of a guarantor. ML & Co. covenants that this guarantee will not be discharged except by complete payment of the amounts payable under the Agreement. This Guarantee shall continue to be effective if MLCS merges or consolidates with or into another entity, loses its separate legal identity or ceases to exist.

ML & Co. hereby waives diligence; presentment; protest; notice of protest, acceleration, and dishonor; filing of claims with a court in the event of insolvency or bankruptcy of MLCS; all demands whatsoever, except as noted in the first paragraph hereof; and any right to require a proceeding first against MLCS.

ML & Co. hereby certifies and warrants that this Guarantee constitutes the valid obligation of ML & Co. and complies with all applicable laws.

This Guarantee shall be governed by, and construed in accordance with, the laws of the State of New York.

This Guarantee may be terminated at any time by notice by ML & Co. to the Trust given in accordance with the notice provisions of the Agreement, effective upon receipt of such notice by the Trust 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 obligation of MLCS under the Agreement entered into prior to the effectiveness of such notice of termination.

This Guarantee becomes effective concurrent with the effectiveness of the Agreement, according to its terms.

**IN WITNESS WHEREOF**, ML & Co. has caused this Guarantee to be executed in its corporate name by its duly authorized representative.

**MERRILL LYNCH & CO., INC.**

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

Name:

Title:

Date: