

Merrill Lynch S.A.

(a Luxembourg Limited Liability Company)

Merrill Lynch International & Co. C.V.

(a Netherlands Antilles Limited Partnership)

WARRANT AND CERTIFICATE PROGRAMME

Unconditionally and irrevocably guaranteed

by

Merrill Lynch & Co., Inc.

(a Delaware (U.S.A.) corporation)

This Offering Circular supersedes the Offering Circular dated 17th June, 2008. Any Securities (as defined below) issued on or after the date of this Offering Circular are issued subject to the provisions described herein. The publication of this Offering Circular does not affect any Securities issued before the date of this Offering Circular.

Under the terms of the Warrant and Certificate Programme (the "Programme"), each of Merrill Lynch S.A. ("MLSA") and Merrill Lynch International & Co. C.V. ("MLICo" and, together with MLSA, the "Issuers" and each an "Issuer") may from time to time issue warrants ("Warrants") or certificates ("Certificates" and, together with the Warrants, "Securities") of any kind including, but not limited to, Securities relating to a specified index or a basket of indices ("Index Securities"), a specified share or a basket of shares ("Share Securities"), a specified debt instrument or a basket of debt instruments ("Debt Securities"), a specified currency or a basket of currencies ("Currency Securities") or a specified commodity or a basket of commodities ("Commodity Securities"), or to such other underlying instruments, bases of reference or factors. Each issue of Securities will be issued on the terms set out herein which are relevant to such Securities under "Terms and Conditions of the Securities" (the "Conditions") on pages 41 - 67 and on such additional terms as will be set out in the final terms (the "Final Terms"). The Securities are issued pursuant to an amended and restated Agency Agreement (the "Agency Agreement") dated 22nd June, 2009 (as supplemented, amended or restated from time to time) between the Issuers, ML&Co. (as defined below) and the agents named therein. Copies of the Agency Agreement and (subject as provided below) each Final Terms (a) may be obtained during normal office hours from the specified office of the Agent set out on the final page of this document or the financial intermediary from which an investor purchases Securities or (b) are available for inspection on the following website: www.londonlisted.ml.com. Each Final Terms in respect of unlisted Securities will only be available to a Securityholder (as defined under the Conditions) as described in (a) above and such Securityholder must produce evidence as to its holding of Securities and identity.

Merrill Lynch & Co., Inc. ("ML&Co.") has, in a guarantee dated 22nd June, 2009 (the "Guarantee"), irrevocably and unconditionally guaranteed the payment and delivery obligations in respect of the Securities issued by each Issuer from time to time under the Programme (see "*Form of Guarantee*" on page 75).

Any person (an "Investor") intending to acquire or acquiring any securities from any person (an "Offeror") should be aware that, in the context of an offer to the public as defined in section 102B of the Financial Services and Markets Act 2000 ("FSMA"), the relevant Issuer may be responsible to the Investor for the Offering Circular under section 90 of FSMA, only if the relevant Issuer has authorised that Offeror to make the offer to the Investor. Each Investor should therefore enquire whether the Offeror is so authorised by the relevant Issuer. If the Offeror is not authorised by the relevant Issuer, the Investor should check with the Offeror whether anyone is responsible for the Offering Circular for the purposes of section 90 of FSMA in the context of the offer to the public, and, if so, who that person is. If the Investor is in any doubt about whether it can rely on the Offering Circular and/or who is responsible for its contents it should take legal advice.

The Securities, the Guarantee and the Entitlement (as defined herein) to be delivered upon exercise of the Securities, have not been and will not be registered under the United States Securities Act of 1933, as amended (the "Securities Act"), or under any state securities laws and the Securities may not be offered, sold, transferred, pledged, delivered, exercised or redeemed, directly or indirectly, at any time within the United States or to, or for the account or benefit of, any U.S. person (as defined in Regulation S under the Securities Act or in the United States Internal Revenue Code of 1986, as amended) (a "U.S. Person"). The Securities may not be legally or beneficially owned at any time by any U.S. Person.

Each Issuer has a right of substitution as set out in Condition 12.

Prospective purchasers of Securities should ensure that they understand the nature of the relevant Securities and the extent of their exposure to risks and that they consider the suitability of the relevant Securities as an investment in the light of their own circumstances and financial condition. Securities involve a high degree of risk and potential investors should be prepared to sustain a total loss of the purchase price of their Securities. See "Risk Factors" (including the risks relating to certain adjustments, cancellation, taxation and other provisions of the Securities) on page 14. See also "Taxation" on page 77.

Manager for the Programme: Merrill Lynch International

IMPORTANT NOTICES

This Offering Circular comprises a base prospectus for the purposes of Article 5.4 of Directive 2003/71/EC (the "Prospectus Directive").

Each of MLSA, MLICo and ML&Co. (the "Responsible Persons") accept responsibility for the information contained in this Offering Circular and to the best of the knowledge of the Responsible Persons (each having taken all reasonable care to ensure that such is the case), the information contained in this Offering Circular is in accordance with the facts and does not omit anything likely to affect the import of such information.

The previous paragraph should be read in conjunction with the fourth paragraph on the first page of this Offering Circular.

Subject as provided in the applicable Final Terms, the only persons authorised to use this Offering Circular in connection with an offer of Securities are the persons named in the applicable Final Terms as the relevant Issuer, the relevant Manager(s) (as defined below) and the persons named in or identifiable following the applicable Final Terms as the Financial Intermediaries, as the case may be.

AN INVESTOR INTENDING TO ACQUIRE OR ACQUIRING ANY SECURITIES FROM AN OFFEROR WILL DO SO, AND OFFERS AND SALES OF THE SECURITIES TO AN INVESTOR BY AN OFFEROR WILL BE MADE, IN ACCORDANCE WITH ANY TERMS AND OTHER ARRANGEMENTS IN PLACE BETWEEN SUCH OFFEROR AND SUCH INVESTOR INCLUDING AS TO PRICE, ALLOCATIONS AND SETTLEMENT ARRANGEMENTS. THE RELEVANT ISSUER WILL NOT BE A PARTY TO ANY SUCH ARRANGEMENTS WITH INVESTORS (OTHER THAN THE MANAGER(S)) IN CONNECTION WITH THE OFFER OR SALE OF THE SECURITIES AND, ACCORDINGLY, THIS OFFERING CIRCULAR AND ANY FINAL TERMS WILL NOT CONTAIN SUCH INFORMATION. THE INVESTOR MUST LOOK TO THE OFFEROR AT THE TIME OF SUCH OFFER FOR THE PROVISION OF SUCH INFORMATION. THE RELEVANT ISSUER HAS NO RESPONSIBILITY TO AN INVESTOR IN RESPECT OF SUCH INFORMATION.

The applicable Final Terms will (if applicable) specify the nature of the responsibility taken by the relevant Issuer and ML&Co. for the information relating to the underlying asset, index or other asset or basis of reference to which the relevant Securities relate and which is contained in such Final Terms.

A description of the Final Terms is set out herein on page 31 and will specify with respect to the issue of Securities to which it relates, *inter alia*, the specific designation of the Securities, the aggregate number and type of the Securities, the date of issue of the Securities, the issue price, the underlying asset, index or other item(s) to which the Securities relate, certain other terms relating to the offering and sale of the Securities, in the case of Certificates, the redemption date and whether they are interest bearing and, in the case of Warrants, the exercise price and the exercise period or date. The Final Terms relating to an issue of Securities will be lodged with the Agent (as defined in the Conditions).

The Final Terms supplement the Conditions. Each Issuer may issue Securities in a form not contemplated by the Conditions, in which case the applicable Final Terms will specify other terms and conditions which shall, to the extent so specified or to the extent so inconsistent with the Conditions, supplement, replace or modify the Conditions and a supplemental offering circular, if appropriate, will be made available which will describe the terms of such Securities.

As specified in the applicable Final Terms, each issue of Securities will entitle the holder thereof either to receive a cash amount from the relevant Issuer calculated in accordance with the Conditions and/or to receive delivery of specified securities or other asset(s) on such terms as are set out in the Conditions, all as set forth in the Conditions.

Upon exercise and, in the case of Certificates, redemption, holders of Physical Delivery Securities (as defined in the Conditions), in order to receive the relevant assets comprising the entitlement, will be required to make a certification in respect of certain laws of the United States of America (see the Terms and Conditions of the Securities - Condition 18 and 20). Each of the relevant assets to which a Physical Delivery Security relates and the relevant Entitlement in relation to each Physical Delivery Security will be specified in the applicable Final Terms.

Application has been made to the Financial Services Authority in its capacity as competent authority under the Financial Services and Markets Act 2000 (the "UK Listing Authority") for Securities issued under the Programme during the period of 12 months from the date of this Offering Circular to be admitted to the official list of the UK Listing Authority (the "Official List") and to the London Stock Exchange (the "London Stock Exchange") for such Securities to be admitted to trading on the London Stock Exchange's regulated market. References in this Offering Circular to Securities being "listed" (and all related references) shall mean that such Securities have been admitted to trading on the London Stock Exchange's regulated market and have been admitted to the Official List. The London Stock Exchange's regulated market is a regulated market for the purposes of Directive 2004/39/EC (the "Markets in Financial Instruments Directive"). The applicable Final Terms will specify whether or not Securities are to be listed on the London Stock Exchange and if so such Final Terms shall be delivered to the UK Listing Authority and the London Stock Exchange. Securities may be listed or admitted to trading, as the case may be, on such other or further stock exchanges or markets as the relevant Issuer and Merrill Lynch International ("MLI") may agree. Each Issuer may also issue unlisted Securities and/or Securities not admitted to trading on any market.

The Securities will be held in uncertificated form in accordance with the Uncertificated Securities Regulations 2001, including any modification or re-enactment thereof for the time being in force (the "Regulations"). The Securities are participating securities for the purposes of the Regulations. Title to the Securities is recorded on the relevant Operator register of corporate securities (as defined in the Regulations) and the relevant Operator (as such term is used in the Regulations) is Euroclear UK & Ireland (formerly CrestCo. Limited) or any additional or alternative operator from time to time approved by the relevant Issuer, ML&Co. and the Agent in relation to the Securities and acting in accordance with the Regulations. Definitive Securities will not be issued.

All transactions (including transfers of Securities) in the open market or otherwise must be effected through an account at the Operator (which is located in the United Kingdom) subject to and in accordance with the rules and procedures for the time being of the Operator. Title will pass upon registration of the transfer in the Operator's register of corporate securities.

No person is or has been authorised by MSLA, MLICo, ML&Co. or MLI to give any information or to make any representation not contained in or not consistent with this Offering Circular or any other information supplied in connection with the Programme and, if given or made, such information or representation must not be relied upon as having been authorised by MSLA, MLICo, ML&Co., MLI or any other manager of an issue of Securities (together with MLI, as applicable to such issue of Securities, the "Managers" and each a "Manager"). This document does not constitute, and may not be used for the purposes of, an offer or solicitation by anyone in any jurisdiction in which such offer or solicitation is not authorised or to any person to whom it is unlawful to make such offer or solicitation and no action is being taken to permit an offering of the Securities or the distribution of this document in any jurisdiction where any such action is required.

This document is to be read and construed in conjunction with all documents which are deemed to be incorporated herein by reference (see "Documents Incorporated by Reference" on page 8). This document shall be read and construed on the basis that such documents are incorporated in, and form part of, this Offering Circular.

Warrants create options which are either exercisable by the relevant holder or which are automatically exercised, as provided herein. There is no obligation on the relevant Issuer to pay any amount to any holder of a Warrant unless the relevant holder duly exercises such Warrant or such Warrants are automatically exercised. Certificates will be exercised and redeemed and Warrants will be exercised or will be exercisable, in the manner set forth herein and in the applicable Final Terms. Securities may be issued to one or more Managers on a syndicated basis.

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

Each Issuer shall have complete discretion as to what type of Securities it issues and when.

No Manager has separately verified the information contained herein. Accordingly, no representation, warranty or undertaking, express or implied, is made and no responsibility is accepted by any Manager as to the accuracy or completeness of the information contained in this Offering Circular or any other information provided by MLSA, MLICo and/or ML&Co. No Manager accepts any liability in relation to the information contained in this Offering Circular or any other information provided by MLSA, MLICo and/or ML&Co. in connection with the Programme.

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

Neither the delivery of this Offering Circular nor the offering, sale or delivery of any Securities shall in any circumstances imply that the information contained herein concerning MLSA, MLICo and ML&Co. is correct at any time subsequent to the date hereof or that any other information supplied in connection with the Programme is correct as of any time subsequent to the date indicated in the document containing the same. No Manager undertakes to review the financial condition or affairs of MLSA, MLICo and/or ML&Co. during the life of the Programme.

This Offering Circular does not constitute an offer to sell or the solicitation of an offer to buy any Securities in any jurisdiction to or from any person to whom it is unlawful to make such offer or solicitation in such jurisdiction. The distribution of this Offering Circular and the offer or sale of Securities may be restricted by law in certain jurisdictions. None of MLSA, MLICo, ML&Co. or any Manager represents that this Offering Circular may be lawfully distributed, or that any Securities may be lawfully offered, in compliance with any applicable registration or other requirements in any jurisdiction, or pursuant to an exemption available thereunder, or assume any responsibility for facilitating any such distribution or offer. In particular, unless specifically indicated to the contrary in the applicable Final Terms, no action has been taken by MLSA, MLICo, ML&Co. or any Manager which is intended to permit a public offering of any Securities outside the United Kingdom or distribution of this document in any jurisdiction where action for that purpose is required. Accordingly, no Securities may be offered or sold, directly or indirectly, and neither this Offering Circular nor any advertisement or other offering material may be distributed or published in any jurisdiction, except under circumstances that will result in compliance with any applicable laws and regulations. Persons into whose possession this Offering Circular or any Securities may come must inform themselves about, and observe, any such restrictions on the distribution of this Offering Circular and the offering and sale of Securities. In particular, there are restrictions on the distribution of this Offering Circular and the offer or sale of Securities in the United States, the European Economic Area (including Luxembourg and the United Kingdom) and the Netherlands Antilles (see "Offering and Sale" on page 83). In particular, the Securities, the Guarantee and, in certain cases, the Entitlement (as defined in the Conditions) to be delivered upon exercise of the Securities, have not been and will not be registered under the Securities Act.

This Offering Circular has been prepared on the basis that, except to the extent sub-paragraph (ii) below may apply, any offer of Securities in any Member State of the European Economic Area which has implemented the Prospectus Directive (each, a "Relevant Member State") will be made pursuant to an exemption under the Prospectus Directive, as implemented in that Relevant Member State, from the requirement to publish a prospectus for offers of Securities. Accordingly any person making or intending to make an offer in that Relevant Member State of Securities which are the subject of an offering contemplated in this Offering Circular as completed by final terms in relation to the offer of those Securities may only do so (i) in circumstances in which no obligation arises for the relevant Issuer or any Manager to publish a prospectus pursuant to Article 3 of the Prospectus Directive or supplement a prospectus pursuant to Article 16 of the Prospectus Directive, in each case, in relation to such offer, or (ii) if a prospectus for such offer has been approved by the competent authority in that Relevant Member State or, where appropriate, approved in another Relevant Member State and notified to the competent

authority in that Relevant Member State and (in either case) published, all in accordance with the Prospectus Directive, provided that any such prospectus has subsequently been completed by final terms which specify that offers may be made other than pursuant to Article 3(2) of the Prospectus Directive in that Relevant Member State and such offer is made in the period beginning and ending on the dates specified for such purpose in such prospectus or final terms, as applicable. Except to the extent subparagraph (ii) above may apply, neither the relevant Issuer nor any Manager have authorised, nor do they authorise, the making of any offer of Securities in circumstances in which an obligation arises for the relevant Issuer or any Manager to publish or supplement a prospectus for such offer.

Securities, or interests therein, may not at any time be offered, sold, resold or delivered, directly or indirectly, in the United States or to, or for the account or benefit of, U.S. persons and any offer, sale, resale, trade or delivery made, directly or indirectly, within the United States or to, or for the account or benefit of, a U.S. person will not be recognised.

Any discussions of United States federal income tax matters set forth herein were written in connection with the promotion or marketing by the Issuers of the transactions or matters addressed herein. Such discussions were not intended or written to be legal or tax advice to any person and were not intended or written to be used, and cannot be used, by any person for the purpose of avoiding any United States federal tax penalties that may be imposed on such person. Each holder and beneficial owner of the Securities should seek advice based on its particular circumstances from an independent tax adviser.

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

In this Offering Circular, references to "\$" and "U.S. dollars" are to United States Dollars and references to "euro" and "€" are to the currency introduced at the start of the third stage of European economic and monetary union pursuant to the Treaty establishing the European Community, as amended by the Treaty on European Union.

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DOCUMENTS INCORPORATED BY REFERENCE

The following documents, which have previously been published and have been filed with the Financial Services Authority and, in the case of the MLSA and MLICo Prospectus (as defined below), approved by the *Commission de Surveillance du Secteur Financier*, shall be deemed to be incorporated in, and to form part of, this Offering Circular:

- (a) pages 315 to 318 (*Merrill Lynch S.A. and Selected Financial Data of Merrill Lynch S.A.*), pages 319 to 323 (*Merrill Lynch International & Co. C.V. and Selected Financial Data of Merrill Lynch International & Co. C.V.*) and pages 324-330 (*Merrill Lynch & Co., Inc. and Selected Financial Data of Merrill Lynch & Co., Inc.*) of the Base Prospectus dated 16th September 2008 in respect of the EUR 15,000,000,000 Note, Warrant and Certificate Programme of MLSA and MLICo and guaranteed by ML&Co. as supplemented by the supplementary prospectus dated 23rd September, 2008, the supplementary prospectus dated 17th October, 2008, the supplementary prospectus dated 11th November, 2008, the supplementary prospectus dated 11th December, 2008, the supplementary prospectus dated 4th February, 2009, the supplementary prospectus dated 11th March, 2009, the supplementary prospectus dated 28th April, 2009, and the supplementary prospectus dated 12th May 2009 (together the "MLSA and MLICo Prospectus");
- (b) ML&Co.'s 2007 Annual Report on Form 10-K for the year ended 28th December, 2007 (the "2007 Annual Report") (excluding the documents listed as Exhibits on pages E-1 to E-4 (*Exhibit Index*) except for exhibit 99.8), which includes the audited consolidated balance sheets of ML&Co. and its subsidiaries as of 28th December, 2007 and 29th December, 2006, and the related consolidated statements of (loss)/earnings, changes in stockholders' equity, comprehensive (loss)/income and cash flows for each of the three years in the period ended 28th December, 2007, the financial statement schedule (listed as Exhibit 99.8) and the auditors' reports dated 25th February, 2008 thereon (the "2007 Auditors' Report");
- (c) ML&Co.'s 2008 Annual Report on Form 10-K for the year ended 26th December, 2008 (the "2008 Annual Report") (excluding the documents listed as Exhibits on pages E-1 to E-4 (*Exhibit Index*) except for exhibit 99.2), which includes the audited consolidated balance sheets of ML&Co. and its subsidiaries as of 26th December, 2008 and 28th December, 2007, and the related consolidated statements of (loss)/earnings, changes in stockholders' equity, comprehensive (loss)/income and cash flows for each of the three years in the period ended 26th December, 2008, the financial statement schedule (listed as Exhibit 99.2) and the auditors' report dated 23rd February, 2009 thereon (the "2008 Auditors' Report");
- (d) ML&Co.'s Current Report on Form 8-K dated 31st December, 2008 and filed on 2nd January, 2009, in relation to the de-listing of ML&Co.'s common stock on 1st January, 2009, and the conversion of ML&Co. common stock into the right to receive Bank of America (as defined below) shares, which includes Exhibit EX-3.1 (the "2 January 8-K");
- (e) ML&Co.'s Current Report on Form 8-K dated 16th January, 2009 and filed on 16th January, 2009, in relation to litigation in which ML&Co. is named as a party ("the 16 January 8-K");
- (f) ML&Co.'s Current Report on Form 8-K dated 16th January, 2009 and filed on 20th January, 2009, in relation to its results of operations for the 3 month period ending 26th December, 2008, which includes Exhibit 99.1 (the "20 January 8-K");
- (g) ML&Co.'s Current Report on Form 8-K dated 15th April, 2009 and filed on 16th April, 2009, in relation to the appointment of PriceWaterhouseCoopers LLP as ML&Co.'s auditors, which includes Exhibit 99.1 (the "16 April 8-K");
- (h) MLSA's non-consolidated audited financial statements for the year ended 31st December, 2007 and the auditor's report dated 20th March, 2008 thereon and for the year ended 31st December, 2008 and the auditor's report dated 23rd April, 2009 thereon;
- (i) MLICo's non-consolidated audited financial statements for the year ended 28th December, 2007 and the auditor's report dated 27th March, 2008 thereon and for the year ended 26th December, 2008 and the auditor's report dated 12th June, 2009 thereon;
- (j) ML&Co.'s Quarterly Report on Form 10-Q for the period ended 31st March, 2009 and filed 7th May, 2009 (the "May 10-Q") (excluding Item 6 (*Exhibits*) on page 94 thereof); and

- (k) the Terms and Conditions of the Securities set out in the Offering Circular dated 15th June, 2007, and the Terms and Conditions of the Securities set out in the Offering Circular dated 17th June, 2008 in respect of the Programme.

Any information either expressly or impliedly incorporated by reference into the documents incorporated by reference above, and which itself is not a document incorporated by reference above, does not form part of this Offering Circular.

Following publication of this Offering Circular a supplement may be prepared by the Issuers and ML&Co. and approved by the UK Listing Authority in accordance with Article 16 of the Prospectus Directive. Statements contained in any such supplement (or contained in any document incorporated by reference therein) shall to the extent applicable (whether expressly, by implication or otherwise) be deemed to modify or supersede statements contained in the Offering Circular or in a document which is incorporated by reference in this Offering Circular. Any statement so modified or superseded shall not, except as so modified or superseded, constitute a part of this Offering Circular.

Copies of documents incorporated by reference in this Offering Circular will be made available, free of charge, at the offices of Computershare Investor Services PLC (the "Agent"). Requests for such documents should be directed to the Agent at its office for the time being at Second Floor, Vintners' Place, 68 Upper Thames Street, London EC4V 3BJ.

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

SUMMARY OF THE PROGRAMME

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

Words and expressions defined in the "Terms and Conditions of the Securities" and in the remainder of this Offering Circular shall have the same meanings in this summary.

Issuers:	Merrill Lynch S.A. ("MLSA") and Merrill Lynch International & Co C.V. ("MLICo")
Guarantor:	Merrill Lynch & Co., Inc. ("ML&Co.")
Guarantee:	The Securities are unconditionally and irrevocably guaranteed by ML&Co under a guarantee dated 22nd June, 2009.
Agent:	Computershare Investor Services PLC
Calculation Agent:	Merrill Lynch International or such other calculation agent specified in the applicable Final Terms.
Distribution:	Syndicated or non-syndicated basis.
Issue Price:	Securities may be issued at such price as shall be determined by the relevant Issuer or Manager appointed in respect of the issue.
Form of Securities:	The Securities will be held in uncertificated form in accordance with the Uncertificated Securities Regulations 2001, including any modification or re-enactment thereof for the time being in force (the "Regulations"). No Securities in definitive form will be issued.
Terms of Securities:	
General:	<p>Each Issuer may from time to time issue Warrants or Certificates (together "Securities") of any kind, including but not limited to Securities linked to a specified index or basket of indices ("Index Securities"), share or basket of shares ("Share Securities"), currency or basket of currencies ("Currency Securities"), debt instrument or basket of debt instruments ("Debt Securities"), commodity or basket of commodities ("Commodity Securities") or to such other underlying instruments, bases of reference or factors and on such terms as may be determined by the relevant Issuer and specified in the applicable Final Terms (each a "Reference Item").</p> <p>Warrants may be European Style Warrants, American Style Warrants or other style specified in the applicable Final Terms.</p> <p>Certificates may be interest bearing or non-interest bearing as specified in the applicable Final Terms.</p> <p>Settlement will be by way of cash payment ("Cash Settled Securities") or physical delivery ("Physical Delivery Securities").</p>

Index Securities:

The Cash Settlement Amount in respect of Index Securities will be calculated by reference to a single index or basket of indices.

Index Securities may, at the discretion of the Issuer, be subject to cancellation or adjustment if an Index is modified or cancelled and there is no successor index acceptable to the Calculation Agent, if the Index Sponsor fails to calculate and announce the Index, if certain market disruption events occur, or if certain events (such as illegality, disruptions or cost increases) occur with respect to the Issuer's hedging arrangements.

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

Share Securities:

The Cash Settlement Amount in respect of Cash Settled Share Securities will be calculated by reference to a single share or basket of shares.

The Entitlement in respect of Physical Delivery Share Securities will be a specified amount of shares of one or more companies, as applicable, subject to payment of the relevant Exercise Price (in the case of Warrants) and any other sums payable.

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

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

Currency Securities:

The Cash Settlement Amount in respect of Cash Settled Currency Securities will be calculated by reference to a single currency or basket of currencies.

The Entitlement in respect of Physical Delivery Currency Securities will be a specified amount of the relevant currencies, subject to payment of the relevant Exercise Price (in the case of Warrants) and any other sums payable.

Debt Securities:

The Cash Settlement Amount in respect of Cash Settled Debt Securities will be calculated by reference to a single debt instrument or basket of debt instruments.

The Entitlement in respect of Physical Delivery Debt Securities will be a specified amount of debt instruments of one or more issuers, as applicable, subject to payment of the relevant Exercise Price (in the case of Warrants) and any other sums payable.

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

Commodity Securities:

The Cash Settlement Amount in respect of Cash Settled Commodity Securities will be calculated by reference to a single commodity or

basket of commodities.

The Entitlement in respect of Physical Delivery Commodity Securities will be a specified amount of commodities, subject to payment of the relevant Exercise Price (in the case of Warrants) and any other sums payable.

Certain disruption events affecting trading on exchanges on which the relevant Commodity or Commodities or options contracts or futures contracts with respect to the Commodity or Commodities are traded may occur with respect to Commodity Securities.

Warrants:

European Style Warrants will be exercised by the Agent on behalf of the Warranholders on the Exercise Date.

American Style Warrants may be manually exercised by the Warranholders on any Business Day during the Exercise Period or, if not so exercised, will be exercised by the Agent on behalf of the Securityholders on the Expiration Date.

Exercise by the Agent on behalf of the Warranholders is conditional on the relevant Cash Settlement Amount or Assessed Value Payment, as applicable, being greater than zero.

Certificates:

The Certificates will be redeemed on the Redemption Date.

Physical Delivery Securities:

In order to receive the relevant Entitlement the relevant Securityholder must deliver to the Agent an Exercise Notice (in the case of Warrants) or a Physical Delivery Confirmation Notice (in the case of Certificates) on a specified cut-off date prior to a specified cut-off time (in the case of Certificates) and pay any Expenses and, in the case of Warrants, the relevant Exercise Price. If a Securityholder does not duly deliver an Exercise Notice or a Physical Delivery Confirmation Notice, as applicable, no delivery of the Entitlement will be made and in lieu thereof the Issuer shall pay the Assessed Value Payment.

If certain disruption events occur on settlement, the relevant settlement date may be postponed and in certain circumstances the Issuer will be entitled to make payment of a cash amount in lieu of physical delivery.

Clearing Systems:

Euroclear UK & Ireland and such additional or alternative operator from time to time notified to the Securityholders.

Expenses and Taxation:

All payments made by each Issuer shall be made subject to all taxes, duties, withholdings or other payments which may be required to be made, paid, withheld or deducted as a result of the ownership, transfer, exercise, redemption or enforcement of any Security.

A holder of a Security must pay all taxes, duties and/or expenses arising from the exercise and/or redemption of such Security.

Status of Securities:

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

Status of Guarantee:

The obligations of ML&Co. under the Guarantee, save for such exceptions as may be provided by applicable legislation or judicial order, rank *pari passu* with its other present and future unsecured and

unsubordinated contractual obligations.

Listing and admission to trading:

Securities may be admitted to the Official List and admitted to trading on the London Stock Exchange's regulated market and/or listed or admitted to trading on or by such other or additional stock exchange(s) or markets as determined by the relevant Issuer or may be unlisted, as specified in the applicable Final Terms.

Governing law:

The Securities will be governed by, and construed in accordance with, English law. The Guarantee will be governed by, and construed in accordance with, the laws of the State of New York.

Selling Restrictions:

There are restrictions on the offer, sale and transfer of the Securities in the United States, the European Economic Area (including Luxembourg and the United Kingdom) and the Netherlands Antilles and such other restrictions as may be required in connection with the offering and sale of a particular series of Securities, see "Offering and Sale".

Risk Factors:

Certain factors that may affect the relevant Issuer's ability to fulfil its obligations under Securities and that are material for the purposes of assessing the risks associated with Securities are specified under "Risk Factors" and include market risk, credit risk, risks relating to the commodities business, international risk, liquidity risk, operational risk, litigation risk, regulatory and legislative risk, competitive risk, effect of credit rating reduction, structural risks relating to particular Securities (including with respect to Index Securities, Share Securities and Currency Securities), market disruption, settlement disruption, failure to deliver due to illiquidity, expenses and taxation, modification, hedging and potential conflicts of interest, physical delivery requirements and settlement risk, illegality and cancellation, time lag after exercise (in the case of Warrants), minimum exercise amount (in the case of Warrants) limitations on exercise (in the case of Warrants), possible illiquidity of Securities and exchange rate risks.

Certain factors that may affect Merrill Lynch's* business include business and economic risks associated with the recent difficulties in the U.S. and other economies, risks relating to the international nature of Merrill Lynch's business including those associated with doing business in emerging markets, credit risk, liquidity risk, risks relating to Merrill Lynch's commodities business, regulatory and legislative risk, litigation risk and operational risk. For further information on these factors please see the section entitled "Risk Factors".

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

* Unless the context otherwise requires, when used in this Offering Circular the term "Merrill Lynch" means ML&Co. and its consolidated subsidiaries.

RISK FACTORS

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

In addition, factors which are material for the purpose of assessing the market risks associated with Securities issued under the Programme are described below.

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

Terms used in this section and not otherwise defined shall have the meanings given to them in "Terms and Conditions of the Securities".

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

MLICo engages primarily in the issuance of warrants and related financial instruments and the distribution of Merrill Lynch management funds world-wide (with the exception of North America) and other managed fund products. MLICo has no trading assets and does not generate any significant net income.

The main markets in which MLSA sells securities are the Eurobond markets. MLSA has no trading assets and does not generate any significant net income.

Securities issued under the Programme are guaranteed unconditionally and irrevocably pursuant to the Guarantee. Accordingly, if ML&Co.'s financial condition were to deteriorate, the Issuers and investors in the Securities may suffer direct and materially adverse consequences. Accordingly, prospective investors in Securities should review, *inter alia*, the factors below in respect of ML&Co.'s ability to fulfil its obligations under the Guarantee.

Factors that may affect ML&Co.'s ability to fulfil its obligations under the Guarantee

ML&Co. is the holding company for Merrill Lynch. ML&Co.'s ability to fulfil its obligations under the Guarantee may therefore be affected by certain factors as set out below which may affect Merrill Lynch.

Risks Relating to Merrill Lynch's Business

In the course of conducting its business operations, Merrill Lynch is exposed to a variety of risks that are inherent to the financial services industry. The significant risks that could affect Merrill Lynch's financial condition and results of operations is set out below. Some of these risks are managed in accordance with established risk management policies and procedures, most of which are described in the Risk Management section under the heading "Management's Discussion and Analysis of Financial Condition and Results of Operations" included in the 2008 Annual Report and the Quarterly Report on Form 10-Q for the Quarterly Period ended March 31st, 2009 of ML&Co..

Business and economic conditions:

Merrill Lynch's businesses and earnings are affected by general business and economic conditions in the United States and abroad. General business and economic conditions that could affect it include the level and volatility of short-term and long-term interest rates, inflation, home prices, employment levels, bankruptcies, household income, consumer spending, fluctuations in both debt and equity capital markets, liquidity of the global financial

markets, the availability and cost of credit, investor confidence, and the strength of the U.S. economy and the local economies in which it operates.

Economic conditions in the United States and abroad deteriorated significantly during the second half of 2008, and the United States, Europe and Japan currently are in a recession. Dramatic declines in the housing market, with falling home prices and increasing foreclosures, unemployment and under-employment, have negatively impacted the credit performance of mortgage loans and resulted in significant write-downs of asset values by financial institutions, including government sponsored entities as well as major commercial and investment banks. These write-downs, initially of mortgage-backed securities but spreading to credit default swaps and other derivatives and cash securities, in turn, have caused many financial institutions to seek additional capital, to merge with larger and stronger institutions and, in some cases, to fail. Many lenders and institutional investors have reduced or ceased providing funding to borrowers, including to other financial institutions, reflecting concern about the stability of the financial markets generally and the strength of counterparties. This market turmoil and tightening of credit have led to an increased level of commercial and consumer delinquencies, a significant reduction in consumer confidence, increased market volatility and widespread reduction of business activity generally. The resulting economic pressure on consumers and lack of confidence in the financial markets has adversely affected Merrill Lynch's business, financial condition, results of operations, liquidity and access to capital and credit. Merrill Lynch does not expect that the difficult conditions in the United States and international financial markets are likely to improve in the near future. A worsening of these conditions would likely exacerbate the adverse effects of these difficult market conditions on it and others in the financial institutions industry.

Instability of the U.S. financial system:

Beginning in the fourth quarter of 2008, the U.S. government has responded to the ongoing financial crisis and economic slowdown by enacting new legislation and expanding or establishing a number of programs and initiatives. Each of the U.S. Treasury, the Federal Deposit Insurance Corporation ("FDIC") and the Federal Reserve Board have developed programs and facilities, including, among others, the U.S. Treasury's Troubled Asset Relief Program ("TARP") Capital Purchase Program, which are designed to increase inter-bank lending, improve funding for consumer receivables and restore consumer and counterparty confidence in the banking sector. In addition, the U.S. Congress recently passed the American Recovery and Reinvestment Act of 2009 (the "ARRA"), legislation intended to expand and establish government spending programs and provide tax cuts to stimulate the economy. The U.S. Congress and the U.S. government continue to evaluate and develop various programs and initiatives designed to stabilise the financial and housing markets and stimulate the economy, including the U.S. Treasury's recently announced Financial Stability Plan and the U.S. government's recently announced foreclosure prevention program. The final form of any such programs or initiatives or related legislation cannot be known at this time. There can be no assurance as to the impact that ARRA, the Financial Stability Plan or any other such initiatives or governmental programs will have on the financial markets, including the extreme levels of volatility and limited credit availability currently being experienced. The failure of these efforts to stabilise the financial markets and a continuation or worsening of current financial market conditions could materially and adversely affect Merrill Lynch's business, financial condition, results of operations, access to credit, or the trading price of its debt securities (including trust preferred securities).

International risk:

Merrill Lynch does business throughout the world, including in developing regions of the world commonly known as emerging markets, and as a result, is exposed to a number of risks, including economic, market, reputational, litigation and regulatory risks, in non-U.S. markets. Merrill Lynch's businesses and revenues derived from non- U.S. operations are subject to risk of loss from currency fluctuations, social or political instability, changes in governmental policies or policies of central banks, expropriation, nationalisation, confiscation of assets, unfavourable political and diplomatic developments and changes in legislation relating to non-U.S. ownership. Merrill Lynch also invests or trades in the securities of corporations located in non-U.S. jurisdictions, including emerging markets. Revenues from the trading of non-U.S. securities also may be subject to negative fluctuations as a result of the above factors. The impact of these fluctuations could be magnified,

because generally non-U.S. trading markets, particularly in emerging market countries, are smaller, less liquid and more volatile than U.S. trading markets.

Current levels of market volatility are unprecedented:

The capital and credit markets have been experiencing volatility and disruption for more than a year. During the last quarter of 2008, the volatility and disruption reached unprecedented levels. In some cases, the markets have produced downward pressure on stock prices and credit availability for certain issuers without regard to those issuers' underlying financial strength. This volatility has negatively impacted prices of Merrill Lynch's securities and its ability to sell its securities in the United States and in international markets. If current levels of market disruption and volatility continue or worsen, there can be no assurance that Merrill Lynch will not experience an adverse effect which may be material, on Merrill Lynch's ability to access capital and on its business, financial condition and results of operations.

Soundness of other financial institutions:

Merrill Lynch's ability to engage in routine trading and funding transactions could be adversely affected by the actions and commercial soundness of other financial institutions. Financial services institutions are interrelated as a result of trading, clearing, funding, counterparty or other relationships. Merrill Lynch has exposure to many different industries and counterparties, and it routinely executes transactions with counterparties in the financial industry, including brokers and dealers, commercial banks, investment banks, mutual and hedge funds, and other institutional clients. As a result, defaults by, or even rumours or questions about the financial condition of, one or more financial services institutions, or the financial services industry generally, have led to market-wide liquidity problems and could lead to losses or defaults by Merrill Lynch or by other institutions. Many of its transactions with counterparties in the financial industry expose Merrill Lynch to credit risk in the event of default of its counterparty or client, and its results of operations in 2007 and 2008 have been materially affected by the credit valuation adjustments. In addition, its credit risk may be exacerbated when the collateral held by it cannot be realised or is liquidated at prices not sufficient to recover the full amount of the loan or derivative exposure due to it. There is no assurance that any such losses would not materially and adversely affect its future results of operations.

Merrill Lynch is party to a large number of derivative transactions, including credit derivatives. Many of these derivative instruments are individually negotiated and non-standardised, which can make exiting, transferring or settling the position difficult. Many credit derivatives require that Merrill Lynch delivers to the counterparty the underlying security, loan or other obligation in order to receive payment. In a number of cases, Merrill Lynch does not hold, and may not be able to obtain, the underlying security, loan or other obligation. This could cause Merrill Lynch to forfeit the payments due to it under these contracts or result in settlement delays with the attendant credit and operational risk as well as increased costs to it.

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

Access to funds from subsidiaries and parent:

Merrill Lynch is a holding company that is a separate and distinct legal entity from its parent, Bank of America Corporation ("Bank of America"), and its broker-dealer, banking and non-banking subsidiaries. Merrill Lynch therefore depends on dividends, distributions and other payments from Merrill Lynch's broker-dealer, banking and non-banking subsidiaries and will depend in large part on financing from Bank of America to fund payments on its obligations, including debt obligations. Bank of America may in some instances, because of its regulatory requirements as a bank holding company, be unable to provide Merrill Lynch with funding it needs to fund payments on its obligations. Many of Merrill Lynch's subsidiaries are subject to laws that authorise regulatory bodies to block or reduce the flow of funds from those subsidiaries to it. Regulatory action of that kind could impede access to funds Merrill Lynch needs to make payments on its obligations or dividend payments. In

addition, Merrill Lynch's right to participate in a distribution of assets upon a subsidiary's liquidation or reorganisation is subject to the prior claims of the subsidiary's creditors.

Changes in accounting standards:

Merrill Lynch's accounting policies and methods are fundamental to how it records and reports its financial condition and results of operations. Some of these policies require use of estimates and assumptions that may affect the value of its assets or liabilities and financial results and are critical because they require management to make difficult, subjective and complex judgments about matters that are inherently uncertain. As a result of Bank of America's acquisition of Merrill Lynch, Merrill Lynch may adopt different estimates and assumptions than those previously used in order to align its estimates, assumptions and policies with those of Bank of America. From time to time the Financial Accounting Standards Board ("FASB") and the U.S. Securities and Exchange Commission ("SEC") change the financial accounting and reporting standards that govern the preparation of Merrill Lynch's financial statements. In addition, accounting standard setters and those who interpret the accounting standards (such as the FASB, the SEC, banking regulators and Merrill Lynch's outside auditors) may change or even reverse their previous interpretations or positions on how these standards should be applied. These changes can be hard to predict and can materially impact how Merrill Lynch records and reports its financial condition and results of operations. In some cases, Merrill Lynch could be required to apply a new or revised standard retroactively, resulting in its restating prior period financial statements.

Competition:

Merrill Lynch operates in a highly competitive environment. Over time, there has been substantial consolidation among companies in the financial services industry, and this trend accelerated over the course of 2008 as the credit crisis led to numerous mergers and asset acquisitions among industry participants and, in certain cases, reorganisation, restructuring or even bankruptcy. This trend also hastened the globalisation of the securities and financial services markets. Merrill Lynch will continue to experience intensified competition as continued consolidation in the financial services industry may produce larger and better-capitalised companies that are capable of offering a wider array of financial products and services at more competitive prices. To the extent Merrill Lynch expands into new business areas and new geographic regions, it may face competitors with more experience and more established relationships with clients, regulators and industry participants in the relevant market, which could adversely affect its ability to compete. Increased competition may affect its results by creating pressure to lower prices on its products and services and reducing market share.

Merrill Lynch's continued ability to compete effectively in its businesses, including management of its existing businesses as well as expansion into new businesses and geographic areas, depends on its ability to retain and motivate its existing employees and attract new employees. Merrill Lynch faces significant competition for qualified employees both within the financial services industry, including foreign-based institutions and from businesses outside the financial services industry. This is particularly the case in emerging markets, where it is often competing for qualified employees with entities that may have a significantly greater presence or more extensive experience in the region. Further, over the past year, Merrill Lynch has significantly reduced compensation levels. In January 2009, in connection with the U.S. Treasury's purchase of an additional series of Bank of America's preferred stock, Bank of America agreed to certain compensation limitations. ARRA also imposes certain additional restrictions on Merrill Lynch, applicable to its senior executive officers and certain other senior managers. A substantial portion of the annual bonus compensation paid to Merrill Lynch's senior employees has in recent years been paid in the form of equity-based awards, which are now payable in Bank of America common stock. The value of these awards has been impacted by the significant decline in the market price of Bank of America's common stock. Merrill Lynch also has reduced the number of its employees across nearly all of its businesses during 2008 and into 2009. In addition, Merrill Lynch's recent consolidation in Bank of America has intensified the challenges of cultural integration between differing types of financial services institutions. The combination of these events could have a significant adverse impact on its ability to retain and hire the most qualified employees.

The Securities are not guaranteed by Bank of America, the Issuers' ultimate parent company:

Although the Securities are guaranteed by ML&Co., the Securities are not guaranteed by Bank of America, the parent company of ML&Co. and the ultimate parent company of the Issuers, and Bank of America is under no obligation to pay any amounts due on the Securities or to provide ML&Co. or the Issuers with funds for their respective payment obligations. If either Issuer defaults in its payment obligations under its Securities, the

holders of the Securities will have a claim only against ML&Co., and not Bank of America, for payment under the terms of the Guarantee.

Credit concentration risk:

When Merrill Lynch loans money, commits to loan money or enters into a letter of credit or other contract with a counterparty, it incurs credit risk, or the risk of losses if its borrowers do not repay their loans or its counterparties fail to perform according to the terms of their contracts. A number of its products expose it to credit risk, including loans, leases and lending commitments, derivatives, including credit default swaps, trading account assets, assets held-for-sale and the Securities described in this Offering Circular.

Merrill Lynch estimates and establishes reserves or makes credit valuation adjustments for credit risks and potential credit losses inherent in its credit exposure (including unfunded credit commitments). This process, which is critical to its financial results and condition, requires difficult, subjective and complex judgments, including forecasts of economic conditions and how these economic predictions might impair the ability of its borrowers to repay their loans or counterparties to perform their obligations. As is the case with any such assessments, there is always the chance that Merrill Lynch will fail to identify the proper factors or that it will fail to accurately estimate the impacts of factors that it identifies. Its ability to assess the creditworthiness of its counterparties may be impaired if the models and approaches it uses become less predictive of future behaviours, valuations, assumptions or estimates.

Merrill Lynch has experienced a concentration of risk with respect to the mortgage markets, including residential and commercial real estate, each of which represents a significant percentage of its overall credit portfolio. The current financial crisis and economic slowdown have adversely affected this concentration of risk. These exposures will also continue to be impacted by external market factors including default rates, a decline in the value of the underlying property, rating agency actions, the prices at which observable market transactions occur and the financial strength of counterparties, such as financial guarantors, with whom it has economically hedged some of its exposure to these assets.

In the ordinary course of Merrill Lynch's business, it also may be subject to a concentration of credit risk to a particular industry, or to a particular counterparty, borrower or issuer. A deterioration in the financial condition or prospects of a particular industry or a failure or downgrade of, or default by, any particular entity or group of entities could negatively impact its businesses, perhaps materially. The systems by which Merrill Lynch sets limits and monitors the level of its credit exposure to individual entities, industries and countries may not function as it has anticipated. While its activities expose it to many different industries and counterparties, it routinely executes a high volume of transactions with counterparties in the financial services industry, including brokers and dealers, commercial banks, investment funds and insurers, monolines and other financial guarantors. This has resulted in significant credit concentration with respect to the financial industry.

Liquidity risk:

Liquidity is essential to Merrill Lynch's businesses. Since it was acquired by Bank of America, it established inter-company lending and borrowing arrangements with Bank of America to facilitate centralised liquidity management and as a result, its liquidity risk is derived in large part from Bank of America's liquidity risk. Bank of America's liquidity could be impaired by an inability to access the capital markets or by unforeseen outflows of cash, including deposits. This situation may arise due to circumstances that Bank of America or Merrill Lynch may be unable to control, such as a general market disruption, negative views about the financial services industry generally, or an operational problem that affects third parties or Merrill Lynch. Bank of America's ability to raise funding in the debt or equity capital markets has been and could continue to be adversely affected by conditions in the United States and international markets and the global economy. Global capital and credit markets have been experiencing volatility and disruption since the second half of 2007, and in the second half of 2008, volatility reached unprecedented levels. In some cases, the markets have produced downward pressure on stock prices and credit availability for issuers without regard to those issuers' underlying financial strength. As a result of disruptions in the credit markets, Bank of America and Merrill Lynch have utilised several of the U.S. government's liquidity programs. Bank of America's ability and Merrill Lynch's ability to borrow from other financial institutions or to engage in securitisation funding transactions on favourable terms or at all could be adversely affected by further disruptions in the capital markets or other events, including actions by rating agencies and deteriorating investor expectations.

Merrill Lynch's credit ratings and Bank of America's credit ratings are important to Merrill Lynch's liquidity. The ratings of Bank of America's long-term debt were downgraded during 2008 by all of the major rating agencies. These rating agencies regularly evaluate Bank of America, Merrill Lynch and its securities, and their ratings of its long-term and short term debt and other securities are based on a number of factors, including Bank of America's and Merrill Lynch's financial strength as well as factors not entirely within their control, including conditions affecting the financial services industry generally. In light of the difficulties in the financial services industry and the financial markets, there can be no assurance that Merrill Lynch will maintain its current ratings. Merrill Lynch's failure to maintain those ratings could adversely affect its liquidity and competitive position, increase borrowing costs or limit access to the capital markets. While the impact on the incremental cost of funds and potential lost funding of an incremental downgrade of Merrill Lynch's long term debt by one level might be negligible, a downgrade of Bank of America's or Merrill Lynch's short-term credit rating could negatively impact its commercial paper program by materially affecting its incremental cost of funds and potential lost funding. A reduction in Merrill Lynch's credit ratings also could have a significant impact on certain trading revenues, particularly in those businesses where longer term counterparty performance is critical. In connection with certain trading agreements, Merrill Lynch may be required to provide additional collateral in the event of a credit ratings downgrade.

Market risk:

Merrill Lynch is directly and indirectly affected by changes in market conditions. Market risk generally represents the risk that values of assets and liabilities or revenues will be adversely affected by changes in market conditions. For example, changes in interest rates could adversely affect Merrill Lynch's net interest profit and principal transaction revenues (which Merrill Lynch views together as its trading revenues)— which could in turn affect its net earnings. Market risk is inherent in the financial instruments associated with Merrill Lynch's operations and activities including loans, deposits, securities, derivatives, short-term borrowings and long-term debt. Just a few of the market conditions that may shift from time to time, thereby exposing Merrill Lynch to market risk, include fluctuations in interest and currency exchange rates, equity and futures prices, changes in the implied volatility of interest rates, foreign exchange rates, credit spreads and price deterioration or changes in value due to changes in market perception or actual credit quality of either the issuer or its country of origin. Accordingly, depending on the instruments or activities impacted, market risks can have wide-ranging, complex adverse effects on its results from operations and its overall financial condition.

The models that Merrill Lynch uses to assess and control its risk exposures reflect assumptions about the degrees of correlation or lack thereof within the prices of various asset classes or other market indicators. In times of market stress or other unforeseen circumstances, such as the market conditions experienced during 2008, previously uncorrelated indicators may become correlated, or previously correlated indicators may move in different directions. These types of market movements have at times limited the effectiveness of Merrill Lynch's hedging strategies and have caused it to incur significant losses, and they may do so in the future. These changes in correlation can be exacerbated where other market participants are using risk or trading models with assumptions or algorithms that are similar to Merrill Lynch's. In these and other cases, it may be difficult to reduce its risk positions due to the activity of other market participants or widespread market dislocations, including circumstances where asset values are declining significantly or no market exists for certain assets. To the extent that Merrill Lynch makes investments in securities that do not have an established liquid trading market or that are otherwise subject to restrictions on sale or hedging, it may not be able to reduce its positions and therefore reduce its risk associated with such positions.

Risks Related to Merrill Lynch's Commodities Business:

Merrill Lynch is exposed to environmental, reputational, regulatory, market and credit risk as a result of its commodities related activities. Through its commodities business, it enters into exchange-traded contracts, financially settled over-the-counter derivatives, contracts for physical delivery and contracts providing for the transportation, transmission and/or storage rights on or in vessels, barges, pipelines, transmission lines or storage facilities. Contracts relating to physical ownership, delivery and/or related activities can expose it to numerous risks, including performance, environmental and reputational risks. For example, it may incur civil or criminal liability under certain environmental laws and its business and reputation may be adversely affected. In addition, regulatory authorities have recently intensified scrutiny of certain energy markets, which has resulted in increased regulatory and legal enforcement, litigation and remedial proceedings involving companies engaged in the activities in which it is engaged.

Declining asset values:

Merrill Lynch has large proprietary trading and investment positions in a number of its businesses. These positions are accounted for at fair value, and the declines in the market values of these assets had a direct and large negative impact on its earnings in 2008. It may incur additional losses as a result of increased market volatility or decreased market liquidity, which may adversely impact the valuation of its trading and investment positions. If position is marked-to-market, declines in asset values will directly and immediately impact its earnings, unless Merrill Lynch has effectively "hedged" its exposures to such declines. Its exposure may continue to be impacted by declining values of the underlying assets. In addition, the prices at which observable market transactions occur and the continued availability of these transactions, and the financial strength of counterparties, such as financial guarantors, with whom it has economically hedged some of its exposure to these assets, will affect the value of its position. Sudden declines and significant volatility in the prices of the underlying assets may substantially curtail or eliminate the trading activity for these assets, which may make it very difficult to sell, hedge or value such assets. The inability to sell assets or effectively hedge exposure to such assets, reduces Merrill Lynch's ability to limit losses in such positions and the difficulty in valuing assets may increase its risk-weighted assets which requires it to maintain additional capital and increases its funding costs.

Asset values also directly impact revenues from its wealth management business. Merrill Lynch receives certain account fees based on the value of its clients' portfolios or investment in funds managed by it and, in some cases, it also receives incentive fees based on increases in the value of such investments. Declines in asset values have reduced the value of Merrill Lynch's clients' portfolios or fund assets, which in turn has reduced the fees it earns for managing such assets.

Merger risks:

There are significant risks and uncertainties associated with mergers. The success of Bank of America's acquisition of Merrill Lynch will depend, in part, on the ability of the combined company to realise the anticipated benefits and cost savings from combining Merrill Lynch's businesses with Bank of America's businesses. If the combined company is unable to achieve these objectives, the anticipated benefits and cost savings of the merger may not be realised fully or at all or may take longer to realise than expected. Merrill Lynch's businesses currently are experiencing unprecedented challenges as a result of the current economic environment and ongoing financial crisis. It is possible that the integration process, including changes or perceived changes in Merrill Lynch's compensation practices, could result in the loss of key employees, the disruption of its ongoing businesses or inconsistencies in standards, controls, procedures and policies that adversely affect its ability to maintain relationships with clients and employees or to achieve the anticipated benefits of the merger. Integration efforts also may divert management attention and resources. These integration matters could have an adverse effect on Merrill Lynch for an undetermined period after consummation of the merger.

Regulatory considerations and restrictions on dividends:

As a subsidiary of Bank of America, Merrill Lynch is, and certain of its bank and non-bank subsidiaries are, heavily regulated by bank regulatory agencies at the federal and state levels. This regulatory oversight is established to protect depositors, federal deposit insurance funds and the banking system as a whole, not security holders. Bank of America, Merrill Lynch and its broker-dealer and other non-bank subsidiaries are also heavily regulated by securities regulators, domestically and internationally. This regulation is designed to protect investors in securities Merrill Lynch sells or underwrites and its clients' assets. The U.S. Congress and state legislatures and foreign, federal and state regulatory agencies continually review laws, regulations and policies for possible changes. Changes to statutes, regulations or regulatory policies, including interpretation or implementation of statutes, regulations or policies, could affect Merrill Lynch in substantial and unpredictable ways including limiting the types of financial services and products Merrill Lynch may offer and increasing the ability of non-banks to offer competing financial services and products.

As a result of the ongoing financial crisis and challenging market conditions, Merrill Lynch expects to face increased regulation and regulatory and political scrutiny of the financial services industry, including as a result of Bank of America's and Merrill Lynch's participation in the TARP Capital Purchase Program, the ARRA and the U.S. Treasury's Financial Stability Plan. Compliance with such regulation may significantly increase Merrill Lynch's costs, impede the efficiency of its internal business processes, and limit its ability to pursue business

opportunities in an efficient manner. The increased costs associated with anticipated regulatory and political scrutiny could adversely impact Merrill Lynch's results of operations.

Litigation risks:

Both Bank of America and Merrill Lynch face significant legal risks in their respective businesses, and the volume of claims and amount of damages and penalties claimed in litigation and regulatory proceedings against financial institutions remain high and are increasing. Substantial legal liability or significant regulatory action against Bank of America or Merrill Lynch could have material adverse financial effects or cause significant reputational harm to them, which in turn could seriously harm their business prospects.

Merrill Lynch may explore potential settlements before a case is taken through trial because of uncertainty, risks, and costs inherent in the litigation process. In accordance with Statement of Financial Accounting Standards ("SFAS") No. 5, Accounting for Contingencies ("SFAS No. 5"), Merrill Lynch will accrue a liability when it is probable that a liability has been incurred and the amount of the loss can be reasonably estimated. In many lawsuits, arbitrations and investigations, including almost all of the class action lawsuits disclosed in "Litigation" in the section entitled "General Information", it is not possible to determine whether a liability has been incurred or to estimate the ultimate or minimum amount of that liability until the matter is close to resolution, in which case no accrual is made until that time. In view of the inherent difficulty of predicting the outcome of such matters, particularly in matters in which claimants seek substantial or indeterminate damages, Merrill Lynch cannot predict what the eventual loss or range of loss related to such matters will be. Potential losses may be material to Merrill Lynch's operating results for any particular period and may impact its credit ratings.

Governmental fiscal and monetary policy:

Merrill Lynch's businesses and earnings are affected by domestic and international fiscal and monetary policy. For example, the Federal Reserve Board regulates the supply of money and credit in the United States and its policies determine in large part Merrill Lynch's cost of funds for lending, investing and capital raising activities and the return Merrill Lynch earns on those loans and investments, both of which affect its net interest profit. The actions of the Federal Reserve Board also can materially affect the value of financial instruments Merrill Lynch holds, such as debt securities. Merrill Lynch's businesses and earnings also are affected by the fiscal or other policies that are adopted by various regulatory authorities of the United States, non-U.S. governments and international agencies. Changes in domestic and international fiscal and monetary policy are beyond Merrill Lynch's control and hard to predict.

Operational risks:

The potential for operational risk exposure exists throughout Merrill Lynch's organisation. Integral to its performance is the continued efficacy of its technical systems, operational infrastructure, relationships with third parties and the vast array of associates and key executives in its day-to-day and ongoing operations. Failure by any or all of these resources subjects Merrill Lynch to risks that may vary in size, scale and scope. This includes, but is not limited to, operational or technical failures, unlawful tampering with Merrill Lynch's technical systems, terrorist activities, ineffectiveness or exposure due to interruption in third party support, as well as the loss of key individuals or failure on the part of the key individuals to perform properly. Notwithstanding anything in this risk factor, this risk factor should not be taken as implying that either the Issuers or Merrill Lynch will be unable to comply with its obligations as a company with securities admitted to the Official List or as a supervised firm regulated by the Financial Services Authority.

Products and services:

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

Reputational risk:

Merrill Lynch's ability to attract and retain clients and employees could be adversely affected to the extent its reputation is damaged. Its actual or perceived failure to address various issues could give rise to reputational risk that could harm it or its business prospects. These issues include, but are not limited to, appropriately addressing potential conflicts of interest; legal and regulatory requirements; ethical issues; money laundering; privacy; properly maintaining customer and associate personal information; record keeping; sales and trading practices; and the proper identification of the legal, reputational, credit, liquidity and market risks inherent in its products.

Risk management processes and strategies:

Merrill Lynch seeks to monitor and control its risk exposure through a variety of separate but complementary financial, credit, operational, compliance and legal reporting systems. While Merrill Lynch employs a broad and diversified set of risk monitoring and risk mitigation techniques, those techniques and the judgments that accompany their application cannot anticipate every economic and financial outcome or the specifics and timing of such outcomes. Accordingly, Merrill Lynch's ability to successfully identify and manage risks facing Merrill Lynch is an important factor that can significantly impact its results.

Geopolitical risks:

Geopolitical conditions can affect Merrill Lynch's earnings. Acts or threats of terrorism, actions taken by the United States or other governments in response to acts or threats of terrorism and/or military conflicts, could affect business and economic conditions in the United States and abroad.

Additional risks and uncertainties:

Merrill Lynch is a diversified financial services company. Although it believes its diversity helps lessen the effect when downturns affect any one segment of its industry, it also means its earnings could be subject to risks and uncertainties in addition to the ones discussed herein. If any of the risks that it faces actually occur, irrespective of whether those risks are described in this section or elsewhere in this Offering Circular, its business, financial condition and operating results could be materially adversely affected.

Factors which are material for the purpose of assessing the market risks associated with Securities issued under the Programme

The Securities may not be a suitable investment for all investors

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

- (i) have sufficient knowledge and experience to evaluate the Securities, the merits and risks of investing in the Securities and the information contained or incorporated by reference in this Offering Circular or any applicable supplement and all the information contained in the applicable Final Terms;
- (ii) have access to, and knowledge of, appropriate analytical tools to evaluate, in the context of its particular financial situation, an investment in the Securities and the impact the Securities will have on its overall investment portfolio;
- (iii) have sufficient financial resources and liquidity to bear all of the risks of an investment in the Securities, including Securities with a Cash Settlement Amount payable in one or more currencies, or where the Settlement Currency is different from the potential investor's currency;
- (iv) understand thoroughly the terms of the Securities and be familiar with any relevant indices and financial markets; and
- (v) be able to evaluate (either alone or with the help of a financial adviser) possible scenarios for economic, interest rate and other factors that may affect its investment and its ability to bear the applicable risks.

In addition, an investment in Index Securities, Share Securities, Debt Securities, Currency Securities, Commodity Securities or other Securities linked to other Reference Items, as defined in "Summary" above, may

entail significant risks not associated with investments in conventional securities such as debt or equity securities, including, but not limited to, the risks set out in *"Risks related to the structure of a particular issue of Securities"* set out below.

Securities are complex financial instruments. Sophisticated institutional investors generally do not purchase complex financial instruments as stand-alone investments. They purchase complex financial instruments as a way to reduce risk or enhance yield with an understood, measured, appropriate addition of risk to their overall portfolios. A potential investor should not invest in Securities which are complex financial instruments unless it has the expertise (either alone or with a financial adviser) to evaluate how the Securities will perform under changing conditions, the resulting effects on the value of the Securities and the impact this investment will have on the potential investor's overall investment portfolio.

Risks related to the structure of a particular issue of Securities

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

General risks and risks relating to underlying asset or basis of reference

The Securities involve a high degree of risk, which may include, among others, interest rate, foreign exchange, time value and political risks. Purchasers should be prepared to sustain a total loss of the purchase price of their Securities. This risk reflects the nature of a Security as an asset which, other factors held constant, tends to decline in value over time and which may become worthless on expiration (in the case of a Warrant) or redemption (in the case of a Certificate). See *"Certain Factors Affecting the Value and Trading Price of Securities"* below. Prospective purchasers of Securities should be experienced with respect to options and option transactions, should understand the risks of transactions involving the relevant Securities and should reach an investment decision only after careful consideration, with their advisers, of the suitability of such Securities in light of their particular financial circumstances, the information set forth herein and the information regarding the relevant Securities and the particular Reference Item to which the value of, or payments or deliveries in respect of, the relevant Securities may relate, as specified in the applicable Final Terms.

As the amounts payable and/or deliverable in respect of a Security are linked to the performance of the relevant Reference Item(s), a purchaser of a Security must generally be correct about the direction, timing and magnitude of an anticipated change in the value of the relevant Reference Item(s). Assuming all other factors are held constant, the lower the value of a Security and the shorter the remaining term to expiration (in the case of a Warrant) or to redemption (in the case of a Certificate), the greater the risk that purchasers of such Security will lose all or part of their investment. With respect to European Style Warrants or to Certificates, the only means through which a holder can realise value from such Security prior to its Exercise Date (in the case of a Warrant) or Redemption Date (in the case of a Certificate) is to sell it at its then market price in an available secondary market. See *"Possible Illiquidity of the Securities in the Secondary Market"* below.

The Securities will represent an investment linked to the economic performance of the relevant Reference Item(s) and prospective investors should note that the return (if any) on their investment in Securities will depend upon the performance of such Reference Item(s). Potential investors should also note that whilst the market value of such Securities is linked to such Reference Item(s) and will be influenced (positively or negatively) by such Reference Item(s), any change may not be comparable and may be disproportionate. It is impossible to predict how the level of the relevant Reference Item(s) will vary over time. In contrast to a direct investment in the relevant Reference Item(s), Securities represent the right to receive payment or delivery, as the case may be, of the Cash Settlement Amount(s) or the Entitlement as well as periodic payments of interest (if specified in the applicable Final Terms in respect of Certificates), all or some of which and the value of which will be determined by reference to the performance of the relevant Reference Item(s).

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

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

Fluctuations in the value and/or volatility of the relevant Reference Item(s) will affect the value of the relevant Securities.

Other factors which may influence the market value of Securities include interest rates, potential dividend or interest payments (as applicable) in respect of the relevant Reference Item(s), changes in the method of calculating the relevant Reference Item(s) from time to time and market expectations regarding the future performance of the relevant Reference Item(s), its composition and such Securities.

If any of the relevant Reference Item(s) is an index, the value of such Reference Item on any day will reflect the value of its constituents on such day. Changes in the composition of such Reference Item and factors (including those described above) which either affect or may affect the value of the constituents, will affect the value of the Reference Item and therefore may affect the return on an investment in Securities.

Each Issuer may issue several issues of Securities relating to a particular Reference Item. However, no assurance can be given that either Issuer will issue any Securities other than the Securities to which particular Final Terms relate. At any given time, the number of Securities outstanding may be substantial. Securities provide opportunities for investment and pose risks to investors as a result of fluctuations in the value of the relevant Reference Item(s). In general, certain of the risks associated with the Securities are similar to those generally applicable to other options or warrants of private corporate issuers. Options, warrants or certificates on equities or debt securities are priced primarily on the basis of the value of underlying securities. The trading value of Currency and Commodity Securities is likely to reflect primarily present and expected values of the reference currency (or basket of currencies) or commodity (or basket of commodities) specified in the applicable Final Terms.

Risks relating to Index Securities

An investment in any series of Index Securities will entail significant risks not associated with conventional securities such as debt or equity securities. Index Securities will be settled by payment of an amount determined by reference to the value of the index/indices. Interest payable on Certificates which are Index Securities may be calculated by reference to the value of one or more indices. Indices may reference equities, commodities, bonds or any other securities. Purchasers of Index Securities risk losing a part of their investment or their entire investment if the value of the index/indices do not move in the anticipated direction.

Risks relating to Share Securities

An investment in any series of Share Securities will entail significant risks not associated with conventional securities such as debt or equity securities. Share Securities may be settled by the physical delivery of a given number of share(s) and/or by payment of an amount determined by reference to the value of the share(s). Accordingly, an investment in Share Securities may bear similar market risks to a direct equity investment and investors should take advice accordingly. Interest payable on Certificates which are Share Securities may be calculated by reference to the value of one or more share(s). Purchasers of Share Securities risk losing their entire investment if the value of the share(s) do not move in the anticipated direction.

No issuer of the relevant share(s) will have participated in the preparation of the relevant Final Terms or in establishing the terms of the Securities and none of the relevant Issuer, ML&Co. or any Manager will make any investigation or enquiry in connection with such offering with respect to any information concerning any such issuer of shares contained in such Final Terms or in the documents from which such information was extracted. Consequently, there can be no assurance that all events occurring prior to the relevant issue date (including events that would affect the accuracy or completeness of the publicly available information described in this paragraph or in any relevant Final Terms) that would affect the trading price of the share will have been publicly disclosed. Subsequent disclosure of any such events or the disclosure of or failure to disclose material future events concerning such an issuer of shares could affect the trading price of the share and therefore the trading price of the Securities.

Except as provided in the Conditions in relation to Physical Delivery Securities, Securityholders will not have voting rights or rights to receive dividends or distributions or any other rights with respect to the relevant shares to which such Securities relate.

Risks relating to Currency Securities

An investment in any series of Currency Securities will entail significant risks not associated with conventional securities such as debt or equity securities. Currency Securities may be settled by the physical delivery of a specified amount of one or more currencies and/or by payment of an amount determined by reference to the value of the currency/currencies. Interest payable on Certificates which are Currency Securities may be calculated by reference to the value of one or more currencies.

Fluctuations in exchange rates of the relevant currency (or basket of currencies) will affect the value of Currency Securities. Furthermore, investors who intend to convert gains or losses from the exercise, redemption or sale of Currency Securities into their home currency may be affected by fluctuations in exchange rates between their home currency and Settlement Currency of the Securities. Currency values may be affected by complex political and economic factors, including governmental action to fix or support the value of a currency/currencies, regardless of other market forces (see "Exchange rate risks and exchange controls" below). Purchasers of Currency Securities risk losing their entire investment if exchange rates of the relevant currency/currencies do not move in the anticipated direction.

If additional warrants, certificates or options relating to particular currencies or particular currency indices are subsequently issued, the supply of warrants, certificates and options relating to such currencies or currency indices, as applicable, in the market will increase, which could cause the price at which the Securities and such other warrants, certificates and options trade in the secondary market to decline significantly.

Risks relating to Debt Securities

An investment in any series of Debt Securities will entail significant risks not associated with conventional securities such as debt or equity securities. Debt Securities will be settled by the physical delivery of a given number of debt instrument(s) and/or by payment of an amount determined by reference to the value of the debt instrument(s). Interest payable on Certificates which are Debt Securities may be calculated by reference to the value of one or more debt instrument(s). Purchasers of Debt Securities risk losing their entire investment if the value of the debt instrument(s) do not move in the anticipated direction.

Risks relating to Commodity Securities

An investment in any series of Commodity Securities will entail significant risks not associated with conventional securities such as debt or equity securities. Commodity Securities will be settled by the physical delivery of a given number of commodities and/or by the payment of an amount determined by reference to the value of the commodity/commodities. Interest payable on Certificates which are Commodity Securities may be calculated by reference to the value of one or more commodities. Purchasers of Commodity Securities risk losing their entire investment if the value of the commodity/commodities do not move in the anticipated direction.

Risks related to Securities generally

Set out below is a brief description of certain risks relating to the Securities generally.

Market Disruption Event and Disrupted Day

If an issue of Securities includes provisions dealing with the occurrence of a market disruption event or a failure to open of an exchange or related exchange on a Valuation Date or an Averaging Date and the Calculation Agent determines that a market disruption event or such failure has occurred or exists on a Valuation Date or an Averaging Date, any consequential postponement of the Valuation Date or Averaging Date or any alternative provisions for valuation provided in any Securities may have an adverse effect on the value of such Securities.

Settlement Disruption Event and Failure to Deliver due to Illiquidity

In the case of Physical Delivery Securities, if a Settlement Disruption Event occurs or exists on the Settlement Date, settlement will be postponed until the next Settlement Business Day on which no Settlement Disruption Event occurs. The relevant Issuer in these circumstances also has the right to pay the Disruption Cash Settlement Price (as defined in the Conditions) in lieu of delivering the Entitlement. Such a determination may have an adverse effect on the value of the relevant Securities.

In addition if "Failure to Deliver due to Illiquidity" is specified as applying in the applicable Final Terms, and in the opinion of the Calculation Agent it is impossible or impracticable to deliver some or all of the Relevant Assets comprising the Entitlement when due as a result of illiquidity in the market for the Relevant Assets, the relevant Issuer has the right to pay the Failure to Deliver Settlement Price (as defined in the Conditions) in lieu of delivering those Relevant Assets.

Expenses and Taxation

A holder of Securities must pay all Expenses relating to the Securities. As used in the Conditions, "Expenses" includes all taxes, duties and/or expenses, including any applicable depository charges, transaction or exercise charges, sale commissions, stamp duty, stamp duty reserve tax, issue, registration, securities transfer and/or other taxes or duties arising from the exercise and/or redemption of the Securities and/or the delivery or transfer of the Entitlement or sale of Relevant Assets as more fully set out in Condition 10.

Neither the relevant Issuer nor ML&Co. shall be liable for or otherwise obliged to pay any tax, duty, withholding or other payment which may arise as a result of the ownership, transfer, exercise or enforcement of any Security and all payments made by the relevant Issuer or ML&Co. will be made subject to any such tax, duty, withholding or other payment which may be required to be made, paid, withheld or deducted.

No claim against any Reference Item

A Security will not represent a claim against any Reference Item and, in the event of any loss, a Securityholder will not have recourse under a Security to any Reference Item.

Modification

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

Hedging and other Potential Conflicts of Interest

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

Any additional risk factors relating to additional conflicts of interest with respect to such Securities will be specified in the applicable Final Terms, or in a supplemental prospectus.

In addition, the relevant Issuer may appoint an Affiliate of itself or ML&Co. as its calculation agent for the purposes of calculating amounts payable or deliverable to holders under a series of Securities. Under certain circumstances, the agent as an Affiliate of the relevant Issuer or ML&Co. and its responsibilities as Calculation Agent for the Securities could give rise to potential conflicts of interest between the Calculation Agent and the holders of the Securities. As the relevant Issuer or, as the case may be, ML&Co. controls the Affiliate, potential conflicts of interest could arise.

Physical Delivery Requirements and Settlement Risk

In order to receive the Entitlement in respect of a Physical Delivery Security, the holder of such Security must (1) deliver or send to the Agent (a) a duly completed Exercise Notice on or prior to the relevant time on the Expiration Date (in the case of a Warrant) or (b) a duly completed Physical Delivery Confirmation Notice on or prior to the relevant time on the Cut-off Date (in the case of a Certificate) and (2) pay the relevant Exercise Price (in the case of a Warrant) and Expenses (in the case of a Warrant or a Certificate). Failure to do so will result in the Securityholder receiving the Assessed Value Payment Amount instead of the Entitlement. The Assessed Value Payment Amount will be determined by the Calculation Agent by reference to the fair market value of the assets comprised in the Entitlement. See Condition 17(C) and Condition 17(D) for Warrants and Condition 20(H) and Condition 20(I) for Certificates.

Following the exercise of Physical Delivery Warrants or in connection with the redemption of Physical Delivery Certificates, unless otherwise indicated in the applicable Final Terms, the Calculation Agent may determine that a Settlement Disruption Event or, if applicable, a Failure to Deliver is subsisting. Any such determination may affect the value of the Securities and/or may delay settlement and/or lead to cash settlement rather than physical settlement in respect of the Securities.

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

Illegality and Cancellation of Securities

If the relevant Issuer (i) determines that the performance of its obligations under the Securities has become illegal in whole or in part for any reason, or (ii) becomes aware that the performance of ML&Co. under the Guarantee in respect of the Securities has or will become unlawful or impractical in whole or in part for any reason, the Issuer may cancel the Securities. The relevant Issuer may also cancel the Securities upon the occurrence of certain adjustment events as set out in Condition 14 of the Terms and Conditions (as may be amended by the applicable Final Terms). If the relevant Issuer cancels the Securities then the relevant Issuer will (in the case of an illegality, if and to the extent permitted by applicable law) pay an amount to each Securityholder determined by reference to the fair market value of each Security or, in relation to Warrants, if Units are specified in the applicable Final Terms, each Unit, all as set out in the Terms and Conditions. The fair market value of the Securities may be less than the purchase price of the Securities and may in certain circumstances be zero.

Securities are Unsecured Obligations

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

The obligations of ML&Co. under the Guarantee, save for such exceptions as may be provided by applicable legislation or judicial order, rank *pari passu* with its other present and future unsecured and unsubordinated contractual obligations.

Effect of Credit Rating Reduction

The value of the Securities is expected to be affected, in part, by investors' general appraisal of ML&Co.'s creditworthiness. Such perceptions are generally influenced by the ratings accorded to ML&Co.'s outstanding securities by standard statistical rating services, such as Moody's Investors Service Inc and Standard & Poor's, a division of The McGraw-Hill Companies, Inc. A reduction in the rating, if any, accorded to outstanding debt securities of ML&Co., by one of these rating agencies could result in a reduction in the trading value of the Securities.

Risks related to Warrants only

Set out below is a brief description of certain risks relating to the Warrants only.

Time Lag after Exercise

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

Minimum Exercise Amount

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

Limitations on Exercise

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

Risks Related to the Market Generally

Set out below is a description of the principal market risks, including liquidity risk, exchange rate risk, interest rate risk and credit risk.

Possible Illiquidity of the Securities in the Secondary Market

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

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

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

- (a) the complexity and volatility of the index or formula or other basis of reference applicable to the Securities,
- (b) the method of calculating amounts payable and/or deliverable, or other consideration, if any, in respect of the Securities,
- (c) the time remaining to the expiration (in the case of Warrants) or redemption (in the case of Certificates) of the Securities,
- (d) the number of Securities outstanding,
- (e) the settlement features of the Securities,
- (f) the amount of other securities linked to the index or formula or other basis of reference applicable to the Securities, and
- (g) the level, direction and volatility of market interest rate generally.

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

The relevant Issuer, ML&Co., or any of ML&Co.'s Affiliates may, but is not obliged to, at any time purchase Securities at any price in the open market or by tender or private treaty for their own account for business reasons or in connection with their hedging arrangements. Any Securities so purchased may be held or resold or surrendered for cancellation. The relevant Issuer, ML&Co., or any of ML&Co.'s Affiliates may, but is not obliged to, be a market-maker for an issue of Securities. Even if the relevant Issuer or such other entity is a market-maker for an issue of Securities, the secondary market for such Securities may be limited. To the extent that an issue of Securities becomes illiquid, an investor may have to exercise such Securities (in the case of American Style Warrants) or wait until the Exercise Date (in the case of European Style Warrants) or the Redemption Date (in the case of Certificates) of such Securities to realise value. These activities may affect the price of such obligations or securities in a manner that would be adverse to a Securityholder's investment in the Securities. The relevant Issuer and ML&Co. and its Affiliates have not considered, and are not required to consider, the interest of investors as Securityholders in connection with entering into any of the above mentioned transactions.

Certain Factors Affecting the Value and Trading Price of Securities

Either (1) the Cash Settlement Amount (in the case of Cash Settled Securities) or (2) the value of the Entitlement less (in the case of Warrants) the Exercise Price (the "Physical Settlement Value") (in the case of Physical Delivery Securities) at any time prior to expiration (in the case of a Warrant) or redemption (in the case of a Certificate) is typically expected to be less than the trading price of such Securities at that time. The difference between the trading price and the Cash Settlement Amount or the Physical Settlement Value, as the case may be, will reflect, among other things, the "time value" of the Securities. The "time value" of the Securities will depend partly upon the length of the period remaining to expiration (in the case of a Warrant) or redemption (in the case of a Certificate) and expectations concerning the value of the reference security (or basket of securities), index (or basket of indices), currency (or basket of currencies), commodity (or basket of commodities) or other asset or basis of reference as specified in the applicable Final Terms. Securities offer hedging and investment diversification opportunities but also pose some additional risks with regard to interim value. The interim value of the Securities varies with the price level of the share (or basket of shares), index (or basket of indices), currency (or basket of currencies), debt instrument (or basket of debt instruments), commodity (or basket of

commodities) or other asset or basis of reference as specified in the applicable Final Terms, as well as by a number of other interrelated factors, including those specified herein.

Before exercising (in the case of Warrants) or selling Securities, Securityholders should carefully consider, among other things, (i) the trading price of the Securities, (ii) the value and volatility of the reference share (or basket of shares), index (or basket of indices), currency (or basket of currencies), debt instrument (or basket of debt instruments), commodity (or basket of commodities) or other asset or basis of reference as specified in the applicable Final Terms, (iii) the time remaining to expiration (in the case of a Warrant) or redemption (in the case of a Certificate), (iv) in the case of Cash Settled Securities, the probable range of Cash Settlement Amounts, (v) any change(s) in interim interest rates and dividend yields if applicable, (vi) any change(s) in currency exchange rates, (vii) the depth of the market or liquidity of the share (or basket of shares), index (or basket of indices), currency (or basket of currencies), debt instrument (or basket of debt instruments), commodity (or basket of commodities) or other asset or basis of reference as specified in the applicable Final Terms and (viii) any related transaction costs.

Exchange rate risks and exchange controls

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

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

FORM OF FINAL TERMS

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

- (i) in circumstances in which no obligation arises for the Issuer or any Manager to publish a prospectus pursuant to Article 3 of the Prospectus Directive or supplement a prospectus pursuant to Article 16 of the Prospectus Directive, in each case, in relation to such offer; or
- (ii) in those Public Offer Jurisdictions mentioned in Paragraph 41 of Part A below, provided such person is one of the persons mentioned in Paragraph 41 of Part A below and that such offer is made during the Offer Period specified for such purpose therein.

Neither the Issuer nor any Manager has authorised, nor do they authorise, the making of any offer of Securities in any other circumstances].¹

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

PART A – Contractual Terms

The Final Terms relating to each issue of Securities may contain (without limitation) such of the following information as is applicable in respect of such Securities. Any information that is not applicable will be deleted.

Terms used herein shall be deemed to be defined as such for the purposes of the Terms and Conditions set forth in the Offering Circular dated 22nd June, 2009 [and the supplemental Offering Circular dated ●] which [together] constitute[s] a Base Prospectus for the purposes of the Prospectus Directive (Directive 2003/71/EC) (the "Prospectus Directive"). This document constitutes the Final Terms of the Securities described herein for the purposes of Article 5.4 of the Prospectus Directive and must be read in conjunction with the Offering Circular [as supplemented]. Full information on the Issuer, ML&Co. and the offer of the Securities is only available on the basis of the combination of these Final Terms and the Offering Circular [as supplemented]. The Offering Circular [and the supplemental Offering Circular] is [are] available for viewing [at www.londonlisted.ml.com] and] during normal business hours at the registered office of the Issuer and the specified office of the Agent and copies may be obtained from Merrill Lynch Financial Centre, 2 King Edward Street, London EC1A 1HQ.

[When adding any other final terms or information consideration should be given as to whether such terms or information constitute "significant new factors" and consequently trigger the need for a supplement to the Offering Circular under Article 16 of the Prospectus Directive.]

[The following alternative language applies if the first tranche of an issue which is being increased was issued under an Offering Circular with an earlier date.

Terms used herein shall be deemed to be defined as such for the purposes of the Terms and Conditions (the "Conditions") set forth in the Offering Circular dated [original date]. This document constitutes the Final Terms of the Securities described herein for the purposes of Article 5.4 of the Prospectus Directive (Directive 2003/71/EC) (the "Prospectus Directive") and must be read in conjunction with the Offering Circular dated 22nd June, 2009 [and the supplemental Offering Circular dated ●], which [together] constitute[s] a Base Prospectus for the purposes of the Prospectus Directive save in respect of the Conditions which are extracted from the Offering Circular dated [original date] and are attached hereto. Full information on the Issuer, ML&Co. and the offer of the Securities is only available on the basis of the combination of these Final Terms, the Offering Circular dated 22nd June, 2009 [, the supplemental Offering Circular dated ●] and the Offering Circular dated [original date]. Copies of such Offering Circulars are available for viewing [at www.londonlisted.ml.com] and] during normal business hours at the registered office of the Issuer and the specified office of the Agent and copies may be obtained from Merrill Lynch Financial Centre, 2 King Edward Street, London EC1A 1HQ.]

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

Subject as provided below, the Issuer accepts responsibility for the information contained in these Final Terms. The information relating to the [Share] [Index] [Debt Instrument] [Currency] [Commodity] contained herein has been accurately reproduced from information published by [Reuters] [Bloomberg] [and the Index Sponsor (as defined below)]. So far as the Issuer is aware and/or is able to ascertain from information published by [Reuters] [Bloomberg] [and the Index Sponsor] no facts have been omitted which would render the reproduced information misleading.

¹ Consider including this legend where a non-exempt offer of Securities is anticipated.

² Consider including this legend where only an exempt offer of Securities is anticipated.

[If applicable, insert disclaimer language in respect of the Shares, Index, Debt Instruments, Currencies or Commodities or other asset or reference basis for the Securities.]

1. Issuer: [Merrill Lynch S.A.]/[Merrill Lynch International & Co. C.V.]
2. Guarantor: Merrill Lynch & Co., Inc.

SPECIFIC PROVISIONS FOR EACH SERIES

3. Specific provisions for each issue:

Series Number	No. of Securities issued	[No. of Securities per Unit	Issue Price per [Security/Unit] ¹	[Call/Put]	[Exercise Price	[Exercise [Period]/[Date]]/ [Redemption Date] ²
●	●	●	●	[Call/Put]	[insert currency] [●]	[from and including] [●] [to and including ●]
●	●	● ¹	●	[Call/Put] ¹	[insert currency] [●] ¹	[from and including] [●] [to and including ●]

GENERAL PROVISIONS

4. Consolidation: The Securities are to be consolidated and form a single series with the [insert title of relevant series of Securities] issued on [insert issue date].
5. Type of Securities: The Securities are [Certificates]/[Warrants]. The Securities are [Index Securities/Share Securities/Debt Securities/Currency Securities/Commodity Securities (specify other type of Securities)].
6. Averaging: Averaging [applies/does not apply] to the Securities. [The relevant Averaging Dates are [].]
 [In the event that an Averaging Date is a Disrupted Day (as defined in Condition 4) occurring on an Averaging Date [Omission/Postponement/Modified Postponement] (as defined in Condition 4) will apply.] (N.B. Only applicable in relation to Share Securities or Index Securities other than Index Securities relating to a Commodity Index).
 [In the event of Modified Postponement applying, the Averaging Date will be determined [specify relevant provisions] (N.B. Only applicable in relation to Share Securities or Index Securities other than Index Securities relating to a Commodity Index).]
 [In relation to Index Securities relating to a Commodity Index, Debt Securities, Currency Securities or Commodity Securities insert applicable postponement/adjustment provisions for Averaging Dates.]
7. Number of Securities being issued: The number of Securities being issued is set out in paragraph 3 under "Specific Provisions for each Series" above.
8. Issue Price: The issue price per [Security/Unit] is set out in paragraph 3 under "Specific Provisions for each Series" above.
9. Settlement Business Day: "Settlement Business Day" for the purposes of Condition 5 means []. (N.B. Only applicable in the case of Physical Delivery Securities).
10. Issue Date: The issue date of the Securities is [].
11. Exchange Business Day: []. (N.B. Only applicable if different from the definition in Condition 4 or if the Securities are neither Share Securities nor Index Securities).
12. Business Day Centre(s): The applicable Business Day Centre[s] for the purposes of the definition of "Business Day" in Condition 4 [is/are] [].
13. Settlement: Settlement will be by way of [cash payment ("Cash Settled Securities")] [and/or] [physical delivery ("Physical Delivery Securities")].
14. Issuer's option to vary settlement: The Issuer [has/does not have] the option to vary settlement in respect of the Securities.
15. Exchange Rate: The applicable rate of exchange for conversion of any amount into the relevant settlement currency for the purposes of determining the Settlement Price (as defined in Condition 4) or the Cash Settlement Amount (as defined in

¹ Not applicable for Certificates

² Not applicable for Warrants

- Condition 4) is *[insert rate of exchange and details of how and when such rate is to be ascertained]*.
16. Settlement Currency: The settlement currency for the payment of [the Cash Settlement Amount is []] *(in the case of Cash Settled Securities)*/[the Disruption Cash Settlement Amount *(in the case of Physical Delivery Securities)* is []].
17. Name and address of Calculation Agent: The Calculation Agent is [Merrill Lynch International]/[specify other].
[Insert address of Calculation Agent]
18. Exchange(s): [For the purposes of the Condition 4 and Condition 14(B), the relevant Exchange[s] [is/are] []]. *(N.B. Only applicable in relation to Share Securities)*.
19. Exchange(s), Index Sponsor and Designated Multi-Exchange Indices: [For the purposes of Condition 4 and Condition 14(A):
 (a) the relevant Exchange[s] [is/are] [];
 (b) the relevant Index Sponsor is []; [and]
 (c) the Index Currency is []; and
 [(d) [] [the Index] is a Designated Multi-Exchange Index.] *(N.B. Designated Multi-Exchange Indices applies in relation to Euro Stoxx Indices)*.
(N.B. Only applicable in relation to Index Securities other than Index Securities relating to a Commodity Index).
20. Commodity Indices: (a) [] [The Index] is a Commodity Index;
 (b) the relevant Index Sponsor is [];
 (c) the Commodity Index Reference Price is [];
 (d) the Specified Price is []; [and]
 (e) the Price Source is []; [and]
 (f) *[Insert provisions for determining the Relevant Price in the event of a Commodity Index Disruption Event] (N.B. Only applicable where provisions in Terms and Conditions not appropriate).*; and
 (g) the Commodity Index Cut-Off Date is [] *(N.B. Only applicable where provisions in Terms and Conditions not appropriate).*
(N.B. Only applicable to Index Securities relating to a Commodity Index).
21. Related Exchange(s): [For the purposes of Condition 4 and Condition 14, the relevant Related Exchange(s) [is/are] []/[All Exchanges].] *(N.B. Only applicable in relation to Index Securities other than Index Securities relating to a Commodity Index and Share Securities)*.
22. Basket Price: *[Insert details of how the Basket Price (based on the Settlement Prices for the relevant Shares/Indices) will be calculated for the purposes of calculating the Cash Settlement Amount]*.
(N.B. Only applicable in relation to Cash Settled Share Securities relating to a Basket or Cash Settled Index Securities relating to a Basket other than Index Securities relating to a Commodity Index).
23. Multiplier: The multiplier to be applied to each item comprising the Basket to ascertain the Settlement Price is []. Each such Multiplier shall be subject to adjustment [in accordance with Condition 14(B) in the case of Share Securities]/[specify other]. *(N.B. Only applicable in relation to Cash Settled Securities relating to a Basket. The Multiplier is used to apply the weightings (if any) of each item comprising the Basket in order to ascertain the Settlement Price)*.
24. Nominal Amount: The nominal amount which is to be used to determine the Cash Settlement Amount is [] and the relevant screen page ("Relevant Screen Page") is []. *(N.B. Only applicable in relation to Cash Settled Securities relating to Debt Instruments)*.
 [The mid price in respect of [the/each] Debt Instrument shall [include/exclude] any accrued but unpaid interest. *(N.B. only applicable in relation to Cash Settled Securities relating to Debt Instruments).*]

25. Relevant Asset(s): The relevant asset to which the Securities relate [is/are] []. (N.B. Only applicable in relation to Physical Delivery Securities).
26. Entitlement:
- (i) The Entitlement (as defined in Condition 4) in relation to each Security is [].
 - (ii) The Entitlement will be evidenced by [*insert details of how the Entitlement will be evidenced*].
 - (iii) The Entitlement will be delivered [*insert details of the method of delivery of the Entitlement*].
- (N.B. Only applicable in relation to Physical Delivery Securities).
27. Guaranteed Cash Settlement Amount: The Guaranteed Cash Settlement Amount (as defined in Condition 3) is calculated [specify calculation method]. (N.B. Only applicable in the case of Physical Delivery Certificates)
28. Cash Settlement Amount: [*Insert details of how Cash Settlement Amount is to be calculated including, if applicable, referencing the Basket Price and, if applicable, for a Warrant the Exercise Price*].
- (N.B. Only applicable in relation to Cash Settled Securities).
29. Settlement Price: The Settlement Price will be calculated [insert calculation method]. (N.B. Only applicable in relation to Commodity Securities).
30. Disrupted Day and adjustments to Valuation Date and/or Averaging Dates: If the Valuation Date (as defined in Condition 4) or an Averaging Date (as defined in Condition 4), as the case may be, is a Disrupted Day, the Settlement Price will be calculated [*insert calculation method*]. (N.B. Only applicable to Share Securities and Index Securities other than Index Securities relating to a Commodity Index and where provisions in Terms and Conditions not appropriate).
- [*In the case of Index Securities relating to a Commodity Index, Debt Securities, Currency Securities or Commodity Securities specify applicable adjustment/postponement provisions for the Valuation Date and/or Averaging Dates.*]
31. Redemption of Debt Instruments: Where one or more of the relevant Debt Instruments is redeemed (or otherwise ceases to exist) before the expiration of the relevant Securities, [*insert appropriate fallback provisions*]. (N.B. Only applicable in relation to Debt Securities).
32. Relevant Time: The relevant time is [], [being the time specified on the Valuation Date or an Averaging Date, as the case may be, for the calculation of the Settlement Price]. (N.B. for Index Securities and Share Securities, include if Valuation Time in Condition 4 is not appropriate).
33. Currency Securities:
- (i) The Relevant Screen Page is [].
 - (ii) The relevant base currency (the "Base Currency") is [].
 - (iii) The relevant subject [currency/currencies] (each a "Subject Currency") [is/are] [].
- (N.B. Only applicable in relation to Currency Securities).
34. Tender Offer: [Applicable/Not Applicable]. (N.B. Only applicable in relation to Share Securities).
35. Additional Disruption Events:
- [(a)] The following Additional Disruption Events apply to the Securities:
- (Specify each of the following which applies. N.B. Additional Disruption Events are applicable to certain Index Securities or Share Securities. Careful consideration should be given to whether Additional Disruption Events would apply for Debt Securities, Currency Securities, Commodity Securities or Index Securities relating to a Commodity Index and if so the relevant definitions will require amendment).
- [Change in Law]
- [Hedging Disruption]

[Increased Cost of Hedging]

[Increased Cost of Stock Borrow]

[Insolvency Filing

(N.B. Only applicable in the case of Share Securities).]

[Loss of Stock Borrow]

[(b)] [The Trade Date is []].

(N.B. Only applicable if Change in Law and/or Increased Cost of Hedging is applicable).]

[(c)] [The Maximum Stock Loan Rate in respect of [specify in relation to each relevant Share] is []].

(N.B. Only applicable if Loss of Stock Borrow is applicable).]

[(d)] [The Initial Stock Loan rate in respect of [specify in relation to each relevant Share] is []].

(N.B. Only applicable if Increased Cost of Stock Borrow is applicable).]

36. Failure to Deliver:

[Applicable/Not Applicable].

(N.B. Only applicable in the case of Physical Delivery Securities - Failure to Deliver is applicable to certain Share Securities. Careful consideration should be given to whether Failure to Deliver would apply to other Physical Delivery Securities).

37. Other Final Terms:

[insert, including alternative adjustment provisions, if different from those set out in Condition 14].

(when adding any other final terms consideration should be given as to whether such terms constitute "significant new factors" and consequently trigger the need for a supplement to the Offering Circular under Article 16 of the Prospectus Directive.)

38. Selling Restrictions:

[Insert any additional selling restrictions].

39. Syndication:

The Securities will be distributed on a [non-]syndicated basis.

(i) If syndicated, names and addresses of Managers and underwriting commitments:

[give names, and addresses and underwriting commitments]

(Including names and addresses of entities agreeing to underwrite the issue on a firm commitment basis and names and addresses of the entities agreeing to place the issue without a firm commitment or on a "best efforts" basis if such entities are not the same as the Managers)

(ii) Date of Subscription Agreement: []

If non-syndicated, name and address of Manager: [Name and address]

[Total commission and concession: []]

40. Market Maker:

[Insert details of Market Maker for issue for London Stock Exchange purposes/No Market Maker is appointed].

41. Non exempt Offer

[Not Applicable] [An offer of the Securities may be made by the Manager[s] [and [specify names of other financial intermediaries/placers making non-exempt offers, to the extent known OR consider a generic description of other parties involved in non-exempt offers (e.g. "other parties authorised by the Manager[s]") or (if relevant) note that other parties may make non-exempt offers in the Public Offer Jurisdictions during the Offer Period, if not known]] (together with the Manager[s], the "Financial Intermediaries") other than pursuant to Article 3(2) of the Prospectus Directive in [specify relevant Member State(s) - which must be jurisdictions where the Offering Circular and any supplements have been passported (in addition to the jurisdiction where approved and published)] ("Public Offer Jurisdictions") during the period from [specify date] until [specify date or a formula such as "the Issue Date" or "the date which falls [●] Business Days thereafter"] ("Offer Period"). See further Paragraph 11 of Part B below.

(N.B. Consider any local regulatory requirements necessary to be fulfilled so as to be able to make a non-exempt offer in relevant jurisdictions. No such

offer should be made in any relevant jurisdiction until those requirements have been met. Non-exempt offers may only be made into jurisdictions in which the Offering Circular (and any supplement) has been notified/passported.)

PROVISIONS RELATING TO WARRANTS

[The following provisions are only applicable to Warrants:]

42. Type of Warrants: (i) The Warrants are [European/American/(*specify other*)] Style Warrants.
(ii) The Warrants are Call Warrants or Put Warrants as set out in paragraph 3 under "Specific Provisions for each Series" above.
43. Exercise Price: The exercise price per [Warrant/Unit] (which may be subject to adjustment in accordance with Condition 14(B) in the case of Share Warrants) is set out in paragraph 3 under "Specific Provisions for each Series" above. (*N.B. This should take into account any relevant Multiplier and, in the case of an Index Security, must be expressed as a monetary value.*)
44. Exercise Date: In the case of European Style Warrants the exercise date of the Warrants is set out in paragraph 3 under "Specific Provisions for each Series" above.
45. Exercise Period: In the case of American Style Warrants the exercise period in respect of the Warrants is set out in paragraph 3 under "Specific Provisions for each Series" above.
46. Settlement Date: The settlement date for the Warrants is []. (*N.B. Applicable for Physical Delivery Warrants. Only applicable for Cash Settled Warrants if Settlement Date is different from the definition in Condition 4.*)
47. Minimum Exercise Number: The minimum number of Warrants that may exercised on any day by any Warranholder is [] [and Warrants may only be exercised in integral multiples of [] Warrants in excess thereof].
48. Maximum Exercise Number: The maximum number of Warrants that must be exercised on any day by any Warranholder or group of Warranholders (whether or not acting in concert) is []. (*N.B. not applicable for European Style Warrants.*)
49. [Units: Warrants must be exercised in Units. Each Unit consists of the number of Securities set out in paragraph 3 under "Specific Provisions for each Series" above. (*N.B. This is in addition to any requirements relating to "Minimum Exercise Number" or "Maximum Exercise Number" set out above.*)]

PROVISIONS RELATING TO CERTIFICATES

[The following provisions are only applicable to Certificates:]

50. Valuation Date: [].
51. Redemption Date: [].

PROVISIONS RELATING TO INTEREST IN RESPECT OF CERTIFICATES

[The following provisions are only applicable to Certificates:]

52. Notional Amount per certificate: [].
53. Interest Payment Dates: [[] and [the Redemption Date]].
54. Interest Rate: [].
55. Interest Rate Day Count Fraction: [Actual/365 or Actual/Actual (ISDA)].
[Actual/365 (Fixed)].
[Actual/360].
[30/360 or 360/360 or Bond Basis].
[30E/360 or Eurobond Basis].
[30E/360 (ISDA)].
56. Other provisions relating to the method of calculating interest for Certificates: [Not Applicable / *give details*]

FINAL TERMS STATUS

57. Amendment to Conditions:

The Final Terms does not grant rights to the Securities in favour of Securityholders. No rights in relation to the Securities are secured in favour of the Securityholders under these Final Terms. Claims against the Issuer and/or ML&Co. in relation to the Securities are secured in favour of Securityholders from time to time solely under the Terms and Conditions (the "Conditions"). For the purposes of the Securities the terms specified in these Final Terms are deemed to be incorporated into the Conditions and shall thereby supplement, replace or modify, as the case may be, the Conditions for the purposes of the Securities and these Final Terms may be regarded as evidencing such supplement, replacement or modification of the Conditions.

PURPOSE OF FINAL TERMS

These Final Terms comprise the final terms required for issue [and public offer in the Public Offer Jurisdictions] [and admission to trading on *[specify relevant regulated market (for example the London Stock Exchange's regulated market) and, if relevant, listing on an official list (for example the Official List of the UK Listing Authority)]* of the Securities described herein pursuant to the Warrant and Certificate Programme of Merrill Lynch S.A. and Merrill Lynch International & Co. C.V.]

Signed on behalf of the Issuer:

By:

Duly authorised

By:

Duly authorised

PART B – OTHER INFORMATION

1. **LISTING AND ADMISSION TO TRADING** [Application has been made by the Issuer (or on its behalf) for the Securities to be admitted to trading on [specify relevant regulated market (for example the London Stock Exchange's regulated market) and, if relevant, listing on an official list (for example, the Official List of the UK Listing Authority)] with effect from [].] [Application is expected to be made by the Issuer (or on its behalf) for the Securities to be admitted to trading on [specify relevant regulated market (for example [the London Stock Exchange's regulated market]) and, if relevant, listing on an official list (for example, the Official List of the UK Listing Authority)] with effect from [].] [Not Applicable.]
2. **INTERESTS OF NATURAL AND LEGAL PERSONS INVOLVED IN THE ISSUE**
[Save for any fees payable to the Manager(s), so far as the Issuer is aware, no person involved in the issue of the Securities has an interest material to the offer. - Amend as appropriate if there are other interests]
3. **REASONS FOR THE OFFER, ESTIMATED NET PROCEEDS AND TOTAL EXPENSES**
 - (i) Reasons for the offer: []
(See "Use of Proceeds" wording in Offering Circular – if reasons for offer different from making profit and/or hedging certain risks will need to include those reasons here.)
 - (ii) Estimated net proceeds: []
(If proceeds are intended for more than one use will need to split out and present in order of priority. If proceeds insufficient to fund all proposed uses state amount and sources of other funding.)
 - (iii) Estimated total expenses: []. [Expenses are required to be broken down into each principal intended "use" and presented in order of priority of such "uses"]
(i) above is required where the reasons for the offer are different from making profit and/or hedging certain risks and where this is the case disclosure of net proceeds and total expenses at (ii) and (iii) above are also required.
4. **YIELD (fixed rate Certificates only)**
Indication of yield: []
[Calculated as [include details of method of calculation in summary form] on the Issue Date.
The yield is calculated at the Issue Date on the basis of the Issue Price. It is not an indication of future yield.]
5. **HISTORIC INTEREST RATES (floating rate Certificates only)**
Details of historic [EURIBOR/LIBOR/other] rates can be obtained from [Reuters].
6. **PERFORMANCE OF [INDEX/BASKET OF INDICES], EXPLANATION OF EFFECT ON VALUE OF INVESTMENT AND ASSOCIATED RISKS [AND OTHER INFORMATION CONCERNING THE [INDEX/BASKET OF INDICES]] (Index Securities only)**
[Need to include details of where past and future performance and volatility of the [index/basket of indices] can be obtained, the relevant weighting of each index within a basket of indices and where pricing information is available]. [Need to include a clear and comprehensive explanation of how the value of the investment is affected by the underlying and the circumstances when the risks are most evident.]
[Need to include the name of [the/each] index, the name of [the/each] index sponsor and a description if composed by the Issuer and if the index is not composed by the Issuer need to include details of where the information about [the/each] index can be obtained.]
7. **PERFORMANCE OF [THE SHARE/BASKET OF SHARES], EXPLANATION OF EFFECT ON VALUE OF INVESTMENT AND ASSOCIATED RISKS [AND OTHER INFORMATION CONCERNING [THE SHARE/BASKET OF SHARES]] (Share Securities only)**
[Need to include details of the name of [the/each] share company, any security identification number of the shares, where pricing information about the shares is available, the relevant weighting of each share within a basket of shares (if relevant) and where past and future performance and volatility of the [share/basket of shares] can be

obtained.] [Need to include a clear and comprehensive explanation of how the value of the investment is affected by the underlying and the circumstances when the risks are most evident.]

8. INFORMATION IN RELATION TO THE UNDERLYING DEBT INSTRUMENT/INSTRUMENTS, EXPLANATION OF EFFECT ON VALUE OF INVESTMENT AND ASSOCIATED RISKS [AND OTHER INFORMATION CONCERNING THE UNDERLYING DEBT INSTRUMENT/INSTRUMENTS] (Debt Securities only)

[Need to include details of the name of the issuer, the ISIN (International Securities Identification Number) of the debt instrument(s), the relevant weighting of each debt instrument in a basket of debt instruments (if relevant) and where pricing information on the debt instrument(s) can be obtained.] [Need to include a clear and comprehensive explanation of how the value of the investment is affected by the underlying and the circumstances when the risks are most evident.]

9. PERFORMANCE OF [RATE(S) OF EXCHANGE/CURRENCIES], EXPLANATION OF EFFECT ON VALUE OF INVESTMENT AND ASSOCIATED RISKS [AND OTHER INFORMATION CONCERNING [THE [RATE(S) OF EXCHANGE/CURRENCIES]] (Currency Securities only)

[Need to include details of [the/each] currency, where past and future performance and volatility of the [rate(s)/currencies] can be obtained.] [Need to include a clear and comprehensive explanation of how the value of the investment is affected by the underlying and the circumstances when the risks are most evident.]

10. PERFORMANCE OF [THE COMMODITY/BASKET OF COMMODITIES], EXPLANATION OF EFFECT ON VALUE OF INVESTMENT AND ASSOCIATED RISKS [AND OTHER INFORMATION CONCERNING [THE COMMODITY/BASKET OF COMMODITIES]] (Commodity Securities only)

[Need to include details of [the/each] commodity, where pricing information about [the/each] commodity is available, the relevant weighting of each commodity within a basket of commodities and where past and future performance and volatility of [the commodity/basket of commodities] can be obtained.] [Need to include a clear and comprehensive explanation of how the value of the investment is affected by the underlying and the circumstances when the risks are most evident.]

11. TERMS AND CONDITIONS OF THE OFFER

Offer Price: [Issue Price/Not applicable/specify]

[Conditions to which the offer is subject:] [Not applicable/give details]

[Description of the application process:] [Not applicable/give details]

[Details of the minimum and/or maximum amount of application:] [Not applicable/give details]

[Description of possibility to reduce subscriptions and manner for refunding excess amount paid by applicants:] [Not applicable/give details]

[Details of the method and time limits for paying up and delivering the Securities:] [Not applicable/give details]

[Manner in and date on which results of the offer are to be made public:] [Not applicable/give details]

[Procedure for exercise of any right of pre-emption, negotiability of subscription rights and treatment of subscription rights not exercised:] [Not applicable/give details]

[Categories of potential investors to which the Securities are offered and whether tranche(s) have been reserved for certain countries:] [Not applicable/give details]

[Process for notification to applicants of the amount allotted and the indication whether dealing may begin before notification is made:] [Not applicable/give details]

[Amount of any expenses and taxes specifically charged to the subscriber or purchaser:] [Not applicable/give details]

[Name(s) and address(es), to the extent known [None/give details]

to the Issuer, of the placers in the various countries where the offer takes place.]

12. OPERATIONAL INFORMATION

- (i) ISIN Code: []
- (ii) Additional or alternative clearing system: []

TERMS AND CONDITIONS OF THE SECURITIES

The following is the text of the Terms and Conditions of the Securities which, as supplemented and/or amended in accordance with the applicable Final Terms, will apply to each issue of Securities. The applicable Final Terms in relation to any issue of Securities may specify other terms and conditions which shall, to the extent so specified or to the extent inconsistent with the following Terms and Conditions, be deemed to be incorporated into and thereby supplement, replace or modify the Terms and Conditions, for the purposes of such Securities.

The series of Securities described in the applicable Final Terms (insofar as it relates to such series of Securities) (such Securities being hereinafter referred to as the "Securities") are issued by whichever of Merrill Lynch S.A. ("MLSA") or Merrill Lynch International & Co. C.V. ("MLICo") is specified as the Issuer in the applicable Final Terms (the "Issuer") and references to Issuer shall be construed accordingly. The Securities are issued pursuant to an amended and restated Agency Agreement dated 22nd June, 2009 (the "Agency Agreement") between MLSA, MLICo, Merrill Lynch & Co., Inc. as guarantor ("ML&Co.") and Computershare Investor Services PLC as agent (the "Agent", which expression shall include any successor agent). Merrill Lynch International shall undertake the duties of calculation agent (the "Calculation Agent") in respect of the Securities as set out below and as amended in accordance with the applicable Final Terms unless another entity is so specified as calculation agent in the applicable Final Terms. The expression Calculation Agent shall, in relation to the relevant Securities, include such other specified calculation agent.

The applicable Final Terms for the Securities supplements these Terms and Conditions and may specify other terms and conditions which shall, to the extent so specified or to the extent inconsistent with these Terms and Conditions, be deemed to be incorporated into and thereby supplement, replace or modify these Terms and Conditions for the purposes of the Securities. Securities will be either warrants ("Warrants") or certificates ("Certificates"), as specified in the applicable Final Terms, and references in these Terms and Conditions to "Security" and "Securities" will be construed accordingly. Conditions 17, 18 and 19 apply only to Warrants and Conditions 20 and 21 apply only to Certificates. Other Conditions apply to Warrants or Certificates, as applicable. References herein to the "applicable Final Terms" are to Part A of the Final Terms or each Final Terms (in the case of any further securities issued pursuant to Condition 11 and forming a single series with the Securities) delivered by the Issuer to the Agent from time to time.

Subject as provided in the Guarantee (as defined below), the obligations of the Issuer in respect of the Securities issued by the Issuer are guaranteed by ML&Co. pursuant to a Guarantee (the "Guarantee") dated 22nd June, 2009 executed by ML&Co. The original of the Guarantee is held by the Agent on behalf of Securityholders (as defined in Condition 1(B)) at its specified office.

Copies of the Agency Agreement (which contains the form of the Final Terms), the Guarantee and the applicable Final Terms (a) (subject as provided below) may be obtained during normal office hours from the specified office of the Agent set out at the end of these Terms and Conditions or (b) are available for inspection on the following website: www.londonlisted.ml.com save that, if the relevant Securities are neither admitted to trading on a regulated market in the European Economic Area nor offered in the European Economic Area in circumstances where a prospectus is required to be published under the Prospectus Directive, the applicable Final Terms will only be obtainable by a Securityholder (as detailed below) holding one or more Securities and such Securityholder must produce evidence satisfactory to the Agent as to its holding of Securities and identity.

Words and expressions defined in the Agency Agreement or used in the applicable Final Terms shall have the same meanings where used in these Terms and Conditions unless the context otherwise requires or unless otherwise stated.

The Securityholders are entitled to the benefit of and are deemed to have notice of and are bound by all the provisions of the Agency Agreement (insofar as they relate to the Securities) and these Terms and Conditions as amended in accordance with the applicable Final Terms, which are binding on them.

1. Type, Title and Transfer

(A) Type

The Securities are Index Securities, Share Securities, Debt Securities, Currency Securities, Commodity Securities or any other or further type of securities as is specified in the applicable Final Terms. Certain terms which will, unless otherwise varied in the applicable Final Terms, apply to Index Securities, Share Securities, Debt Securities, Currency Securities or Commodity Securities are set out in Condition 14.

The applicable Final Terms will indicate:

- (1) for all Securities:
 - (i) whether settlement shall be by way of cash payment ("Cash Settled Securities") or physical delivery ("Physical Delivery Securities");
 - (ii) whether Averaging ("Averaging") will apply to the Securities; and
 - (iii) if Averaging is specified as applying in the applicable Final Terms, the relevant Averaging Dates and, in respect of Share Securities or Index Securities other than Index Securities relating to a Commodity Index, if an Averaging Date is a Disrupted Day (as defined in Condition 4), whether Omission, Postponement or Modified Postponement (each as defined in Condition 4 below) applies;
- (2) in the case of Warrants only:
 - (i) whether the Warrants are American style Warrants, being Warrants which are exercisable during a specified period ("American Style Warrants") or European style Warrants, being Warrants which are exercisable on a specified date ("European Style Warrants") or such other type as may be specified in the applicable Final Terms;

- (ii) whether the Warrants are call Warrants ("Call Warrants") or put Warrants ("Put Warrants") or such other type as may be specified in the applicable Final Terms, whether the Warrants may only be exercisable in Units. If Units are specified in the applicable Final Terms, Warrants must be exercised in Units and any Exercise Notice which purports to exercise Warrants in breach of this provision shall be void and of no effect; and
- (3) in the case of Certificates only, whether interest shall be payable in respect of the Securities.

References in these Terms and Conditions, unless the context otherwise requires, to Cash Settled Securities shall be deemed to include references to Physical Delivery Securities, which include an option (as set out in the applicable Final Terms) at the Issuer's election to request cash settlement of such Security and where settlement is to be by way of cash payment, and references in these Terms and Conditions, unless the context otherwise requires, to Physical Delivery Securities shall be deemed to include references to Cash Settled Securities which include an option (as set out in the applicable Final Terms) at the Issuer's election to request physical delivery of the relevant underlying asset in settlement of such Security and where settlement is to be by way of physical delivery.

Securities may allow holders to elect for settlement by way of cash payment or by way of physical delivery or by such other method of settlement as is specified in the applicable Final Terms. Those Securities where the holder has elected for cash payment will be Cash Settled Securities and those Securities where the holder has elected for physical delivery will be Physical Delivery Securities. The rights of a holder as described in this paragraph may be subject to the Issuer's right to vary settlement as indicated in the applicable Final Terms.

(B) Title to Securities

The Securities shall be issued in uncertificated form in accordance with the Uncertificated Securities Regulations 2001, including any modification or re-enactment thereof for the time being in force (the "Regulations"). The Securities are participating securities for the purposes of the Regulations. Title to the Securities is recorded on the relevant Operator register of corporate securities. The Agent on behalf of the Issuer shall maintain a record of uncertificated corporate securities (the "Record") in relation to the Securities and shall procure that the Record is regularly updated to reflect the Operator register of corporate securities in accordance with the rules of the Operator. Subject to this requirement, (i) each person who is for the time being shown in the Record as the holder of a particular number of Securities shall be treated by the Issuer, ML&Co. and the Agent as the holder of such number of Securities for all purposes (and the expressions "Securityholder" and "holder of Securities" or "Warrantholder" and "holder of Warrants" or "Certificateholder" and "holder of Certificates" and related expressions shall be construed accordingly), and (ii) neither the Issuer, ML&Co. nor the Agent shall be liable in respect of any act or thing done or omitted to be done by it or on its behalf in reliance upon the assumption that the particulars entered in the Record which the Agent maintains are in accordance with particulars entered in the Operator register of corporate securities relating to the Securities.

No provisions of these Terms and Conditions as amended in accordance with the applicable Final Terms shall (notwithstanding anything contained therein) apply or have effect to the extent that it is in any respect inconsistent with (i) the holding of title to Securities in uncertificated form, (ii) the transfer of title to Securities by means of a relevant system, or (iii) the Regulations. Without prejudice to the generality of the preceding sentence and notwithstanding anything contained in these Terms and Conditions or the applicable Final Terms, so long as the Securities are participating securities, (a) any Security which is not for the time being in all respects (save as to Issue Price and Issue Date) identical to, or does not for the time being have rights attached thereto identical in all respects to those attached to, other Securities of the same series shall be deemed to constitute a separate series of Securities, (b) the Operator register of corporate securities relating to the Securities shall be maintained at all times in the United Kingdom, (c) the Securities may be issued in uncertificated form in accordance with and subject as provided in the Regulations; and (d) for the avoidance of doubt, the Terms and Conditions and the applicable Final Terms in relation to any Security shall remain applicable notwithstanding that they are not endorsed on any certificate for such Security.

As used herein each of "Operator register of corporate securities", "participating securities", "record of uncertificated corporate securities" and "relevant system" is as defined in the Regulations and the relevant "Operator" (as such term is used in the Regulations) is Euroclear UK & Ireland or any additional or alternative operator from time to time approved by the Issuer, ML&Co. and the Agent in relation to the Securities and in accordance with the Regulations. Any reference herein to the "Operator" shall, whenever the context so permits, be deemed to include a reference to any such additional or alternative Operator from time to time and notified to the Securityholders in accordance with Condition 9.

No Securities in definitive form will be issued.

(C) Transfer of Securities

All transactions (including transfers of Securities) in the open market or otherwise must be effected through an account at the Operator subject to and in accordance with the rules and procedures for the time being of the Operator. Title will pass upon registration of the transfer in the Operator register of corporate securities. Transfers of American Style Warrants may not be effected after the Manual Exercise of such American Style Warrants pursuant to Condition 17 and Condition 18 and transfers of Physical Delivery Certificates may not be effected after the delivery of a Physical Confirmation Notice pursuant to Condition 20. Any transfer or attempted transfer within the United States or to, or for the account or benefit of, a U.S. person shall be absolutely null and void *ab initio* and shall vest no rights in the purported transferee (such purported transferee, a "Disqualified Transferee") and the last preceding holder of such interest that was not a Disqualified Transferee shall be restored to all rights as a holder thereof retroactively to the date of transfer of such interest by the relevant holder.

(D) Prescription

Claims against the Issuer or ML&Co., as the case may be, for payment in respect of the Securities shall become void unless made within 60 months from the Settlement Date or Redemption Date, as applicable, and no claims shall be made after such date.

2. Status of the Securities and Guarantee

- (A) The Securities constitute direct, unsubordinated, unconditional and unsecured obligations of the Issuer and rank equally among themselves and rank equally (subject to such exceptions as are from time to time provided by applicable laws) with all other present and future direct, unsubordinated, unconditional and unsecured obligations of the Issuer.
- (B) The obligations of ML&Co. under the Guarantee, save for such exceptions as may be provided by applicable legislation or judicial order, rank *pari passu* with its other present and future unsecured and unsubordinated contractual obligations.

3. Guarantee

Subject as provided below, in the Guarantee ML&Co. has unconditionally and irrevocably guaranteed the obligations of the Issuer with respect to physical delivery (if applicable) and/or the payment of amounts payable by the Issuer under the Securities and the Agency Agreement. The terms of the Guarantee provide that, in the case of Physical Delivery Securities, notwithstanding that the Issuer either (i) had the right to vary settlement in respect of such Physical Delivery Securities in accordance with Condition 5(C) and exercised such right or failed to exercise such right or (ii) had no such right to vary settlement in respect of such Physical Delivery Securities in accordance with Condition 5(C), ML&Co. will have the right at its sole and unfettered discretion to elect not to deliver or procure delivery of the Entitlement to the holders of such Physical Delivery Securities, but in lieu thereof, to make payment of an amount equal to the Guaranteed Cash Settlement Amount calculated pursuant to the terms of the relevant Final Terms ("Guaranteed Cash Settlement Amount"). Any payment of the Guaranteed Cash Settlement Amount shall constitute a complete discharge of ML&Co.'s obligations in respect of such Physical Delivery Securities. Payment of the Guaranteed Cash Settlement Amount will be made in such manner as shall be notified to the Securityholders in accordance with Condition 9.

In the event of the failure of the Issuer promptly to make either any payment due to any Securityholder under the terms of the Securities or to perform any obligation with respect to physical delivery due to any Securityholder under the terms of the Securities, such Securityholder may make a demand on ML&Co. under the Guarantee by giving written notice of such demand to ML&Co. and to the Agent at the addresses provided for the receipt of written notices set out in clause 21 of the Agency Agreement.

It should be noted that contractual provisions relating to certain subordinated indebtedness of ML&Co. expressly subordinate such indebtedness to other unsubordinated indebtedness for borrowed money of ML&Co. (which does not include the obligations of ML&Co. under the Guarantee). As a result, it is possible that in the event of an insolvency of ML&Co., a proportionately greater amount might be recovered rateably by the holders of ML&Co.'s unsubordinated indebtedness for borrowed money than by the holders of Securities under the Guarantee.

Furthermore, since ML&Co. is a holding company, the right of ML&Co., and hence the right of creditors of ML&Co. (including the holders of Securities), to participate in any distribution of the assets of any subsidiary upon its liquidation or reorganisation or otherwise is necessarily subject to the prior claims of creditors of the subsidiary, except to the extent that claims of ML&Co. itself as a creditor of the subsidiary may be recognised. In addition, dividends, loans and advances from certain subsidiaries to ML&Co. are restricted by net capital requirements under the United States Securities Exchange Act of 1934, as amended, and under rules of certain exchanges and other regulatory bodies.

4. Definitions

For the purposes of these Terms and Conditions, the following general definitions will apply:

"Actual Exercise Date", in respect of an American Style Warrant, is defined in Condition 17(A)(i) or, in respect of a European Style Warrant, is defined in Condition 17(A)(ii);

"Affiliate" means, in relation to any entity (the "First Entity"), any entity controlled, directly or indirectly, by the First Entity, any entity that controls, directly or indirectly, the First Entity or any entity directly or indirectly under common control with the First Entity. For these purposes "control" means ownership of a majority of the voting power of an entity;

"Averaging Date" means, in respect of an Actual Exercise Date (in the case of Warrants) or a Redemption Date (in the case of Certificates):

- (a) in respect of Share Securities or Index Securities other than Index Securities relating to a Commodity Index, each date specified as an Averaging Date in the applicable Final Terms or, if any such date is not a Scheduled Trading Day, the immediately following Scheduled Trading Day unless, in the reasonable opinion of the Calculation Agent acting in good faith, any such day is a Disrupted Day. If any such day is a Disrupted Day:
 - (i) if "Omission" is specified as applying in the applicable Final Terms, then such date will be deemed not to be an Averaging Date for the purposes of determining the relevant Settlement Price provided that, if through the operation of this provision there would not be an Averaging Date in respect of such Actual Exercise Date or Redemption Date, as the case may be, then the provisions of the definition of "Valuation Date" will apply for purposes of determining the relevant level, price or amount on the final Averaging Date with respect to that Actual Exercise Date or Redemption Date, as the case may be, as if such Averaging Date were a Valuation Date that was a Disrupted Day; or
 - (ii) if "Postponement" is specified as applying in the applicable Final Terms, then the provisions of the definition of "Valuation Date" will apply for purposes of determining the relevant level, price or amount on that Averaging Date as if such Averaging Date were a Valuation Date that was a Disrupted Day irrespective of whether, pursuant to such determination, that deferred Averaging Date would fall on a day that already is or is deemed to be an Averaging Date; or
 - (iii) if "Modified Postponement" is specified as applying in the applicable Final Terms:

- (x) where the Securities are Index Securities relating to a single Index or Share Securities relating to a single Share, the Averaging Date shall be the first succeeding Valid Date (as defined below). If the first succeeding Valid Date has not occurred as of the Valuation Time on the eighth Scheduled Trading Day immediately following the original date that, but for the occurrence of another Averaging Date or Disrupted Day, would have been the final Averaging Date in relation to such Actual Exercise Date or Redemption Date, as the case may be, then (A) that eighth Scheduled Trading Day shall be deemed the Averaging Date (irrespective of whether that eighth Scheduled Trading Day is already an Averaging Date), and (B) the Calculation Agent shall determine the relevant level or price for that Averaging Date in accordance with sub-paragraph (a)(ii) of the definition of "Valuation Date" below;
- (y) where the Securities are Index Securities relating to a Basket of Indices or Share Securities relating to a Basket of Shares, the Averaging Date for each Index or Share not affected by the occurrence of a Disrupted Day shall be the originally designated Averaging Date (the "Scheduled Averaging Date") and the Averaging Date for an Index or Share affected by the occurrence of a Disrupted Day shall be the first succeeding Valid Date (as defined below) in relation to such Index or Share. If the first succeeding Valid Date in relation to such Index or Share has not occurred as of the Valuation Time on the eighth Scheduled Trading Day immediately following the original date that, but for the occurrence of another Averaging Date or Disrupted Day, would have been the final Averaging Date in relation to such Actual Exercise Date or Redemption Date, as the case may be, then (A) that eighth Scheduled Trading Day shall be deemed the Averaging Date (irrespective of whether that eighth Scheduled Trading Day is already an Averaging Date) in relation to such Index or Share, and (B) the Calculation Agent shall determine the relevant level or price for that Averaging Date in accordance with sub-paragraph (b)(ii) of the definition of "Valuation Date" below,

for the purposes of these Terms and Conditions "Valid Date" means a Scheduled Trading Day that is not a Disrupted Day and on which another Averaging Date in relation to the Actual Exercise Date or Redemption Date, as the case may be, does not or is deemed not to occur; and

- (b) in respect of Index Securities relating to a Commodity Index, Debt Securities, Currency Securities or Commodity Securities, each date specified as an Averaging Date in the applicable Final Terms, subject as set out in the applicable Final Terms;

"Business Day" means any day (other than a Saturday or Sunday) (i) on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealings in foreign exchange and foreign currency deposits) in London and the relevant Business Day Centre(s) and the Operator is open for business and (ii) for the purposes of making payments in euro, on which the Trans-European Automated Real-Time Gross Settlement Express Transfer (TARGET2) System is open;

"Cash Settlement Amount" means, in relation to Cash Settled Securities, the amount to which the Securityholder is entitled in the Settlement Currency in relation to each such Security or, in relation to Warrants and if Units are specified in the applicable Final Terms, each Unit, as determined by the Calculation Agent pursuant to the provisions set out in the applicable Final Terms. The Cash Settlement Amount will be rounded to the nearest two decimal places (or, in the case of Japanese Yen, the nearest whole unit) in the relevant Settlement Currency, 0.005 (or, in the case of Japanese Yen, half a unit) being rounded upwards, with Securities exercised or redeemed, as the case may be, at the same time by the same Securityholder being aggregated for the purpose of determining the aggregate Cash Settlement Amounts payable in respect of such Securities;

"Commodity Index" means each index specified as such in the applicable Final Terms;

"Commodity Index Reference Price" has the meaning given to it in the applicable Final Terms;

"Disrupted Day" means (a) in relation to Securities other than Index Securities where the relevant Index is specified in the applicable Final Terms to be a Designated Multi-Exchange Index, any Scheduled Trading Day on which a relevant Exchange or any Related Exchange fails to open for trading during its regular trading session or on which a Market Disruption Event has occurred or (b) in relation to Index Securities where the relevant Index is specified in the applicable Final Terms to be a Designated Multi-Exchange Index, any Scheduled Trading Day on which (i) the Index Sponsor fails to publish the level of the Index, (ii) the Related Exchange fails to open for trading during its regular trading session or (iii) a Market Disruption Event has occurred;

"Entitlement" means, in relation to a Physical Delivery Security, the quantity of the Relevant Asset or the Relevant Assets, as the case may be, which a Securityholder is entitled to receive on the Settlement Date or Redemption Date, as the case may be, in respect of each such Security following payment of any sums payable, including the Exercise Price (in the case of a Warrant) and Expenses (as defined in Condition 10(A)) rounded down as provided in Condition 17(C) or Condition 20(H), as determined by the Calculation Agent including any documents evidencing such Entitlement;

"Exchange" means:

- (a) in respect of Index Securities and in relation to an Index which is not specified in the applicable Final Terms as being a Designated Multi-Exchange Index, each exchange or quotation system specified as such for such Index in the applicable Final Terms, any successor to such exchange or quotation system or any substitute exchange or quotation system to which trading in the securities/commodities comprising such Index has temporarily relocated (provided that the Calculation Agent has determined that there is comparable liquidity relative to the securities/commodities comprising such Index on such temporary substitute exchange or quotation system as on the original Exchange);
- (b) in respect of Index Securities and in relation to an Index which is specified in the applicable Final Terms as being a Designated Multi-Exchange Index, in respect of each component security of that Index (each a "Component Security"),

the principal stock exchange on which such Component Security is principally traded, as determined by the Calculation Agent; and

- (c) in respect of Share Securities and in relation to a Share, each exchange or quotation system specified as such for such Share in the applicable Final Terms, any successor to such exchange or quotation system or any substitute exchange or quotation system to which trading in the Share has temporarily relocated (provided that the Calculation Agent has determined that there is comparable liquidity relative to such Share on such temporary substitute exchange or quotation system as on the original Exchange);

"Exchange Business Day" means (a) in respect of Securities other than Index Securities where the relevant Index is specified in the applicable Final Terms to be a Designated Multi-Exchange Index, any Scheduled Trading Day on which each Exchange and each Related Exchange are open for trading during their respective regular trading sessions, notwithstanding any such Exchange or Related Exchange closing prior to its Scheduled Closing Time or (b) in relation to Index Securities where the relevant Index is specified in the applicable Final Terms to be a Designated Multi-Exchange Index, any Scheduled Trading Day on which (i) the Index Sponsor publishes the level of the Index; and (ii) the Related Exchange is open for trading during its regular trading session, notwithstanding any Exchange or the Related Exchange closing prior to its Scheduled Closing Time;

"Exercise Business Day" means:

- (a) in the case of Cash Settled Warrants, a day that is a Business Day; and
(b) in the case of Physical Delivery Warrants, a day that is a Business Day and a Scheduled Trading Day;

"Price Source" has the meaning given to it in the applicable Final Terms;

"Redemption Date" has the meaning given to it in the applicable Final Terms.

"Related Exchange" means, in the case of Index Securities and in relation to an Index, or in respect of Share Securities and in relation to a Share, each exchange or quotation system specified as such for such Index or Share in the applicable Final Terms, any successor to such exchange or quotation system or any substitute exchange or quotation system to which trading in futures or options contracts relating to such Index or Share has temporarily relocated (provided that the Calculation Agent has determined that there is comparable liquidity relative to the futures or options contracts relating to such Index or Share on such temporary substitute exchange or quotation system as on the original Related Exchange), provided, however, that where "All Exchanges" is specified as the Related Exchange in the applicable Final Terms, "Related Exchange" shall mean each exchange or quotation system where trading has a material effect (as determined by the Calculation Agent) on the overall market for futures or options contracts relating to such Index or Share;

"Relevant Price" means for any Valuation Date or Averaging Date, the price of the Index, determined with respect to that day for the specified Commodity Index Reference Price calculated as provided in the Conditions and the applicable Final Terms;

"Scheduled Closing Time" means, in respect of an Exchange or Related Exchange and a Scheduled Trading Day, the scheduled weekday closing time of such Exchange or Related Exchange on such Scheduled Trading Day, without regard to after hours or any other trading outside of the regular trading session hours;

"Scheduled Trading Day" means (a) in relation to Securities other than Index Securities where the relevant Index is specified in the applicable Final Terms to be a Designated Multi-Exchange Index, any day on which each Exchange and each Related Exchange are scheduled to be open for trading for their respective regular trading sessions or (b) in relation to Index Securities where the relevant Index is specified in the applicable Final Terms to be a Designated Multi-Exchange Index, any day on which (i) the Index Sponsor is scheduled to publish the level of that Index, and (ii) the Related Exchange is scheduled to be open for trading for its regular trading session;

"Scheduled Valuation Date" means any original date that, but for the occurrence of an event causing a Disrupted Day, would have been a Valuation Date;

"Settlement Date" means:

- (a) in relation to Cash Settled Warrants:
in relation to each Actual Exercise Date, (i) where Averaging is not specified in the applicable Final Terms, the fifth Business Day following the Valuation Date provided that if the Warrants are Index Warrants relating to a Basket of Indices other than Index Warrants relating to a Commodity Index or Share Warrants relating to a Basket of Shares and the occurrence of a Disrupted Day has resulted in a Valuation Date for one or more Indices or Shares, as the case may be, being adjusted as set out in the definition of "Valuation Date" below, the Settlement Date shall be the fifth Business Day next following the last occurring Valuation Date in relation to any Index or Share, as the case may be, or (ii) where Averaging is specified in the applicable Final Terms, the fifth Business Day following the last occurring Averaging Date provided that where the Warrants are Index Warrants relating to a Basket of Indices other than Index Warrants relating to a Commodity Index or Share Warrants relating to a Basket of Shares and the occurrence of a Disrupted Day has resulted in an Averaging Date for one or more Indices or Shares, as the case may be, being adjusted as set out in the definition of "Averaging Date" above, the Settlement Date shall be the fifth Business Day next following the last occurring Averaging Date in relation to any Index or Share, as the case may be, or such other date as is specified in the applicable Final Terms; and
- (b) in relation to Physical Delivery Warrants:
the date specified as such in the applicable Final Terms;

"Settlement Price" means, in relation to each Cash Settled Security and, in relation to Warrants, if Units are specified in the applicable Final Terms, each Unit;

- (a) in respect of Index Securities other than Index Securities relating to a Commodity Index, subject to Condition 14(A) and as referred to in "Valuation Date" below or "Averaging Date" above, as the case may be:
 - (i) in the case of Index Securities relating to a Basket of Indices and in respect of each Index comprising the Basket, an amount (which shall be deemed to be an amount in the Index Currency) equal to the official closing level for such Index as determined by the Calculation Agent acting in good faith and in a commercially reasonable manner or, if so specified in the applicable Final Terms, the level of such Index determined by the Calculation Agent acting in good faith and in a commercially reasonable manner as set out in the applicable Final Terms at the Relevant Time on (A) if Averaging is not specified in the applicable Final Terms, the Valuation Date or (B) if Averaging is specified in the applicable Final Terms, an Averaging Date and, in either case, subject to any subsequently published correction as provided in Condition 14(A)(2), multiplied by the relevant Multiplier; and
 - (ii) in the case of Index Securities relating to a single Index, an amount (which shall be deemed to be an amount in the Index Currency) equal to the official closing level of the Index as determined by the Calculation Agent acting in good faith and in a commercially reasonable manner or, if so specified in the applicable Final Terms, the level of the Index determined by the Calculation Agent acting in good faith and in a commercially reasonable manner as set out in the applicable Final Terms at the Relevant Time on (A) if Averaging is not specified in the applicable Final Terms, the Valuation Date or (B) if Averaging is specified in the applicable Final Terms, an Averaging Date and, in either case, subject to any subsequently published correction as provided in Condition 14(A)(2);
- (b) in respect of Share Securities, subject to Condition 14(B) and as referred to in "Valuation Date" below or "Averaging Date" above, as the case may be:
 - (i) in the case of Share Securities relating to a Basket of Shares and in respect of each Share comprising the Basket, an amount equal to the official closing price (or the price at the Relevant Time on the Valuation Date or an Averaging Date, as the case may be, if so specified in the applicable Final Terms) quoted on the relevant Exchange for such Share (as defined in Condition 14(B)) on (A) if Averaging is not specified in the applicable Final Terms, the Valuation Date or (B) if Averaging is specified in the applicable Final Terms, an Averaging Date (or, if in the reasonable opinion of the Calculation Agent acting in good faith, any such official closing price, or the price at the Relevant Time on the Valuation Date or such Averaging Date, as the case may be, if so specified in the applicable Final Terms, cannot be so determined and such day is not a Disrupted Day, an amount determined by the Calculation Agent acting in good faith and in a commercially reasonable manner to be equal to the arithmetic mean of the closing fair market buying price (or the fair market buying price at the Relevant Time on the Valuation Date or such Averaging Date, as the case may be, if so specified in the applicable Final Terms) and the closing fair market selling price (or the fair market selling price at the Relevant Time on the Valuation Date or such Averaging Date, as the case may be, if so specified in the applicable Final Terms) for such Share whose closing price (or the price at the Relevant Time on the Valuation Date or such Averaging Date, as the case may be, if so specified in the applicable Final Terms) cannot be determined based, at the Calculation Agent's discretion, either on the arithmetic mean of the foregoing prices or middle market quotations provided to it by two or more financial institutions (as selected by the Calculation Agent) engaged in the trading of such Share or on such other factors as the Calculation Agent shall decide), multiplied by the relevant Multiplier, each such value to be converted, if so specified in the applicable Final Terms, into the Settlement Currency at the Exchange Rate and the sum of such converted amounts to be the Settlement Price, all as determined by or on behalf of the Calculation Agent acting in good faith and in a commercially reasonable manner; and
 - (ii) in the case of Share Securities relating to a single Share, an amount equal to the official closing price (or the price at the Relevant Time on the Valuation Date or an Averaging Date, as the case may be, if so specified in the applicable Final Terms) quoted on the relevant Exchange for such Share (as defined in Condition 14(B)) on (A) if Averaging is not specified in the applicable Final Terms, the Valuation Date or (B) if Averaging is specified in the applicable Final Terms, an Averaging Date (or, if in the reasonable opinion of the Calculation Agent acting in good faith no such official closing price, or the price at the Relevant Time on the Valuation Date or such Averaging Date, as the case may be, if so specified in the applicable Final Terms, can be determined and such day is not a Disrupted Day, an amount determined by the Calculation Agent acting in good faith and in a commercially reasonable manner to be equal to the arithmetic mean of the closing fair market buying price (or the fair market buying price at the Relevant Time on the Valuation Date or such Averaging Date, as the case may be, if so specified in the applicable Final Terms) and the closing fair market selling price (or the fair market selling price at the Relevant Time on the Valuation Date or such Averaging Date, as the case may be, if so specified in the applicable Final Terms) for the Share based, at the Calculation Agent's discretion, either on the arithmetic mean of the foregoing prices or middle market quotations provided to it by two or more financial institutions (as selected by the Calculation Agent) engaged in the trading of the Share or on such other factors as the Calculation Agent shall decide), such amount to be converted, if so specified in the applicable Final Terms, into the Settlement Currency at the Exchange Rate and such converted amount to be the Settlement Price, all as reasonably determined by or on behalf of the Calculation Agent acting in good faith;

- (c) in respect of Debt Securities, subject as referred to in "Valuation Date" below or "Averaging Date" above:
- (i) in the case of Debt Securities relating to a Basket of Debt Instruments, an amount equal to the sum of the values calculated for each Debt Instrument at the mid price (excluding or including any accrued but unpaid interest as specified in the applicable Final Terms) for such Debt Instrument as determined by or on behalf of the Calculation Agent, acting in good faith and in a commercially reasonable manner, by reference to the mid price (excluding or including any accrued but unpaid interest as specified in the applicable Final Terms) for such Debt Instrument appearing on the Relevant Screen Page at the Relevant Time on (A) if Averaging is not specified in the applicable Final Terms, the Valuation Date or (B) if Averaging is specified in the applicable Final Terms, an Averaging Date or if such price is not available, the arithmetic mean of the mid prices (excluding or including any accrued but unpaid interest as specified in the applicable Final Terms) for such Debt Instrument at the Relevant Time on the Valuation Date or such Averaging Date, as the case may be, as received by it from two or more market makers (as selected by the Calculation Agent acting in good faith and in a commercially reasonable manner) in such Debt Instrument, such mid prices to be expressed as a percentage of the nominal amount of such Debt Instrument, multiplied by the relevant Multiplier;
 - (ii) in the case of Debt Securities relating to a single Debt Instrument, an amount equal to the mid price (excluding or including any accrued but unpaid interest as specified in the applicable Final Terms) for the Debt Instrument as determined by the Calculation Agent, acting in good faith and in a commercially reasonable manner, by reference to the mid price (excluding or including any accrued but unpaid interest as specified in the applicable Final Terms) for such Debt Instrument appearing on the Relevant Screen Page at the Relevant Time on (A) if Averaging is not specified in the applicable Final Terms, the Valuation Date or (B) if Averaging is specified in the applicable Final Terms, an Averaging Date, or if such price is not available, the arithmetic mean of the mid prices (excluding or including any accrued but unpaid interest as specified in the applicable Final Terms) for such Debt Instrument at the Relevant Time on the Valuation Date or such Averaging Date, as the case may be, as received by it from two or more market makers (as selected by the Calculation Agent acting in good faith and in a commercially reasonable manner) in such Debt Instrument, such mid prices to be expressed as a percentage of the nominal amount of the Debt Instrument;
- (d) in respect of Currency Securities:
- (i) in the case of Currency Securities relating to a Basket of Subject Currencies, an amount equal to the sum of the values calculated for each Subject Currency at the spot rate of exchange appearing on the Relevant Screen Page at the Relevant Time on (A) if Averaging is not specified in the applicable Final Terms, the Valuation Date or (B) if Averaging is specified in the applicable Final Terms, an Averaging Date, for the exchange of such Subject Currency into the Base Currency (expressed as the number of units (or part units) of such Base Currency for which one unit of the Subject Currency can be exchanged) or, if such rate is not available, the arithmetic average (rounded, if necessary, to four decimal places (with 0.00005 being rounded upwards)) as determined by the Calculation Agent acting in good faith and in a commercially reasonable manner of the bid and offer Subject Currency/Base Currency exchange rates (expressed as aforesaid) at the Relevant Time on the Valuation Date or such Averaging Date, as the case may be, of two or more leading dealers (as selected by the Calculation Agent acting in good faith and in a commercially reasonable manner) on a foreign exchange market (as selected by the Calculation Agent acting in good faith and in a commercially reasonable manner), multiplied by the relevant Multiplier; and
 - (ii) in the case of Currency Securities relating to a single Subject Currency, an amount equal to the spot rate of exchange appearing on the Relevant Screen Page at the Relevant Time on (A) if Averaging is not specified in the applicable Final Terms, the Valuation Date or (B) if Averaging is specified in the applicable Final Terms, an Averaging Date, for the exchange of such Subject Currency into the Base Currency (expressed as the number of units (or part units) of the Base Currency for which one unit of the Subject Currency can be exchanged) or, if such rate is not available, the arithmetic average (rounded, if necessary, to four decimal places (with 0.00005 being rounded upwards)) as determined by the Calculation Agent acting in good faith and in a commercially reasonable manner of the bid and offer Subject Currency/Base Currency exchange rates (expressed as aforesaid) at the Relevant Time on the Valuation Date or such Averaging Date, as the case may be, of two or more leading dealers (as selected by the Calculation Agent acting in good faith and in a commercially reasonable manner) on a foreign exchange market (as selected by the Calculation Agent acting in good faith and in a commercially reasonable manner);
- (e) in respect of Commodity Securities, the provisions relating to the calculation of the Settlement Price will be set out in the applicable Final Terms;
- (f) in respect of Index Securities relating to a Commodity Index and subject to Condition 14(A):
- (i) in the case of Index Securities relating to a Basket of Indices and in respect of each Index comprising the Basket, an amount equal to the Relevant Price for such Index as determined by the Calculation Agent acting in good faith and in a commercially reasonable manner in respect of (A) if Averaging is not specified in the applicable Final Terms, the Valuation Date or (B) if Averaging is specified in the applicable Final Terms, an Averaging Date and, in either case, multiplied by the relevant Multiplier; and
 - (ii) in the case of Index Securities relating to a single Index, an amount equal to the Relevant Price of the Index as determined by the Calculation Agent in respect of (A) if Averaging is not specified in the applicable Final Terms, the Valuation Date or (B) if Averaging is specified in the applicable Final Terms, an Averaging Date;

"Valuation Date" means:

- (a) in respect of Share Securities or Index Securities other than Index Securities relating to a Commodity Index, (i) in the case of Warrants, the Actual Exercise Date of the relevant Warrant or (ii) in the case of Certificates, the Valuation Date specified in the applicable Final Terms, or if that is not a Scheduled Trading Day the first Scheduled Trading Day thereafter unless, in the opinion of the Calculation Agent acting in good faith and in a commercially reasonable manner, such day is a Disrupted Day. If such day is a Disrupted Day, then:
 - (i) where the Securities are Index Securities relating to a single Index or Share Securities relating to a single Share, the Valuation Date shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day, unless each of the eight Scheduled Trading Days immediately following the Scheduled Valuation Date is a Disrupted Day. In that case, (i) that eighth Scheduled Trading Day shall be deemed to be the Valuation Date (notwithstanding the fact that such day is a Disrupted Day) and (ii) the Calculation Agent shall, acting in good faith and in a commercially reasonable manner, determine the Settlement Price in the manner set out in the applicable Final Terms or, if not set out or if not practicable, determine the Settlement Price:
 - (x) in the case of Index Securities, by determining the level of the Index as of the Valuation Time on that eighth Scheduled Trading Day in accordance with (subject to Condition 14(4)(2)) the formula for and method of calculating the Index last in effect prior to the occurrence of the first Disrupted Day using the Exchange traded or quoted price as of the Valuation Time on that eighth Scheduled Trading Day of each security/commodity comprised in the Index (or, if an event giving rise to a Disrupted Day has occurred in respect of the relevant security/commodity on that eighth Scheduled Trading Day, its good faith estimate of the value for the relevant security/commodity as of the Valuation Time on that eighth Scheduled Trading Day); or
 - (y) in the case of Share Securities, in accordance with its good faith estimate of the Settlement Price as of the Valuation Time on that eighth Scheduled Trading Day; or
 - (ii) where the Securities are Index Securities relating to a Basket of Indices or Share Securities relating to a Basket of Shares, the Valuation Date for each Index or Share, as the case may be, not affected by the occurrence of a Disrupted Day shall be the Scheduled Valuation Date and the Valuation Date for each Index or Share, as the case may be, affected (each an "Affected Item") by the occurrence of a Disrupted Day shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day relating to the Affected Item, unless each of the eight Scheduled Trading Days immediately following the Scheduled Valuation Date is a Disrupted Day relating to the Affected Item. In that case, (i) that eighth Scheduled Trading Day shall be deemed to be the Valuation Date for the Affected Item (notwithstanding the fact that such day is a Disrupted Day) and (ii) the Calculation Agent shall determine the Settlement Price using, in relation to the Affected Item, in the case of an Index, the level of that Index determined in the manner set out in the applicable Final Terms, and, in the case of a Share, a price determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using:
 - (x) in the case of an Index, the level of that Index as of the Valuation Time on that eighth Scheduled Trading Day in accordance with the formula for and method of calculating that Index last in effect prior to the occurrence of the first Disrupted Day using the Exchange traded or quoted price (or, if an event giving rise to a Disrupted Day has occurred in respect of the relevant security/commodity on that eighth Scheduled Trading Day, its good faith estimate of the value for the relevant security/commodity as of the Valuation Time on that eighth Scheduled Trading Day); or
 - (y) in the case of a Share, its good faith estimate of the price for the Affected Item as of the Valuation Time on that eighth Scheduled Trading Day, and otherwise in accordance with the above provisions; and
- (b) in respect of Index Securities relating to a Commodity Index, Debt Securities, Currency Securities or Commodity Securities, (i) in the case of Warrants, the Actual Exercise Date of the relevant Warrant or (ii) in the case of Certificates, the Valuation Date specified in the applicable Final Terms, in each case subject as set out in the applicable Final Terms; and

"Valuation Time" means:

- (a) in respect of Securities other than Index Securities where the relevant Index is specified in the applicable Final Terms to be a Designated Multi-Exchange Index, the Relevant Time specified in the applicable Final Terms or, in the case of Index Securities or Share Securities, if no Relevant Time is specified, the Scheduled Closing Time on the relevant Exchange on the relevant Valuation Date or Averaging Date, as the case may be, in relation to each Index or Share to be valued. If the relevant Exchange closes prior to its Scheduled Closing Time and the specified Valuation Time is after the actual closing time for its regular trading session, then the Valuation Time shall be such actual closing time; or
- (b) in relation to Index Securities where the relevant Index is specified in the applicable Final Terms to be a Designated Multi-Exchange Index, the Relevant Time specified in the applicable Final Terms or if no Relevant Time is specified (i) for the purposes of determining whether a Market Disruption Event has occurred: (x) in respect of any Component Security, the Scheduled Closing Time on the relevant Exchange and (y) in respect of any options contracts or futures contracts on the Index, the close of trading on the relevant Related Exchange, and (ii) in all other circumstances, the time at which the official closing level of the Index is calculated and published by the Index Sponsor.

5. Physical Delivery Provisions

(A) Settlement Disruption

If, following the exercise of Physical Delivery Warrants or in connection with the redemption of Physical Delivery Certificates, in the opinion of the Calculation Agent, delivery of the Entitlement using the method of delivery specified in the applicable Final Terms is not practicable by reason of a Settlement Disruption Event (as defined below) having occurred and continuing on any Settlement Date or Redemption Date, as applicable, then such Settlement Date or Redemption Date for such Securities shall be postponed to the first following Settlement Business Day in respect of which there is no such Settlement Disruption Event, provided that the Issuer may elect in its discretion to satisfy its obligations in respect of the relevant Security by delivering the Entitlement using such other commercially reasonable manner as it may select and in such event the Settlement Date or Redemption Date, as applicable, shall be such day as the Issuer deems appropriate in connection with delivery of the Entitlement in such other commercially reasonable manner. For the avoidance of doubt, where a Settlement Disruption Event affects some but not all of the Relevant Assets comprising the Entitlement, the Settlement Date or Redemption Date, as applicable, for the Relevant Assets not affected by the Settlement Disruption Event will be the originally designated Settlement Date or Redemption Date. In the case of Warrants in the event that a Settlement Disruption Event will result in the delivery on a Settlement Date of some but not all of the Relevant Assets comprising the Entitlement, the Calculation Agent shall determine in its discretion the appropriate *pro rata* portion of the Exercise Price to be paid by the relevant Warrantholder in respect of that partial settlement. For so long as delivery of the Entitlement is not practicable by reason of a Settlement Disruption Event, then in lieu of physical settlement and notwithstanding any other provision hereof, the Issuer may elect in its discretion to satisfy its obligations in respect of the relevant Security by payment to the relevant Securityholder of the Settlement Disruption Amount (as defined below) on the fifth Business Day following the date that notice of such election is given to the Securityholders in accordance with Condition 9. Payment of the Settlement Disruption Amount will be made in such manner as shall be notified to the Securityholders in accordance with Condition 9. The Calculation Agent shall give notice as soon as practicable to the Securityholders in accordance with Condition 9 that a Settlement Disruption Event has occurred. No Securityholder shall be entitled to any payment in respect of the relevant Security in the event of any delay in the delivery of the Entitlement due to the occurrence of a Settlement Disruption Event.

For the purposes hereof:

"Settlement Disruption Amount" in respect of any relevant Security shall be the fair market value of such Security (taking into account, where the Settlement Disruption Event affected some but not all of the Relevant Assets comprising the Entitlement and such non-affected Relevant Assets have been duly delivered as provided above, the value of such Relevant Assets), less the cost to the Issuer or any Affiliate of unwinding any underlying related hedging arrangements, all as determined by the Issuer in its discretion, plus, if already paid, in the case of Warrants, the Exercise Price (or, where as provided above some Relevant Assets have been delivered, and a *pro rata* portion thereof has been paid, such *pro rata* portion); and

"Settlement Disruption Event" means, in the opinion of the Calculation Agent (as far as reasonably practicable after prior consultation with the Agent), an event beyond the control of the Issuer as a result of which the Issuer cannot make delivery of the Relevant Asset(s) using the method specified in the applicable Final Terms.

(B) Failure to Deliver due to Illiquidity

If "Failure to Deliver" is specified as applicable in the applicable Final Terms and, following the exercise of or on redemption of Physical Delivery Securities, in the opinion of the Calculation Agent acting in good faith and in a commercially reasonable manner, it is impossible or impracticable to deliver, when due, some or all of the Relevant Assets (the "Affected Relevant Assets") comprising the Entitlement, where such failure to deliver is due to illiquidity in the market for the Relevant Assets (a "Failure to Deliver"), then:

- (a) subject as provided elsewhere in these Terms and Conditions as amended by the applicable Final Terms, any Relevant Assets which are not Affected Relevant Assets, will be delivered on the originally designated Settlement Date in accordance with Condition 17(C) or the originally designated Redemption Date in accordance with Condition 20(H) and in the case of Warrants the Calculation Agent shall determine, acting in good faith and in a commercially reasonable manner, the appropriate *pro rata* portion of the Exercise Price to be paid by the relevant Warrantholder in respect of that partial settlement; and
- (b) in respect of any Affected Relevant Assets, in lieu of physical settlement and notwithstanding any other provision hereof, the Issuer may elect to satisfy its obligations in respect of the relevant Security by payment to the relevant Securityholder of the Failure to Deliver Settlement Price (as defined below) on the fifth Business Day following the date that notice of such election is given to the Securityholders in accordance with Condition 9. Payment of the Failure to Deliver Settlement Price will be made in such manner as shall be notified to the Securityholders in accordance with Condition 9. The Calculation Agent shall give notice as soon as practicable to the Securityholders in accordance with Condition 9 that the provisions of this Condition 5(B) apply.

For the purposes hereof:

"Failure to Deliver Settlement Price" in respect of any relevant Security shall be the fair market value of such Security (taking into account, the Relevant Assets comprising the Entitlement which have been duly delivered as provided above), less the cost to the Issuer or any Affiliate of unwinding any underlying related hedging arrangements, all as determined by the Calculation Agent in good faith and in a commercially reasonable manner, plus, in the case of Warrants and if already paid, the Exercise Price (or, where as provided above some Relevant Assets have been delivered, and a *pro rata* portion thereof has been paid, such *pro rata* portion).

(C) Issuer's Option to Vary Settlement

If the applicable Final Terms indicates that the Issuer has an option to vary settlement in respect of the Securities, upon a valid exercise of Warrants or in connection with a redemption of Certificates in accordance with these Terms and Conditions, the Issuer

may at its discretion in respect of each such Security elect not to pay the relevant Securityholders the Cash Settlement Amount or to deliver or procure delivery of the Entitlement to the relevant Securityholders, as the case may be, but, in lieu thereof to deliver or procure delivery of the Entitlement or make payment of the Cash Settlement Amount on the Settlement Date or Redemption Date to the relevant Securityholders, as the case may be. Notification of such election will be given to Securityholders no later than the second Business Day (a) following the Actual Exercise Date for Warrants or (b) prior to the Redemption Date for Certificates in accordance with Condition 9 and/or, at the option of the Issuer, if applicable, in accordance with the contact details for a Securityholder specified in its Exercise Notice (in the case of a Warrant) or Physical Delivery Confirmation Notice (in the case of a Certificate).

(D) Intervening Period

If the Entitlement in respect of Physical Delivery Securities comprises Relevant Assets which are shares or debt instruments, for such period of time after the Settlement Date or Redemption Date, as applicable, as any person other than the relevant Securityholder shall continue to be the legal owner of such securities (the "Intervening Period"), neither the Issuer, ML&Co., nor any other such person shall (i) be under any obligation to deliver or procure delivery to the relevant Securityholder or any subsequent beneficial owner of such securities or any other person any letter, certificate, notice, circular or any other document or payment whatsoever received by that person in its capacity as the holder of such securities or (ii) be under any obligation to exercise or procure exercise of any or all rights (including voting rights) attaching to such securities during the Intervening Period.

6. Illegality

If the Issuer (i) determines that the performance of its obligations under the Securities has become illegal in whole or in part for any reason, or (ii) becomes aware that the performance of ML&Co. under the Guarantee in respect of the Securities has become unlawful or impractical in whole or in part for any reason, the Issuer may cancel the Securities by giving notice to Securityholders in accordance with Condition 9.

Should any one or more of the provisions contained in these Terms and Conditions be or become invalid, the validity of the remaining provisions shall not be affected in any way thereby.

If the Issuer cancels the Securities then the Issuer will, if and to the extent permitted by applicable law, pay an amount to each Securityholder in respect of each Security or, in the case of Warrants, if Units are specified in the applicable Final Terms, each Unit, as the case may be, held by such holder, which amount shall be the fair market value of a Security or Unit, as the case may be, notwithstanding such illegality less the cost to the Issuer and/or any Affiliate of unwinding any underlying related hedging arrangements plus, in the case of Warrants and if already paid by or on behalf of a Warrantholder, the Exercise Price, all as determined by the Calculation Agent acting reasonably and in good faith. Payment will be made in such manner as shall be notified to the Securityholder in accordance with Condition 9.

7. Purchases and Cancellation

The Issuer, ML&Co. or any of ML&Co.'s Affiliates may, but is not obliged to, at any time purchase Securities at any price in the open market or by tender or private treaty. Any Securities so purchased may be held or resold or surrendered for cancellation.

8. Agents, Determinations, Meetings of Securityholders and Modifications

(A) Agent

The specified office of the Agent is as set out at the end of these Terms and Conditions.

The Issuer and ML&Co. reserve the right at any time to vary or terminate the appointment of the Agent and to appoint further or additional agents, provided that no termination of appointment of the Agent shall become effective until a replacement Agent shall have been appointed and provided that, so long as any of the Securities are listed on any stock exchange or admitted to trading or listing by any other relevant authority, there shall be an Agent having a specified office in each location required by the rules and regulations of the relevant stock exchange or other relevant authority. Notice of any termination of appointment and of any changes in the specified office of the Agent will be given to Securityholders in accordance with Condition 9. In acting under the Agency Agreement, the Agent acts solely as agent of the Issuer and ML&Co. and does not assume any obligation or duty to, or any relationship of agency or trust for or with, the Securityholders and the Agent's determinations and calculations in respect of the Securities shall be made or held by it reasonably and in good faith and shall (save in the case of manifest error) be final, conclusive and binding on the Issuer, ML&Co. and the Securityholders.

(B) Calculation Agent

In relation to each issue of Securities, the Calculation Agent (whether it be Merrill Lynch International or another entity), acts solely as agent of the Issuer and ML&Co. and does not assume any obligation or duty to, or any relationship of agency or trust for or with, the Securityholders. All calculations and determinations made or opinions held in respect of the Securities by the Calculation Agent shall be made or held by it reasonably and in good faith and shall (save in the case of manifest error) be final, conclusive and binding on the Issuer, ML&Co. and the Securityholders.

The Calculation Agent may, with the consent of the Issuer, delegate any of its obligations and functions to a suitably competent third party of good standing as it deems appropriate, provided that this shall be without prejudice to the rights and benefits of the Securityholders.

(C) Determinations by the Issuer

Any determination made or opinion held by the Issuer pursuant to these Terms and Conditions shall be made or held by it reasonably and in good faith and shall (save in the case of manifest error) be final, conclusive and binding on the Agent, the Calculation Agent, ML&Co. and the Securityholders.

(D) Meetings of Securityholders and Modification

The Agency Agreement contains provisions for convening meetings of the Securityholders to consider any matter affecting their interests, including the sanctioning by Extraordinary Resolution (as defined in the Agency Agreement) of a modification of the Securities or any of the provisions of the Agency Agreement. Such a meeting may be convened by the Issuer or ML&Co. The quorum at any such meeting for passing an Extraordinary Resolution is one or more persons holding or representing not less than 50 per cent. of the Securities for the time being outstanding or at any adjourned meeting one or more persons being or representing Securityholders whatever the number of Securities so held or represented, except that at any meeting the business of which includes the modification of certain provisions of the Securities (including modifying the date of exercise or redemption of the Securities, reducing or cancelling the Cash Settlement Amount or the Entitlement in respect of the Securities or altering the currency of payment of the Securities other than pursuant to Condition 15), the quorum shall be one or more persons holding or representing not less than two-thirds of the Securities for the time being outstanding or at any adjourned such meeting one or more persons holding or representing not less than one-third of the Securities for the time being outstanding. An Extraordinary Resolution passed at any meeting of the Securityholders shall be binding on all the Securityholders, whether or not they are present at the meeting save, in the case of American Style Warrants, for those Warrants remaining outstanding but for which an Exercise Notice shall have been submitted prior to the date of the meeting. Resolutions can be passed in writing if passed unanimously.

The Agent and the Issuer may agree, without the consent of the Securityholders to:

- (a) any modification of the Securities or the Agency Agreement which is not materially prejudicial to the interests of the Securityholders; or
- (b) any modification of the Securities or the Agency Agreement which is of a formal, minor or technical nature or is made to correct a manifest or proven error or to cure, correct or supplement any defective provision or to comply with mandatory provisions of law.

Any such modification shall be binding on the Securityholders and any such modification shall be notified to the Securityholders in accordance with Condition 9 as soon as practicable thereafter, Provided That failure to give, or non-receipt of, such notice will not affect the validity of any such modification.

9. Notices

All notices to Securityholders shall be valid (i) if delivered to the address of the Securityholder appearing in the Record on the second Business Day immediately prior to despatch of such notice by first class post or by hand or, if such address is not in the United Kingdom, by airmail post (such notices to be delivered or sent in accordance with provision (i) shall be sent at the risk of the relevant Securityholder), or (ii) if published in a daily newspaper with general circulation in the United Kingdom which is expected to be the Financial Times. Any such notice shall be deemed to have been given in the case of provision (i), if delivered by hand, at the time of delivery, if sent by first class post, two Business Days after despatch or, if sent by airmail post, five Business Days after despatch or, in the case of provision (ii), the date of such publication or, if published more than once, on the date of the first such publication. For so long as the Securities are admitted to trading on, and listed on any stock exchange or are admitted to trading by another relevant authority, all notices will be published in accordance with the rules of such stock exchange or other relevant authority.

10. Expenses and Taxation

(A) Expenses

A holder of Securities must pay all Expenses relating to the Securities as provided herein. As used in these Terms and Conditions, "Expenses" means all taxes, duties and/or expenses, including any applicable depository charges, transaction or exercise charges, sale commissions, stamp duty, stamp duty reserve tax, issue, registration, securities transfer and/or other taxes or duties arising from (a) in the case of Warrants, the exercise of such Warrants and/or the delivery or transfer of the Entitlement, if any, pursuant to the terms of such Warrants and/or if Condition 17(D) applies, any sale of Relevant Assets or (b) in the case of Certificates, the exercise and redemption of such Certificates and/or the delivery or transfer of the Entitlement, if any, pursuant to the terms of such Certificates and/or if Condition 20(I) applies, any sale of Relevant Assets.

(B) Taxation

Neither the Issuer or ML&Co. shall be liable for or otherwise obliged to pay any tax, duty, withholding or other payment which may arise as a result of the ownership, transfer, exercise, redemption or enforcement of any Security by any person and all payments made by the Issuer or ML&Co. shall be made subject to any such tax, duty, withholding or other payment which may be required to be made, paid, withheld or deducted.

11. Further Issues

The Issuer shall be at liberty from time to time without the consent of Securityholders to create and issue further Securities so as to be consolidated with and form a single series with the outstanding Securities.

12. Substitution of the Issuer

The Issuer, or any previous substituted company may, at any time, without the consent of the Securityholders, substitute for itself as principal obligor under the Securities any company (the "Substitute"), being ML&Co. or any of its Affiliates, subject to:

- (a) (except where the Substitute is ML&Co.) ML&Co. unconditionally and irrevocably guaranteeing in favour of each Securityholder the performance of all obligations by the Substitute under the Securities;
- (b) all actions, conditions and things required to be taken, fulfilled and done to ensure that the Securities represent legal, valid and binding obligations of the Substitute having been taken, fulfilled and done and are in full force and effect;

- (c) the Substitute having become party to the Agency Agreement, with any appropriate consequential amendments, as if it had been an original party to it;
- (d) each stock exchange or market on which the Securities are listed or admitted to trading having confirmed that, following the proposed substitution of the Substitute, the Securities will continue to be listed or admitted to trading on such stock exchange(s) or such market(s), as the case may be;
- (e) if appropriate, the Substitute having appointed a process agent as its agent in England to receive service of process on its behalf in relation to any legal action or proceedings arising out of or in connection with the Securities; and
- (f) the Issuer having given at least 30 days' prior notice of the date of such substitution to the Securityholders in accordance with Condition 9.

13. Governing Law and Jurisdiction

The Securities and the Agency Agreement are governed by and shall be construed in accordance with English law.

In relation to any suit, action or proceedings (together referred to as "Proceedings") arising out of or in connection with the Securities, each of the Issuer and ML&Co. irrevocably submits to the jurisdiction of the courts of England and hereby waives any objection to Proceedings in such courts whether on the ground of venue or on the ground that the Proceedings have been brought in an inconvenient forum. These submissions are for the benefit of each of the Securityholders and shall not limit the right of any of them to take Proceedings in any other court of competent jurisdiction nor shall the taking of Proceedings in one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction (whether concurrently or not).

Each of the Issuers and ML&Co. hereby appoints Merrill Lynch Corporate Services Limited, currently at Merrill Lynch Financial Centre, 2 King Edward Street, London EC1A 1HQ as their agents in England to receive service of process in any Proceedings in England based on the Securities. If for any reason such process agent ceases to act as such or no longer has an address in England, the Issuer or ML&Co., as the case may be, agrees to appoint a substitute process agent and to notify the Securityholders of such appointment. Nothing herein shall affect the right to serve process in any other manner permitted by law.

14. Terms for Index Securities, Share Securities, Debt Securities and Commodity Securities

(A) Index Securities

For the purposes of this Condition 14(A):

"Index" or "Indices" mean, subject to adjustment in accordance with this Condition 14(A), the indices or index specified in the applicable Final Terms and related expressions shall be construed accordingly;

"Index Sponsor" means, in relation to an Index, the corporation or entity that (a) is responsible for setting and reviewing the rules and procedures and the methods of calculation and adjustments, if any, related to such Index and (b) announces (directly or through an agent) the level of such Index on a regular basis during each Scheduled Trading Day, which as of the Issue Date is the index sponsor specified for such Index in the applicable Final Terms.

(1) Market Disruption

"Market Disruption Event" shall mean, in relation to Securities relating to a single Index or a Basket of Indices other than Securities relating to a Commodity Index, in respect of an Index,

- (a) in respect of an Index other than a Designated Multi-Exchange Index:
 - (i) the occurrence or existence at any time during the one hour period that ends at the Valuation Time:
 - (x) of any suspension of or limitation imposed on trading by the relevant Exchange or Related Exchange or otherwise and whether by reason of movements in price exceeding limits permitted by the relevant Exchange or Related Exchange or otherwise:
 - (A) on any relevant Exchange(s) relating to securities/commodities that comprise 20 per cent. or more of the level of the relevant Index; or
 - (B) in futures or options contracts relating to the relevant Index on any relevant Related Exchange;
 - (y) of any event (other than an event described in (ii) below) that disrupts or impairs (as determined by the Calculation Agent acting in good faith and in a commercially reasonable manner) the ability of market participants in general (A) to effect transactions in, or obtain market values for, on any relevant Exchange(s) securities/commodities that comprise 20 per cent. or more of the level of the relevant Index, or (B) to effect transactions in, or obtain market values for, futures or options contracts relating to the relevant Index on any Related Exchange,

which in either case the Calculation Agent determines is material; or
 - (ii) the closure on any Exchange Business Day of any relevant Exchange(s) relating to securities/commodities that comprise 20 per cent. or more of the level of the relevant Index or any Related Exchange(s) prior to its Scheduled Closing Time unless such earlier closing time is announced by such Exchange(s) or such Related Exchange(s), as the case may be, at least one hour prior to (A) the actual closing time for the regular trading session on such Exchange(s) or such Related Exchange(s) on such Exchange Business Day or, if earlier, (B) the

submission deadline for orders to be entered into the Exchange or Related Exchange system for execution at the Valuation Time on such Exchange Business Day; or

- (b) in respect of an Index which is a Designated Multi-Exchange Index either:
- (i) (x) the occurrence or existence, in respect of any Component Security, of:
 - (A) a Trading Disruption in respect of such Component Security, which the Calculation Agent determines is material, at any time during the one hour period that ends at the relevant Valuation Time in respect of the Exchange on which such Component Security is principally traded;
 - (B) an Exchange Disruption in respect of such Component Security, which the Calculation Agent determines is material, at any time during the one hour period that ends at the relevant Valuation Time in respect of the Exchange on which such Component Security is principally traded; or
 - (C) an Early Closure in respect of such Component Security; and
 - (y) the aggregate of all Component Securities in respect of which a Trading Disruption, an Exchange Disruption or an Early Closure occurs or exists, comprises 20 per cent. or more of the level of the Index; or
 - (ii) the occurrence or existence, in respect of futures or options contracts relating to the Index, of: (A) a Trading Disruption, (B) an Exchange Disruption which in either case the Calculation Agent determines is material, at any time during the one hour period that ends at the Valuation Time in respect of the Related Exchange or (C) an Early Closure, in each case in respect of such futures or options contracts.

As used above:

"Trading Disruption" means any suspension of or limitation imposed on trading by the relevant Exchange or Related Exchange or otherwise and whether by reason of movements in price exceeding limits permitted by the relevant Exchange or Related Exchange or otherwise: (i) relating to any Component Security on the Exchange in respect of such Component Security; or (ii) in futures or options contracts relating to the Index on the Related Exchange.

"Exchange Disruption" means any event (other than an Early Closure) that disrupts or impairs (as determined by the Calculation Agent) the ability of market participants in general to effect transactions in, or obtain market values for: (i) any Component Security on the Exchange in respect of such Component Security; or (ii) futures or options contracts relating to the Index on the Related Exchange.

"Early Closure" means the closure on any Exchange Business Day of the Exchange in respect of any Component Security or the Related Exchange prior to its Scheduled Closing Time unless such earlier closing is announced by such Exchange or Related Exchange, as the case may be, at least one hour prior to the earlier of: (i) the actual closing time for the regular trading session on such Exchange or Related Exchange, as the case may be, on such Exchange Business Day; and (ii) the submission deadline for orders to be entered into on the relevant Exchange or Related Exchange system for execution at the relevant Valuation Time on such Exchange Business Day.

For the purposes of determining whether a Market Disruption Event in respect of an Index or a Component Security exists at any time, if a Market Disruption Event occurs in respect of a security/commodity included in the Index or such Component Security at any time, then the relevant percentage contribution of that security/commodity or Component Security, as the case may be, to the level of the Index shall be based on a comparison of (i) the portion of the level of the Index attributable to that security/commodity or Component Security, as the case may be, and (ii) the overall level of the Index, in each case either (a) except where the Index is a Designated Multi-Exchange Index, immediately before the occurrence of such Market Disruption Event or (b) where that Index is a Designated Multi-Exchange Index, using the official opening weightings as published by the Index Sponsor as part of the market "opening data".

The Calculation Agent shall give notice as soon as practicable to the Securityholders in accordance with Condition 9 of the occurrence of a Disrupted Day on any day that, but for such Disrupted Day, would have been an Averaging Date or a Valuation Date.

(2) Adjustments and Corrections to an Index and Commodity Index Disruption Events

(a) Successor Index Sponsor Calculates and Reports an Index

If a relevant Index is (i) not calculated and announced by the Index Sponsor but is calculated and announced by a successor sponsor (the "Successor Index Sponsor") acceptable to the Calculation Agent, or (ii) replaced by a successor index using, in the reasonable and good faith determination of the Calculation Agent, the same or a substantially similar formula for and method of calculation as used in the calculation of that Index, then in each case that Index (the "Successor Index") will be deemed to be the Index.

(b) Modification and Cessation of Calculation of an Index

The following paragraph applies in respect of an Index which is not a Commodity Index.

If (i) on or prior to any Valuation Date or an Averaging Date the relevant Index Sponsor makes or announces that it will make a material change in the formula for or the method of calculating a relevant Index or in any other way materially modifies that Index (other than a modification prescribed in that formula or method to maintain that Index in the event of changes in constituent stock and capitalisation, contracts or commodities and other routine events) (an "Index Modification"), or permanently cancels a relevant

Index and no Successor Index exists (an "Index Cancellation") or, (ii) on any Valuation Date or an Averaging Date the Index Sponsor or (if applicable) the Successor Index Sponsor fails to calculate and announce a relevant Index (an "Index Disruption" and, together with an Index Modification and an Index Cancellation, each an "Index Adjustment Event"), then

- (i) the Calculation Agent acting in good faith and in a commercially reasonable manner shall determine if such Index Adjustment Event has a material effect on the Securities and, if so, shall calculate the relevant Settlement Price using, in lieu of a published level for that Index, the level for that Index as at that Valuation Time on that Valuation Date or that Averaging Date, as the case may be, as determined by the Calculation Agent acting in good faith and in a commercially reasonable manner in accordance with the formula for and method of calculating that Index last in effect prior to that change, failure or cancellation, but using only those securities/commodities that comprised that Index immediately prior to that Index Adjustment Event; or
- (ii) the Issuer may cancel the Securities on a date as notified by the Issuer to Securityholders in accordance with Condition 9, in which event the Issuer will pay to each Securityholder the relevant Cancellation Amount.

The following paragraph applies in respect of an Index which is a Commodity Index.

If on or prior to any Valuation Date or an Averaging Date (i) the relevant Index Sponsor makes a material change in the formula for or the method of calculating a relevant Index or in any other way materially modifies that Index (other than a modification prescribed in that formula or method to maintain that Index in the event of changes in constituent commodities and weightings and other routine events), or (ii) the Index Sponsor permanently cancels a relevant Index or (iii) the Index Sponsor fails to calculate and announce a relevant Index and there is no Successor Index Sponsor or Successor Index, then the Calculation Agent, acting in good faith and in a commercially reasonable manner, may at its option (in the case of (i)) and shall (in case of (ii) and (iii)) (such events (i) (ii) & (iii) to be collectively referred to as "Index Adjustment Events") calculate the relevant Settlement Price using in lieu of the published level for that Index, the level for that Index as at the relevant determination date as determined by the Calculation Agent acting in good faith and in a commercially reasonable manner in accordance with the formula for and method of calculating that Index last in effect prior to the relevant Index Adjustment Event, but using only those futures contracts that comprised that Index immediately prior to the relevant Index Adjustment Event (other than those futures contracts that have ceased to be listed on any relevant exchange).

- (c) Commodity Index Disruption Events

The following paragraph applies in respect of an Index which is a Commodity Index.

If, in the opinion of the Calculation Agent acting in good faith and in a commercially reasonable manner, a Commodity Index Disruption Event has occurred and is continuing on any Valuation Date or Averaging Date (or, if different, the day on which prices for the Valuation Date or that Averaging Date, as the case may be, would, in the ordinary course, be published by the Price Source), the Relevant Price for that Valuation Date or Averaging Date, as the case may be, will be determined by the Calculation Agent, acting in good faith and in a commercially reasonable manner:

- (i) using:
 - (x) with respect to each futures contract included in the Index which is not affected by the Commodity Index Disruption Event, the closing prices of each such contract on the applicable determination date; and
 - (y) with respect to each futures contract included in the Index which is affected by the Commodity Index Disruption Event, the closing prices of each such contract on the first day following the applicable determination date on which no Commodity Index Disruption Event is occurring with respect to such contract; or
- (ii) as specified in the applicable Final Terms.

Subject as provided below, the Calculation Agent, acting in good faith and in a commercially reasonable manner, shall determine the Relevant Price by reference to the closing prices determined in (i)(x) and (i)(y) above or as provided in (ii) above using the then-current method for calculating the Index.

Where a Commodity Index Disruption Event with respect to one or more futures contracts included in the Index has occurred on an applicable determination date and continues to exist as of the Commodity Index Cut-Off Date for such applicable determination date, the Calculation Agent shall determine the Relevant Price acting in good faith and in a commercially reasonable manner on such Commodity Index Cut-Off Date. In calculating the Relevant Price as set out herein, the Calculation Agent shall use the formula for calculating the Index last in effect prior to the Commodity Index Disruption Event.

As used above:

"Commodity Index Cut-Off Date" means, in respect of an applicable determination date:

- (i) in respect of Certificates and European Style Warrants, the second Business Day immediately preceding the Redemption Date or Settlement Date, as the case may be;
- (ii) in respect of American Style Warrants, the fifth Trading Day immediately succeeding such applicable determination date; or
- (iii) as specified in the applicable Final Terms.

"Commodity Index Disruption Event" means:

- (i) a temporary or permanent failure by the applicable exchange or other price source to announce or publish (x) the final settlement price for the Index or (y) the closing price for any futures contract included in the Index;

- (ii) a material limitation, suspension or disruption of trading in one or more of the futures contracts included in the Index which results in a failure by the exchange on which each applicable futures contract is traded to report a closing price for such contract on the day on which such event occurs or any succeeding day on which it continues; or
- (iii) the closing price for any futures contract included in the Index is a "limit price", which means that the closing price for such contract for a day has increased or decreased from the previous day's closing price by the maximum amount permitted under applicable exchange rules.

"Trading Day" shall mean a day when the exchanges for all futures contracts included in the relevant Index are scheduled to be open for trading.

(d) Corrections to an Index

If the level of a relevant Index published on any Valuation Date or an Averaging Date by the relevant Index Sponsor or (if applicable) the relevant Successor Index Sponsor and which is utilised for any calculation or determination made for the purposes of the Securities is subsequently corrected and the correction (the "Corrected Index Level") published by the relevant Index Sponsor or (if applicable) the relevant Successor Index Sponsor no later than two Business Days prior to the Settlement Date (in the case of Warrants) or the Redemption Date (in the case of Certificates) then such Corrected Index Level shall be deemed to be the relevant level for such Index on such Averaging Date or Valuation Date, as the case may be, and the Calculation Agent shall use such Corrected Index Level in determining the Settlement Price.

(e) Notice

The Calculation Agent shall, as soon as practicable, notify the Agent of any determination made by it pursuant to paragraph (b), (c) or (d) above and, in relation to (b) above the action proposed to be taken in relation thereto and the Agent shall make available for inspection during normal office hours by Securityholders copies of any such determinations.

(B) *Share Securities*

For the purposes of this Condition 14(B):

"Basket Company" means a company whose shares are included in the Basket of Shares and "Basket Companies" means all such companies;

"Shares" and "Share" mean, subject to adjustment in accordance with this Condition 14(B), the shares or a share of the relevant Basket Company and, in the case of an issue of Securities relating to a single Share, such share and related expressions shall be construed accordingly; and

"Share Company" means, in the case of an issue of Securities relating to a single share, the company that has issued such share.

(1) Market Disruption

"Market Disruption Event" shall mean, in relation to Securities relating to a single Share or a Basket of Shares, in respect of a Share,

- (a) the occurrence or existence at any time during the one hour period that ends at the Valuation Time for such Share:
 - (i) of any suspension of or limitation imposed on trading by the relevant Exchange or Related Exchange or otherwise and whether by reason of movements in price exceeding limits permitted by the relevant Exchange or any Related Exchange or otherwise:
 - (x) relating to the Share on the Exchange; or
 - (y) in futures or options contracts relating to the Shares on any relevant Related Exchange; or
 - (ii) of any event (other than as described in (b) below) that disrupts or impairs (as determined by the Calculation Agent acting in good faith and a commercially reasonable manner) the ability of market participants in general (A) to effect transactions in, or obtain market values for, the Share on the Exchange or (B) to effect transactions in, or obtain market values for, futures or options contracts on or relating to the Share on any relevant Related Exchange;

which in either case the Calculation Agent determines is material acting in good faith and a commercially reasonable manner; or

- (b) the closure on any Exchange Business Day of the relevant Exchange or any Related Exchange(s) prior to its Scheduled Closing Time unless such earlier closing time is announced by such Exchange(s) or such Related Exchange(s), as the case may be, at least one hour prior to (A) the actual closing time for the regular trading session on such Exchange(s) or such Related Exchange(s) on such Exchange Business Day or, if earlier, (B) the submission deadline for orders to be entered into the Exchange or Related Exchange system for execution at the Valuation Time on such Exchange Business Day.

The Calculation Agent shall give notice as soon as practicable to the Securityholders in accordance with Condition 9 of the occurrence of a Disrupted Day on any day that, but for such Disrupted Day, would have been an Averaging Date or a Valuation Date.

(2) **Potential Adjustment Events, De Listing, Merger Event, Tender Offer, Nationalisation and Insolvency**

- (a) "Potential Adjustment Event" means any of the following:

- (i) a subdivision, consolidation or reclassification of relevant Shares (unless resulting in a Merger Event or, if Tender Offer is specified as applying in the applicable Final Terms, a Tender Offer) or a free distribution or dividend of any such Shares to existing holders by way of bonus, capitalisation or similar issue;
- (ii) a distribution, issue or dividend to existing holders of the relevant Shares of (a) such Shares or (b) other share capital or securities granting the right to payment of dividends and/or the proceeds of liquidation of the Basket Company or a Share Company, as the case may be, equally or proportionately with such payments to holders of such Shares or (c) share capital or other securities of another issuer acquired or owned (directly or indirectly) by the Basket Company or Share Company, as the case may be, as a result of a spin-off or other similar transaction, or (d) any other type of securities, rights or warrants or other assets, in any case for payment (in cash or in other consideration) at less than the prevailing market price as determined by the Calculation Agent acting reasonably and in good faith;
- (iii) an extraordinary dividend as determined by the Calculation Agent acting in good faith and in a commercially reasonable manner;
- (iv) a call by a Basket Company or a Share Company, as the case may be, in respect of relevant Shares that are not fully paid;
- (v) a repurchase by the Basket Company or its subsidiaries or a Share Company or its subsidiaries, as the case may be, of relevant Shares whether out of profits or capital and whether the consideration for such repurchase is cash, securities or otherwise;
- (vi) in respect of a Basket Company or Share Company, as the case may be, an event that results in any shareholder rights being distributed or becoming separated from shares of common stock or other shares of the capital stock of such Basket Company or Share Company, as the case may be, pursuant to a shareholder rights plan or arrangement directed against hostile takeovers that provides upon the occurrence of certain events for a distribution of preferred stock, warrants, debt instruments or stock rights at a price below their market value, as determined by the Calculation Agent acting in good faith and in a commercially reasonable manner, provided that any adjustment effected as a result of such an event shall be readjusted upon any redemption of such rights; or
- (vii) any other event that may have, in the opinion of the Calculation Agent acting in good faith and in a commercially reasonable manner, a diluting or concentrative effect on the theoretical value of the relevant Shares.

Following the declaration by the Basket Company or Share Company, as the case may be, of the terms of any Potential Adjustment Event, the Calculation Agent will, in its discretion, acting in good faith and in a commercially reasonable manner, determine whether such Potential Adjustment Event has a diluting or concentrative effect on the theoretical value of the Shares and, if so, will (i) make the corresponding adjustment, if any, to any one or more of any Relevant Asset and/or the Entitlement and/or the Exercise Price and/or the Multiplier and/or any of the other terms of these Terms and Conditions and/or the applicable Final Terms as the Calculation Agent in its discretion, acting in good faith and in a commercially reasonable manner, determines appropriate to account for that diluting or concentrative effect (provided that no adjustments will be made to account solely for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Share) and (ii) determine the effective date of that adjustment. The Calculation Agent may, but need not, determine the appropriate adjustment by reference to the adjustment in respect of such Potential Adjustment Event made by an options exchange to options on the Shares traded on that options exchange.

Upon the making of any such adjustment by the Calculation Agent, the Issuer shall give notice as soon as reasonably practicable to the Securityholders in accordance with Condition 9; stating the adjustment to any Relevant Asset and/or the Entitlement and/or the Exercise Price and/or the Multiplier and/or any of the other terms of these Terms and Conditions and/or the applicable Final Terms and giving brief details of the Potential Adjustment Event.

"De-Listing" means, in respect of any relevant Shares, the Exchange announces that pursuant to the rules of such Exchange, such Shares cease (or will cease) to be listed, traded or publicly quoted on the Exchange for any reason (other than a Merger Event or, if Tender Offer is specified as applying in the applicable Final Terms, a Tender Offer) and are not immediately re-listed, re-traded or re-quoted on an exchange or quotation system located in the same country as the Exchange (or, where the Exchange is within the European Union, in a member state of the European Union).

"Insolvency" means that by reason of the voluntary or involuntary liquidation, bankruptcy, insolvency, dissolution or winding-up of or any analogous proceeding affecting the Basket Company or Share Company, as the case may be, (i) all the Shares of that Basket Company or Share Company, as the case may be, are required to be transferred to a trustee, liquidator or other similar official or (ii) holders of the Shares of that Basket Company or Share Company, as the case may be, become legally prohibited from transferring them.

"Merger Date" means the closing date of a Merger Event or, where a closing date cannot be determined under the local law applicable to such Merger Event, such other date as determined by the Calculation Agent.

"Merger Event" means, in respect of any relevant Shares, any (i) reclassification or change of such Shares that results in a transfer of or an irrevocable commitment to transfer all of such Shares outstanding to another entity or person, (ii) consolidation, amalgamation, merger or binding share exchange of a Basket Company or Share Company, as the case may be, with or into another entity or person (other than a consolidation, amalgamation, merger or binding share exchange in which such Basket Company or Share Company, as the case may be, is the continuing entity and which does not result in a reclassification or change of all of such Shares outstanding), (iii) takeover offer, tender offer, exchange offer, solicitation, proposal or other event by any entity or person to purchase or otherwise obtain 100 per cent. of the outstanding Shares of the Basket Company or Share Company, as the case may be, that results in a

transfer of or an irrevocable commitment to transfer all such Shares (other than such Shares owned or controlled by such other entity or person), or (iv) consolidation, amalgamation, merger or binding share exchange of the Basket Company or its subsidiaries or the Share Company or its subsidiaries, as the case may be, is the continuing entity and which does not result in a reclassification or change of all such Shares outstanding but results in the outstanding Shares (other than Shares owned or controlled by such other entity) immediately prior to such event collectively representing less than 50 per cent. of the outstanding Shares immediately following such event, in each case if the Merger Date is on or before (a) in the case of Cash Settled Securities, the last occurring Valuation Date or where Averaging is specified in the applicable Final Terms, the final Averaging Date in respect of the relevant Security or (b) in the case of Physical Delivery Securities, the relevant Settlement Date (in the case of a Warrant) or Redemption Date (in the case of a Certificate).

"Nationalisation" means that all the Shares or all or substantially all the assets of the Basket Company or Share Company, as the case may be, are nationalised, expropriated or are otherwise required to be transferred to any governmental agency, authority, entity or instrumentality thereof.

"Tender Offer" means a takeover offer, tender offer, exchange offer, solicitation, proposal or other event by any entity or person that results in such entity or person purchasing, or otherwise obtaining or having the right to obtain, by conversion or other means, greater than 10 per cent. and less than 100 per cent. of the outstanding voting shares of the Basket Company or Share Company, as the case may be, as determined by the Calculation Agent acting in good faith and in a commercially reasonable manner, based upon the making of filings with governmental or self-regulatory agencies or such other information as the Calculation Agent deems relevant.

If (x) a Merger Event, De-Listing, Nationalisation or Insolvency and/or (y), if Tender Offer is specified as applying in the applicable Final Terms, a Tender Offer occurs in relation to a Share, the Issuer may:

- (i) require the Calculation Agent to determine in its sole and absolute discretion the appropriate adjustment, if any, to be made to any one or more of any Relevant Asset and/or the Entitlement and/or the Exercise Price and/or the Multiplier and/or any of the other terms of these Terms and Conditions and/or the applicable Final Terms to account for the Merger Event, Tender Offer, De-Listing, Nationalisation or Insolvency, as the case may be, and determine the effective date of that adjustment. The relevant adjustments may in the case of adjustments following a Merger Event or Tender Offer include, without limitation, adjustments to account for changes in volatility, expected dividends, stock loan rate or liquidity relevant to the Shares or to the Securities. The Calculation Agent may (but need not) determine the appropriate adjustment by reference to the adjustment in respect of the Merger Event, Tender Offer, De-Listing, Nationalisation or Insolvency made by any options exchange to options on the Shares traded on that options exchange; or
- (ii) in the case of Share Securities relating to a Basket of Shares cancel part of the Securities by giving notice to Securityholders in accordance with Condition 9. If the Securities are so cancelled in part the portion (the "Cancelled Amount") of each Security or, in the case of Warrants, if Units are specified in the applicable Final Terms each Unit, representing the affected Share(s) shall be cancelled and the Issuer will (i) pay to each Securityholder in respect of each Security or Unit, as the case may be, held by him an amount equal to the fair market value of the Cancelled Amount, taking into account the Merger Event, Tender Offer, De-Listing, Nationalisation or Insolvency, as the case may be, less the cost to the Issuer and/or its Affiliates of unwinding any underlying related hedging arrangements, all as determined by the Calculation Agent acting in good faith and in a commercially reasonable manner and (ii) require the Calculation Agent to determine acting in good faith and in a commercially reasonable manner the appropriate adjustment, if any, to be made to any one or more of any Relevant Asset and/or the Entitlement and/or the Exercise Price and/or the Multiplier and/or any of the other terms of these Terms and Conditions and/or the applicable Final Terms to account for such cancellation in part. For the avoidance of doubt the remaining part of each Security or Unit, as the case may be, after such cancellation and adjustment shall remain outstanding with full force and effect. Payment will be made in such manner as shall be notified to the Securityholders in accordance with Condition 9;
- (iii) cancel the Securities by giving notice to Securityholders in accordance with Condition 9. If the Securities are so cancelled the Issuer will pay an amount to each Securityholder in respect of each Security or, in the case of Warrants, if Units are specified in the applicable Final Terms each Unit, as the case may be, held by him which amount shall be the fair market value of a Security or a Unit, as the case may be, taking into account the Merger Event, Tender Offer, De-Listing, Nationalisation or Insolvency, as the case may be, less the cost to the Issuer and/or its Affiliates or unwinding any underlying related hedging arrangements plus, in the case of Warrants, if already paid, the Exercise Price, all as determined by the Calculation Agent acting in good faith and in a commercially reasonable manner. Payments will be made in such manner as shall be notified to the Securityholders in accordance with Condition 9; or
- (iv) following such adjustment to the settlement terms of options on the Shares traded on such exchange(s) or quotation system(s) as the Issuer in its discretion acting in good faith and in a commercially reasonable manner shall select (the "Options Exchange"), require the Calculation Agent to make a corresponding adjustment to any one or more of any Relevant Asset and/or the Entitlement and/or the Exercise Price and/or the Multiplier and/or any of the other terms of these Terms and Conditions and/or the applicable Final Terms, which adjustment will be effective as of the date reasonably determined by the Calculation Agent acting in good faith and in a commercially reasonable manner to be the effective date of the corresponding adjustment made by the Options Exchange. If options on the Shares are not traded on the Options Exchange, the Calculation Agent will make such adjustment, if any, to any one or more of any Relevant Asset and/or the Entitlement and/or the Exercise Price and/or the Multiplier and/or any of the other terms of these Terms and Conditions and/or the applicable Final Terms as the Calculation Agent in its discretion, acting in good faith and in a commercially reasonable manner, determines appropriate, with reference to the rules and precedents (if any) set by the Options Exchange to account for the Merger Event, Tender Offer, De-Listing, Nationalisation or Insolvency, as the case may be, that in the determination of the Calculation Agent would have given rise to an adjustment by the Options Exchange if such options were so traded.

Upon the occurrence of a Merger Event, De-Listing, Nationalisation, Insolvency or, if applicable, a Tender Offer, the Issuer shall give notice as soon as practicable to the Securityholders in accordance with Condition 9 stating the occurrence of the Merger Event, Tender Offer, De-Listing, Nationalisation or Insolvency, as the case may be, giving details thereof and the action proposed to be taken in relation thereto.

(C) Debt Securities

Market Disruption

"Market Disruption Event" shall mean the suspension of or limitation imposed on trading either on any exchange on which the Debt Instruments or any of them (in the case of a Basket of Debt Instruments) are traded or on any exchange on which options contracts or futures contracts with respect to the Debt Instruments or any of them (in the case of a Basket of Debt Instruments) are traded if, in the determination of the Calculation Agent acting in good faith and in a commercially reasonable manner, such suspension or limitation is material.

The Issuer shall give notice as soon as reasonably practicable to the Securityholders in accordance with Condition 9 that a Market Disruption Event has occurred.

(D) Commodity Securities

Market Disruption

"Market Disruption Event" shall mean the suspension of or limitation imposed on trading on either any exchange on which the Commodity or any of the Commodities (in the case of a Basket of Commodities) are traded or on any exchange on which options contracts or futures contracts with respect to the Commodity or any of the Commodities (in the case of a Basket of Commodities) are traded if, in the determination of the Calculation Agent acting in good faith and in a commercially reasonable manner such suspension or limitation is material.

The Issuer shall give notice as soon as practicable to the Securityholders in accordance with Condition 9 that a Market Disruption Event has occurred.

(E) Additional Disruption Events

"Additional Disruption Event" means any of Change of Law, Hedging Disruption, Increased Cost of Hedging, Increased Cost of Stock Borrow, Insolvency Filing and/or Loss of Stock Borrow, in each case if specified in the applicable Final Terms.

"Change in Law" means that, on or after the Trade Date (as specified in the applicable Final Terms) (A) due to the adoption of or any change in any applicable law or regulation (including, without limitation, any tax law), or (B) due to the promulgation of or any change in the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law or regulation (including any action taken by a taxing authority), the Calculation Agent determines, acting in good faith and in a commercially reasonable manner, that (X) it has become illegal to hold, acquire or dispose of any relevant Share (in the case of Share Securities) or any relevant security/commodity comprised in an Index (in the case of Index Securities) in connection with any hedging activities in relation to the Securities, or (Y) the Issuer will incur a materially increased cost in performing its obligations in relation to the Securities (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on the tax position of the Issuer) and/or any of its Affiliates;

"Hedging Disruption" means that the Issuer and/or any of its Affiliates is unable, after using commercially reasonable efforts, to (A) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the equity or other price risk of the Issuer issuing and performing its obligations with respect to or in connection with the Securities, or (B) realise, recover or remit the proceeds of any such transaction(s) or asset(s);

"Hedging Shares" means the number of Shares that the Issuer deems necessary to hedge the equity or other price risk of entering into and performing its obligations with respect to the Securities;

"Increased Cost of Hedging" means that the Issuer and/or any of its Affiliates would incur a materially increased (as compared with circumstances existing on the Trade Date) amount of tax, duty, expense or fee (other than brokerage commissions) to (A) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the equity or other price risk of the Issuer issuing and performing its obligations with respect to or in connection with the Securities, or (B) realise, recover or remit the proceeds of any such transaction(s) or asset(s), provided that any such materially increased amount that is incurred solely due to the deterioration of the creditworthiness of the Issuer and/or any of its Affiliates shall not be deemed to be an Increased Cost of Hedging;

"Increased Cost of Stock Borrow" means that the Issuer and/or any of its Affiliates would incur a rate to borrow Shares that is greater than the Initial Stock Loan Rate;

"Initial Stock Loan Rate" means, in respect of a Share, the initial stock loan rate specified in relation to such Share in the applicable Final Terms;

"Insolvency Filing" means that a Share Company or Basket Company institutes or has instituted against it by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, or it consents to a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official or it consents to such a petition, provided that proceedings instituted or petitions presented by creditors and not consented to by the Share Company or Basket Company shall not be deemed an Insolvency Filing;

"Loss of Stock Borrow" means that the Issuer and/or any of its Affiliates is unable, after using commercially reasonable efforts, to borrow (or maintain a borrowing of) any Share in an amount equal to the Hedging Shares at a rate equal to or less than the Maximum Stock Loan Rate;

"Maximum Stock Loan Rate" means, in respect of a Share, the Maximum Stock Loan Rate specified in the applicable Final Terms;

If an Additional Disruption Event occurs, the Issuer, acting in good faith and in a commercially reasonable manner, may take the action described in (i) or (ii) below:

- (i) require the Calculation Agent to determine, acting in good faith and in a commercially reasonable manner, the appropriate adjustments, if any, to be made to any one or more of the Relevant Asset and/or the Entitlement and/or the Exercise Price and/or the Multiplier and/or any of the other terms of the Terms and Conditions as amended by the applicable Final Terms to account for the Additional Disruption Event and determine the effective date of that adjustment; or
- (ii) cancel the Securities by giving notice to the Securityholders in accordance with Condition 9. If the Securities are so cancelled the Issuer will pay the Cancellation Amount to each Securityholder.

Upon the occurrence of an Additional Disruption Event, the Issuer shall give notice as soon as practicable to the Securityholders in accordance with Condition 9 stating the occurrence of the Additional Disruption Event, as the case may be, giving details thereof and the action proposed to be taken in relation thereto.

(F) Cancellation Amount

As used in this Condition 14, the "Cancellation Amount" in respect of a Security shall be the fair market value of such Security (taking into account the relevant event or reason for the cancellation of the Security specified in this Condition 14) less the cost to the Issuer or any Affiliate of unwinding any underlying related hedging arrangements, all as determined by the Calculation Agent in good faith and in a commercially reasonable manner.

The Cancellation Amount in respect of each Security shall be paid to the relevant Securityholder on the date and in the method specified by the Issuer in the relevant notice of cancellation to Securityholders pursuant to Condition 9.

15. Adjustments for European Monetary Union

The Issuer may, without the consent of the Securityholders, on giving notice to the Securityholders in accordance with Condition 9:

- (i) elect that, with effect from the Adjustment Date specified in the notice, certain terms of the Securities shall be redenominated in euro;

The election will have effect as follows:

- (A) where the Settlement Currency of the Securities is the National Currency Unit of a country which is participating in the third stage of European Economic and Monetary Union, such Settlement Currency shall be deemed to be an amount of euro converted from the original Settlement Currency into euro at the Established Rate, subject to such provisions (if any) as to rounding as the Issuer may decide, after consultation with the Calculation Agent, and as may be specified in the notice, and after the Adjustment Date, all payments of the Cash Settlement Amount in respect of the Securities will be made solely in euro as though references in the Securities to the Settlement Currency were to euro;
 - (B) where the Exchange Rate and/or any other terms of these Terms and Conditions as amended in the applicable Final Terms are expressed in or, in the case of the Exchange Rate, contemplate the exchange from or into, the currency (the "Original Currency") of a country which is participating in the third stage of European Economic and Monetary Union, such Exchange Rate and/or any other terms of these Terms and Conditions shall be deemed to be expressed in or, in the case of the Exchange Rate, converted from or, as the case may be, into euro at the Established Rate; and
 - (C) such other changes shall be made to these Terms and Conditions as amended and/or supplemented in the applicable Final Terms as the Issuer may acting in good faith and in a commercially reasonable manner decide, after consultation with the Calculation Agent to conform them to conventions then applicable to instruments expressed in euro; and/or
- (ii) require that the Calculation Agent make such adjustments to the Multiplier and/or the Settlement Price and/or the Exercise Price and/or any other terms of these Terms and Conditions as amended and/or supplemented in the Final Terms as the Calculation Agent, acting in good faith and in a commercially reasonable manner may determine to be appropriate to account for the effect of the third stage of European Economic and Monetary Union on such Multiplier and/or the Settlement Price and/or the Exercise Price and/or such other terms of these Terms and Conditions as amended in the applicable Final Terms.

Notwithstanding the foregoing, none of the Issuer, ML&Co., the Calculation Agent or the Agent shall be liable to any Securityholder or other person for any commissions, costs, losses or expenses in relation to or resulting from the transfer of euro or any currency conversion or rounding effected in connection therewith.

In this Condition, the following expressions have the following meanings:

"Adjustment Date" means a date specified by the Issuer in the notice given to the Securityholders pursuant to this Condition which falls on or after the date on which the country of the Original Currency first participates in the third stage of European Economic and Monetary Union pursuant to the Treaty;

"Established Rate" means the rate for the conversion of the Original Currency (including compliance with rules relating to rounding in accordance with applicable European Community regulations) into euro established by the Council of the European Union pursuant to first sentence of Article 1091(4) of the Treaty;

"euro" means the currency introduced at the start of the third stage of European Economic and Monetary Union pursuant to the Treaty;

"National Currency Unit" means the unit of currency of a country, as those units are defined on the day before the date on which the country of the Original Currency first participates in the third stage of European Economic and Monetary Union; and

"Treaty" means the treaty establishing the European Community, as amended by the Treaty on European Union.

16. Contracts (Rights of Third Parties) Act 1999

Save as provided in the Agency Agreement, the Securities do not confer on any third party any right under the Contracts (Rights of Third Parties) Act 1999 (the "Act") to enforce any term of the Securities, but this does not affect any right or remedy of a third party which exists or is available apart from the Act.

17. Exercise Rights for Warrants

Conditions 17, 18 and 19 shall apply only to Warrants

(A) Exercise Period

(i) American Style Warrants

American Style Warrants are exercisable ("Manual Exercise") on any Exercise Business Day during the Exercise Period by the delivery of an Exercise Notice to the Agent in the manner set out in Condition 18(A).

Any American Style Warrant with respect to which no Exercise Notice has been delivered in the manner set out in Condition 18(A) at or prior to 10.00 a.m. London time on the last Exercise Business Day of the Exercise Period (the "Expiration Date") shall be exercised by the Agent on behalf of the relevant Warrantheolders on the Expiration Date ("Automatic Exercise"). Automatic Exercise is conditional upon the Cash Settlement Amount or the Assessed Value Payment Amount, as applicable, of the relevant Warrant being greater than zero. If the Cash Settlement Amount or the Assessed Value Payment Amount, as applicable, of the relevant Warrant is not greater than zero, no Automatic Exercise shall occur. The expressions "exercise", "due exercise" and related expressions shall be construed to apply to any American Style Warrants to which Automatic Exercise applies in accordance with this provision.

With respect to an American Style Warrant, the "Actual Exercise Date" means (a) in the case of Manual Exercise, the Exercise Business Day during the Exercise Period on which an Exercise Notice in respect of an American Style Warrant is delivered to the Agent at or prior to 10.00 a.m. London time or (b) in the case of Automatic Exercise, the Expiration Date. If any Exercise Notice in respect of an American Style Warrant is received by the Agent after 10.00 a.m. London time on any Exercise Business Day during the Exercise Period, such Exercise Notice will be deemed to have been delivered on the next Exercise Business Day, which Exercise Business Day shall be deemed to be the Actual Exercise Date, provided that any such Warrant in respect of which no Exercise Notice has been delivered in the manner set out in Condition 18(A) at or prior to 10.00 a.m. London time on the Expiration Date shall be automatically exercised on the Expiration Date as provided above.

(ii) European Style Warrants

European Style Warrants shall be exercised by the Agent on behalf of the relevant Warrantheolders on the Exercise Date or if such day is not an Exercise Business Day the immediately succeeding Exercise Business Day (the "Actual Exercise Date" and the "Expiration Date" and any such exercise, in relation to a European Style Warrant, an "Automatic Exercise"). Automatic Exercise is conditional on the Cash Settlement Amount or the Assessed Value Payment Amount, as applicable, of the relevant Warrant being greater than zero. If the Cash Settlement Amount or the Assessed Value Payment Amount, as applicable, of the relevant Warrant is not greater than zero, no Automatic Exercise shall occur. The expressions "exercise", "due exercise" and related expressions shall be construed to apply to the automatic exercise of European Style Warrants in accordance with this provision.

(B) Cash Settlement

If the Warrants are Cash Settled Warrants, each such Warrant or, if Units are specified in the applicable Final Terms, each Unit entitles its holder, upon due exercise to receive from the Issuer on the Settlement Date the Cash Settlement Amount.

(C) Physical Settlement

If the Securities are Physical Delivery Warrants, each such Warrant entitles its holder, upon due exercise and subject as provided in Condition 5, to receive the Entitlement from the Issuer on the Settlement Date, subject to (a) delivering to the Agent an Exercise Notice (as defined in Condition 18(A)) at or prior to 10.00 a.m. London time on the Expiration Date and (b) payment of the relevant Exercise Price and any Expenses. Such Exercise Notice must comply with the requirements of Condition 18(B). The method of delivery of the Entitlement is set out in the applicable Final Terms. Delivery of an Exercise Notice in respect of Physical Delivery Warrants shall only constitute an exercise of a Warrant if such Warrant is an American Style Warrant and the provisions of Condition 17(A)(i) and Condition 18(A) in respect of Manual Exercise are satisfied. Physical Delivery Warrants which are European Style Warrants shall be exercised by Automatic Exercise pursuant to Condition 17(A)(ii).

Warrants exercised at the same time by the same Warrantheolder will be aggregated for the purpose of determining the aggregate Entitlements in respect of such Warrants, Provided That the aggregate Entitlements in respect of the same Warrantheolder will be rounded down to the nearest whole unit of the Relevant Asset or each of the Relevant Assets, as the case may be, in such manner as the Calculation Agent shall determine. Therefore, fractions of the Relevant Asset or of each of the Relevant Assets, as the case may

be, will not be delivered and a cash adjustment amount calculated by the Calculation Agent acting in good faith and in a commercially reasonable manner will be paid in lieu of such fractions of the Relevant Asset.

Following exercise of a Share Warrant which is a Physical Delivery Warrant, all dividends on the relevant Shares to be delivered will be payable to the party that would receive such dividend according to market practice for a sale of the Shares executed on the relevant Actual Exercise Date and to be delivered in the same manner as such relevant Shares all as determined by the Calculation Agent acting in good faith and in a commercially reasonable manner. Any such dividends to be paid to a Warrantholder will be paid to the account specified by the Warrantholder in the relevant Exercise Notice as referred to in Condition 18(B)(1)(vi)(c) or, if Condition 17(D) applies, paid to a Warrantholder together with any Assessed Value Payment Amount.

Subject to payment of the aggregate Exercise Prices and payment of any Expenses with regard to the relevant Warrants, the Issuer shall on the Settlement Date deliver, or procure delivery of, the Entitlement for each duly exercised Warrant pursuant to the details specified in the Exercise Notice. Subject as provided in Condition 5(A), the Entitlement shall be delivered and evidenced in such manner as set out in the applicable Final Terms.

The purchase of Warrants does not confer on any holder of such Warrants any rights (whether in respect of voting, distributions or otherwise) attaching to any Relevant Asset.

The Issuer shall be under no obligation to register or procure the registration of any Warrantholder or any other person as the registered holder in respect of any shares comprised in any Entitlement in the register of members of the relevant Share Company (as defined in Condition 14(B)).

(D) Failure to deliver an Exercise Notice for Physical Delivery Warrants

In the event that a Warrantholder does not, in respect of a Physical Delivery Warrant, deliver an Exercise Notice in accordance with Condition 17(C) above on or prior to 10.00 a.m. London time on the Expiration Date, the Issuer shall as soon as reasonably practicable determine the Assessed Value Payment Amount and in respect of such Warrant shall credit the Assessed Value Payment Amount to the cash memorandum account of the relevant Warrantholder in the same manner as for a Cash Settlement Amount in accordance with Condition 18(D) as soon as reasonably practicable following the determination of the Assessed Value Payment Amount. Upon payment of the Assessed Value Payment Amount as aforesaid, the Issuer's obligations in respect of such Warrant and ML&Co.'s obligations in respect of such Warrant pursuant to the Guarantee shall be discharged. As used herein, "Assessed Value Payment Amount" means an amount determined by the Calculation Agent acting in good faith and in a commercially reasonable manner to be the fair market value of the Relevant Assets comprised in the Entitlement in respect of the relevant Warrant less any Expenses.

18. Exercise Procedure

(A) Manual Exercise

American Style Warrants may be exercised prior to the Expiration Date by delivering in writing, or sending by facsimile to the Agent a duly completed exercise notice (an "Exercise Notice") in the form set out in the Agency Agreement (copies of which form may be obtained from the Agent during normal office hours at its specified office set out at the end of these Terms and Conditions) in accordance with the provisions set out in Condition 17 and this Condition.

(B) Exercise Notice

(1) The Exercise Notice shall:

- (i) specify the name, address and a contact telephone number of the relevant Warrantholder;
- (ii) request the exercise of the Warrants or Units to which the Exercise Notice relates;
- (iii) specify the International Securities Identification Number (ISIN) and the series number of the Warrants and the number of Warrants being exercised and, if Units are specified in the applicable Final Terms, the number of the Units being exercised;
- (iv) specify the Participant ID and Member Account (if any) of the Warrantholder at the Operator from which the Warrants to which the Exercise Notice relates will be delivered to the Agent's account with the Operator against payment of the Cash Settlement Amount (if any) less any Expenses or against delivery of the Entitlement, as applicable, in each case on the Settlement Date;
- (v) irrevocably agree to deliver such instructions to the Operator as may be requested by the Agent to give effect to the delivery and payment on the Settlement Date described in (iv) above;
- (vi) certify, *inter alia*, that the beneficial owner of each Warrant being exercised is not a U.S. person (as defined in the Exercise Notice), that each such Warrant is not being exercised on behalf of a U.S. person and that no cash, securities or other property has been or will be delivered within the United States or to, or for the account of, a U.S. person in connection with such exercise and where appropriate, undertake to provide such various forms of certification in respect of selling restrictions under the securities, commodities and other laws of the United States as set out in the applicable Final Terms;
- (vii) in the case of Physical Delivery Warrants:
 - (a) specify the cash memorandum account of the Warrantholder as shown in the records of the Operator from which the aggregate Exercise Prices and all Expenses (together with any other amounts payable) in respect of such Warrants will be paid to the Agent's account with the Operator against delivery of the Entitlement on the Settlement Date;

- (b) irrevocably agree to deliver such instructions to the Operator as may be requested by the Agent to give effect to the delivery and payments described in (vi)(a) above; and
- (c) include such details as are required by the applicable Final Terms for delivery of the Entitlement which may include account details and/or the name and address of any person(s) into whose name evidence of the Entitlement is to be registered and/or any bank, broker or agent to whom documents evidencing the Entitlement are to be delivered and specify the name and the number of the Warrantholder's cash memorandum account as shown in the records of the Operator to be credited with any cash payable by the Issuer, either in respect of any cash amount constituting the Entitlement or any dividends relating to the Entitlement or as a result of the occurrence of a Settlement Disruption Event or, if applicable, a Failure to Deliver and the Issuer electing to pay the Settlement Disruption Amount or Failure to Deliver Settlement Price (each as defined in Condition 5); and

(viii) authorise the production of the Exercise Notice in any applicable administrative or legal proceedings,

all as provided in the Agency Agreement.

(2) If Condition 5(C) applies, the form of Exercise Notice required to be delivered may be different from that set out above. Copies of such Exercise Notice may be obtained from the Agent during normal office hours.

(C) Verification of the Warrantholder and requirement for instructions to Operator

Upon receipt of an Exercise Notice the Agent shall verify that the person delivering such notice is the holder of the related Warrants according to the Record maintained by the Agent. Subject thereto the Agent, on behalf of the Issuer, shall promptly liaise with the Warrantholder to request that it delivers any necessary instructions to the Operator referred to in Condition 18(B)(1)(v) to give effect to the delivery of the relevant Warrants to the Agent's account with the Operator against payment of the Cash Settlement Amount (if any) less any Expenses on the Settlement Date. Settlement of the relevant Warrants is conditional on any such necessary instructions being given by the Warrantholder.

(D) Settlement

Subject as provided in this Condition 18, the Issuer shall pay or cause to be paid the Cash Settlement Amount (if any) for each duly exercised Warrant or Unit, as the case may be, to the Warrantholder's cash memorandum account as shown in the records of the Operator for value on the Settlement Date less any Expenses, such payment to be made in accordance with the rules of the Operator. In the case of an American Style Warrant which is Manually Exercised, payment of the Cash Settlement Amount as described above shall be subject to delivery of the relevant Warrant to the Agent's account with the Operator in accordance with the rules of the Operator.

The Issuer's obligations in relation to the Cash Settlement Amounts in respect of the Warrants or Units, as the case may be, will be discharged by payment (as shown in the records of the Operator) to the cash memorandum account of the relevant Warrantholder as shown in the records of the Operator. Each of the persons shown in the Operator register of corporate securities as the holder of a particular number of Warrants must look solely to the settlement bank or institution at which its cash memorandum account is held for his share of each such payment so made by or on behalf of the Issuer.

All payments will be subject in all cases to any fiscal or any other laws and regulations applicable thereto in the place of payment.

(E) Determinations

Any determination as to whether an Exercise Notice is duly completed and in proper form shall be made by the Agent, and shall be conclusive and binding on the Issuer, ML&Co. and the relevant Warrantholder. Subject as set out below, any Exercise Notice so determined to be incomplete or not in proper form as provided in paragraph (B) above, shall be null and void. With respect to American Style Warrants or Physical Delivery Warrants, in the event no valid Exercise Notice has been delivered at or prior to 10:00 a.m. London time on the Expiration Date (a) in the case of American Style Warrants, Automatic Exercise shall occur pursuant to Condition 17(A)(i) or (b) in the case of Physical Delivery Warrants, the provisions of Condition 17(D) shall apply, and a Cash Settlement Amount or Assessed Value Payment Amount, as applicable, shall become payable, all subject as provided in Condition 17(A)(i) or Condition 17(D), as applicable.

If an Exercise Notice is subsequently corrected to the satisfaction of the Agent, it shall be deemed to be a new Exercise Notice submitted at the time such correction was delivered to the Agent.

The Agent shall use its best efforts promptly to notify the Warrantholder submitting an Exercise Notice if it has determined that such Exercise Notice is incomplete or not in proper form. In the absence of negligence or wilful misconduct on its part, none of the Issuer, ML&Co. or the Agent shall be liable to any person with respect to any action taken or omitted to be taken by it in connection with such determination or the notification of such determination to a Warrantholder.

(F) Delivery of an Exercise Notice

Delivery of an Exercise Notice shall constitute an irrevocable election by the relevant Warrantholder to exercise the Warrants specified. After the delivery of such Exercise Notice, such exercising Warrantholder may not transfer such Warrants.

(G) Exercise Risk

Exercise of the Warrants is subject to all applicable laws, regulations and practices in force on the relevant Actual Exercise Date.

19. Minimum and Maximum Number of Warrants Exercisable

(A) American Style Warrants

This paragraph (A) applies only to American Style Warrants.

- (i) The number of Warrants exercisable by any Warrantholder on any Actual Exercise Date, as determined by the Issuer, must not be less than the Minimum Exercise Number specified in the applicable Final Terms and, if specified in the applicable Final Terms, if a number greater than the Minimum Exercise Number, must be an integral multiple of the number specified in the applicable Final Terms. Any Exercise Notice which purports to exercise Warrants in breach of this provision shall be void and of no effect.
- (ii) If the Issuer determines that the number of Warrants being exercised on any Actual Exercise Date by any Warrantholder or a group of Warrantholders (whether or not acting in concert) exceeds the Maximum Exercise Number (a number equal to the Maximum Exercise Number being the "Quota"), the Issuer may deem the Actual Exercise Date for the first Quota of such Warrants, selected at the discretion of the Issuer, to be such day and the Actual Exercise Date for each additional Quota of such Warrants (and any remaining number thereof) to be each of the succeeding Business Days until all such Warrants have been attributed with an Actual Exercise Date, provided, however, that the deemed Actual Exercise Date for any such Warrants which would thereby fall after the Expiration Date shall fall on the Expiration Date. In any case where more than the Quota of Warrants are exercised on the same day by Warrantholder(s), the order of settlement in respect of such Warrants shall be at the sole discretion of the Issuer.

(B) European Style Warrants

This paragraph (B) applies only to European Style Warrants.

The number of Warrants exercisable on behalf of any Warrantholder on any Exercise Date, as determined by the Issuer, must be equal to the Minimum Exercise Number specified in the applicable Final Terms and, if specified in the applicable Final Terms, if a number greater than the Minimum Exercise Number, must be an integral multiple of the number specified in the applicable Final Terms. Any exercise which purports to exercise Warrants in breach of this provision shall be void and of no effect.

20. Exercise and Redemption of Certificates

Conditions 20 and 21 shall only apply to Certificates

(A) Exercise

Immediately following the Issue Date in respect of a Certificate, such Certificate shall be deemed to be exercised by the Agent on behalf of the relevant Certificateholder.

(B) Redemption

Subject as provided in these Terms and Conditions as amended and/or supplemented by the applicable Final Terms, each Certificate will be redeemed by the Issuer:

- (i) in the case of Certificates in respect of which settlement is by way of cash payment ("Cash Settled Certificates"), by payment of the Cash Settlement Amount; or
- (ii) in the case of Certificates in respect of which settlement is by way of physical delivery ("Physical Delivery Certificates"), subject as provided in Condition 20(D) below, by delivery of the Entitlement,

such redemption to occur in either case, subject as provided below, on the Redemption Date. The Cash Settlement Amount will be rounded to the nearest two decimal places (or, in the case of Japanese Yen, the nearest whole unit) in the relevant Settlement Currency, 0.0005 (or, in the case of Japanese Yen, half a unit) being rounded upwards. If the date for payment of any amount in respect of the Certificates is not a Business Day, the holder thereof shall not be entitled to payment until the next following Business Day and shall not be entitled to any further payment in respect of such delay.

(C) Method of payment

Subject as provided below, the Issuer shall pay or cause to be paid the Cash Settlement Amount (if any) for each Certificate to the Certificateholder's cash memorandum account as shown in the records of the Operator for value on the Redemption Date less any Expenses, such payment to be made in accordance with the rules of the Operator.

Where the Certificates pay interest, subject as provided below, the Issuer shall pay or cause to be paid the Interest Amount for each Certificate in respect of each Interest Payment Date to the Certificateholder's cash memorandum account as shown in the records of the Operator for value on the relevant Interest Payment Date, such payment to be made in accordance with the rules of the Operator.

The Issuer's obligations in relation to the Cash Settlement Amounts in respect of the Certificates and the Issuer's obligations in relation to the Interest Amounts, as applicable, in respect of the Certificates will be discharged by payment (as shown in the records of the Operator) to the cash memorandum account of the relevant Certificateholder as shown in the records of the Operator. Each of the persons shown in the Operator register of corporate securities as the holder of a particular number of Certificates must look solely to the settlement bank or institution at which its cash memorandum account is held for his share of each such payment so made by or on behalf of the Issuer.

All payments will be subject in all cases to any fiscal or any other laws and regulations applicable thereto in the place of payment.

(D) Physical Delivery Confirmation Notice Requirement

In the case of Physical Delivery Certificates, in order to obtain delivery of the Entitlement the relevant Certificateholder must deliver to the Agent not later than 10.00 a.m. on the date (the "Cut-off Date") falling five Business Days prior to the Redemption Date a duly completed physical delivery confirmation notice (a "Physical Delivery Confirmation Notice") in the form set out in the Agency Agreement (copies of which form may be obtained from the Agent during normal office hours at its specified office set out at the end

of these Terms and Conditions) in accordance with the provisions set out in this Condition. Where a Physical Delivery Confirmation Notice is not received by the Agent at or prior to 10.00 a.m. on the Cut-off Date as provided in this paragraph, the provisions of Condition 20(I) apply.

(1) The Physical Delivery Confirmation Notice shall:

- (i) specify the name, address and a contact telephone number of the relevant Certificateholder;
 - (ii) specify the International Securities Identification Number (ISIN) and the series number of the Certificates and the number of Certificates to which the Physical Delivery Confirmation Notice relates;
 - (iii) specify the cash memorandum account of the Certificateholder as shown in the records of the Operator from which the aggregate Expenses (together with any other amounts payable) in respect of such Certificates will be paid to the Agent's account with the Operator against delivery of the Entitlement on the Redemption Date;
 - (iv) irrevocably agree to deliver such instructions to the Operator as may be requested by the Agent to give effect to the delivery and payments described in (iii) above;
 - (v) include such details as are required by the applicable Final Terms for delivery of the Entitlement which may include account details and/or the name and address of any person(s) into whose name evidence of the Entitlement is to be registered and/or any bank, broker or agent to whom documents evidencing the Entitlement are to be delivered and specify the name and the number of the Certificateholder's cash memorandum account as shown in the records of the Operator, to be credited with any cash payable by the Issuer, either in respect of any cash amount constituting the Entitlement or any dividends relating to the Entitlement or as a result of the occurrence of a Settlement Disruption Event or, if applicable, a Failure to Deliver and the Issuer electing to pay the Settlement Disruption Amount or Failure to Deliver Settlement Price (each as defined in Condition 5);
 - (vi) certify, *inter alia*, that the beneficial owner of each Certificate to which the Physical Delivery Confirmation Notice relates is not a U.S. person (as defined in the Physical Delivery Notice), that each such Certificate is not being redeemed on behalf of a U.S. person and that no cash, securities or other property has been or will be delivered within the United States or to, or for the account or benefit of, a U.S. person in connection with such redemption and where appropriate, undertake to provide such various forms of certification in respect of selling restrictions under the securities, commodities and other laws of the United States as set out in the applicable Pricing Supplement; and
 - (vii) authorise the production of the Physical Delivery Confirmation Notice in any applicable administrative or legal proceedings,
- all as provided in the Agency Agreement.

(2) If Condition 5(C) applies, the form of Physical Delivery Confirmation Notice required to be delivered may be different from that set out above. Copies of such Physical Delivery Confirmation Notice may be obtained from the Agent during normal office hours.

(E) Verification of the Certificateholder

Upon receipt of a Physical Delivery Confirmation Notice the Agent shall verify that the person delivering such notice is the holder of the related Certificates according to the Record maintained by the Agent.

(F) Determinations

Any determination as to whether a Physical Delivery Confirmation Notice is duly completed and in proper form shall be made by the Agent, and shall be conclusive and binding on the Issuer and the relevant Certificateholder. Subject as set out below, any Physical Delivery Confirmation Notice so determined to be incomplete or not in proper form as provided in paragraph (D) above, shall be null and void. In the event no valid Physical Delivery Confirmation Notice has been delivered at or prior to 10.00 a.m. London time on the Cut-off Date the provisions of Condition 20(I) shall apply and (if a valid Physical Delivery Confirmation Notice is delivered prior to the day that is 30 calendar days after the Cut-off Date) the Entitlement will be delivered as soon as practicable after the Redemption Date or (if no valid Physical Delivery Confirmation Notice is delivered prior to the day that is 30 calendar days after the Cut-off Date) an Assessed Value Payment Amount shall be payable, all subject as provided in Condition 20(I).

If a Physical Delivery Confirmation Notice is subsequently corrected to the satisfaction of the Agent, it shall be deemed to be a new Physical Delivery Confirmation Notice submitted at the time such correction was delivered to the Agent.

The Agent shall use its best efforts promptly to notify the Certificateholder submitting a Physical Delivery Confirmation Notice if it has determined that such Physical Delivery Confirmation Notice is incomplete or not in proper form. In the absence of negligence or wilful misconduct on its part, neither the Issuer, ML&Co. or the Agent shall be liable to any person with respect to any action taken or omitted to be taken by it in connection with such determination or the notification of such determination to a Certificateholder.

(G) Delivery of a Physical Delivery Confirmation Notice

After the delivery of a Physical Delivery Confirmation Notice, the relevant Certificateholder may not transfer Certificates the subject of such notice.

(H) Physical Settlement

Subject to payment of any Expenses with regard to the relevant Certificates the Issuer shall on the Redemption Date deliver, or procure the delivery of, the Entitlement for each Certificate pursuant to the details specified in the Physical Delivery Confirmation Notice. Subject as provided in Condition 5(C), the Entitlement shall be delivered and evidenced in such manner as set out in the applicable Final Terms.

Certificates of the same series held by the same Certificateholder will be aggregated for the purpose of determining the aggregate Entitlements in respect of such Certificates, Provided That the aggregate Entitlements in respect of the same Certificateholder will be rounded down to the nearest whole unit of the Relevant Asset or each of the Relevant Assets, as the case may be, in such manner as the Calculation Agent shall determine. Therefore, fractions of the Relevant Asset or of each of the Relevant Assets, as the case may be, will not be delivered and a cash adjustment amount calculated by the Calculation Agent acting in good faith and in a commercially reasonable manner will be paid in lieu of such fractions of the Relevant Asset.

In connection with the redemption of a Physical Delivery Certificate which is a Share Certificate, all dividends on the relevant Shares to be delivered will be payable to the party that would receive such dividend according to market practice for a sale of the Shares executed on the relevant Redemption Date and to be delivered in the same manner as such relevant Shares all as determined by the Calculation Agent acting in good faith and in a commercially reasonable manner. Any such dividends to be paid to a Certificateholder will be paid to the account specified by the Certificateholder in the relevant Physical Delivery Confirmation Notice as referred to in Condition 20(D)(1)(iii) or, if Condition 20(I) applies, paid to a Certificateholder together with any Assessed Value Payment Amount.

The purchase of Certificates does not confer on any holder of such Certificates any rights (whether in respect of voting, distributions or otherwise) attaching to any Relevant Asset.

The Issuer shall be under no obligation to register or procure the registration of any Certificateholder or any other person as the registered holder in respect of any shares comprised in any Entitlement in the register of members of the relevant Share Company (as defined in Condition 14(B)).

(I) Late delivery of a Physical Delivery Confirmation Notice

In respect of Physical Delivery Certificates, if a Physical Delivery Confirmation Notice is delivered to the Agent after 10.00 a.m. London time on the Cut-off Date, then, subject as provided below, the Entitlement will be delivered as soon as practicable after the Redemption Date (the date of delivery in relation to an Entitlement whether on or after the Redemption Date being for the purposes of the Terms and Conditions the "Delivery Date") in the manner provided in Condition 20(H). For the avoidance of doubt, no Certificateholder or any other person shall be entitled to any payment in the event of the Delivery Date for such Certificate occurring after the Redemption Date due to such Physical Delivery Confirmation Notice being delivered after 10.00 a.m. on the Cut-off Date as provided above.

In the event that a Certificateholder does not, in respect of a Physical Delivery Certificate, deliver or procure delivery of a Physical Delivery Confirmation Notice as set out above, prior to the day that is 30 calendar days after the Cut-off Date, the Issuer shall as soon as reasonably practicable determine the Assessed Value Payment Amount and in respect of such Certificate shall credit the Assessed Value Payment Amount to the cash memorandum account of the relevant Certificateholder as shown in the records of the Operator in the same manner as for a Cash Settlement Amount in accordance with Condition 20(C), as soon as reasonably practicable following the determination of the Assessed Value Payment Amount. Upon payment of the Assessed Value Payment Amount as aforesaid, the Issuer's obligations in respect of such Certificate shall be discharged. As used herein, "Assessed Value Payment Amount" means an amount determined by the Calculation Agent, in its discretion acting in good faith, to be the fair market value of the Relevant Assets comprised in the Entitlement in respect of the relevant Certificate less any Expenses.

(J) Redemption Risk

Redemption of the Certificates (whether by way of payment of the Cash Settlement Amount or the delivery of the Entitlement) is subject to all applicable laws, regulations and practices in force on the Redemption Date or Delivery Date, as the case may be.

21. Interest

(A) Interest Amount

If so specified in the applicable Final Terms, each Certificate pays interest from and including the Issue Date at the Interest Rate payable in arrear on each Interest Payment Date.

The amount of interest payable in respect of each Certificate on each Interest Payment Date will amount to the Interest Amount for the Interest Period ending on (but excluding) such Interest Payment Date.

If interest is required to be calculated for a period ending other than on (but excluding) an Interest Payment Date, it will be calculated on the basis of the number of days from and including the most recent Interest Payment Date (or, if none, the Issue Date) to but excluding the relevant payment date and the Interest Rate Day Count Fraction.

(B) Accrual of Interest

Each Certificate will cease to accrue interest from and including the Redemption Date or, if earlier, the date on which the Certificates are cancelled (the "Calculation Date"), if applicable, in accordance with these Terms and Conditions unless payment of the amount and/or delivery of any Entitlement due on the Redemption Date or Cancellation Date, as the case may be, is improperly withheld or refused or unless default is otherwise made in respect of the payment or delivery in which case additional interest shall accrue from the date such amount or delivery of such Entitlement was due until such amount or delivery of such Entitlement is paid or delivered, as the case may be. For the avoidance of doubt, no interest on the Certificates shall accrue beyond the Redemption Date in the event that delivery of any Entitlement is postponed due to the occurrence of a Settlement Disruption Event.

(C) *Definitions*

"30/360" or "360/360" or "Bond Basis" means the number of days in the Interest Period divided by 360, calculated on a formula basis as follows:

$$\text{Interest Rate Day Count Fraction} = \frac{[360 \times (Y_2 - Y_1)] + [30 \times (M_2 - M_1)] + (D_2 - D_1)}{360}$$

where:

"Y₁" is the year, expressed as a number, in which the first day of the Interest Period falls;

"Y₂" is the year, expressed as a number, in which the day immediately following the last day of the Interest Period falls;

"M₁" is the calendar month, expressed as a number, in which the first day of the Interest Period falls;

"M₂" is the calendar month, expressed as a number, in which the day immediately following the last day of the Interest Period falls;

"D₁" is the first calendar day, expressed as a number, of the Interest Period, unless such number is 31, in which case D₁ will be 30; and

"D₂" is the calendar day, expressed as a number, immediately following the last day included in the Interest Period, unless such number would be 31 and D₁ is greater than 29, in which case D₂ will be 30. "30E/360" or "Eurobond Basis" means the number of days in the Interest Period divided by 360, calculated on a formula basis as follows:

$$\text{Interest Rate Day Count Fraction} = \frac{[360 \times (Y_2 - Y_1)] + [30 \times (M_2 - M_1)] + (D_2 - D_1)}{360}$$

where:

"Y₁" is the year, expressed as a number, in which the first day of the Interest Period falls;

"Y₂" is the year, expressed as a number, in which the day immediately following the last day of the Interest Period falls;

"M₁" is the calendar month, expressed as a number, in which the first day of the Interest Period falls;

"M₂" is the calendar month, expressed as a number, in which the day immediately following the last day of the Interest Period falls;

"D₁" is the first calendar day, expressed as a number, of the Interest Period, unless such number would be 31, in which case D₁ will be 30; and

"D₂" is the calendar day, expressed as a number, immediately following the last day included in the Interest Period, unless such number would be 31, in which case D₂ will be 30.

"Actual/360" means the actual number of days in the Interest Period divided by 360.

"Actual/365" or "Actual/Actual (ISDA)" means the actual number of days in the Interest Period divided by 365 (or, if any portion of that Interest Period falls in a leap year, the sum of (A) the actual number of days in that portion of the Interest Period falling in a leap year divided by 366; and (B) the actual number of days in that portion of the Interest Period falling in a non-leap year divided by 365).

"Actual/365 (Fixed)" means the actual number of days in the Interest Period divided by 365.

"30E/360 (ISDA)" means the number of days in the Interest Period divided by 360, calculated on a formula basis as follows:

$$\text{Interest Rate Day Count Fraction} = \frac{[360 \times (Y_2 - Y_1)] + [30 \times (M_2 - M_1)] + (D_2 - D_1)}{360}$$

where:

"Y₁" is the year, expressed as a number, in which the first day of the Interest Period falls;

"Y₂" is the year, expressed as a number, in which the day immediately following the last day of the Interest Period falls;

"M₁" is the calendar month, expressed as a number, in which the first day of the Interest Period falls;

"M₂" is the calendar month, expressed as a number, in which the day immediately following the last day of the Interest Period falls;

"D₁" is the first calendar day, expressed as a number, of the Interest Period, unless (i) that day is the last day of February or (ii) such number would be 31, in which case D₁ will be 30; and

"D₂" is the calendar day, expressed as a number, immediately following the last day included in the Interest Period, unless (i) that day is the last day of February but not the Redemption Date or (ii) such number would be 31, in which case D₂ will be 30.

"Interest Amount" means, in respect of each Certificate and each Interest Period, an amount calculated by the Calculation Agent as follows:

Notional Amount per Certificate x Interest Rate x Interest Rate Day Count Fraction.

"Interest Period" means the period commencing on (and including) the Issue Date to (but excluding) the first Interest Payment Date and each period commencing on (and including) an Interest Payment Date to (but excluding) the next following Interest Payment Date.

Agent

Computershare Investor Services PLC
Second Floor
Vintners' Place
68 Upper Thames Street
London EC4V 3BJ
United Kingdom

USE OF PROCEEDS

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

MERRILL LYNCH S.A.

History and Business

Merrill Lynch S.A. ("MLSA") is a Luxembourg public limited liability company. MLSA was incorporated on 18th December, 1991 as a société anonyme for an unlimited period. MLSA's articles of incorporation were published in the Mémorial, Journal Officiel du Grand-Duché de Luxembourg, Recueil Spécial des Sociétés et Associations, C-No. 51 of 14th February, 1992. MLSA's articles of incorporation were amended on 2 July 2008. MLSA complies with the Luxembourg corporate governance regime. MLSA is wholly-owned beneficially by Merrill Lynch International Holdings Inc., a wholly-owned subsidiary of Merrill Lynch International Incorporated which, in turn, is wholly-owned by ML&Co. MLSA has one subsidiary, ML SSG S.à.r.l, which is wholly-owned by MLSA.

Registered Office and Register of Commerce and Companies

MLSA's registered office is at Ballade B2, 4 rue Albert Borschette, L-1246 Luxembourg, with telephone number 00 352 49 49 111 and it is registered with the Register of Commerce and Companies of Luxembourg under number B-39046.

The Directors of MLSA as of the date hereof are:

Directors	Title
Paul Byrne	Director
Matthew Filtch	Director
Steen Foldberg	Director
Douglas Hassman	Director
Keith Pearson	Director
Marco Stauffacher	Director
Jack Thorburn	Director

There are no potential conflicts of interest between any duties to MLSA and their private interests or other duties of the Directors of MLSA.

The MLSA and MLICo Prospectus referred to in "*Documents Incorporated by Reference*" on page 8 of this Offering Circular is deemed incorporated in, and to form part, of this Offering Circular as more fully described on page 8.

MERRILL LYNCH INTERNATIONAL & CO. C.V.

Overview

Merrill Lynch International & Co. C.V. ("MLICo") is a Netherlands Antilles limited partnership of unlimited duration which commenced operation on 1st August, 1975 under registered number 11705 in the Commercial Registry of the Chamber of Commerce in Curaçao. MLICo complies with the Netherlands Antilles corporate governance regime. MLICo engages primarily in the issuance of warrants and related financial instruments and the distribution of Merrill Lynch management funds world-wide (with the exception of North America) and other managed fund products. Merrill Lynch & Co., Inc. ("ML&Co.") is the ultimate parent of MLICo as further described below under "Partners".

MLICo's registered office and business address is at Kaya W.F.G. (Jombi) Mensing 36, Curaçao, Netherlands Antilles, The telephone number of MLICo is 00 (5999) 4611299.

Partners

ML Cayman Holdings Inc., a corporation organised under the laws of the State of Delaware in the United States of America, is the General, Managing and Directing Partner ("Directing Partner") of MLICo; ML Cayman Holdings Inc. also holds a Limited Partnership Interest in MLICo; Merrill Lynch International Services Limited ("Limited Partner"), a Canadian company, is the other Limited Partner of MLICo. Neither the Directing Partner nor the Limited Partner engages in any other activities other than being the Directing Partner or the Limited Partner of MLICo, as applicable.

The Directing Partner is vested with the power to direct the financial and business policies of the Partnership. The Directing Partner determines the use and disposition of surplus and net profits.

The Limited Partner is indirectly wholly owned by ML&Co.

The Directing Partner is wholly-owned by Merrill Lynch International Holdings Inc., which is wholly-owned by Merrill Lynch International Incorporated, which, in turn, is wholly-owned by ML&Co. Each of Merrill Lynch International Holdings Inc., Merrill Lynch International Incorporated and ML&Co. is a corporation organised under the laws of the State of Delaware in the United States of America.

The Director of the Directing Partner is:

Name	Title
Graham Seaton	<i>Director</i>

The above Director is a Merrill Lynch group employee.

The registered address of the Directing Partner and its Directors is c/o The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington DE 19801, United States of America.

The Directors of the Limited Partner are:

Name	Title
Marcelo Cosma	Director
Robert Mooney	Director
Gordon Weir	Director

Each of the above Directors is a Merrill Lynch group employee.

The registered address of the Limited Partner and its Directors is 129 Water Street, Box 38, Charlottetown, Prince Edward Island, Canada C1A 1A8.

There are no potential conflicts of interest between any duties to MLICo of the Directing Partner and its private interest and/or other duties.

The MLSA and MLICo Prospectus referred to in "*Documents Incorporated by Reference*" on page 8 of this Offering Circular is deemed incorporated in, and to form part, of this Offering Circular as more fully described on page 8.

MERRILL LYNCH & CO., INC.

Merrill Lynch & Co., Inc. ("ML&Co."), a holding company, together with its subsidiaries, provides investment, financing, insurance and related services to individuals and institutions on a global basis through its broker, dealer, banking 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 Derivative Products, AG and ML IBK Positions Inc. The services which ML&Co. 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&Co.'s accounting year for the year 2008 ended on 26th December, 2008.

ML&Co. was incorporated under the laws of the State of Delaware, U.S.A., on 27th March, 1973 with file number 0790151. ML&Co. is a wholly owned subsidiary of Bank of America Corporation.

The principal executive office of ML&Co. is located at 4 World Financial Center, New York, New York 10080, United States of America, with telephone number +1 212 449 1000. ML&Co.'s registered office in the State of Delaware is c/o The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801, United States of America.

* ML&Co.'s corporate purpose can be found on the second page of the Restated Certificate of Incorporation dated 25th April, 2008.

Directors

The directors of ML&Co. and their principal occupations as of the date hereof are set forth in the following table:

Name	Principal Occupation
Kenneth R. Lewis	Chief Executive Officer of Bank of America and Chairman of the Board of ML&Co.
Joe Price	Chief Financial Officer of Bank of America.
Amy Woods Brinkley*	Chief Risk Officer of Bank of America.

There are no potential conflicts of interest between any duties to ML&Co. and their private interests or other duties of the directors of ML&Co.

Executive Officers

The following are persons, all of whom are full-time employees of ML&Co., hold the offices indicated in the following table as of the date hereof:

Name	Office
Brian T. Moynihan	Chief Executive Officer and President of ML&Co.
Nelson Choi	Chief Financial Officer of ML&Co.

There are no potential conflicts of interest between any duties to ML&Co. and their private interests or other duties of the executive officers of ML&Co.

The MLSA and MLICo Prospectus referred to in "*Documents Incorporated by Reference*" on page 8 of this Offering Circular is deemed incorporated in, and to form part, of this Offering Circular as more fully described on page 8.

Information provided on pages 16-17 (Introduction) and page 161 (Corporate Governance) of the 2008 Annual Report, is current as at the date of this Offering Circular.

* Amy Woods Brinkley will retire on 30th June, 2009 and will be replaced by Gregory L. Curl.

FORM OF GUARANTEE

FOR VALUE RECEIVED, the 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 and irrevocably guarantees (the "Guarantee") to the holders (the "Holders") of Warrants and Certificates (the "Securities"), issued by Merrill Lynch International & Co. C.V., a Netherlands Antilles Limited Partnership ("MLICo") and by Merrill Lynch S.A., a Luxembourg Limited Liability Company ("MLSA" and together with MLICo the "Issuers" and each an "Issuer"), under the terms of the amended and restated Agency Agreement dated 22nd June, 2009 (as the same may be amended or supplemented in accordance with the terms thereof, the "Agency Agreement") among MLICo, MLSA, ML&Co., Computershare Investor Services PLC and Merrill Lynch International:

- (i) the due and punctual payment by the relevant Issuer of any and all amounts payable by such Issuer as obligor in respect of each Security; and
- (ii) subject as provided below, the due and punctual performance of any obligations of the relevant Issuer with respect to physical delivery in respect of each Security, if applicable,

when and as the same shall become due and payable or when the same shall become due for performance, as the case may be.

Notwithstanding that the relevant Issuer either (i) had the right to vary settlement in respect of Physical Delivery Securities in accordance with Condition 5(C) and exercised such right or failed to exercise such right or (ii) had no such right to vary settlement in respect of such Physical Delivery Securities in accordance with Condition 5(C), ML&Co. shall have the right, at its sole and unfettered discretion to elect not to deliver or procure delivery of the Entitlement to the holders of such Physical Delivery Securities, but in lieu thereof to make payment of an amount equal to the Guaranteed Cash Settlement Amount (calculated pursuant to the terms of the Final Terms prepared with respect to such Physical Delivery Securities). Any payment of the Guaranteed Cash Settlement Amount in lieu of the Entitlement shall constitute a complete discharge of ML&Co.'s obligations in respect of such Physical Delivery Securities.

Subject as provided above, in case of the failure of the relevant Issuer punctually to make any such payment or to perform any such delivery obligation, at the time and in the manner required under the Conditions of the relevant Securities, ML&Co. hereby agrees to make such payment or to perform such delivery obligation, as the case may be, or cause such payment to be made or to cause such delivery obligation to be performed, as the case may be, promptly upon demand in accordance with the terms of the relevant Securities; such demand must be made by the relevant Holder by the giving of written notice of such demand to ML&Co. at Merrill Lynch & Co. Inc., c/o Merrill Lynch International, Merrill Lynch Financial Centre, 2 King Edward Street, London, EC1A 1HQ (Attention: Treasurer) with a copy sent to ML&Co. at 4 World Financial Center, New York, N.Y. 10080, U.S.A. (Attention: Treasurer); provided however, that delay in making 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 or delivery guaranteed hereunder, in whole or in part, is rescinded or must otherwise be returned by a Holder upon the insolvency, bankruptcy or reorganization of the relevant Issuer or otherwise, all as though such payment or delivery had not been made.

ML&Co. hereby agrees that its obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability (except as may result from any applicable statute of limitations) of any Security or the Agency Agreement; the absence of any action to enforce the same; any waiver or consent by the Holder concerning any provisions thereof; the rendering of any judgement against the relevant Issuer or any action to enforce the same; or any other circumstances that might otherwise constitute a legal or equitable discharge of a guarantor or a defence of a guarantor. ML&Co. covenants that, subject as provided herein, this Guarantee will not be discharged except by complete payment of the amounts payable under each Security and the complete

performance of any obligation with respect to physical delivery to be performed under each Security. This Guarantee shall continue to be effective if the relevant Issuer merges or consolidates with or into another entity, loses its separate legal identity or ceases to exist.

ML&Co. hereby waives diligence, presentment, protest, notice of protest, acceleration, dishonour, filing of claims with any court in the event of insolvency or bankruptcy of the relevant Issuer, all demands whatsoever, except as noted above with respect to demand made by the relevant Holder in accordance with the terms of the relevant Securities; and any right to require a proceeding first against the relevant Issuer.

The obligations of ML&Co. under this Guarantee, save for such exceptions as may be provided by applicable legislation or judicial order, rank *pari passu* with its other present and future unsecured and unsubordinated contractual obligations.

Terms and expressions defined in the Terms and Conditions of the Securities (the "Conditions", such Conditions being substantially in the form set out in Schedule 1 to the Agency Agreement as amended and/or supplemented by the applicable Final Terms) or used in the applicable Final Terms shall have the same meanings when used in this Guarantee, except where the context otherwise requires.

This Guarantee shall be governed by, and construed in accordance with, the laws of the State of New York applicable to agreements made and to be performed in such State. The Securities are governed by English law, and the Issuers have submitted to the exclusive jurisdiction of the English courts for the purposes of determining any legal action or proceedings relating thereto. The Guarantor has not submitted to the jurisdiction of the English courts for any such purpose, and any legal action or proceeding arising out of or relating to this Guarantee shall be subject to the exclusive jurisdiction of the federal and state courts in the Borough of Manhattan in the City and State of New York.

This Guarantee may be terminated at any time by written notice by ML&Co. to the Issuers, and shall be effective upon receipt of such notice by the Issuers or such later date as may be specified in such notice; provided, however, that this Guarantee shall continue in full force and effect with respect to any payment obligation of the Issuers under the Securities already in issue at the date of such termination becoming effective or the Conditions relating thereto arising prior to the effectiveness of such notice of termination.

IN WITNESS WHEREOF, ML&Co. has caused this Guarantee to be executed in its corporate name by its duly authorised representative.

Dated 22 June, 2009.

MERRILL LYNCH & CO., INC.

By:

TAXATION

The following comments are of a general nature, are based on the Issuer's understanding of current law and practice and are included in this document solely for information purposes. These comments are not intended to be, nor should they be regarded as, legal or tax advice. The precise tax treatment of a holder of an instrument that is either a warrant ("Warrants") or certificate ("Certificates") will depend for each issue on the terms of the Warrants or Certificates, as specified in the Terms and Conditions of the Securities as amended and supplemented by the applicable Final Terms under the law and practice at the relevant time. Prospective holders of Warrants or Certificates should consult their own tax advisers in all relevant jurisdictions to obtain advice about their particular tax treatment in relation to such Warrants or Certificates.

UNITED KINGDOM TAXATION

The following describes certain general United Kingdom tax consequences arising from acquiring, holding and disposing of Warrants and Certificates which fall into certain categories for tax purposes. Prospective purchasers of particular Warrants and Certificates should obtain professional advice in order to determine which, if any, of these categories those Warrants or Certificates fall into. Prospective purchasers that are companies should in particular obtain professional advice where such companies currently prepare their accounts in accordance with United Kingdom generally accepted accounting practice ("UK GAAP") and anticipate that following the entering into or acquiring of a Warrant or Certificate they will change the method of preparation of their accounts to comply with international accounting standards or changes to UK GAAP. The following relates only to the position of persons who are the beneficial owners of Warrants or Certificates and who are resident in the United Kingdom for tax purposes and is based on the current United Kingdom tax law and United Kingdom HM Revenue & Customs ("HMRC") practice; some aspects do not apply to certain classes of person (such as persons carrying on a trade of dealing in Warrants or Certificates, unit trusts, open-ended investment companies and persons connected with the Issuer) to whom special rules may apply.

Warrants

Withholding Tax

No United Kingdom income tax will be required to be deducted or withheld from any payments made on the issue, exercise, sale or other disposition of the Warrants.

Taxation of Profits and Gains

(i) United Kingdom resident individuals

Gains arising to an individual as a result of acquiring then exercising or otherwise disposing of a "qualifying option" are charged to tax under the capital gains tax rules in the Taxation of Chargeable Gains Act 1992 ("TCGA 1992"). Options which are listed on a recognised stock exchange are qualifying options (the London Stock Exchange is recognised for these purposes).

Warrants which are included in the Official List (within the meaning of and in accordance with the provisions of Part 6 of the Financial Services and Markets Act 2000) and admitted to trading on the London Stock Exchange should be treated as "qualifying options". Accordingly, an individual holding such a Warrant should be charged to tax on any gain made on the disposal of the Warrant under the capital gains tax rules in TCGA 1992. This means that such a holder would, on the disposal of a Warrant, be entitled to make a tax free gain in any tax year equal to the annual exempt amount (which is £10,100 for the tax year 2009-10), assuming the annual exemption has not been utilised in relation to another gain in the same year.

The amount paid for a Warrant will generally constitute the base cost for the Warrant for capital gains tax purposes. Accordingly, on the disposal of a Warrant (otherwise than on exercise) for example, by sale, the holder will, subject to the availability of the annual exempt amount (see above), be charged to capital gains tax on the gain arising on the disposal (calculated by comparing the amount received on disposal with the base cost).

In the case of a Physical Delivery Warrant, the acquisition of the Warrant and the acquisition of a new asset on the exercise of such a Warrant is treated as a single transaction for capital gains purposes, so that the amount paid for the Warrant plus the amount paid for the new asset constitutes the base cost for the new asset. The exercise of such a Warrant is not treated as a disposal of the Warrant. Accordingly, no charge to capital gains tax will

arise on the exercise of such a Warrant. However, a disposal of the new asset acquired on the exercise of a Physical Delivery Warrant may give rise to a charge to capital gains tax, if a gain arises on that disposal.

In the case of a Cash Settled Warrant, the exercise of the Warrant will be treated as a disposal. The cash amount received on the exercise will be treated as the consideration for the disposal. The amount paid for a Warrant plus any amount paid on exercise will be treated as the base cost for the purposes of calculating any capital gain arising on the exercise of the Warrant.

Any Warrant which is (either alone or taken together with other related transactions) designed to produce a guaranteed return equivalent to money invested at interest will not be taxed in accordance with the rules described above. Any profit or gain arising in relation to such a Warrant will be charged to tax as income under Chapter 12 of Part 4 of the Income Tax (Trading and Other Income) Act 2005 ("ITTOIA 2005"), without the benefit of the annual exempt amount. Chapter 12 should be considered carefully particularly in relation to Warrants that are Debt Securities.

The attention of individual holders of Warrants who are ordinarily resident in the UK is drawn to the provisions of sections 714-751 of the Income Tax Act 2007 ("ITA 2007") contained in Chapter 2 of Part 13 of ITA 2007 (the "Transfer of Assets Abroad Legislation"). Under these sections, the income accruing to an Issuer may be attributed to such a Warranthead and may (in certain circumstances) be liable to UK income tax in the hands of the Warranthead. However, under section 737 ITA 2007, sections 714-751 ITA 2007 will not apply in these circumstances if, in relation to an investment in the Warrants and operations "associated" with that investment within the meaning of section 719 ITA 2007 (the "Warrant Transactions") in each case taking place after 4th December, 2005, the Warranthead can satisfy HMRC that:

- (1) it would not be reasonable to draw the conclusion, from all the circumstances of the case, that the purpose of avoiding liability to UK taxation was the purpose or one of the purposes for which any of the Warrant Transactions was effected; or
- (2) the Warrant Transactions were "genuine commercial transactions" and it would not be reasonable to draw the conclusion, from all the circumstances of the case, that any one or more of the Warrant Transactions was designed, more than incidentally, for the purpose of avoiding UK taxation.

Sections 737 and 738 ITA 2007 provide that, in interpreting these provisions:

- (A) the intentions and purposes of any person who, whether or not for consideration, designs or effects any of the Warrant Transactions or provides advice in relation to any of the Warrant Transactions would have to be taken into account in determining the purposes for which the Warrant Transactions were effected;
 - (B) for the purposes of (2) above, a Warrant Transaction would only be a "commercial transaction" if, broadly, it was on arm's length terms and, in addition, if it was effected in the course of a trade or business, or with a view to setting up and commencing a trade or business and, in either case, for the purposes of that trade or business; and
 - (C) the making and managing of investments, or the making or managing of investments, can only constitute a trade or business for the purposes of the preceding paragraph to the extent that the person carrying out the activity and the person for whom it is done are independent persons dealing at arm's length.
- (ii) Individual Savings Account ("ISA"), Self-invested Personal Pension ("SIPP") and Small Self-administered Scheme ("SSAS").

Warrants will not qualify for inclusion within the stocks and shares component of an ISA.

The Warrants should be capable of being held within a SIPP or SSAS that is a registered pension scheme. However, Warrantheads should obtain independent advice in relation to the tax treatment of Warrants held within a SIPP or SSAS.

- (iii) United Kingdom resident companies

Part 7 of the Corporation Tax Act 2009 applies to "derivative contracts" of United Kingdom resident companies. Where Part 7 applies to a contract, all income, profits and gains will generally be taxed on an income basis (whether they arise from acquiring, holding, disposing or exercising rights under the contract) consistently with the way those profits are recognised in accordance with generally accepted accounting practice. Accordingly,

any income, profit or gains in relation to Warrants which fall to be treated as derivative contracts under Part 7, will generally be charged to tax as income although in the case of some derivative contracts capital gains treatment may be available.

Warrants which are not treated as derivative contracts and which are not taxed on an income basis should be taxed in accordance with the capital gains rules set out above under the heading "United Kingdom resident individuals", except that companies do not benefit from an annual exemption. United Kingdom companies are entitled to an indexation allowance on the disposal of a Warrant which, in effect, increases the base cost for an asset (such as a Warrant) in line with inflation, thereby preventing a charge on a gain made on the disposal of an asset to the extent that this results from inflation.

Stamp Duty and Stamp Duty Reserve Tax ("SDRT")

HMRC has confirmed that any Cash Settled Warrants granted pursuant to the Agency Agreement under the Terms and Conditions (as amended and supplemented in accordance with the terms evidenced in the applicable Final Terms) will not be stampable.

No United Kingdom Stamp duty should be required to be paid on the sale of any Warrants provided no instrument of transfer is used in order to complete the sale.

No SDRT will be payable on the issue (into Euroclear UK & Ireland) of any Warrants.

No SDRT will be payable in relation to any agreement to transfer Cash Settled Warrants or Physical Delivery Warrants which do not give the holder an interest in, rights arising out of, or the right to acquire stock, shares or loan capital.

SDRT may be payable in relation to any agreement to transfer Physical Delivery Warrants which give the holder the right on exercise to acquire stock, shares or loan capital unless such stock, shares or loan capital would qualify as "exempt securities". SDRT would be payable at 0.5 per cent. of the consideration given under an agreement to transfer such Warrants, unless the transfer is to a depositary for a clearing system or to a person issuing depositary receipts (or an agent or nominee of such a person) where SDRT may be payable at 1.5 per cent.

United Kingdom stamp duty may be required to be paid in relation to the transfer of an asset (such as stock or marketable securities) following the exercise of a Physical Delivery Warrant.

SDRT may be payable in respect of the agreement to transfer an asset pursuant to a Physical Delivery Warrant following the exercise of the Warrant. However, any such liability to SDRT will be cancelled (or, if already paid, will be repaid) if the instrument effecting the transfer is chargeable with stamp duty (or is otherwise required to be stamped) and has been duly stamped within six years of the agreement being made or, in the case of a conditional agreement, within six years of all conditions being satisfied.

Certificates

Withholding Tax

No United Kingdom income tax will be required to be withheld or deducted from payments made on the Certificates which constitute interest, provided that payments on the Certificates do not have a United Kingdom source. If payments on the Certificates which constitute interest do have a United Kingdom source, an amount must generally be withheld from those payments on account of United Kingdom income tax at the basic rate (currently 20 per cent.). However, payments on such Certificates may nonetheless be made without deduction or withholding on account of United Kingdom income tax provided that the Certificates are "securities" for the purposes of section 987 ITA 2007, carry a right to interest and are listed on a "recognised stock exchange" as defined in section 1005 ITA 2007. The London Stock Exchange is a recognised stock exchange. Securities will be treated as listed on the London Stock Exchange if they are included in the Official List (within the meaning of and in accordance with the provisions of Part 6 of the Financial Services and Markets Act 2000) and admitted to trading on the London Stock Exchange. Provided, therefore, that the Certificates are "securities" for the purposes of section 987 ITA 2007, carry a right to interest and remain so listed, interest on the Certificates will be payable without withholding or deduction on account of United Kingdom tax.

(i) United Kingdom resident individuals

Certificates will generally fall to be treated as deeply discounted securities for the purposes of Chapter 8 of Part 4 of the ITTOIA 2005 where the amount payable on redemption on the Settlement Date will or could give rise to a "deep gain". A deep gain exists where the issue price is less than the sum payable on redemption of a Certificate and the amount by which it is less (expressing the difference between the issue price and the Settlement Amount as a percentage of the Settlement Amount) is greater than the percentage figure equal to one half the number of years between the issue date and the Settlement Date, where this is less than thirty years, or 15 per cent. in other cases. Where a Certificate falls to be treated as a deeply discounted security, profits and gains arising from disposing of the Certificate prior to the Settlement Date, or from holding the Certificate to the Settlement Date, will be charged to tax as income. No relief from income tax is available in respect of any loss sustained from the discount on a deeply discounted security.

If, however, a Certificate qualifies as an "excluded indexed security" any gain arising on disposal prior to the Settlement Date, or at the Settlement Date, will be charged to tax as a capital gain under TCGA 1992, with the benefit of the annual exempt amount (to the extent not already utilised). An excluded indexed security is, in broad terms, a security which provides that the holder is entitled to receive at redemption an amount equal to the amount subscribed for the security multiplied by any increase or decrease in the value of a specified asset (expressed as a percentage) over the life of the security. An excluded indexed security can provide for a minimum amount to be payable at redemption provided this does not exceed 10 per cent. of the amount paid on the issue of the security.

Where a Physical Delivery Certificate which qualifies as a deeply discounted security for the purposes of Chapter 8 of Part 4 of the ITTOIA 2005 is extinguished by delivery of shares in a company or any other securities, the delivery is deemed to constitute the redemption of the Certificate and to involve a payment on redemption of an amount equal to whatever, at the time of delivery, is the market value of the shares or other securities delivered. In such a situation, any such deemed payment would be subject to charge to tax as income. The acquisition cost of the shares or other securities will be their market value at the time of delivery for the purposes of computing any future capital gain or loss.

The attention of individual holders of Certificates who are ordinarily resident in the UK is drawn to the provisions of Chapter 2 of Part 13 of ITA 2007, the application of which is explained in part (i) of the section on the Taxation of Profits and Gains in respect of Warrants above.

(ii) ISA, SIPP and SSAS

A Certificate may, depending on its terms, be eligible to be held within the stocks and shares component of an ISA provided it is listed on a recognised stock exchange and at the date when such Certificate is first held under the account or the plan (as the case may be), the terms on which it was issued do not require the security to be re-purchased or redeemed or allow the holder to require the security to be re-purchased or redeemed (except in circumstances which are neither certain nor likely to occur) within the period of five years from that date.

UK tax resident Certificate holders who acquire their investment in Certificates through an ISA and who satisfy the requirements for tax exemption in the ISA Regulations 1998 (UK Statutory Instruments 1998 No. 1870) will not be subject to either UK income tax or UK capital gains tax on income and gains realised from their investment and any losses on their investment will be disregarded for the purposes of UK capital gains tax.

Prospective Certificate holders should note that regulations (the Individual Savings Accounts (Amendment) Regulations 2007/2119 and the Personal Equity Plan (Amendment) Regulations 2007/2120) came into force on 6th April, 2008 which implement a number of reforms in relation to ISAs and personal equity plans. The changes made by the regulations include: aligning the rules for the two regimes so that personal equity plan accounts become stocks & shares ISAs; removing the distinction between mini and maxi ISAs in order that savers contribute to two components (cash and stocks & shares) with an overall investment limit of £7,200, up to £3,600 of which can be invested in cash and the balance in stocks & shares (although it is proposed that these limits be increased to £10,200 and £5,100 respectively for individuals over 50 in 2009-10 and for all individuals in 2010-11); and allowing individuals to transfer funds accumulated in the cash component in previous tax years to the stocks & shares component, without affecting their annual investment limit.

The Certificates should be capable of being held within a SIPP or SSAS that is a registered pension scheme.

Certificate holders should obtain independent advice in relation to the tax treatment of Certificates held within a SIPP or SSAS.

(iii) United Kingdom resident companies

Profits and gains arising in relation to Certificates which are regarded as "loan relationships" for the purposes of Part 5 of the Corporation Tax Act 2009 will generally be charged to tax on an income basis consistently with the way they are recognised in accordance with generally accepted accounting practice. A certificate will fall to be treated as a loan relationship where it represents the rights of a creditor in respect of a money debt arising from a transaction for the lending of money or under an instrument representing a money debt. Therefore in order to qualify as a loan relationship a Certificate will have to represent a "money debt".

Where a Certificate is split for accounting purposes into a derivative contract and a host loan relationship, the host loan relationship will be taxed in the way described in the first paragraph of this section (iii). In respect of the derivative contract, if it is:

- (a) an option where the underlying subject matter is qualifying ordinary shares or mandatorily convertible preference shares; or
- (b) a contract for differences where the underlying subject matter is qualifying ordinary shares listed on a recognised stock exchange (the London Stock exchange is recognised for these purposes) and the contract exactly tracks the value of such underlying subject matter,

an excess of accounting credits over debits will generally be chargeable to corporation tax on chargeable gains consistently with the way those credits and debits are recognised for accounting purposes but without the benefit of any indexation allowance.

For the purposes of (a) and (b) above, "qualifying ordinary shares" means shares which represent some or all of the issued share capital of a company which carry a right to share in the profits of the company by way of a dividend or otherwise (provided the rights to share in profits are not restricted to a right to receive fixed rate dividends) and are either listed on a recognised stock exchange or shares in a holding company or trading company "mandatorily convertible preference shares" means shares which are not qualifying ordinary shares and which are issued on such terms that stipulate that they must be converted into, or exchanged for, qualifying ordinary shares by a specified time. Part 7 of the Corporation Tax Act 2009 applies to "derivative contracts" of United Kingdom resident companies. Where Part 7 applies to a contract, all income, profits and gains will generally be taxed on an income basis (whether they arise from acquiring, holding, disposing or exercising rights under the contract) consistently with the way those profits are recognised in accordance with generally accepted accounting practice. Accordingly any income, profit or gains in relation to Certificates, which fall to be treated as derivative contracts under Part 7, will generally be charged to tax as income. It should be noted that, subject to certain conditions, a derivative may not be taxed under Part 7 if its underlying subject matter consists wholly of any one or more of the excluded types of property (for example, shares in a company) or is treated as consisting of such property.

Profits made on the disposal of Certificates which do not qualify as a loan relationship or as a derivative contract or are not otherwise taxed on an income basis may be taxed under the capital gains tax rules in TCGA 1992 with the benefit of indexation.

Provision of Information

Holders of Certificates may wish to note that, in certain circumstances, HMRC has power to obtain information from any person in the United Kingdom who pays or credits interest to or receives interest for the benefit of a Certificateholder. Such information may include the name and address of the beneficial owner of the interest. HMRC also has power, in certain circumstances, to obtain information from any person in the United Kingdom who pays amounts payable on redemption of Certificates which are deeply discounted securities for the purposes of Chapter 8 of Part 4 of the ITTOIA 2005 to (or receives such amounts for the benefit of) another person, although HMRC published practice indicates that HMRC will not exercise its power to obtain information where such amounts are paid or received on or before 5th April, 2010. Such information may include the name and address of the beneficial owner of the amount payable on redemption.

Any information obtained may, in certain circumstances, be exchanged by HMRC with the tax authorities of the jurisdiction in which the holder of the Certificate is resident for tax purposes.

Stamp Duty and SDRT

No United Kingdom stamp duty will be payable in relation to the issue of Cash Settled Certificates or Physical Delivery Certificates. No United Kingdom stamp duty will be payable on transfers of either Cash Settled Certificates or Physical Delivery Certificates on sale provided no instruments of transfer are used to complete such sales. No United Kingdom stamp duty will be payable in relation to the redemption of Cash Settled Certificates. United Kingdom stamp duty may be required to be paid in relation to the transfer of an asset on redemption of a Physical Delivery Certificate.

No SDRT will be payable in relation to the issue (into Euroclear UK & Ireland) or redemption of Cash Settled Certificates. Subject as follows, no SDRT will be payable in relation to agreements to transfer Cash Settled Certificates where such Certificates qualify as loan capital, do not carry a right to interest which exceeds a reasonable commercial return on the nominal amount of the Certificates or that depends to any extent on the results of a business (or part thereof) or on the value of property and are admitted to the Official List of the UK Listing Authority and are admitted to trading by the London Stock Exchange.

SDRT will be payable in relation to agreements to transfer Cash Settled Certificates which carry rights to acquire other shares or securities (by way of exchange, conversion or otherwise), rights to interest at more than a reasonable commercial rate or that is dependent on the results of a business or the value of any property or in relation to unlisted Certificates, rights to a premium not reasonably comparable with amounts payable on securities listed on the London Stock Exchange. SDRT would be payable at 0.5 per cent. of the consideration given under an agreement to transfer such Certificates, unless the transfer is to a depositary for a clearing system or to a person issuing depositary receipts (or an agent or nominee of such a person) where SDRT may be payable at 1.5 per cent.

No SDRT will be payable in relation to the issue (into Euroclear UK & Ireland) of Physical Delivery Certificates.

SDRT will be payable in relation to any agreement to transfer Physical Delivery Certificates which give the holder an interest in, rights arising out of, or the right to acquire stocks, shares or loan capital. SDRT would be payable at 0.5 per cent. of the consideration given under an agreement to transfer such Certificates, unless the transfer is to a depositary for a clearing system or to a person issuing depositary receipts for Certificates (or an agent or nominee for such a person) where SDRT may be payable at 1.5 per cent.

SDRT may be payable in respect of the agreement to transfer an asset pursuant to a Physical Delivery Certificate. However, any such liability to SDRT will be cancelled (or if already paid, will be repaid) if the instrument effecting the transfer is chargeable with stamp duty (or is otherwise required to be stamped) and has been duly stamped within six years of the agreement being made or, in the case of a conditional agreement, within six years of all conditions being satisfied.

Finance Bill 2009

The Finance Bill 2009 contains proposals for the revision of the UK's offshore funds rules, which are broadly expected to take effect from 1 December 2009. If introduced, the Issuers could be regarded as offshore funds and UK resident persons acquiring Warrants or Certificates issued by the Issuers after 1 December 2009 could be subject to UK tax on income in respect of any gain on a disposal of those Warrants or Certificates in circumstances where under current law and practice they would expect to be subject to UK tax on any such gain under the taxation of chargeable gains regime.

EU SAVINGS DIRECTIVE

Under EC Council Directive 2003/48/EC on the taxation of savings income, Member States are required to provide to the tax authorities of another Member State details of payments of interest (or similar income) paid by a person within its jurisdiction to an individual resident in that other Member State. However, for a transitional period, Belgium, Luxembourg and Austria are instead required (unless during that period they elect otherwise) to operate a withholding system in relation to such payments (the ending of such transitional period being dependent upon the conclusion of certain other agreements relating to information exchange with certain other countries). A number of non-EU countries and territories including Switzerland have adopted similar measures (a withholding system in the case of Switzerland).

OFFERING AND SALE

MLI has, in a Programme Agreement dated 22nd June 2009, (as supplemented, amended or restated from time to time, the "Programme Agreement") agreed with each of the Issuers and the Guarantor a basis on which it may from time to time agree to purchase Securities. Each of the Issuers may also agree to issue Securities to persons other than MLI on, and subject to, the terms of the Programme Agreement.

No action has been or will be taken by MLSA, MLICo or ML&Co. that would permit a public offering of any Securities or possession or distribution of any offering material in relation to any Securities in any jurisdiction where action for that purpose is required. No offers, sales, re-sales or deliveries of any Securities, or distribution of any offering material relating to any Securities, may be made in or from any jurisdiction except in circumstances which will result in compliance with any applicable laws and regulations and which will not impose any obligation on MLSA, MLICo or ML&Co.

United States

None of the Securities of any series, the Guarantee or any securities deliverable on exercise of the Securities have been, or will be, registered under the United States Securities Act of 1933, as amended (the "Securities Act"), or under any state securities laws. The Securities are only being offered and sold pursuant to Regulation S under the Securities Act. No Securities of any series, or interests therein, may at any time be offered, sold, transferred, pledged, delivered, exercised or redeemed, directly or indirectly, at any time in the United States of America (including the States and the District of Columbia), its territories, its possessions and other areas subject to its jurisdiction (the "United States") or to, or for the account or benefit of, any person (a "U.S. person") who is (i) an individual who is a citizen or resident of the United States; (ii) a corporation, partnership or other entity treated as a corporation or partnership for federal income tax purposes, organised in or under the laws of the United States or any political subdivision thereof or which has its principal place of business in the United States; (iii) any estate or trust which is subject to United States federal income taxation regardless of the source of its income; (iv) any trust if a court within the United States is able to exercise primary supervision over the administration of the trust and if one or more United States trustees have the authority to control all substantial decisions of the trust; (v) a pension plan for the employees, officers or principals of a corporation, partnership or other entity described in (ii) above; or (vi) any other "U.S. person" as such term may be defined in Regulation S under the Securities Act or in the United States Internal Revenue Code of 1986, as amended. Notwithstanding the preceding sentence, to the extent provided in Treasury regulations, certain trusts in existence on 20th August, 1996 and treated as U.S. persons before such date that elect to be so treated shall also be considered U.S. persons. Consequently, any offer, sale, re-sale, trade, delivery, pledge, exercise, redemption or other transfer made, directly or indirectly within the United States or to, or for the account or benefit of, a U.S. person will not be recognised, as set forth in Condition 1(c).

Each Manager of an issue of Securities will be required to agree that it, its affiliates, and any person acting on its or their behalf will not at any time offer, sell, resell, trade or deliver, directly or indirectly, Securities of such series in the United States or to, or for the account or benefit of, any U.S. person or to others for offer, sale, resale, trade or delivery, directly or indirectly, in the United States or to, or for the account or benefit of, any such U.S. person.

Each Manager of an issue of Securities will be required to agree that it, its affiliates, and any person acting on its or their behalf will not offer or sell the Securities at any time except in accordance with Rule 903 of Regulation S under the Securities Act, and that neither it, its affiliates nor any persons acting on its or their behalf have engaged or will engage in any directed selling efforts with respect to the Securities, and it and they have complied and will comply with the offering restrictions requirement of Regulation S under the Securities Act. The terms used in this paragraph have the meanings given to them by Regulation S under the Securities Act.

Each Manager of an issue of Securities will be required to agree, that, at or prior to confirmation of sale of any Securities, it, its affiliates, and any person acting on its or their behalf will have sent to each distributor, dealer or person receiving a selling concession, fee or other remuneration that purchases Securities from it (whether upon original issuance or in any secondary transaction) a written confirmation or notice (which shall include the definitions of "United States" and "U.S. persons" set forth herein) stating that none of the Guarantee, the Securities or any Securities deliverable on exercise of the Securities have been or will be registered under the Securities Act or any state securities laws, and stating that the purchaser is subject to the same restrictions on

offers and sales and setting forth the restrictions on offers and sales of the Securities within the United States of America or to, or for the account or benefit of, any U.S. person.

The Securities may not be legally or beneficially owned by any U.S. person at any time. Any person purchasing and any legal or beneficial owner of, Securities of any series must agree with a Manager of such series or the seller of such Securities as a condition to purchasing or owning the Security or any beneficial interest therein, that (i) it is not a U.S. person and it is not located in the United States and was not solicited to purchase the Securities whilst present in the United States, (ii) it will not at any time offer, sell, resell, transfer, pledge, exercise, redeem, trade or deliver, directly or indirectly, any Securities of such series in the United States or to, or for the account or benefit of, any U.S. person or to others for offer, sale, resale, transfer, pledge, exercise, redemption, trade or delivery, directly or indirectly, in the United States or to, or for the account or benefit of, any U.S. person, (iii) it is not purchasing any Securities of such series for the account or benefit of any U.S. person, (iv) it will not make offers, sales, re-sales, trades or deliveries of any Securities of such series otherwise acquired, directly or indirectly, in the United States or to, or for the account or benefit of, any U.S. person and (v) it understands and agrees that any transfer or attempted transfer within the United States or to, or for the account or benefit of, a U.S. person shall be absolutely null and void *ab initio* and shall vest no rights in the purported transferee (such purported transferee, a "Disqualified Transferee") and the last preceding holder of such interest that was not a Disqualified Transferee shall be restored to all rights of a holder thereof retroactively to the date of transfer of such interest by such person, as set forth in Condition 1(c).

Public Offer Selling Restriction under the Prospectus Directive

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a "Relevant Member State"), with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State (the "Relevant Implementation Date") the Securities which are the subject of the offering contemplated by this Offering Circular as completed by the final terms in relation thereto may not be offered to the public in that Relevant Member State except that, with effect from and including the Relevant Implementation Date, such Securities may be offered to the public in that Relevant Member State:

- (a) if the final terms in relation to the Securities specify that an offer of those Securities may be made other than pursuant to Article 3(2) of the Prospectus Directive in that Relevant Member State ("a Non-exempt Offer"), following the date of publication of a prospectus in relation to such Securities which has been approved by the competent authority in that Relevant Member State or, where appropriate, approved in another Relevant Member State and notified to the competent authority in that Relevant Member State, provided that any such prospectus has subsequently been completed by the final terms contemplating such Non-exempt Offer, in accordance with the Prospectus Directive, in the period beginning and ending on dates specified in such prospectus or final terms, as applicable;
- (b) at any time to legal entities which are authorised or regulated to operate in the financial markets or, if not so authorised 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 €43,000,000; and (3) an annual net turnover of more than €50,000,000, as shown in its last annual or consolidated accounts;
- (d) at any time to fewer than 100 natural or legal persons (other than qualified investors as defined in the Prospectus Directive) subject to obtaining the prior consent of the relevant Manager(s) nominated by the relevant Issuer for any such offer; or
- (e) at any time in any other circumstances falling within Article 3(2) of the Prospectus Directive,

provided that no such offer of Securities referred to in (b) to (e) above shall require the relevant Issuer or any Manager to publish a prospectus pursuant to Article 3 of the Prospectus Directive or supplement a prospectus pursuant to Article 16 of the Prospectus Directive.

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

United Kingdom

In relation to Securities which have a maturity of less than one year and where the issue of the Securities would otherwise constitute a contravention of section 19 of the Financial Services and Markets Act 2000 (the "FSMA") by the relevant Issuer, such Securities may only be offered or sold to a person whose ordinary activities involve it in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of its business or who it is reasonable to expect will acquire, hold, manage or dispose of investments (as principal or agent) for the purposes of its business.

Any invitation or inducement to engage in investment activity (within the meaning of section 21 of the FSMA) may only be communicated or caused to be communicated in connection with the issue or sale of any Securities in circumstances in which section 21(1) of the FSMA does not apply to MLSA, MLICo or ML&Co.

All applicable provisions of the FSMA must be complied with in respect to anything done in relation to any Securities in, from or otherwise involving, the United Kingdom.

Netherlands Antilles

Sale of Securities to an Unauthorised Netherlands Antilles Person is prohibited under Netherlands Antilles Law. An "Unauthorised Netherlands Antilles Person" for the purposes of this Offering Circular means any citizen or inhabitant of the Netherlands Antilles (including personal holding companies, corporations, partnerships or other legal entities created or organised under the laws of the Netherlands Antilles), who is treated as a "resident" as defined in Article 1 of the Foreign Exchange Act of the Netherlands Antilles and who has not obtained a licence and exemption from the Bank of the Netherlands Antilles to participate in the relevant issue of the Securities as described in this Offering Circular.

General

With regard to each issue of Securities, any Manager will be required to comply with such other additional restrictions as shall be set out in the applicable Final Terms.

GENERAL INFORMATION

(1) Authorisation

The establishment and operation of the Programme was duly authorised by resolutions of the Directors of MLSA on 18th October, 2005 and was duly authorised by the Partners of MLICo on 22nd August, 2000 and 5th August, 2005. The giving of the Guarantee was duly authorised by ML&Co. on 28th September, 1995.

(2) Listing

Application has been made to the UK Listing Authority for Securities to be admitted to the Official List. It is expected that the listing of the Programme will be granted on 25th June, 2009. Any issue of Securities intended to be admitted to the Official List and to trading on the London Stock Exchange's regulated market will be admitted separately to the Official List upon submission to the UK Listing Authority and to the London Stock Exchange of the applicable Final Terms and any other information required by the UK Listing Authority or any other relevant authority, subject only to the issue of the relevant Securities. Prior to official listing and admission to trading, however, dealings in Securities will be permitted by the London Stock Exchange in accordance with its rules. Transactions will normally be effected for settlement on the third working day after the date of the transaction. Unlisted Securities may also be issued pursuant to the Programme.

(3) Documents Available

For the period of 12 months following the date of this Offering Circular, copies of the following documents will, when published, be available from the specified office of the Agent in London for the time being at Second Floor, Vintners' Place, 68 Upper Thames Street, London EC4V 3BJ:

- (i) the constitutional documents of each of MLSA, MLICo and ML&Co.;
- (ii) the MLSA and MLICo Prospectus;
- (iii) the 2007 Annual Report, the 2007 Auditors' Report, the 2008 Annual Report and the 2008 Auditors' Report;
- (iv) the 2 January 8-K, the 16 January 8-K, the 20 January 8-K and the 16 April 8-K;
- (v) the May 10-Q;
- (vi) the financial statements of MLSA for the years ended 2007 and 2008, together with the audit reports prepared in connection therewith;
- (vii) the financial statements of MLICo for the year ended 2007 and 2008, together with the audit reports prepared in connection therewith;
- (viii) the Guarantee;
- (ix) the Agency Agreement;
- (x) the Programme Agreement;
- (xi) a copy of this Offering Circular;
- (xii) any future offering circulars, prospectuses, information memoranda and supplements to this Offering Circular, any Final Terms (save that a Final Terms relating to a Security which is neither admitted to trading on a regulated market in the European Economic Area nor offered in the European Economic Area in circumstances where a prospectus is required to be published under the Prospectus Directive will only be available for inspection by a holder of such Security and such holder must produce evidence satisfactory to the Issuer and the Agent as to its holding of Securities and identity) and any other documents incorporated herein or therein by reference; and
- (xiii) in the case of a syndicated issue of Securities admitted to trading on the London Stock Exchange's regulated Market, the subscription agreement (in substantially the form scheduled to the Programme Agreement).

(4) Auditors and Financial Statements

The financial statements as of 31st December, 2008 and 31st December, 2007 of MLSA for the fiscal years then ended have been audited in accordance with International Standards on Auditing by Deloitte S.A., auditors of MLSA, without qualification. Deloitte S.A. is a member of I.R.E. "Institut des Réviseurs d'entreprises", a professional body of the audit profession in Luxembourg, a profession which is regulated by the Minister of Justice of Luxembourg.

The financial statements of MLICo as of 26th December 2008 and 28th December, 2007 were audited by Deloitte & Touche LLP Chartered Accountants as stated in their reports. Deloitte & Touche LLP Chartered Accountants, currently at Stonecutter Court, 1 Stonecutter Street, London EC4A 4TR, are members of the Institute of Chartered Accountants.

As disclosed in the 16 April 8-K, the auditors for ML&Co. are PricewaterhouseCoopers LLP from 15th April 2009.

The consolidated balance sheets of ML&Co. and its subsidiaries as of 26th December, 2008 and 28th December, 2007, the related consolidated statements of (loss)/earnings, changes in stockholders' equity, comprehensive (loss)/income and cash flows for each of the three years in the period ended 26th December, 2008, the related financial statement schedule and the effectiveness of internal control over financial reporting incorporated herein by reference to ML&Co.'s 2008 Annual Report have been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in the 2008 Auditors' Report.

The consolidated balance sheets of ML&Co. as of 28th December, 2007 and 29th December, 2006, the related consolidated statements of earnings, changes in stockholders' equity, comprehensive income and cash flows for each of the three years in the period ended 28th December, 2007, the related financial statement schedule and management's report on the effectiveness of internal control over financial reporting incorporated herein by reference to ML&Co.'s 2007 Annual Report have been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in the 2007 Auditors' Report (which report expressed an unqualified opinion on those financial statements, included an explanatory paragraph regarding the changes in accounting methods in 2007 relating to the adoption of Statement of Financial Accounting Standards No. 157, "*Fair Value Measurement*," Statement of Financial Accounting Standards No. 159, "*The Fair Value Option for Financial Assets and Financial Liabilities—Including an amendment of FASB Statement No. 115*," and FASB Interpretation No. 48, "*Accounting for Uncertainty in Income Taxes, an Interpretation of FASB Statement No. 109*," and in 2006 for share-based payments to conform to Statement of Financial Accounting Standards No. 123 (revised 2004), "*Share-Based Payment*," and included an explanatory paragraph relating to the restatement of Merrill Lynch's consolidated statements of cash flows for the fiscal years ended 29th December, 2006 and 30th December, 2005 (the "Cash Flow Restatements") discussed in Note 20 to Merrill Lynch's consolidated financial statements included in the 2007 Annual Report). Refer to the explanatory paragraph within the 2007 Auditors' Report relating to the Cash Flow Restatements discussed in Note 20 to Merrill Lynch's consolidated financial statements included in the 2007 Annual Report.

(5) Interim and Consolidated Statements

As at the date hereof, neither MLSA nor MLICo publishes interim or consolidated financial statements.

(6) Significant or Material Change

There has been no significant change in the financial or trading position of MLSA or its subsidiary on a consolidated basis, MLICo or ML&Co. or any of its subsidiaries on a consolidated basis since (i) in the case of MLSA, 31st December, 2008, (ii) in the case of MLICo, 26th December, 2008 and (iii) in the case of ML&Co., 31st March, 2009 and there has been no material adverse change in the prospects of MLSA or its subsidiary on a consolidated basis, MLICo or ML&Co. and its subsidiaries on a consolidated basis since (i) in the case of MLSA, 31st December, 2008, (ii) in the case of MLICo, 26th December, 2008 and (iii) in the case of ML&Co., 26th December, 2008.

(7) Litigation

Save as disclosed on pages 13 and 123-128 of the 2008 Annual Report and on pages 92-94 of the May 10-Q, none of MLSA or any subsidiary of MLSA, MLICo or ML&Co. or any subsidiary of ML&Co. is or

has been involved in any governmental, legal or arbitration proceedings (including any such proceedings which are pending or threatened of which MLSA, MLICo or ML&Co. are aware) in the 12 months preceding the date of this document which may have or have in such period had a significant effect on the financial position or profitability of MLSA and its subsidiary on a consolidated basis, MLICo or ML&Co. and its subsidiaries on a consolidated basis.

(8) Web-site availability

The Terms and Conditions and (for so long as the relevant Securities are outstanding) each Final Terms for an issue of Securities to be admitted to the Official List and admitted to trading on the London Stock Exchange will be available on the following website: www.londonlisted.ml.com.

(9) Conditions for determining price

The price and amount of Securities to be issued under the Programme will be determined by the Issuer and any Manager(s) at the time of issue in accordance with prevailing market conditions.

(10) Post-issuance Information

The Issuer does not intend to provide any post-issuance information in relation to any issue of Securities.

REGISTERED OFFICE OF MERRILL LYNCH S.A.

Ballade B2
4 rue Albert Borschette
L-1246 Luxembourg
Grand Duchy of Luxembourg

REGISTERED OFFICE OF MERRILL LYNCH INTERNATIONAL & CO. C.V.

Kaya W.F.G. (Jombi) Mensing 36,
Curaçao
Netherlands Antilles

REGISTERED OFFICE OF MERRILL LYNCH & CO., INC.

The Corporation Trust Company
Corporation Trust Centre
1209 Orange Street
Wilmington
Delaware 19801
United States of America

AGENT

Computershare Investor Services PLC

Second Floor
Vintners' Place
68 Upper Thames Street
London EC4V 3BJ
United Kingdom

CALCULATION AGENT

Merrill Lynch International

Merrill Lynch Financial Centre
2 King Edward Street
London EC1A 1HQ
United Kingdom

LEGAL ADVISERS TO MLSA, MLI_{Co} AND ML&Co.

as to English law

Ashurst LLP
5 Appold Street
London EC2A 2HA
United Kingdom

as to Netherlands Antilles law

Alexander & Simon
PO Box 4900
2 Gaitoweg
Curaçao
Netherlands Antilles

as to Luxembourg law

Linklaters LLP
Avenue John F. Kennedy 35
L-1855 Luxembourg
Grand Duchy of Luxembourg

as to Delaware and United States law

McGuire Woods
201 North Tryon Street
Charlotte, North Carolina 28202
United States of America

LEGAL ADVISER TO MLI

as to English law

Morrison & Foerster (UK) LLP
Citypoint
One Ropemaker Street
London EC2Y 9AW
United Kingdom