

# **SUPPLEMENTAL INFORMATION MEMORANDUM**

## **TITANIUM CAPITAL PUBLIC LIMITED COMPANY**

**(incorporated with limited liability in Ireland under registered number 380372)**

### **Series 19 EUR 34,300,000 Stepdown Notes due 10 February 2023**

**This Supplemental Information Memorandum includes the Issue Terms relating to the Securities. Investors should note that such Issue Terms supersede in their entirety any termsheets, which may have been circulated previously.**

**The Securities are only intended for highly sophisticated and knowledgeable investors who are capable of understanding and evaluating the risks involved in investing in the Securities and who are required to read "Risk Factors" on pages 6 to 16.**

***Merrill Lynch International***

**The date of this Supplemental Information Memorandum is 2 October 2012**

## GENERAL

This Supplemental Information Memorandum under which the Series 19 EUR 34,300,000 Stepdown Notes due 10 February 2023 (the **Securities**) are described is supplemental to the Information Memorandum dated 4 November 2011 (the **Information Memorandum**) relating to the U.S.\$50,000,000,000 Limited Recourse Secured Debt Issuance Programme (the **Programme**) of Titanium Capital Public Limited Company (the Issuer) and is issued in conjunction with, and incorporates by reference, the Information Memorandum. A copy of the Information Memorandum can be found at the following link: [http://www.ise.ie/debt\\_documents/Base%20Prospectus\\_b181cf57-1d82-4923-8c0d-5f5de52b667b.pdf](http://www.ise.ie/debt_documents/Base%20Prospectus_b181cf57-1d82-4923-8c0d-5f5de52b667b.pdf).

This Supplemental Information Memorandum constitutes a prospectus issued in compliance with Directive 2003/71/EC (the **Prospectus Directive**) as amended (which includes the amendments made by Directive 2010/73/EU (the **2010 PD Amending Directive**) to the extent such amendments have been implemented in a relevant Member State of the European Economic Area) and relevant laws of Ireland. It should be read together with the Information Memorandum as one document. To the extent that the Information Memorandum is inconsistent with this Supplemental Information Memorandum, this Supplemental Information Memorandum shall prevail. Terms defined in the Information Memorandum shall, unless the context otherwise requires, bear the same meanings herein.

Save as disclosed herein, there has been no significant change and no matter has arisen since publication of the Information Memorandum.

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

In addition to the Issuer, Merrill Lynch International Bank Limited accepts responsibility for the information contained in the section entitled “Description of the Counterparty”. To the best of the knowledge and belief of Merrill Lynch International Bank Limited (which has taken all reasonable care to ensure that such is the case), such information is in accordance with the facts and does not omit anything likely to affect the import of such information.

The Issuer has only made very limited queries with regards to the accuracy and completeness of the information under the section entitled “Description of the Counterparty” in this Supplemental Information Memorandum (the **Third Party Information**). Prospective investors in the Notes should not rely upon, and should make their own independent investigations and enquires in respect of, the accuracy and completeness of the Third Party Information.

Application has been made to the Irish Stock Exchange (the **Irish Stock Exchange**) for the Securities to be admitted to the Official List and trading on its regulated market. However, no assurance is given that, once made, such application will be granted.

The Supplemental Information Memorandum has been approved by the Central Bank of Ireland (the **Central Bank**) as competent authority under the Prospectus Directive. The Central Bank only approves this Supplemental Information Memorandum as meeting the requirements imposed under Irish and EU law pursuant to the Prospectus Directive. This Supplemental Information

Memorandum as approved by the Central Bank will be filed with the Companies Registration Office of Ireland in accordance with Regulation 38(l)(b) of the Prospectus (Directive 2003/71/EC) Regulations 2005 as amended (the **Prospectus Regulations**).

The information relating to the Initial Charged Assets, the issuer of the Initial Charged Assets (the **Underlying Obligor**) and the Counterparty (each as defined herein), has been accurately reproduced from information published by the Underlying Obligor or the Counterparty, respectively. Such information has been accurately reproduced from such sources and, so far as the Issuer is aware and is able to ascertain from such sources, no facts have been omitted from such sources which would render the reproduced information inaccurate or misleading.

The Securities will not be rated.

Neither the delivery of this Supplemental Information Memorandum nor the offering, sale or delivery of any Securities shall in any circumstances imply that the information contained herein is correct at any time subsequent to the date hereof or that any other information supplied in connection with the Securities is correct as of any time subsequent to the date indicated in the document containing the same.

No person is or has been authorised by the Issuer to give any information or to make any representation not contained in or not consistent with this Supplemental Information Memorandum or any other information supplied in connection with the Programme or the Securities and, if given or made, such information or representation must not be relied upon as having been authorised by the Issuer, the Trustee (as defined herein) or the Dealer (as defined herein).

This Supplemental Information Memorandum 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 by the Issuer, the Trustee or the Dealer (save for the approval of this document as a prospectus by the Central Bank) to permit an offering of the Securities or the distribution of this Supplemental Information Memorandum in any jurisdiction where such action is required.

**Claims of the Securityholders and the Counterparty will be limited in recourse to the Mortgaged Property.**

**The Securities have not been and will not be registered under the U.S. Securities Act of 1933 (as amended, the *Securities Act*). Consequently, the Securities may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons (as defined in Regulation S under the Securities Act) except in certain transactions exempt from, or not subject to, the registration requirements of the Securities Act.**

The Issuer is not and will not be regulated by the Central Bank as a result of issuing the Securities. Any investment in the Securities does not have the status of a bank deposit and is not within the scope of the deposit protection scheme operated by the Central Bank.

In connection with the issue of the Securities, the Dealer (the **Stabilising Manager**) (or persons acting on behalf of the Stabilising Manager) may over-allot the Securities or effect transactions with a view to supporting the market price of the Securities at a level higher than that which might otherwise prevail. However, there is no assurance that the Stabilising Manager (or persons

acting on behalf of the Stabilising Manager) will undertake stabilisation action. Any stabilisation action may begin on or after the date on which adequate public disclosure of the terms of the offer of the Securities is made and, if begun, may be ended at any time, but it must end no later than the earlier of 30 days after the issue date of the Securities and 60 days after the date of allotment of the Securities. Any stabilisation action or over-allotment shall be conducted in accordance with all applicable laws and rules.

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## **RISK FACTORS**

*The purchase of the Securities may involve substantial risks and is suitable only for sophisticated investors who have the knowledge and experience in financial and business matters necessary to enable them to evaluate the risks and the merits of an investment in the Securities. The Securities are not principal protected and purchasers of the Securities are exposed to full loss of principal.*

*The Issuer believes that the following factors may affect either its ability to fulfil its obligations under the Securities or the performance of the Securities. Some of these factors are contingencies which may or may not occur and the Issuer is not in a position to express a view on the likelihood of any such contingency occurring.*

*The Issuer believes that the factors described below represent the principal risks inherent in investing in the Securities, but the inability of the Issuer to pay interest, principal or other amounts on or in connection with the Securities may occur for other reasons and the Issuer does not represent that the statements below regarding the risks of holding the Securities are exhaustive. Prospective investors should also read the detailed information set out elsewhere in this Supplemental Information Memorandum and in the Information Memorandum and, in the light of their own financial circumstances and investment objectives, reach their own views prior to making any investment decision.*

### **Investor suitability**

Prospective investors who consider purchasing the Securities should reach an investment decision only after carefully considering the suitability of the Securities in light of their particular circumstances. Investment in the Securities may only be suitable for investors who:

- (i) have substantial knowledge and experience in financial and business matters and expertise in assessing credit risk which enables them to evaluate the merits and risks of an investment in the Securities and the rights attaching to the Securities;
- (ii) are capable of bearing the economic risk of an investment in the Securities for an indefinite period of time;
- (iii) are acquiring the Securities for their own account (as principal and not as agent) for investment, not with a view to resale, distribution or other disposition of the Securities (subject to any applicable law requiring that the disposition of the investor's property be within its control); and
- (iv) recognise that it may not be possible to make any transfer of the Securities for a substantial period of time, if at all.

### **Credit Risk**

The ability of the Issuer to meet its obligations under the Securities will be dependent upon the payment of all sums due from the Counterparty under the Swap Agreement (as defined in the Issue Terms). However, in the event that the Counterparty defaults in its payment obligations under the Swap Agreement (as defined in the Issue Terms), or the Swap Agreement otherwise terminates early, the Securities will be subject to early redemption.

The ability of the Issuer to meet its obligations under the Securities will also be dependent on the payment of interest and principal due on the Charged Assets, upon the payment of all sums due from the Counterparty under the Charged Agreement and upon the Principal Paying Agent and the Custodian making the relevant payments when received and upon all parties to the Transaction Documents (other than the Issuer) performing their respective obligations thereunder. Accordingly, Securityholders are exposed, *inter alia*, to the creditworthiness of the obligors in respect of the Charged Assets, the Counterparty, the Principal Paying Agent and the Custodian.

### **Modifications to the terms of the Securities**

The attention of prospective investors is drawn to Condition 19 (*Meetings of Securityholders, Modification, Waiver and Substitution*) and in particular, the provision that the Trustee shall agree to make any modification (whether or not it may be materially prejudicial to the Securityholders) requested by the Dealer in respect of the Securities if, and to the extent that, such modification is to correct an error in the Issue Terms arising from a discrepancy between the Issue Terms and the final termsheet as certified by the Dealer in form and content satisfactory to the Trustee.

### **UK Banking Act 2009**

The Banking Act 2009 (the **Banking Act**), which came into effect on 21 February 2009, includes (amongst other things) provision for a special resolution regime pursuant to which specified UK authorities have extended tools to deal with the failure (or likely failure) of a UK bank or building society (such as HSBC Bank plc as Principal Paying Agent, Registrar or Custodian). In particular, in respect of UK banks, such tools include share and property transfer powers (including powers for partial property transfers), certain ancillary powers (including powers to modify certain contractual arrangements in certain circumstances) and two new special insolvency procedures which may be commenced by UK authorities (i.e. bank insolvency and bank administration).

In general, the Banking Act requires the UK authorities to have regard to specified objectives in exercising the powers provided for by the Banking Act. One of the objectives (which is required to be balanced as appropriate with the other specified objectives) refers to the protection and enhancement of the stability of the financial systems of the United Kingdom. The Banking Act includes provisions related to compensation in respect of transfer instruments and orders made under it.

If an instrument or order were to be made under the Banking Act in respect of HSBC Bank plc, such instrument or order may (amongst other things) affect the ability of such entity to satisfy its obligations under the Transaction Documents and/or result in modifications to such documents.

The Banking Act 2009 (Restriction on Partial Property Transfers) (Amendment) Order 2009 (the **Safeguards Order**) came into force on 9 July 2009. The Safeguards Order imposes certain controls on the powers set out in the Banking Act and, *inter alia*, prevents the transfer under an instrument or order of some and not all of the property, rights and liabilities that comprise a "capital market arrangement" and also includes a restriction on the power to amend the terms of a trust if a partial property transfer is made pursuant to an instrument or order under the Banking Act. The issuance of the Securities by the Issuer would constitute a "capital market arrangement" and therefore have the benefit of the Safeguards Order. However, Securityholders should note that such protections apply to partial property transfers only and not to all powers that can be carried out under an instrument or order.

At present, the UK authorities have not made an instrument or order under the Banking Act in respect of HSBC Bank plc and there has been no indication that it will make any such instrument or order, but there can be no assurance that this will not change and/or that Securityholders will not be adversely affected by any such instrument or order if made.

### **U.S. Foreign Account Tax Compliance Act withholding**

The Foreign Account Tax Compliance provisions of the Hiring Incentives to Restore Employment Act, (**FATCA**) impose a new reporting regime and potentially a 30 per cent. withholding tax with respect to certain payments to any non-U.S. financial institution (a foreign financial institution, or **FFI** (as defined by FATCA)) that does not become a "Participating FFI" by entering into an agreement with the U.S. Internal Revenue Service (**IRS**) to provide certain information on its account holders. The new withholding regime will be phased in beginning in 2014.

Under FATCA, certain FFIs (such as the Issuer) will be required to provide the IRS with information on accounts held by U.S. persons or be subject to U.S. withholding tax on all, or a portion of, certain payments it receives from U.S. sources. In the absence of compliance with such information reporting obligations, the Issuer could be exposed to a FATCA withholding tax on certain of its assets. The imposition of such FATCA withholding tax would reduce the profitability, and thus the cash available to make payments on the Securities.

In addition, the Issuer may, under certain circumstances, be required by FATCA to withhold U.S. tax on all or a portion of payments of principal and interest on the Securities which are treated as "passthru payments" made to FFIs unless such FFI payee complies with applicable FATCA reporting requirements. The IRS indicates that such withholding will not be imposed prior to January 1, 2017.

If an amount in respect of FATCA withholding tax is deducted or withheld from interest, principal or other payments on the Securities, the terms of the Securities will not require any person to pay additional amounts as a result of the deduction or withholding of such tax. As a result, investors may, if FATCA is implemented as currently proposed by the IRS, receive less interest or principal than expected.

FATCA is particularly complex and its application to the Issuer is uncertain at this time. Each prospective investor should consult its own tax advisor to obtain a more detailed explanation of FATCA and to learn how this legislation might affect the investor in its particular circumstance.

### **Independent review and advice**

Each prospective purchaser of the Securities must determine, based on its own independent review (including as to the financial condition and affairs and its own appraisal of the creditworthiness of the Issuer, the Counterparty and the obligors in respect of the Charged Assets) and obtain such professional advice (including, without limitation, tax, accounting, credit, legal and regulatory advice) as it deems appropriate under the circumstances, to assess the economic, social and political condition of each jurisdiction in which any obligor in respect of the Charged Assets is situated and to determine whether an investment in the Securities is appropriate in its particular circumstances.

In so doing, and without restricting the generality of the preceding paragraph, such prospective purchaser must determine that its acquisition and holding of the Securities (i) is fully consistent



with its (or if it is acquiring the Securities in a fiduciary capacity, the beneficiary's) financial needs, objectives and condition, (ii) complies and is fully consistent with all investment policies, guidelines and restrictions applicable to it (whether it is acquiring the Securities as principal or in a fiduciary capacity) and (iii) is a fit, proper and suitable investment for it (or if it is acquiring the Securities in a fiduciary capacity, for the beneficiary), notwithstanding the clear and substantial risks inherent in investing in or holding the Securities. None of the Issuer, the Trustee, the Dealer, or any of their respective affiliates is acting as an investment adviser, or assumes any fiduciary obligation, to any purchaser of Securities.

Neither the Information Memorandum nor this Supplemental Information Memorandum is intended to provide the basis of any credit or other evaluation or should be considered as a recommendation or as constituting an invitation or offer that any recipient of the Information Memorandum or this Supplemental Information Memorandum should purchase any of the Securities. The Trustee and the Dealer expressly do not undertake to review the financial condition, creditworthiness or affairs of the Issuer, the Counterparty or the obligors in respect of the Charged Assets.

### **Limited recourse**

Claims against the Issuer by the Securityholders of the Series and by the Counterparty will be limited to the Mortgaged Property relating to such Series. The proceeds of realisation of such Mortgaged Property may be less than the sums due to the Securityholders and the Counterparty. Any shortfall will be borne by the Securityholders and by the Counterparty in accordance with the Security Ranking Basis. In this respect, each prospective investor should note that the claims of the Counterparty in respect of amounts owing to it under the Swap Agreement shall rank in priority to the claims of Securityholders under the Securities. Each Securityholder, by subscribing for or purchasing such Securities, will be deemed to accept and acknowledge that it is fully aware that, in the event of a shortfall, (i) the Issuer shall be under no obligation to pay, and the other assets (if any) of the Issuer including, in particular, assets securing other Series of securities or Alternative Investments will not be available for payment of, such shortfall, (ii) all claims in respect of such shortfall shall be extinguished, and (iii) the Trustee, the Securityholders and the Counterparty shall have no further claim against the Issuer in respect of such unpaid amounts and will accordingly not be able to petition for the winding up of the Issuer as a consequence of such shortfall.

The Securities are direct, limited recourse obligations of the Issuer alone and not of the officers, members, directors, employees, securityholders or incorporator of the Issuer, the Trustee, the Counterparty or the obligors in respect of the Charged Assets or any of their respective successors or assigns. Furthermore, they are not obligations of, or guaranteed in any way by, the Dealer.

### **No secondary market**

Neither the Issuer, the Trustee, the Agents, the Dealer nor any of their respective affiliates is under an obligation to provide liquidity for the Securities and no secondary market is expected to develop in respect of the Securities. Whilst the Securities may be listed or admitted to trading on the Irish Stock Exchange, the Issuer does not expect a trading market for the Securities to develop. In the unlikely event that a secondary market does develop, there can be no assurance that it will provide the Securityholders with liquidity of investment or that it will continue for the life of the Securities. Accordingly, the purchase of the Securities is suitable only for investors who can bear the risks associated with a lack of liquidity in the Securities and the financial and

other risks associated with an investment in the Securities. Investors must be prepared to hold the Securities for an indefinite period of time or until final redemption or maturity of the Securities.

### **Business relationships**

Each of the Issuer, the Dealer, the Trustee, the Agents or any of their respective affiliates may have existing or future business relationships with the Counterparty or any obligor in respect of the Charged Assets (including, but not limited to, lending, depository, risk management, advisory and banking relationships), and will pursue actions and take steps that they deem or it deems necessary or appropriate to protect their or its interests arising therefrom without regard to the consequences for a Securityholder. Furthermore, the Dealer, the Trustee, the Agents or any of their respective affiliates may buy, sell or hold positions in obligations of, or act as investment or commercial bankers, advisers or fiduciaries to, or hold directorship and officer positions in, any obligor in respect of the Charged Assets.

### **Conflicts of Interest**

Each of the Counterparty and any of its affiliates is acting or may act in a number of capacities in connection with the issue of the Securities. The Counterparty and any of its affiliates acting in such capacities in connection with the issue of the Securities shall have only the duties and responsibilities expressly agreed to by it in the relevant capacity and shall not, by virtue of its or any other affiliates acting in any other capacity, be deemed to have other duties or responsibilities or be deemed to hold a standard of care other than as expressly provided with respect to each such capacity. Each of the Counterparty and any of its affiliates in its various capacities in connection with the issue of the Securities may enter business dealings, including the acquisition of investment securities as contemplated by the Transaction Documents from which it may derive revenues and profits in addition to any fees stated in various documents, without any duty to account therefor, provided that any such revenue, profits or fees will be paid or received only in accordance with applicable regulations.

Various potential and actual conflicts of interest may arise between the interests of the Securityholders and either the Issuer and/or the Counterparty, as a result of the various businesses, management, investment and other activities of such persons, and none of such persons is required to resolve such conflicts of interest in favour of the Securityholders. The following briefly summarises some of those conflicts, but is not intended to be an exhaustive list of all such conflicts. The Counterparty shall manage any conflicts of interest in accordance with its conflicts of interest policy.

The Counterparty and/or its affiliates may (a) deal in the Charged Assets, or securities or other obligations of the issuer of the Charged Assets, (b) enter into credit derivatives involving reference entities that may include the Charged Assets (including credit derivatives to hedge its obligations under the Swap Agreement), (c) advise and distribute securities on behalf of, arrange or manage transactions on behalf of, accept deposits from, make loans or otherwise extend credit to and generally engage in any kind of commercial or investment banking or other business with, any obligor in respect of the Charged Assets and (d) act with respect to such business in the same manner as if the Securities did not exist, regardless of whether any such relationship or action might have an adverse effect on the Charged Assets, the Securities, or on the position of any other party to the transaction described herein or otherwise.

## **No Obligations owing by the Calculation Agent**

The Calculation Agent shall have no obligations to the Securityholders, and shall only have the obligations expressed to be binding on it pursuant to the Agency Agreement, unless otherwise specified in the Issue Terms. All designations and calculations made by the Calculation Agent in respect of any Securities shall be conclusive and binding on the Securityholders.

Each of the Counterparty and any of its affiliates may act as a Calculation Agent in connection with the Securities and as a result potential and actual conflicts of interest may arise between the interests of the Securityholders and either the Issuer and/or the Counterparty.

## **Taxation**

Each Securityholder will assume and be solely responsible for any and all taxes of any jurisdiction or governmental or regulatory authority, including, without limitation, any state or local taxes or other like assessment or charges that may be applicable to any payment to it in respect of the Securities. The Issuer will not be obliged to pay any additional amounts to Securityholders to reimburse them for any tax, assessment or charge required to be withheld or deducted from payments in respect of the Securities by the Issuer or the Principal Paying Agent except as provided for in the Issue Terms. In addition to the extent that the Issuer suffers any tax in respect of its income from the Charged Assets or payments under a Charged Agreement (including the deduction of tax from such payments) so that it would be unable to make payment of the full amount payable on the Securities without recourse to further sources of income the Securities may be redeemed early and investors may not recover all amounts invested in the Securities. The attention of each prospective purchaser is drawn to the section entitled "Taxation" in the Information Memorandum. None of the Issuer, the Dealer or any of their respective affiliates makes any representation nor has given to any potential purchaser and nor will give any advice concerning the appropriate accounting treatment or possible tax consequences of purchasing the Securities.

## **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, 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).

The European Commission has proposed certain amendments to the Directive, which may, if implemented, amend or broaden the scope of the requirements described above.

If a payment were to be made or collected through a Member State which has opted for a withholding system and an amount of, or in respect of, tax were to be withheld from that payment, neither the Issuer nor any Paying Agent nor any other person would be obliged to pay additional amounts with respect to any Security as a result of the imposition of such withholding tax.

## **Provision of information**

None of the Issuer, the Trustee, the Agents, the Dealer nor any of their respective affiliates makes any representation as to the credit quality of the Counterparty or any obligor in respect of the Charged Assets. Any of such persons may have acquired, or during the term of the Securities may acquire, non-public information with respect to the Counterparty or any obligor in respect of the Charged Assets. None of such persons is under any obligation (i) to review on the Securityholders' behalf, the business, financial conditions, prospects, creditworthiness or status of affairs of any obligor in respect of the Charged Assets or conduct any investigation or due diligence into any such issuer in respect of the Charged Assets or (ii) other than as may be required by applicable rules and regulations relating to the Securities to make available (a) any information relating to the Securities or (b) any non-public information they may possess in respect of the Counterparty or any obligor in respect of the Charged Assets.

## **Legal opinions**

Legal opinions relating to the Securities will be obtained on issue with respect to the laws of England and of Ireland but no such opinions will be obtained with respect to any other applicable laws and no investigations will be made into the validity or enforceability of the laws of any other jurisdiction in respect of the obligations under the Securities. Any such legal opinions will not be addressed to, and may not be relied on by, Securityholders. In particular, save as aforesaid, no legal opinions will be obtained in relation to:

- (a) the laws of the country of the Underlying Obligor;
- (b) the laws of any country in which any of the Charged Assets are situated; or
- (c) the laws of any country which are expressed to govern any of the Charged Assets.

Such laws depending upon the circumstances, may affect, among other things, the validity and legal and binding effect of the Charged Assets and the effectiveness and ranking of the security for the Securities. Consequently, no responsibility is accepted by the Issuer in relation to such matters.

## **Legality of purchase**

None of the Issuer, the Dealer or any of their respective affiliates has or assumes responsibility for the lawfulness of the acquisition of the Securities by a prospective purchaser of the Securities, whether under the laws of the jurisdiction of its incorporation or the jurisdiction in which it operates (if different), or for compliance by that prospective purchaser with any law, regulation or regulatory policy applicable to it.

## **Centre of Main Interests**

The Issuer has its registered office in Ireland. As a result there is a rebuttable presumption that its centre of main interests (**COMI**) is in Ireland and consequently that any main insolvency proceedings applicable to it would be governed by Irish law. In the decision by the European Court of Justice (**ECJ**) in relation to Eurofood IFSC Limited, the ECJ restated the presumption in Council Regulation (EC) No. 1346/2000 of 29 May 2000 on Insolvency Proceedings, that the place of a company's registered office is presumed to be the company's COMI and stated that the presumption can only be rebutted if "factors which are both objective and ascertainable by third

parties enable it to be established that an actual situation exists which is different from that which locating it at the registered office is deemed to reflect". As the Issuer has its registered office in Ireland, has Irish directors, is registered for tax in Ireland and has an Irish corporate services provider, the Issuer does not believe that factors exist that would rebut this presumption, although this would ultimately be a matter for the relevant court to decide, based on the circumstances existing at the time when it was asked to make that decision. If the Issuer's COMI is not located in Ireland, and is held to be in a different jurisdiction within the European Union, Irish Insolvency proceedings would not be applicable to the Issuer.

## **Preferred Creditors**

If the Issuer becomes subject to an insolvency proceeding and the Issuer has obligations to creditors that are treated under Irish law as creditors that are senior relative to the Securityholders, the Securityholders may suffer losses as a result of their subordinated status during such insolvency proceedings. In particular:

- (a) under the terms of the Trust Instrument, the Issuer will assign by way of security to the Trustee on behalf of Securityholders by way of fixed first ranking security interest (the **Security Interest**) as security for its payment obligations in respect of the Securities certain rights under the Charged Agreements and to the Charged Assets. Under Irish law, the claims of creditors holding fixed security interests may rank behind other claims (namely fees, costs and expenses of any examiner appointed and certain capital gains tax liabilities) and, in the case of fixed security interests over book debts, may rank behind claims of the Irish Revenue Commissioners for PAYE and VAT;
- (b) under Irish law, for a charge to be characterised as a fixed security interest, the holder of the charge or assignment is required to exercise the requisite level of control over the assets purported to be secured and the proceeds of such assets including any bank account into which such proceeds are paid. There is a risk therefore that even a security interest which purports to be taken as a fixed security interest, such as the Security Interest, may take effect as a floating charge if a court deems that the requisite level of control was not exercised; and
- (c) in an insolvency of the Issuer, the claims of certain other creditors (including the Irish Revenue Commissioners for certain unpaid taxes), as well as those of creditors mentioned above, will rank in priority to claims of unsecured creditors and claims of creditors holding floating charges.

## **Examinership**

Examinership is a court procedure available under the Irish Companies (Amendment) Act 1990, as amended (the **1990 Act**) to facilitate the survival of Irish companies in financial difficulties. An examiner may be appointed to a company whose COMI is in Ireland in circumstances where it is unable, or likely to be unable, to pay its debts.

The Issuer, the directors of the Issuer, a contingent, prospective or actual creditor of the Issuer, or shareholders of the Issuer holding, at the date of presentation of the petition, not less than one-tenth of the voting share capital of the Issuer are each entitled to petition the court for the appointment of an examiner. The examiner, once appointed, has the power to halt, prevent or rectify acts or omissions, by or on behalf of the company after his appointment and, in certain

circumstances, negative pledges given by the company prior to his appointment will not be binding on the company. Furthermore, where proposals for a scheme of arrangement are to be formulated, the company may, subject to the approval of the court, affirm or repudiate any contract under which some element of performance other than the payment remains to be rendered both by the company and the other contracting party or parties.

During the period of protection, the examiner will compile proposals for a compromise or scheme of arrangement to assist in the survival of the company and the whole or any part of its undertaking as a going concern. A scheme of arrangement may be approved by the Irish High Court when a minimum of one class of creditors, whose interests are impaired under the proposals, has voted in favour of the proposals and the Irish High Court is satisfied that such proposals are fair and equitable in relation to any class of members or creditors who have not accepted the proposals and whose interests would be impaired by implementation of the scheme of arrangement and the proposals are not unfairly prejudicial to any interested party.

The fact that the Issuer is a special purpose entity and that all its liabilities are of a limited recourse nature means that it is unlikely that an examiner would be appointed to the Issuer.

If however, for any reason, an examiner were appointed while any amounts due by the Issuer under the Securities were unpaid, the primary risks to the holders of Securities would be as follows:

- (i) the Trustee, acting on behalf of Securityholders, would not be able to enforce rights against the Issuer during the period of examinership; and
- (ii) a scheme of arrangement may be approved involving the writing down of the debt due by the Issuer to the Securityholders irrespective of the Securityholders' views.

### **Credit Ratings**

Credit ratings of securities (including any securities of the Issuer or Charged Assets that are rated) represent the opinions of the relevant rating agencies as to the credit quality of the relevant securities and are not a guarantee of any credit quality. Rating agencies attempt to evaluate the safety of principal and interest payments (if any) and do not evaluate the risks of fluctuation in market value. Credit ratings therefore do not fully reflect all risks of an investment. In addition, prospective purchasers should note that rating agencies may fail to make timely changes in credit ratings in response to subsequent events, and the credit quality of any security may be worse than a credit rating indicates. Prospective purchasers should not rely on any rating in relation to any securities necessarily remaining unaffected, or in place at all, at the time any losses are incurred in respect of such securities. A credit rating is not a recommendation to buy, sell or hold a security, inasmuch as such rating does not comment as to market price or suitability for a particular purchaser. There is no assurance that a rating will remain for any given period of time or that a rating will not be lowered or withdrawn entirely by a rating agency if, in its judgement, circumstances in the future so warrant.

### **Currency Risk**

An investment in Securities denominated or payable in a currency other than the currency of the jurisdiction of a particular purchaser (the **Purchaser's Currency**), entails significant risks that are not associated with a similar investment in a security denominated and/or payable in the Purchaser's Currency. These risks include, but are not limited to:

- the possibility of significant market changes in rates of exchange between the Purchaser's Currency and the currency in which the Securities are denominated and/or payable;
- the possibility of significant changes in rates of exchange between the Purchaser's Currency and the currency in which the Securities are denominated and/or payable resulting from the official redenomination or revaluation of the currency; and
- the possibility of the imposition or modification of foreign exchange controls by either the jurisdiction of the purchaser or foreign governments.

### **Market Conditions**

Any liquidity shortage and volatility in the credit markets will introduce a variety of increased risks relating to several aspects of the Issuer's operations. Such additional risks include the inability of the Issuer to sell its assets which, among other things, may render it unable to dispose of underperforming or defaulted assets and satisfy its obligations in respect of the redemption of the Securities. Such market conditions may also lead to the inability of the Issuer to determine a reliable valuation of its assets. All of such factors could materially adversely affect the interests of Securityholders.

### **Comparative Returns**

Risk-adjusted returns and absolute returns on the Securities may be lower than that of comparable investments. Each prospective purchaser should be aware that any return on the Securities may not exceed or even equal the return that might have been achieved had the amount of its initial investment been placed on deposit for the same period. The Securities are not principal protected and Securityholders may not recover the amount of their investment.

### **The Charged Assets**

The value of the Charged Assets has a direct impact on the amounts payable to Securityholders in respect of the Securities. See also the section entitled "*Credit Risk*" above. The Initial Charged Assets comprise EUR 34,300,000 in aggregate principal amount of the Bank of America Corporation Fixed to CMF-Linked Notes due 10 February 2023 with ISIN XS0588061530, issued by Bank of America Corporation (the **Underlying Obligor**).

In accordance with Condition 4(b)(iii) (*Substitution with Cash Collateral*), the Charged Assets may initially include Cash Collateral in place of the Initial Charged Assets, any such Cash Collateral shall be deposited in the Cash Deposit Account. The Cash Collateral (if any) will be replaced with the Initial Charged Assets as soon as the Dealer deems reasonably practicable.

A brief description of the general terms and provisions of the Initial Charged Assets and information relating to the Underlying Obligor (the **Charged Assets Details**) are set out below under the heading "*Description of the Initial Charged Assets and the issuer of the Initial Charged Assets*".

Prospective purchasers are advised to review carefully the Charged Assets Details before deciding whether an investment in the Securities is suitable for them.

## **Commingling of Charged Assets**

Prospective investors' attention is drawn to the provisions in the Agency Agreement allowing the Charged Assets held by the Custodian to be commingled with the Custodian's own assets in limited circumstances. In such circumstances, in the event of the Custodian's insolvency, the Issuer's assets may not be as well protected from claims made on behalf of the general creditors of the Custodian.

## **Illiquid Charged Assets**

The Charged Assets may comprise assets which are not admitted to any public trading market and may therefore be illiquid and not readily realisable.

## **Substitution of Charged Assets for Cash Collateral**

Where the Securities are secured by Cash Collateral on the Issue Date pursuant to Condition 4(b)(iii) (*Substitution with Cash Collateral*), prospective investors should be aware that Initial Charged Assets may later be substituted for the Cash Collateral. If an event of default (howsoever described in the terms and conditions of the Initial Charged Assets) has occurred with respect to the Initial Charged Assets prior to the delivery by the Vendor of all or any part of the Initial Charged Assets, any undelivered Initial Charged Assets shall be deemed to have been delivered by the Vendor to the Issuer and sold by the Selling Agent in accordance with the Agency Agreement.

## **Non-U.S. Investors**

The Securities will not be registered with the U.S. Securities and Exchange Commission under the Securities Act of 1933, as amended (the **1933 Act**), the Issuer will not be registered under the Investment Company Act of 1940, as amended (the **1940 Act**) or under any state or foreign securities laws and the securities will be offered and sold only to non-US persons who purchase outside the United States of America pursuant to Regulation S of the 1933 Act. The offer and sale of offered securities or the transactions contemplated herein may be further restricted by law. Potential purchasers are required to inform themselves of and to observe any legal restrictions on their involvement in the transaction.

## **Trustee Indemnity**

Upon the occurrence of an Event of Default in relation to the Securities, Securityholders may be required to provide an indemnity to the Trustee to its satisfaction as provided for in Condition 11 (*Events of Default*) before the Trustee gives notice to the Issuer accelerating the Securities. The Trustee shall not be obliged to take any action if not indemnified, secured and/or prefunded to its satisfaction.

## **Counterparty Transfer**

Prospective investors should note that, pursuant to the terms of the Swap Agreement, the Counterparty may, at any time, at its own expense and without the need for the consent of the Issuer, the Trustee and/or Securityholders, assign and/or delegate its rights and obligations under the Swap Agreement to Bank of America Corporation or any subsidiary thereof.



**Terms of Series 19 EUR 34,300,000 Stepdown Notes due 10 February 2023 are set out in the Issue Terms below.**

## **ISSUE TERMS**

The Securities have the **Terms** as set out in these Issue Terms, which will complete and modify the Bearer Securities Base Conditions Module, March 2012 Edition (the **Bearer Securities Base Conditions Module**), the Registered Securities Conditions Module, March 2012 Edition (the **Registered Securities Conditions Module**) and the General Definitions Module, March 2012 Edition (the **General Definitions Module**), each of which is incorporated by reference into these Issue Terms (together, the **Conditions**). The Bearer Securities Base Conditions Module, the Registered Securities Conditions Module and the General Definitions Module are each set out in full in the Information Memorandum.

- |    |                            |   |
|----|----------------------------|---|
| 1. | Issuer:                    | Titanium Capital Public Limited Company.                      |
| 2. | Description of Securities: | Series 19 EUR 34,300,000 Stepdown Notes due 10 February 2023. |
| 3. | (a) Issue Date:            | 2 October 2012.   |
|    | (b) Issue Price:           | 100 per cent. of the aggregate nominal amount.                |

## **INTEREST**

- |    |  |  |
|----|--|--|
| 4. | The Securities are Fixed Rate Securities which pay interest calculated as set out below on the Interest Payment Dates. The amount of interest (the <b>Fixed Interest Amount</b> ) payable under the Securities on each Interest Payment Date shall be determined in accordance with Condition 7(a) ( <i>Fixed Rate Securities</i> ). |  |
|    | (a) Interest Rate Basis:   | Fixed Rate; provided that the Rate of Interest will step down on 10 February 2014 as described below.  |
|    | (b) Interest Payment Dates:  | 10 February in each year, commencing 10 February 2013 up to and including the Maturity Date, subject to adjustment in accordance with the Business Day Convention for purposes of payments only. |
|    | (c) Fixed Interest Periods:  | Each period from and including an Interest Payment Date (or the Issue Date in respect of the first Interest Period) to and excluding the immediately succeeding Interest Payment Date.           |
|    | (d) Interest Commencement Date:  | Issue Date.  |
|    | (e) Business Day Convention:   | Following Business Day Convention.   |
|    | (f) Rate of Interest:  | From and including the Issue Date to but excluding 10 February 2014: 6.70 per cent. per annum; and from and including 10 February  |

2014 to but excluding the Maturity Date: 3.05 per cent. per annum.

(g) Additional Business Centre(s) New York City.  
and/or Additional Financial  
Centre(s):

(h) Day Count Fraction: 30/360

## PROVISIONS RELATING TO REDEMPTION

5. Maturity Date: 10 February 2023. The Securities shall be redeemed in whole at their Outstanding Principal Amount on the Maturity Date unless:

(i) the Securities have previously been redeemed mandatorily under Condition 8(b) (*Redemption for taxation reasons*), 8(c) (*Mandatory Redemption*) or purchased under Condition 9 (*Purchase*) or, as the case may be, are in the process of being so redeemed or purchased; or

(ii) an Event of Default has occurred under Condition 11 (*Events of Default*),

in which case the Securities shall be redeemed on a *pro rata* and *pari passu* basis at the applicable Early Redemption Amount.

Interest on the Securities will cease to accrue upon the occurrence of any of the events described above from the later of the previous Interest Payment Date or Issue Date.

## PROVISIONS RELATING TO SECURITY

6. Initial Charged Assets: EUR 34,300,000 in aggregate principal amount of Bank of America Corporation Fixed to CMF-Linked Notes due 10 February 2023 with ISIN XS0588061530.

7. Substitution of Charged Assets:

(a) At direction of Counterparty Not applicable.  
(pursuant to Condition 4(b)(i)):

(b) At direction of Securityholders Not applicable.  
(pursuant to Condition 4(b)(ii)):

8. Charged Agreements:

- (a) Counterparty: Merrill Lynch International Bank Limited.
- (b) Swap Agreement: A 1992 ISDA Master Agreement (Multicurrency-Cross Border) and Schedule thereto (in the form of the Swap Schedule Terms Module, March 2012 Edition) dated as of 2 October 2012 (the **Master Agreement**) as supplemented by a confirmation (comprising an interest rate swap transaction) with an effective date of the Issue Date between the Issuer and the Counterparty, the form of which is annexed hereto (the **Swap Confirmation**, together with the Master Agreement, the **Swap Agreement**).
- (c) Counterparty's rights to assign and/or to delegate its rights and obligations under the Swap Agreement: Yes, to Bank of America Corporation or any subsidiary of Bank of America Corporation.
9. (a) Security Ranking Basis: Counterparty Priority Basis, which means that the net proceeds of realisation of, or enforcement with respect to, the security constituted by the Trust Instrument (following payment of all amounts due to the Trustee in accordance with the Trust Instrument) shall be applied:
- (i) *first* in meeting the claims of the Counterparty; and
- (ii) *thereafter* on a *pro rata* and *pari passu* basis in meeting the claims of the Securityholders.
- (b) Instructing Creditor: For the purposes of these Securities only, the Instructing Creditor shall be the Counterparty.
10. Custodian's account details: Sub account 777395, linked to Euroclear Account No. 10730 or such other account as may be advised by the Custodian from time to time (the **Custodian Account**).
11. Counterparty Account details: As set out in the Charged Agreement.
- Ref: Titanium Capital Public Ltd. Co. Series 19
12. Additional Charging Document: Not applicable.

## GENERAL PROVISIONS APPLICABLE TO THE SECURITIES

- |     |   |   |
|-----|---|---|
| 13. | New Global Note:  | No.   |
| 14. | Pre-closing Date and Time:  | Not applicable.   |
| 15. | Closing Date and Time:  | 2.00 p.m. (London time) on 2 October 2012.  |
| 16. | Form of Securities:   | N-USD Regulation S Global Certificate (EUR 34,300,000 nominal amount) registered in the name of a nominee for a common depository for Euroclear and Clearstream, Luxembourg.  |
| 17. | Whether TEFRA D or TEFRA C rules applicable or TEFRA rules not applicable:                                | Not applicable.   |
| 18. | Currency of Issue:  | Euro ( <b>EUR</b> ).  |
| 19. | Specified Denominations:  | EUR 100,000.  |
| 20. | Whether the Issuer is able to purchase any of the Securities pursuant to Condition 9 ( <i>Purchase</i> ): | Yes.  |
| 21. | Rating:   | The Securities will not be rated.   |
| 22. | Listing:  | Yes, application has been made to the Irish Stock Exchange for the Securities to be admitted to the Official List and trading on its regulated market. There is no guarantee that the Securities will be listed as of the Issue Date or on any date thereafter. |
| 23. | Common Code and ISIN:   | 083149736 and XS0831497366 respectively.  |
| 24. | Intended to be held in a manner which would allow Eurosystem eligibility:                                 | No.   |

## AGENTS AND OTHER PARTIES

- |     |                             |   |
|-----|-----------------------------|---|
| 25. | Party and specified office: |   |
|     | (a) Trustee:                | HSBC Corporate Trustee Company (UK) Limited of Level 24, 8 Canada Square, London E14 5HQ. |
|     | (b) Principal Paying Agent: | HSBC Bank plc of 8 Canada Square, London E14 5HQ.   |
|     | (c) Custodian:              | HSBC Bank plc of 8 Canada Square, London  |

	E14 5HQ.
(d) Registrar:	HSBC Bank plc of 8 Canada Square, London E14 5HQ.
(e) Calculation Agent:	Merrill Lynch International Bank Limited of Central Park, Leopardstown, Dublin 18, Ireland.
(f) Agent Bank:	Merrill Lynch International Bank Limited of Central Park, Leopardstown, Dublin 18, Ireland.
(g) Selling Agent:	Merrill Lynch International of Merrill Lynch Financial Centre, 2 King Edward Street, London EC1A 1HQ.
(h) Issuer's Process Agent:	Merrill Lynch International of Merrill Lynch Financial Centre, 2 King Edward Street, London EC1A 1HQ
(i) Vendor:	Merrill Lynch International of Merrill Lynch Financial Centre, 2 King Edward Street, London EC1A 1HQ.
(j) Irish Listing Agent:	Arthur Cox Listing Services Limited of Earlsfort Centre, Earlsfort Terrace, Dublin 2, Ireland.
(k) Dealer:	Merrill Lynch International of Merrill Lynch Financial Centre, 2 King Edward Street, London EC1A 1HQ.

## ADDITIONAL TERMS

26. For the purposes of these Conditions (and notwithstanding anything to the contrary in the Definitions Modules):

**Early Redemption Amount** means, subject to a minimum of zero, an amount in EUR equal to:

- (a) the net proceeds of realisation of, or enforcement with respect to, the Security Interests over, the Charged Assets or the Mortgaged Property, as applicable (converted, where necessary, into EUR at the prevailing spot rate) (following payment of all amounts due to the Trustee or, as the case may be, the Selling Agent, including any costs, expenses and taxes incurred in connection with such realisation or enforcement); plus
- (b) the termination value of the Swap Agreement, as determined by the Calculation Agent (where a positive amount represents an amount owing to the Issuer by the Counterparty and a negative amount represents an amount owing to the Counterparty by the Issuer).

**BEARER SECURITIES BASE CONDITIONS MODULE**

**MARCH 2012 EDITION**

**to be incorporated by reference into  
the Conditions and the Trust Instrument for  
an issue of repackaged Securities  
arranged by  
MERRILL LYNCH INTERNATIONAL**

## **BEARER SECURITIES BASE CONDITIONS MODULE**

### **MARCH 2012 EDITION**

**This Bearer Securities Base Conditions Module sets out the basic terms and conditions for Securities governed by English law and will apply in respect of all Series of Securities issued in bearer form. Other Conditions Modules will apply in addition, as specified in the Issue Terms.**

#### **1. FORM, DENOMINATION AND TITLE**

- (a) Bearer Securities are serially numbered and in the Specified Denomination(s) set out in the Issue Terms. Title to Bearer Securities and (if applicable) the related Coupons will pass by delivery.
- (b) Bearer Securities will either:
  - (i) initially be represented by a Temporary Bearer Global Security; or
  - (ii) be represented on issue by a Permanent Bearer Global Security,as specified in the Issue Terms.

The Temporary Bearer Global Security or Permanent Bearer Global Security, as the case may be, will be delivered on or before the Issue Date to the Common Safekeeper.

Beneficial interests in a Temporary Bearer Global Security will be exchangeable for either beneficial interests in a Permanent Bearer Global Security or definitive Bearer Securities, as provided in the Temporary Bearer Global Security. A Temporary Bearer Global Security may be exchanged on or after the Exchange Date and upon certification as to non-U.S. beneficial ownership as required by U.S. Treasury regulations.

A Permanent Bearer Global Security will be exchangeable, in whole but not in part, for definitive Bearer Securities only upon the occurrence of an Exchange Event, as provided in the Permanent Bearer Global Security.

- (c) No beneficial owner of an interest in a Global Security will be able to exchange or transfer that interest, except in accordance with the applicable procedures of the Clearing Systems and in accordance with and subject to the terms of such Global Security.
- (d) For so long as any of the Securities is represented by a Bearer Global Security held by a Common Safekeeper, each person who is for the time being shown in the records of the Clearing Systems as entitled to a particular nominal amount of Securities shall be deemed to be the holder of such nominal amount of Securities for all purposes other than with respect to the payment of principal, premium (if any), or interest or other amount on such Securities. With respect to such payment, such Common Safekeeper shall be deemed to be the holder of such nominal amount of Securities in accordance with and subject to the terms of the relevant Global Security. Any certificate or other document issued by the Clearing Systems as to the nominal amount of Securities standing to the account of any person shall be conclusive and binding for all purposes save in the case of manifest error. In determining whether a particular person is entitled to a particular nominal amount of

Securities as aforesaid, the Trustee may rely on such evidence and/or information and/or certification as it shall, in its absolute discretion, think fit and, if it does so rely, such evidence and/or information and/or certification shall, in the absence of manifest error, be conclusive and binding on all concerned.

- (e) Subject to paragraph (d) above, the Issuer, the Counterparty (if any), the Trustee and the Agents may deem and treat the holder of any Bearer Security as the owner thereof for all purposes. Except as ordered by a court of competent jurisdiction or as required by applicable law, the Issuer, each Counterparty, the Trustee and the Agents shall not be affected by any notice to the contrary, whether or not the Security shall be overdue. All payments made to any such holder shall be valid and, to the extent of the sums so paid, effective to satisfy and discharge the liability for the moneys payable upon such Securities.

## **2. STATUS**

The Securities are secured, limited recourse obligations of the Issuer, secured in the manner described in Condition 3 (*Security*) and recourse in respect of which is limited in the manner described in Condition 12 (*Enforcement*). The Securities rank and will rank, unless otherwise specified in the Issue Terms, *pari passu* without any preference among themselves.

## **3. SECURITY**

The Securities are constituted and secured by a Trust Instrument.

Unless otherwise specified in the Issue Terms, the Issuer's obligations under the Securities and the Charged Agreement(s) (if any) will be secured by the following security:

- (a) a first ranking assignment by way of security of all of the Issuer's Rights under the Agency Agreement;
- (b) a first ranking assignment by way of security of all of the Issuer's Rights to the Charged Assets;
- (c) a first ranking assignment by way of security of the Issuer's Rights under the Charged Agreement(s) (other than in respect of the Issuer's obligations under the Charged Agreement(s)), the Issuer's Rights under the Sale Agreement and the Issuer's Rights under any Additional Agreement; and
- (d) a first ranking assignment by way of security of all of the Issuer's Rights to any of its bank accounts in respect of the Securities (but excluding, for the avoidance of doubt, the Issuer's bank account containing the paid up ordinary share capital of the Issuer).

The secured creditors of all Series of Securities of the Issuer will also be secured under the Trust Instrument executed in respect of the first Series of Securities by a first floating charge over the whole of the assets and undertaking of the Issuer (other than, *inter alia*, the money representing paid up ordinary share capital of the Issuer and any transaction fees payable to the Issuer on each issue of Securities) which will become enforceable upon formal notice being given of an intention to appoint an administrator in relation to the



Issuer or an application being made to, or a petition being lodged or documents being filed with, the court for administration in relation to the Issuer.

The Issue Terms will specify whether any other security interest will be created under the Trust Instrument and/or under an Additional Charging Document.

#### **4. CHARGED ASSETS**

##### **(a) Initial Charged Assets**

The Vendor will procure that the initial Charged Assets as specified in the Issue Terms (the "**Initial Charged Assets**") are delivered to the Custodian on the Issue Date, to the extent that such Charged Assets are capable of being delivered. With effect from such delivery, the Charged Assets will be held by the Custodian on behalf of the Issuer, subject to the Security Interests.

##### **(b) (i) Substitution at direction of Counterparty**

The Issue Terms will specify whether the Initial Charged Assets may be substituted from time to time for alternative charged assets and, if substitution is applicable, whether such substitution is on the Nominal Basis or the Market Value Basis. If no such specification is made in the Issue Terms, substitution at the direction of the Counterparty shall be deemed to be not applicable. Where such substitution is applicable, the Counterparty (if any) may, from time to time, at its cost and subject to the Trust Instrument, by giving not less than 5 Business Days' (or such other period of notice as may be specified in the Issue Terms) notice (a "**Substitution Notice**") in writing to the Issuer and the Trustee require that any securities or other assets for the time being comprising the Charged Assets be replaced by Eligible Investments and the Trustee shall accordingly release the Charged Assets from the Security Interests in accordance with the Trust Terms Module to enable such substitution.

A substitution may occur provided that:

- (A) upon any release of the substituted Charged Assets from the Security Interests, the replacement Charged Assets are secured by the Issuer on the same terms (*mutatis mutandis*) as the substituted Charged Assets;
- (B) all requirements of any relevant Stock Exchange or competent authority are complied with; and
- (C) any other conditions specified in the Issue Terms (including Rating Agency requirements, if any) are complied with.

Upon receipt of a Substitution Notice, the Issuer shall notify the Principal Paying Agent, the Custodian, the Calculation Agent, the Securityholders and, in the case of Securities that are rated, the relevant Rating Agencies.

The Counterparty shall bear and pay, and shall indemnify the Issuer and the Trustee against, all costs, expenses and taxes (including, without limitation, stamp duty) payable in connection with a substitution.

(ii) **Substitution at the request of Securityholders**

The Issue Terms will specify whether the Initial Charged Assets may be substituted from time to time for alternative charged assets and, if substitution is applicable, whether such substitution is on the Nominal Basis or the Market Value Basis. If no such specification is made in the Issue Terms, substitution at the request of the Securityholders shall be deemed to be applicable on the Nominal Basis. In the case of Credit-Linked Securities, unless otherwise specified in the Issue Terms, if no Credit Event or event under Condition 8(b), 8(c) or 11 has occurred, on the first Business Day which falls three calendar months after the Issue Date (or if there is no corresponding day in such month, the last Business Day in such month) and every first Business Day three calendar months thereafter (or as aforesaid), any Securityholder may, by delivering a written request (a "**Sale Request**", any such Securityholder delivering such request, a "**Requesting Securityholder**") to the Principal Paying Agent, request the Issuer to sell the Charged Assets and reinvest the proceeds thereof in cash or one or more Eligible Assets identified by such Securityholder in the Sale Request (the "**Replacement Assets**") in accordance with this Condition 4(b)(ii).

(i) If the Principal Paying Agent receives a Sale Request it shall, within three Business Days of such receipt, forward a copy of the Sale Request to each Securityholder in accordance with Condition 15 (*Notices*) and the Issuer, copied to the Custodian, the Trustee and the Counterparty, asking the Securityholders if they consent to such sale and replacement; provided that the Principal Paying Agent shall not forward such request to the Securityholders if the Replacement Assets have been purchased pursuant to a prior Sale Request within the prior three months.

If within five Business Days' following the Principal Paying Agent's delivery of a copy of the Sale Request to the Securityholders, the Required Minimum Securityholders notify the Principal Paying Agent in writing (copied to the Trustee, the Selling Agent and the Custodian) that they consent to such sale of the Charged Assets and reinvestment in the Replacement Assets, and that they agree to pay all costs incurred in connection with the sale of the then Charged Assets and the purchase of the Replacement Assets (including, without limitation, any Swap Adjustment Costs and Collateral Top-Up Costs (each as defined below) as well as legal fees in amending any of the documents relating to the Securities to accommodate such change and the documents in respect of the new issue (together, the "**Restructure Documents**")), the Principal Paying Agent shall inform the Selling Agent and the Trustee. The Selling Agent will, upon release of the security by the Trustee, sell such principal amount of the Charged Assets, rounded down to the nearest denomination of such Charged Assets (the "**Liquidation Assets**") as bears the same proportion to the then total principal amount of the outstanding Charged Assets as the principal amount of the Securities held by the Securityholders which have consented to the sale of the Charged Assets (the "**Consenting Holders**") bears to the then total Outstanding Principal Amount of the Securities.

The Selling Agent shall solicit bids for the purchase of the Charged Assets from at least two bidders (other than Merrill Lynch International or any of its Affiliates) and shall then arrange for the sale of the Charged Assets to the person which has

made the higher or highest, as applicable, firm bid for such securities; provided however, that if two or more bidders have the same highest bid, then the Selling Agent may elect to sell such securities to any such bidder; provided, further, that notwithstanding anything to the contrary herein, the Selling Agent may sell the Charged Assets to itself or an Affiliate if it or its Affiliates, as applicable, elects to match such higher or highest bid, as applicable. The Issuer shall then, through the Selling Agent, purchase the Replacement Assets with the proceeds (the "**Liquidation Proceeds**") of the Liquidation Assets or, if such proceeds are not sufficient to make such purchase, with such proceeds and the amount, which must be contributed by the Consenting Holders, equal to the amount of such deficiency (the "**Collateral Top Up Costs**").

Notwithstanding the foregoing, the Issuer shall not sell any Charged Assets in connection with its receipt of a Sale Request unless the following conditions have been met:

- (A) The Replacement Assets must (i) be readily available and eligible for purchase by the Issuer, (ii) satisfy the requirements for Eligible Assets, (iii) mature on or before the Maturity Date or, if earlier, the Scheduled Termination Date, (iv) (if such substitution is on the Nominal Basis) be in an aggregate principal amount at least equal to the principal amount of the Charged Assets for which they are Replacement Assets (or its equivalent in the currency of the relevant Replacement Assets) and (v) not cause the Issuer to suffer tax in respect of its income in respect of such Replacement Assets;
- (B) If the cashflows payable on the Replacement Assets are different from the cashflows payable on the Liquidated Assets, the Consenting Holders must pay to the Principal Paying Agent for distribution to the Counterparty, an amount (the "**Swap Adjustment Cost**"), as notified to the Principal Paying Agent by the Counterparty, sufficient to compensate the Counterparty for amending or executing a swap transaction with the Issuer:
  - (x) (in the case where the relevant Swap Agreement does not contain an interest rate and/or cross currency transaction) to ensure that the cashflows available to the Issuer to make payments of interest on each Interest Payment Date are equal to the aggregate interest amounts payable on the Securities, if applicable and any additional costs incurred by the Counterparty in establishing any swap such that the aggregate Interest Amounts remain the same; or
  - (y) (in the case where the relevant Swap Agreement does contain an interest rate and/or cross currency transaction) any loss which will be incurred by the Counterparty as a result of the reduction in the payments to be made to the Counterparty under such interest rate and/or cross-currency swap transaction.
- (C) If the purchase price of a principal amount of the Replacement Assets equal to the principal amount of the Liquidated Assets is less than the amount of the Liquidation Proceeds, the amount of such excess proceeds

shall be applied to purchase additional Replacement Assets (such amount to be converted to the currency of the Replacement Assets, if necessary).

- (D) If the Securities are rated by S&P, S&P must confirm to the Issuer, the Counterparty and the Trustee, in writing, that the replacement of the Charged Assets with the Replacement Assets will not cause a downgrade in their rating of the Securities and that the New Series of Securities (as defined below) shall have the same rating as the Securities.
- (E) All the Restructure Documents have been duly executed by all parties.

Prior to selling any Charged Assets in connection with a replacement as described herein, the Issuer and the Counterparty may require that the Consenting Holders make a cash deposit with the Issuer sufficient to cover all costs which are to be borne by the Consenting Holders as described herein.

If the consent of the Required Minimum Securityholders has been obtained but less than all of the Securityholders are Consenting Holders, the Issuer, the Counterparty and the Trustee shall deem the Consenting Holders as having exchanged their Securities for a new series of Securities (the "**New Series of Securities**") which will be secured on the Replacement Assets (but not any of the then Charged Assets which have not been liquidated) and a new Swap Agreement (the "**Replacement Swap**") which the Issuer will enter into with the Counterparty on the date of purchase of the Replacement Assets. The Replacement Swap will be structured in a manner similar to the existing Swap Agreement but will be adjusted to take account of the change in the cash flows for the Replaced Assets.

All parties, at the expense of the Consenting Holders, will enter into any amendments to the other transaction documents and any documentation required to amend the Securities and to effect the New Series of Securities and will ensure that the Securities as amended and the New Series of Securities preserve the economic equivalence of the Securities prior to such replacement. Upon the Issuer's purchase of any Replacement Assets as described in the preceding paragraphs such Replacement Assets shall constitute Charged Assets for the New Series of Securities.

All Securityholders are deemed to have accepted Condition 4(b)(ii) and to be bound by the terms thereof even if not Consenting Securityholders.

(iii) **Substitution with Cash Collateral**

- (A) In the event the Vendor does not deliver to the Issuer on the Issue Date all or any part of the Initial Charged Assets pursuant to the Sale Agreement, the Issuer shall, on the Issue Date, deposit the Cash Collateral into the Cash Deposit Account. The Cash Collateral shall form part of the Charged Assets and shall be subject to the security interest in favour of the Trustee created pursuant to the Trust Instrument.
- (B) The Vendor will use reasonable endeavours to pursue delivery of the Initial Charged Assets (whether or not such Charged Assets are subject to default (howsoever described)) to the Issuer in accordance with normal market

practice pursuant to the Sale Agreement. In the event the Vendor delivers the Initial Charged Assets (or part thereof) to the Issuer after the Issue Date, the Issuer shall substitute the Initial Charged Assets (or part thereof) for an amount of cash held in the Cash Deposit Account equal to an amount which is the product of (1) the principal amount of such Initial Charged Assets divided by the aggregate principal amount of the Initial Charged Assets multiplied by (2) the Price. Such Initial Charged Assets shall be deposited with the Custodian in the Custodian's account pursuant to the Agency Agreement. From the time of such deposit, such amounts removed from the Cash Deposit Account will not form part of the Charged Assets.

- (C) The Issuer's ability to deposit cash on the Issue Date shall be for the purposes of ensuring that the Securities are fully secured. Any interest earned on the Cash Deposit Account shall be paid by the Issuer to the Counterparty under the Swap Agreement. For the avoidance of doubt, any substitution pursuant to this Condition 4(b)(iii) shall not affect the payments by the Counterparty to the Issuer under the Swap Agreement.

(c) **Realisation of Charged Assets upon early redemption or Event of Default**

If the Security Interests over any of the Charged Assets become enforceable following an early redemption of the Securities or an Event of Default, the Trustee may in its discretion and, if requested by an Instructing Creditor, shall (subject to being indemnified, secured and/or prefunded to its satisfaction) realise such Charged Assets and/or take such action as may be permitted under applicable laws against any obligor in respect of such Charged Assets. The Trustee will not have any liability as to the consequence of such action and will not have regard to the effect of such action on individual Securityholders or the Counterparty. On the occurrence of any such event, each Charged Agreement will terminate in accordance with its terms.

Notwithstanding anything to the contrary in the Issue Terms, if (i) the Counterparty is the Defaulting Party in respect of and as defined in the Swap Agreement at any time; and (ii) "the Counterparty only" is specified as the Instructing Creditor in the Issue Terms, the Instructing Creditor shall be deemed to be the Counterparty or the Securityholders.

## **5. APPLICATION OF PROCEEDS**

The Trust Instrument provides for the application of the Realisation Amount in accordance with the relevant Security Ranking Basis.

The Issue Terms will specify the "**Security Ranking Basis**" in accordance with which the Realisation Amount will be applied, being one of the following (or otherwise as specified in the Issue Terms):

- (a) "**Securityholder Priority Basis**" meaning, first, in meeting claims of the Securityholders under the Securities on a *pari passu* and *pro rata* basis and, thereafter, in meeting the claims of the Counterparty (or if more than one Counterparty, meeting the claims of all such Counterparties on the basis as specified in the Issue Terms) under the Charged Agreement(s); or

- (b) **"Pari Passu Basis"** meaning in meeting the claims of the Securityholders and the Counterparty (or if more than one Counterparty, meeting the claims of all such Counterparties on the basis as specified in the Issue Terms) under the Charged Agreement(s) on a *pari passu* and *pro rata* basis; or
- (c) **"Counterparty Priority Basis"** meaning, first, in meeting the claims of the Counterparty (or, if more than one Counterparty, meeting the claims of all such Counterparties on the basis as specified in the Issue Terms) under the Charged Agreement(s) and, thereafter, in meeting the claims of the Securityholders on a *pari passu* and *pro rata* basis; or
- (d) **"Counterparty/Securityholder Priority Basis"** meaning, Counterparty Priority Basis, provided that if the Counterparty is the Defaulting Party in respect of and as defined in the Swap Agreement at any time, the Security Ranking Basis shall be Securityholder Priority Basis.

For the avoidance of doubt, the Counterparty shall not have any claim in respect of the Issuer's Rights under the Charged Agreement(s).

## 6. SHORTFALL AFTER APPLICATION OF PROCEEDS

- (a) All payments to be made by the Issuer in respect of the Securities and the Charged Agreement(s) (if any) will be made only from and to the extent of the sums received or recovered from time to time by or on behalf of the Issuer or the Trustee in respect of the Mortgaged Property in accordance with the Security Ranking Basis specified in the Issue Terms;
- (b) to the extent that such sums are less than the amount which the Securityholders and the Counterparty (if any) may have expected to receive (the difference being referred to as a "**shortfall**"), such shortfall will be borne by such Securityholders and by the Counterparty (if any) in accordance with the Security Ranking Basis specified in the Issue Terms; and
- (c) each holder of Securities, by subscribing for or purchasing the relevant Securities, and each Counterparty (if any) will be deemed to accept and acknowledge that it is fully aware that:
  - (i) the Securityholders and the Counterparty (if any) shall look solely to the sums referred to in paragraph (a) of this Condition 6 (*Shortfall after Application of Proceeds*), as applied in accordance with paragraphs (a) and (b) above (the "**Relevant Sums**"), for payments to be made by the Issuer in respect of the Securities and the Charged Agreement(s) (if any);
  - (ii) the obligations of the Issuer to make payments in respect of the Securities and the Charged Agreement(s) (if any) will be limited to the Relevant Sums and the Securityholders and the Counterparty (if any) shall have no further recourse to the Issuer in respect of the Securities and the Charged Agreement(s) (if any), respectively;
  - (iii) without prejudice to the foregoing, any right of the Securityholders and the Counterparty (if any) to claim payment of any amount exceeding the Relevant Sums shall be automatically extinguished; and

- (iv) the Securityholders and the Counterparty (if any) shall not be able to petition for the winding up of the Issuer as a consequence of any such shortfall.

Non-payment of any shortfall shall not constitute an Event of Default under Condition 11 (*Events of Default*) nor entitle the Counterparty (if any) or the Swap Guarantor (if any) to terminate the remainder of the Charged Agreement(s) in respect of such Series in the case of a partial termination and in any event, in respect of any other Series.

None of the Trustee, the shareholders of the Issuer, any Dealer, any Counterparty or any Swap Guarantor has any obligation to any Securityholder for payment of any amount by the Issuer in respect of the Securities.

## 7. TYPES OF SECURITIES

### (a) **Fixed Rate Securities**

Each Fixed Rate Security bears interest on its Outstanding Principal Amount (or, if it is a Partly Paid Security, the amount paid up) as on the first day of a Fixed Interest Period from (and including) the Interest Commencement Date (as specified in the Issue Terms) to (but excluding) the Maturity Date at the rate(s) per annum equal to the Rate(s) of Interest, subject to any cessation of interest in circumstances as set out in the terms of the Securities.

Interest will be payable in arrear on the Interest Payment Date(s) in each year as specified in the Issue Terms, subject as aforesaid. Interest pursuant to this Condition 7(a), whether for a Fixed Interest Period or a period other than a Fixed Interest Period, shall be calculated in respect of each Security (and subject, in respect of Fixed Rate Securities in definitive form, to the paragraph below) as the product of:

- (A) the Rate of Interest;
- (B) (i) in the case of Fixed Rate Securities which are represented by a Global Security, such Security's *pro rata* share of the aggregate Outstanding Principal Amount of the Fixed Rate Securities represented by such Global Security (or, if they are Partly Paid Securities, the aggregate amount paid up); or (ii) in the case of Fixed Rate Securities in definitive form, the Calculation Amount; and
- (C) the applicable Day Count Fraction,

the resultant figure being rounded to the nearest sub-unit of the relevant Currency of Issue, half of any such sub-unit being rounded upwards or otherwise in accordance with applicable market convention.

Where the Specified Denomination of a Fixed Rate Security in definitive form is a multiple of the Calculation Amount, the amount of interest payable in respect of such Fixed Rate Security shall be the product of the interest amount (determined in the manner provided above) for the relevant Calculation Amount and the amount by which the relevant Calculation Amount is multiplied to reach the Specified Denomination, without any further rounding.

(b) **Floating Rate Securities and Indexed Interest Securities**

(i) ***Interest Payment Dates***

Each Security which is a Floating Rate Security or Indexed Interest Security bears interest on its Outstanding Principal Amount (or, if it is a Partly Paid Security, the amount paid up) as on the first day of an Interest Period from (and including) the Interest Commencement Date to (but excluding) the Maturity Date, subject to any cessation of interest in circumstances as set out in the Issue Terms.

Such interest will be payable in arrear on either:

- (A) the Specified Interest Payment Date(s) in each year specified in the Issue Terms; or
- (B) if no Specified Interest Payment Date(s) is/are specified in the Issue Terms, each date which falls the number of months or other period specified as the Specified Period in the Issue Terms after the preceding Interest Payment Date or, in the case of the first Interest Payment Date, after the Interest Commencement Date,

each an "**Interest Payment Date**".

Such interest will be payable in respect of each Interest Period (which expression shall, in these Conditions, mean the period from (and including) an Interest Payment Date (or the Interest Commencement Date) to (but excluding) the next (or first) Interest Payment Date).

(ii) ***Rate of Interest***

The Rate of Interest payable from time to time in respect of Floating Rate Securities and Indexed Interest Securities will be determined in the manner specified in the Issue Terms.

(A) **ISDA Determination for Floating Rate Securities**

Where ISDA Determination is specified in the Issue Terms as the manner in which the Rate of Interest is to be determined, the Rate of Interest for each Interest Period will be the relevant ISDA Rate plus or minus (as indicated in the Issue Terms) the Margin (if any).

For the purposes of this sub-paragraph (A), "**ISDA Rate**" for an Interest Period means a rate equal to the Floating Rate that would be determined by the Agent Bank under an interest rate swap transaction if the Agent Bank were acting as Calculation Agent for that swap transaction under the terms of an agreement incorporating either of the 2000 ISDA Definitions or the 2006 ISDA Definitions (as specified in the Issue Terms) and under which:

- (1) the Floating Rate Option is as specified in the Issue Terms;
- (2) the Designated Maturity is a period specified in the Issue Terms; and



- (3) the relevant Reset Date is either (i) if the applicable Floating Rate Option is based on the London inter-bank offered rate ("**LIBOR**") or on the Euro-zone inter-bank offered rate ("**EURIBOR**") for a currency, the first day of that Interest Period or (ii) in any other case, as specified in the Issue Terms.

For the purposes of this sub-paragraph (A), "**Floating Rate**", "**Calculation Agent**", "**Floating Rate Option**", "**Designated Maturity**" and "**Reset Date**" have the meanings given to those terms in the 2000 ISDA Definitions or the 2006 ISDA Definitions, as the case may be.

When this sub-paragraph (A) applies, in respect of each relevant Interest Period the Agent Bank or the Calculation Agent, as the case may be, will be deemed to have discharged its obligations under Condition 7(b)(iv) (*Types of Securities - Floating Rate Securities and Indexed Interest Securities*) in respect of the determination of the Rate of Interest if it has determined the Rate of Interest in respect of such Interest Period in the manner provided in this sub-paragraph (A).

(B) Screen Rate Determination for Floating Rate Securities

Where Screen Rate Determination is specified in the Issue Terms as the manner in which the Rate of Interest is to be determined, the Rate of Interest for each Interest Period will, subject as provided below, be either:

- (1) the offered quotation; or
- (2) the arithmetic mean (rounded if necessary to the fifth decimal place, with 0.000005 being rounded upwards) of the offered quotations,

(expressed as a percentage rate per annum) for the Reference Rate which appears or appear, as the case may be, on the Relevant Screen Page as at 11.00 a.m. (London time, in the case of LIBOR, or Brussels time, in the case of EURIBOR) on the relevant Interest Determination Date plus or minus (as indicated in the Issue Terms) the Margin (if any), all as determined by the Agent Bank. If 5 or more of such offered quotations are available on the Relevant Screen Page, the highest (or, if there is more than one such highest quotation, one only of such quotations) and the lowest (or, if there is more than one such lowest quotation, one only of such quotations) shall be disregarded by the Agent Bank for the purpose of determining the arithmetic mean (rounded as provided above) of such offered quotations.

The Agency Agreement contains provisions for determining the Rate of Interest in the event that the Relevant Screen Page is not available or if, in the case of (1) above, no such quotation appears or, in the case of (2) above, fewer than 3 such offered quotations appear, in each case as at the time specified in the preceding paragraph.

If the Reference Rate from time to time in respect of Floating Rate Securities is specified in the Issue Terms as being other than LIBOR or

EURIBOR, the Rate of Interest in respect of such Securities will be determined as provided in the Issue Terms.

(iii) ***Minimum and/or Maximum Interest Rate***

If the Issue Terms specify a Minimum Interest Rate for any Interest Period, then, in the event that the Rate of Interest in respect of such Interest Period determined in accordance with the provisions of sub-paragraph (ii) above is less than such Minimum Interest Rate, the Rate of Interest for such Interest Period shall be such Minimum Interest Rate.

If the Issue Terms specify a Maximum Interest Rate for any Interest Period, then, in the event that the Rate of Interest in respect of such Interest Period determined in accordance with the provisions of sub-paragraph (ii) above is greater than such Maximum Interest Rate, the Rate of Interest for such Interest Period shall be such Maximum Interest Rate.

(iv) ***Determination of Rate of Interest and Interest Amounts***

The Agent Bank (in the case of Floating Rate Securities) or the Calculation Agent (in the case of Indexed Interest Securities) will, on or as soon as practicable after each time at which the Rate of Interest is to be determined, but in any event no later than the second Business Day thereafter, determine and notify the Issuer, the Trustee, the Counterparty (if any) and the Principal Paying Agent of (i) the Rate of Interest for the relevant Interest Period and (ii) the amounts payable in respect of each Security (the "**Interest Amounts**") pertaining to such Interest Period.

The Interest Amount payable in respect of each Security (and subject, in respect of Floating Rate Securities or Index Linked Interest Securities in definitive form, to the paragraph below) shall be the product of:

- (A) the Rate of Interest;
- (B) (i) in the case of Floating Rate Securities or Index Linked Interest Securities which are represented by a Global Security, such Security's *pro rata* share of the aggregate Outstanding Principal Amount of the Securities represented by such Global Security (or, if they are Partly Paid Securities, the aggregate amount paid up) as of the last day of the relevant Interest Period; or (ii) in the case of Floating Rate Securities or Index Linked Interest Securities in definitive form, the Calculation Amount; and
- (C) the applicable Day Count Fraction,

the resultant figure being rounded to the nearest sub-unit of the relevant Currency of Issue, half of any such sub-unit being rounded upwards or otherwise in accordance with applicable market convention.

Where the Specified Denomination of a Floating Rate Security or an Index Linked Interest Security in definitive form is a multiple of the Calculation Amount, the Interest Amount payable in respect of such Floating Rate Security or Index Linked Security shall be the product of the Interest Amount (determined in the manner

provided above) for the relevant Calculation Amount and the amount by which the relevant Calculation Amount is multiplied to reach the Specified Denomination, without any further rounding.

(v) ***Publication of Rate of Interest and Interest Amounts***

The Principal Paying Agent will cause the Rate of Interest and the Interest Amounts for each Interest Period and the relevant Interest Payment Date to be notified to any Stock Exchange upon which the Securities are (as specified in the Issue Terms) listed and to be published in accordance with relevant provisions relating to notices as soon as possible after their determination, but in any event no later than the 4th Business Day thereafter. The Interest Amounts and Interest Payment Date so published may subsequently be amended with the consent of the Trustee (or appropriate alternative arrangements made with the consent of the Trustee by way of adjustment) without notice in the event of an extension or shortening of the Interest Period. Any such amendment will be promptly notified as aforesaid to each Stock Exchange on which the relevant Floating Rate Securities or Indexed Interest Securities are for the time being listed and to the Securityholders.

(vi) ***Determination or calculation by Trustee***

If the Agent Bank or, as the case may be, the Calculation Agent at any material time defaults in its obligation to determine the Rate of Interest or the Interest Amounts in accordance with sub-paragraphs (ii) and (iv) above, the Trustee (or a person appointed by the Trustee for the purpose) (but without any liability accruing to the Trustee as a result) shall (i) determine the Rate of Interest at such rate as, in its absolute discretion (having such regard as it shall think fit to the procedure described in sub-paragraph (ii) above), it shall deem fair and reasonable in all the circumstances and (ii) calculate the Interest Amounts in the manner specified in sub-paragraph (iv) above. Such determination and calculation shall be deemed to be a determination and calculation by the Agent Bank or, as the case may be, the Calculation Agent.

(vii) ***Notifications to be final***

All notifications, opinions, determinations, certificates, quotations and decisions given, expressed, made or obtained for the purposes of the provisions summarised under this Condition whether by the Agent Bank, the Calculation Agent or the Trustee, will (in the absence of wilful default, bad faith or manifest error) be binding on the Issuer, the Counterparty (if any), the Agent Bank, the Calculation Agent, the Trustee, the Paying Agents and all Securityholders, as applicable, and (subject as aforesaid) no liability to the Securityholders shall attach to the Agent Bank, the Calculation Agent or the Trustee in connection with the exercise or non-exercise by them of their powers, duties and discretions pursuant to this Condition.

(c) **Partly Paid Securities**

If the Issue Terms specify that the Securities are Partly Paid Securities, the amount of each payment comprising the issue price, the date on which each payment is to be made and the

consequences (if any) of failure to make any such payment will be as set out in the Issue Terms.

Other than Partly Paid Securities which are Zero Coupon Securities, interest will accrue on the paid-up nominal amount of such Securities and as specified in the Issue Terms.

**(d) Principal Protected CDO Securities**

If the Issue Terms specify that the Securities are Principal Protected CDO Securities, unless otherwise specified therein:

- (i) the Securities will not bear a pre-determined rate of interest;
- (ii) in the event that distributions are made by, or payments of interest and/or principal are made by, the obligor of the relevant Charged Assets specified in the Issue Terms, such sums will be paid to the Securityholders within 2 Business Days (or such other number of days as may be specified in the Issue Terms) of receipt thereof; and
- (iii) the Issue Terms will set out the expected dates of any distributions or payments.

**(e) Equity-Linked Securities**

If the Issue Terms specify that the Securities are Equity-Linked Securities, the Issue Terms will set out the expected dates of any distributions or payments.

**(f) Rounding in respect of all Securities**

Unless specified otherwise and subject to Conditions 7(a) (*Types of Securities – Fixed Rate Securities*) and 7(b)(iv) (*Types of Securities – Floating Rate Securities and Indexed Interest Securities*), all amounts resulting from any calculations referred to in these Conditions will be rounded downwards to the nearest unit or sub-unit of currency or as described in the Issue Terms.

**(g) Cessation of interest**

Unless otherwise specified in the Issue Terms, notwithstanding any other terms of these Conditions, if (i) an Event of Default in relation to the Securities occurs or the Securities are redeemed early (other than as a result of a Credit Event), (ii) an event of default in relation to the Charged Assets occurs or any of the Charged Assets are redeemed early or (iii) the Securities are redeemed pursuant to a termination under the Swap Agreement (other than as a result of a Credit Event), the interest on the Securities will cease to accrue from, and including, the Interest Payment Date immediately preceding the date on which any of the events referred to in (i) to (iii) above have occurred (or in the case of the first Fixed Interest Period or, as the case may be, Interest Period, the Interest Commencement Date).

**(h) Default interest**

If payment to any Securityholder of any amount due in respect of the Securities is improperly withheld or refused, interest shall accrue as provided in the Trust Instrument at the rate specified for the purpose in the Issue Terms (or if no such rate is specified, the rate

shall be deemed to be zero). References to any payment due or owing in respect of the Securities shall be deemed to include any interest which may be payable under this Condition 7 (*Types of Securities*).

## **8. REDEMPTION**

### **(a) Final redemption**

Each Security will be redeemed by the Issuer on the Maturity Date at its Final Redemption Amount or as otherwise specified in the Issue Terms, unless such Security has been redeemed, purchased or cancelled prior to such date.

### **(b) Redemption for taxation reasons**

#### **(i) If:**

- (A)** the Issuer, on the occasion of the next payment due in respect of the Securities, would be required by law to withhold or account for tax in respect of such payment or would suffer tax in respect of its income in respect of the Charged Assets or receipt of payments under any Charged Agreement (including the deductions of tax from such payments), so that it would be unable to make payment of the full amount payable on the Securities without recourse to further sources of funding or any payment of principal or interest or other distribution in respect of the Charged Assets for the time being is required to be made subject to any deduction or withholding on account of any present or future tax, levy, impost, duty, charge, assessment or fee of any nature (including interest, penalties and additions thereto) that is imposed by any government or other taxing authority in respect of any such payment of interest, or on account of any right of set-off, or for any other reason, or
- (B)** the Issuer, on the occasion of the next payment due in respect of any Charged Agreement, would be required by law to withhold or account for tax in respect of such payment or would suffer tax in respect of its income in respect of the Charged Assets (including the deductions of tax from such payments) so that it would be unable to make payment of the full amount payable under such Charged Agreement without recourse to further sources of funding, or
- (C)** the cost to the Issuer of complying with its obligations under the Trust Instrument or meeting its operating or administrative expenses would, in the opinion of the Issuer, be materially increased compared to such cost as of the Issue Date (including, without limitation, as a result of any adverse change in tax rulings in respect of the Issuer or any adverse change of law or practice (or interpretation or administration of the same) which applies to the Issuer), or
- (D)** the Issuer would be required to account for any tax or suffer tax in respect of its income in respect of the Charged Assets or receipt of payments (whether actual or deemed) under any Charged Agreement as a result of the then accounting treatment, as certified by the Issuer's auditors,

then the Issuer shall so inform the Trustee, the Principal Paying Agent, the Calculation Agent and the Counterparty (if any).

The date on which any such withholding or deduction is suffered or increased amount is payable is referred to as the "**Shortfall Date**". The Issuer shall use its reasonable endeavours to arrange the substitution as the principal debtor under the Securities of a company, approved by the Trustee (and in the case of Securities that are rated, subject to Rating Agency Confirmation), incorporated in another jurisdiction wherein (in respect of sub-paragraphs (A), (B) and (D) of Condition 8(b)(i)) such withholding would not be applicable, or such tax would not be accountable or suffered, or (in respect of sub-paragraph (C) of Condition 8(b)(i)) such costs or operating or administrative expenses would not materially exceed the Issuer's costs or operating or administrative expenses prior to the increase and the company concerned would not be in any worse position following the substitution than the Issuer was in before the event occurred which resulted in the Issuer being obliged to use reasonable endeavours to substitute in accordance with this provision.

- (ii) If the Issuer is unable to arrange such substitution before the relevant Shortfall Date, in the case of Condition 8(b)(i)(A) where there is a Charged Agreement, the Counterparty shall have the right, but not the obligation, in its sole discretion, under any Charged Agreement to pay to the Issuer such amounts as will enable it (after any such withholding, accounting or suffering) to pay (and in such event, the Issuer will be obliged to pay) to the Securityholders the amounts which they would have received in the absence of such withholding, accounting or suffering.

If the Issuer is unable to arrange such substitution before the relevant Shortfall Date in the case of Condition 8(b)(i)(B), the Counterparty shall have the right, but not the obligation, in its sole discretion, under any such Charged Agreement to accept a lesser payment from the Issuer in respect of the Charged Assets (after any such withholding or accounting or suffering of tax by the Issuer in respect of the Charged Assets).

If the event referred to in Condition 8(b)(i)(C) or (D) has occurred and there is a Charged Agreement, the Counterparty shall have the right, but not the obligation, before the Shortfall Date, to make additional payments to the Issuer so that the Issuer would not be in any worse position as a result of the occurrence of such event.

- (iii) If the Counterparty does not exercise such right as referred to in paragraph (ii) above, any such Charged Agreement will be terminated and the Securities redeemed as follows. The Selling Agent shall arrange for, and administer the sale of, the Charged Assets in accordance with the Agency Agreement in which case, upon the sale of the Charged Assets and receipt of the Realisation Amount, the Issuer shall give notice as soon as reasonably practicable to the Trustee and the Securityholders (which notice shall be irrevocable) of the date on which the Securities will be redeemed at the Early Redemption Amount.
- (iv) Notwithstanding the foregoing, if the requirement to withhold or account for any of the taxes referred to in this Condition arises:

- (A) owing to any connection of any Securityholder with the taxing jurisdiction to which the Issuer is subject otherwise than by reason only of the holding of any Security or receiving principal, premium or interest in respect thereof; or
- (B) by reason of the failure by the relevant Securityholder to comply with any applicable procedures required to establish non-residence or other similar claim for exemption from such tax; or
- (C) where such withholding or deduction is imposed on payment to an individual and is required to be made pursuant to European Council Directive 2003/48/EC or any law implementing or complying with, or introduced in order to conform to, such Directive; or
- (D) (if applicable) in circumstances which could have been avoided if the relevant Securityholder presented the relevant Security to another Paying Agent in a Member State of the European Union,

then to the extent it is able to do so, the Issuer shall deduct such taxes from the amounts payable to such Securityholder and the provisions of the preceding paragraph shall not apply. Any such deduction shall not constitute an Event of Default under Condition 11 (*Events of Default*).

(c) **Mandatory Redemption**

(i) ***Following Default under the Charged Assets or termination of a Charged Agreement***

Subject to Condition 4(b)(iii)(*Charged Assets - Substitution with Cash Collateral*):

- (A) if there has been a payment default in respect of the Charged Assets, or any one or more of the Charged Assets, as the case may be (having taken into account any applicable grace period); or
- (B) if the Charged Agreements are terminated (in whole but not in part) for any reason other than as a consequence of any specific Conditions relating to redemption of the Securities; or
- (C) if any of the Charged Assets (or amounts due pursuant thereto) become capable of being declared due and payable (without taking into account for this purpose any grace period under any terms in effect) prior to their stated date of maturity or other date or dates for their repayment by reason of any event of default (howsoever described) thereunder; or
- (D) if any obligor under the Charged Assets stops or threatens to stop payment of, or is unable to, or admits inability to, pay, its debts (or any class of its debts) as they fall due, or is deemed unable to pay its debts pursuant to or for the purposes of any applicable law, or if any order is made by any competent court or any resolution passed for the winding-up or dissolution of such obligor or if proceedings are initiated against such obligor under any applicable liquidation, insolvency, composition, reorganisation or other

similar laws or any analogous proceedings or such obligor is adjudicated or found bankrupt or insolvent,

the Issuer shall give notice thereof to the Trustee, the Securityholders and the Selling Agent.

Thereupon, the Selling Agent shall arrange for, and administer the sale of, all of the Charged Assets in accordance with the Agency Agreement and, if applicable, Condition 8(c)(iv) (*Liquidation of Charged Assets*) below, in which case, upon sale of all of the Charged Assets and receipt of the Realisation Amount, the Issuer shall give notice as soon as reasonably practicable to the Trustee and the Securityholders (which notice shall be irrevocable) of the date on which the Securities will be redeemed at the Early Redemption Amount and the Charged Agreement(s) will be terminated.

(ii) ***Following Early Redemption of the Charged Assets***

Subject to Condition 4(b)(iii)(*Charged Assets - Substitution with Cash Collateral*), where any one or more of the Charged Assets in relation to a Series of Securities are redeemed pursuant to an early unscheduled redemption of such Charged Assets prior to their stated date of maturity (other than by reason of a payment default), the Issuer shall give notice as soon as reasonably practicable to the Trustee, the Securityholders and the Selling Agent (which notice shall be irrevocable) of the date on which the net redemption proceeds of such Charged Assets shall be applied as specified in Condition 5 (*Application of proceeds*). The Issuer shall give notice as soon as reasonably practicable to the Trustee and the Securityholders (which notice shall be irrevocable) of the date on which the Securities will be redeemed at the Early Redemption Amount and the Charged Agreement(s) will be terminated. In such circumstances, in relation to any Charged Assets not so redeemed, the Selling Agent shall arrange for, and administer the sale of, such Charged Assets (and the Issuer shall give notice of the Realisation Amount relating thereto in accordance with the provisions set out in Condition 8(c)(i) above, which, for the avoidance of doubt, shall be applied on the same date as, and together with, the net redemption proceeds received in relation to the redeemed Charged Assets as specified in Condition 5 (*Application of Proceeds*)). In the event of an early unscheduled redemption of the Initial Charged Assets prior to their stated date of maturity (other than by reason of a payment default) prior to the delivery by the Vendor of all or any part of the Initial Charged Assets, any undelivered Initial Charged Assets shall be deemed to have been delivered by the Vendor to the Issuer and sold by the Selling Agent in accordance with the Agency Agreement. In the event that the deemed proceeds of the sale of such undelivered Initial Charged Assets are less than the amount of cash held in the Cash Deposit Account at such time, the Selling Agent, on behalf of the Issuer, shall pay any such difference to the Vendor as soon as reasonably practicable thereafter. Each Security will thereafter be redeemed on a *pro rata* basis of the aggregate amount allocated to the Securityholders.

(iii) ***Following Event of Default under the Swap Agreement with Counterparty as Defaulting Party***



Subject to Condition 4(b)(iii)(*Charged Assets - Substitution with Cash Collateral*), if there has been an Event of Default under and as defined in the Swap Agreement and the Counterparty is the Defaulting Party (as defined in the Swap Agreement), the Issuer shall give notice thereof to the Securityholders, the Selling Agent and the Trustee. At any time at which the Event of Default under and as defined in the Swap Agreement is continuing (having taken into account any applicable grace period), (a) the Securityholders may instruct the Issuer by way of Extraordinary Resolution (with a copy to the Trustee and the Selling Agent) or (b) the Selling Agent (provided it is a Replacement Selling Agent) may instruct the Issuer (with a copy to the Trustee and the Securityholders) (i) to terminate the Swap Agreement and (ii) to redeem the Securities in accordance with this Condition 8(c)(iii). Thereupon, the Selling Agent shall (i) terminate the Swap Agreement on behalf of the Issuer and (ii) arrange for, and administer the sale of, all of the Charged Assets in accordance with the Agency Agreement and, if applicable, Condition 8(c)(iv) (*Liquidation of Charged Assets*) below. Upon sale of all of the Charged Assets and receipt of the Realisation Amount, the Issuer shall give notice as soon as reasonably practicable to the Trustee and the Securityholders (which notice shall be irrevocable) of the date on which the Securities will be redeemed at the Early Redemption Amount.

(iv) ***Liquidation of Charged Assets***

In the event of a payment default in respect of the Initial Charged Assets prior to the delivery by the Vendor of all or any part of the Initial Charged Assets, any undelivered Initial Charged Assets shall be deemed to have been delivered by the Vendor to the Issuer and sold by the Selling Agent in accordance with the Agency Agreement. In the event that the deemed proceeds of the sale of such undelivered Initial Charged Assets are less than the amount of cash held in the Cash Deposit Account at such time, any such difference shall be paid to the Vendor as soon as reasonably practicable thereafter.

(v) ***General***

Once the net proceeds of sale or redemption of the Charged Assets have been applied in accordance with this Condition, failure to make any further payment due in respect of a mandatory redemption of part of the principal amount of the Securities or interest thereon or any termination payment under any Charged Agreement shall not constitute an Event of Default.

(d) **Redemption at the option of the Issuer**

- (i) The Issue Terms may specify that the Issuer has the option to redeem all or some of the Securities on the Optional Call Redemption Date(s) at the Optional Call Redemption Amount together with interest to (but excluding) the date of redemption.
- (ii) The Issuer may only exercise such option by giving notice to the Securityholders, the Trustee, the Counterparty (if any) and the Principal Paying Agent within the Issuer's Option Period (as specified in the Issue Terms).

- (iii) In the case of a partial redemption of the Securities, the Securities to be redeemed will be selected individually by lot (where the Securities are in definitive form) or in accordance with the rules of the Clearing Systems (where the Securities are in global form) (to be reflected in the records of Euroclear and Clearstream, Luxembourg as either a pool factor or a reduction in the nominal amount, at their discretion).

(e) **Redemption at the option of the Securityholders**

- (i) The Issue Terms may specify that the Issuer shall, at the option of the Securityholders (either individually or acting together, subject to a minimum percentage of all the Securityholders, as specified in the Issue Terms), redeem all or some of the Securities on the Optional Put Redemption Date at the Optional Put Redemption Amount, together with interest to (but excluding) the date of redemption.
- (ii) A Securityholder may only exercise such option by giving notice to the Issuer within the Securityholder's Option Period (as specified in the Issue Terms). If the Securities are in definitive form, the Securityholder must deposit the relevant Security at the specified office of a Paying Agent together with a duly completed and signed notice of exercise (the "**Put Notice**"). If the Securities are represented by a Global Security, to exercise the right to require redemption of the Security the Securityholder must, within the notice period, give notice of such exercise in accordance with the standard procedures of the Clearing Systems (to be reflected in the records of Euroclear and Clearstream, Luxembourg as either a pool factor or a reduction in the nominal amount, at their discretion, and which may include notice being given on his instruction by the Clearing Systems or any Common Service Provider for them to the Principal Paying Agent by electronic means) in a form acceptable to the Clearing Systems from time to time.
- (iii) Any Put Notice shall be irrevocable except where, prior to the due date of redemption, an Event of Default shall have occurred and be continuing and the Trustee shall have declared the Securities due and repayable. In such event, a Securityholder may, at its option, elect to withdraw the Put Notice.

(f) **Redemption of Zero Coupon Securities**

- (i) For the purpose of this Condition 8 (*Redemption*) and Condition 11 (*Events of Default*), each Zero Coupon Security will be redeemed at an amount (the "**Amortised Face Amount**") calculated in accordance with the following formula:

$$\text{Amortised Face Amount} = \text{RP} \times (1 + \text{AY})^y$$

where:

"**RP**" means the Reference Price;

"**AY**" means the Accrual Yield expressed as a decimal; and

"**y**" is a fraction the numerator of which is equal to the number of days (calculated on the basis of a 360-day year consisting of 12 months of 30 days each) from (and including) the Issue Date of the first Tranche of the

Securities to (but excluding) the date fixed for redemption or (as the case may be) the date upon which such Security becomes due and repayable and the denominator of which is 360,

or on such other calculation basis as may be specified in the Issue Terms.

(ii) If the amount payable in respect of any Zero Coupon Security upon redemption of such Zero Coupon Security pursuant to this Condition 8 (*Redemption*) or upon its becoming due and repayable as provided in Condition 11 (*Events of Default*) is improperly withheld or refused, the amount due and repayable in respect of such Zero Coupon Security shall be the amount calculated as provided in subparagraph (i) above as though the references therein to the date fixed for the redemption or the date upon which such Zero Coupon Security becomes due and payable were replaced by references to the date which is the earlier of:

(i) the date on which all amounts due in respect of such Zero Coupon Security have been paid; and

(ii) 5 days after the date on which the full amount of the moneys payable in respect of such Zero Coupon Securities has been received by the Agent or the Trustee and notice to that effect has been given to the Securityholders in accordance with Condition 15 (*Notices*).

(g) **Cancellation**

All Securities redeemed early or purchased by the Issuer pursuant to the Issue Terms shall be cancelled and may not be reissued or resold.

**9. PURCHASE**

(a) The Issue Terms will specify whether the Issuer may, through the Counterparty or an Affiliate, provided that no Event of Default has occurred and is continuing, purchase the Securities (or any of them) at any time in the open market or otherwise at any price. The Issuer shall not purchase any definitive Bearer Security unless it purchases all unmatured Coupons (if any) in respect of such Bearer Security.

(b) On any such purchase the Charged Agreements (or a proportionate part thereof which corresponds to the Securities to be purchased) will be terminated. The Trust Instrument provides that the security over the Mortgaged Property (or a proportionate part thereof) will be released against receipt by the Trustee of the net proceeds of the realisation of such Mortgaged Property.

(c) No interest will be payable with respect to a Security purchased in respect of the period from the Issue Date or the previous Interest Payment Date, as the case may be, to the date of such purchase.

(d) On a purchase under this Condition of a proportion of the Securities, the Calculation Agent shall, subject to Rating Agency Confirmation (from S&P only and only in the case of Securities that are rated by S&P) but without the consent of any other person, make such amendments as are necessary to preserve the economic equivalence of the remaining Securities including without limitation, any consequential amendments to the Notional

Amount, and, in the case of Securities that are rated, notify the Rating Agencies of such amendments.

## **10. PAYMENTS**

- (a) Payments of principal and premium (if any) in respect of Bearer Securities or a Bearer Global Security will be made at the specified office of any of the Paying Agents against surrender (or, in the case of partial payment, presentation) of the Bearer Securities or the Bearer Global Security, as the case may be. Payments of interest, if applicable, in respect of Bearer Securities or a Bearer Global Security due on an Interest Payment Date will be made at the specified office of any of the Paying Agents outside the United States (which expression, as used herein, means the United States of America (including the States thereof, the District of Columbia and the territories, possessions and other areas subject to the jurisdiction of the United States of America)), subject as provided in sub-paragraph (c) below, against surrender (or, in the case of partial payment, presentation) of the relevant Coupons or, as applicable, against presentation of the Bearer Global Security.

Such payments shall be made by a cheque payable in the Currency of Issue drawn on, or, at the option of the holder, by transfer to an account denominated in the Currency of Issue with, a bank in the city specified in the Issue Terms as the place of payment, or, in the case of the euro, a city in which banks have access to the Target2 System, subject in all cases to any fiscal or other laws and regulations applicable in the place of payment.

The Paying Agent to which a Bearer Global Security shall have been presented for payment shall instruct Euroclear and Clearstream, Luxembourg to make appropriate entries in their records in respect of such Bearer Global Security.

As long as Bearer Securities are represented by a Bearer Global Security, each of the persons shown in the records of the Clearing Systems as the holder of a Bearer Security must look solely to the Clearing Systems for his share of each payment so made by the Issuer to the bearer of the Bearer Global Security, subject to and in accordance with the respective rules and procedures of the Clearing Systems.

Such persons shall have no claim directly against the Issuer in respect of payments due on the Bearer Securities for so long as the Bearer Global Security is outstanding. The Issuer will be discharged by payment to the bearer of the Bearer Global Security in respect of each amount so paid.

Notwithstanding the foregoing, payments on a Temporary Bearer Global Security due prior to the Exchange Date will only be made upon certification as to non-U.S. beneficial ownership as required by U.S. Treasury regulations. No payments due after the Exchange Date will be made on the Temporary Bearer Global Security.

- (b) Each Bearer Security should be presented for payment together with, if applicable, all unmatured related Coupons. If any Bearer Security in respect of a Fixed Rate Security is presented for payment without, if applicable, all unmatured related Coupons (not being a Talon), the full amount of any such missing unmatured Coupon (or, in the case of payment not being made in full, that proportion of the full amount in the Currency of Issue of such missing unmatured Coupon which the sum of principal so paid bears to the total amount of principal due) will be deducted from the principal amount due for payment. Any amount

of principal so deducted will be paid in the manner mentioned above against surrender of the relative missing Coupon at any time thereafter but before the expiry of a period of 10 years from the Relevant Date (as defined in Condition 13 (*Prescription*)) for the payment of such principal (whether or not such Coupon would otherwise have become void pursuant to Condition 13 (*Prescription*)) or, if later, 5 years from the date for payment stated on such Coupon, but not thereafter. All (if any) unmatured Talons and all unmatured Coupons appertaining to a Floating Rate Security or Indexed Interest Security (whether or not attached to the relative Bearer Security) shall become void upon the date on which such Bearer Security becomes due and repayable and no payment or exchange shall be made in respect thereof.

- (c) No payments of principal and/or interest in respect of Bearer Securities denominated in U.S. dollars will be made at the specified office of any Paying Agent in the United States. Notwithstanding the foregoing, such payments of principal and/or interest will be made at the specified office of any Paying Agent in the United States if:
  - (i) the Issuer has appointed Paying Agents with specified offices outside the United States with the reasonable expectation that such Paying Agents would be able to make payment in U.S. dollars at such specified offices outside the United States of the full amount of principal and interest on such Securities in the manner provided above when due;
  - (ii) payment of the full amount of such principal and interest at all such specified offices outside the United States is illegal or effectively precluded by exchange controls or other similar restrictions on the full payment or receipt of principal and interest in U.S. dollars; and
  - (iii) such payment is then permitted under United States law without involving, in the opinion of the Issuer, adverse tax consequences to the Issuer.

If no appointment of a Paying Agent with a specified office in the United States is then in effect, the Issuer shall appoint a Paying Agent with a specified office in New York City at which such payments will be made. Notice of any termination or appointment of a Paying Agent and of any changes in the specified offices of the Paying Agents will be given to the Securityholders in accordance with Condition 15 (*Notices*).

- (d) After all the Coupons attached to or issued in respect of a definitive Bearer Security have matured, further Coupons and, where applicable, one further Talon will (subject to Condition 13 (*Prescription*)) be issued against surrender of the relevant Talon at the specified office of any Paying Agent.
- (e) If the due date for payment of any amount of principal, premium (if any) or, if applicable, interest in respect of any Security is not a Payment Day, the holder of such Security shall not be entitled to payment until the next following Payment Day and shall not be entitled to any further interest or other payment in respect of any such delay. If a Security is presented for payment at a time when, as a result of differences in time zones, it is not practicable to transfer the relevant amount to an account for value on the date of presentation, the Issuer shall not be obliged so to do but shall be obliged to transfer the relevant amount to such account for value on the first practicable date after the date of presentation.

(f) Subject as provided in this Condition 10 (*Payments*):

(i) payments in a Currency of Issue other than euro will be made by credit or transfer to an account in the relevant Currency of Issue maintained by the payee with, or, at the option of the payee, by a cheque in such Currency of Issue drawn on, a bank in the principal financial centre of the country of such Currency of Issue (which, if the Currency of Issue is Australian dollars or New Zealand dollars, shall be Sydney and Auckland, respectively); and

(ii) payments in euro will be made by credit or transfer to a euro account (or any other account to which euro may be credited or transferred) specified by the payee or, at the option of the payee, by a euro cheque.

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

(g) Unless otherwise specified in the Issue Terms, any reference in the Conditions to principal in respect of the Securities shall be deemed to include, as applicable:

(i) any additional amounts which the Counterparty (if any) may elect to pay to the Issuer with respect to principal under Condition 8(b) (*Redemption for taxation reasons*);

(ii) the Final Redemption Amount of the Securities;

(iii) the Early Redemption Amount of the Securities;

(iv) the Optional Call Redemption Amount(s) (if any) or Optional Put Redemption Amount (s) of the Securities;

(v) in relation to Zero Coupon Securities, the Amortised Face Amount; and

(vi) any premium and any other amounts (other than interest) which may be payable by the Issuer under or in respect of the Securities.

Any reference in the Conditions to interest in respect of the Securities shall be deemed to include, as applicable, any additional amounts which the Counterparty may elect to pay with respect to interest under Condition 8(b) (*Redemption for taxation reasons*).

## 11. EVENTS OF DEFAULT

Upon the occurrence of an Event of Default, the Trustee at its discretion may, and, if requested by the Instructing Creditor, shall (subject to being indemnified, secured and/or prefunded to its satisfaction), give notice to the Issuer that the Securities are, and they shall accordingly immediately become, due and repayable at the Early Redemption Amount. The Security shall become enforceable (as provided in the Trust Instrument) and the proceeds of realisation of such Security shall be applied as specified in Condition 5 (*Application of proceeds*).

**"Event of Default"** means any of the following events:

- (a) if default is made for a period of 14 days or more in the payment of any sum due in respect of the Securities or any of them; or
- (b) if (i) the Issuer fails to perform or observe any of its other obligations under the Securities or the Trust Instrument, (ii) the breach of which obligation the Trustee shall have certified to be in its opinion materially prejudicial to the interests of the Securityholders and (iii) where in the opinion of the Trustee such failure is capable of remedy and such failure continues for a period of 30 days (or such longer period as the Trustee may permit) following the service by the Trustee on the Issuer of notice requiring the same to be remedied; or
- (c) if any order shall be made by any competent court or any resolution passed for the winding-up or dissolution of the Issuer other than for the purposes of amalgamation, merger, consolidation, reorganisation or other similar arrangements on terms approved by the Trustee.

## **12. ENFORCEMENT**

At any time after the Securities (or any of them) shall have become immediately due and repayable and have not been repaid, the Trustee may, at its discretion and without further notice, and if requested by the Instructing Creditor shall (subject to being indemnified, secured and/or prefunded to its satisfaction), institute such proceedings against the Issuer as it may think fit to enforce repayment thereof and to enforce the provisions of the Trust Instrument.

No Securityholder shall be entitled to proceed against the Issuer unless the Trustee, having become bound so to proceed, fails so to do within a reasonable time and such failure is continuing. After realising the security which has become enforceable and distributing the net proceeds in accordance with Condition 5 (*Application of Proceeds*), the obligations of the Issuer with respect to the Trustee, the Counterparty (if any) and the Securityholders shall be satisfied.

Neither the Trustee nor the Counterparty (if any) nor any Securityholder may take any further steps against the Issuer to recover any further sums in respect thereof, and the right to receive any such sums shall be extinguished. In particular, neither the Trustee nor the Counterparty (if any) nor any Securityholder shall be entitled in respect thereof to petition or to take any other steps for the winding-up of the Issuer nor shall any of them have any claim in respect of the Mortgaged Property for any other Series.

**The Relevant Sums (as defined in Condition 6(c)(i)) may be insufficient to pay all amounts due to, among others, the Trustee, the Counterparty (if any) and the Securityholders. The other assets (if any) of the Issuer including, in particular, assets securing other series of Securities will not be available to make up any shortfall.**

## **13. PRESCRIPTION**

Claims under the Bearer Securities, the Bearer Global Securities and, if applicable, the Coupons (which for this purpose shall not include Talons) will be prescribed and become void unless the same are presented for payment within a period of 10 years in the case of

principal or premium (if any) and 5 years in the case of interest from the Relevant Date relating thereto. Talons may not be exchanged for Coupons which would be void on issue.

For this purpose, the "**Relevant Date**" means the date on which the payment in respect of the Security or the Coupon first becomes due and payable. However, if the full amount of the moneys payable on such date has not been received by the Principal Paying Agent or the Trustee on or prior to such date, the "**Relevant Date**" means the date on which such moneys shall have been so received and notice to that effect shall have been given to the Securityholders in accordance with Condition 15 (*Notices*).

#### **14. REPLACEMENT OF SECURITIES**

If any Security is lost, stolen, mutilated, defaced or destroyed it may be replaced, subject to applicable laws, regulations and Stock Exchange or other relevant authority rules or regulations, at the specified office of the Principal Paying Agent (or such other place of which notice shall have been given in accordance with Condition 15 (*Notices*)). Such replacement is subject to payment by the claimant of the expenses incurred in connection therewith and on such terms as to evidence and indemnity as the Issuer may reasonably require. Mutilated or defaced Securities must be surrendered before replacements will be issued.

#### **15. NOTICES**

All notices regarding Securities represented by a Bearer Global Security will be valid if (i) published (A) in one leading London daily newspaper or, if this is not possible, in one other English language daily newspaper approved by the Trustee with general circulation in Europe and (B) if and for so long as the Securities are listed on the Luxembourg Stock Exchange and the rules of that Stock Exchange so require, in one daily newspaper published in Luxembourg approved by the Trustee and (C) if and for so long as the Securities are listed on the Irish Stock Exchange and the Irish Stock Exchange so requires, filed with the Companies Announcements Office of the ISE or (ii) delivered to the Common Service Provider for communication by the Clearing Systems to the Securityholders and, to the extent required under the provisions of the Market Abuse (Directive 2003/6/EC) Regulations 2005, filed with the Companies Announcement Office of the Irish Stock Exchange. Any notice delivered to a Common Service Provider as aforesaid shall be deemed to have been given on the day of such delivery. It is expected that such publication will be made in (i) the *Financial Times* and (as the case may be) (ii) the *d'Wort* or *Tageblatt* and/or (iii) the *Irish Times*.

All notices regarding Securities represented by Bearer Securities in definitive form will be valid if published in accordance with option (i) in the above paragraph.

The Issuer shall also ensure that notices are duly published in a manner which complies with the rules and regulations of any other Stock Exchange on which the Securities are for the time being listed.

Any notice published in a newspaper as aforesaid shall be deemed to have been given on the date of such publication or, if published more than once, on the date of the first such publication. If publication is not practicable in any such newspaper as is mentioned



above, notice will be valid if given in such other manner, and shall be deemed to have been given on such date, as the Trustee shall determine.

## **16. AGENTS**

The Issue Terms will specify the relevant Agents for an issue of a Series of Securities. The duties of each of the Agents shall be as specified in the Trust Instrument, the Agency Agreement and in the Issue Terms in respect of the Securities.

Subject to the following paragraph, the Issuer reserves the right, subject to the approval of the Trustee and the Counterparty (if any), at any time to vary or terminate the appointment of any Agent and to appoint additional or other Agents provided that it will at all times maintain Agents as specified in the Issue Terms.

Upon the occurrence of a Selling Agent Default, a Calculation Agent Default and/or an Agent Bank Default in respect of the Selling Agent, the Calculation Agent or the Agent Bank, as the case may be, the Issuer may appoint a Replacement Selling Agent, a Replacement Calculation Agent and/or a Replacement Agent Bank, as the case may be, pursuant to Condition 17 (*Appointment of Replacement Selling Agent, Replacement Calculation Agent and Replacement Agent Bank*).

## **17. APPOINTMENT OF REPLACEMENT SELLING AGENT, REPLACEMENT CALCULATION AGENT AND REPLACEMENT AGENT BANK**

- (a) Upon the occurrence of a Selling Agent Default, a Calculation Agent Default and/or an Agent Bank Default, the Issuer may (or shall if instructed by means of an Extraordinary Resolution of the Securityholders or by the Trustee) (x) terminate, with immediate effect, the appointment of the Selling Agent, the Calculation Agent or the Agent Bank, as the case may be, and (y) at no additional cost to the Issuer, appoint a Replacement Selling Agent, a Replacement Calculation Agent and/or a Replacement Agent Bank, as the case may be, provided that (i) the relevant Extraordinary Resolution or direction from the Trustee, as applicable, specifies the Replacement Selling Agent, Replacement Calculation Agent and/or Replacement Agent Bank, as the case may be, to be appointed, (ii) the Replacement Selling Agent, Replacement Calculation Agent and/or Replacement Agent Bank, as the case may be, is appointed on substantially the same terms as the Selling Agent, the Calculation Agent or the Agent Bank, as the case may be, is appointed under the Agency Agreement (other than any fee arrangements which may be agreed from time to time with the Securityholders by the Replacement Selling Agent, a Replacement Calculation Agent and/or a Replacement Agent Bank, as the case may be, and notified, as soon as reasonably practicable, to the Issuer in writing, but which shall not for the avoidance of doubt include any fee arrangements that would affect the Security Ranking Basis from time to time), (iii) the Replacement Selling Agent, Replacement Calculation Agent and/or Replacement Agent Bank, as the case may be, has the ability, experience and qualifications necessary to professionally and competently perform the duties required of the Selling Agent, the Calculation Agent or the Agent Bank, as the case may be, and (iv) the Replacement Selling Agent, Replacement Calculation Agent and/or Replacement Agent Bank, as the case may be, agrees to be appointed in accordance with this Condition and is able to be so appointed by the Issuer.
- (b) If the Issuer fails (if instructed by means of an Extraordinary Resolution of the Securityholders or by the Trustee) to (x) terminate, with immediate effect, the

appointment of the Selling Agent, the Calculation Agent or the Agent Bank, as the case may be, and/or (y) appoint a Replacement Selling Agent, a Replacement Calculation Agent and/or a Replacement Agent Bank, as the case may be, in accordance with paragraph (a) above, within 30 calendar days from receipt of the relevant instruction of the Trustee or Extraordinary Resolution, the Trustee may (x) terminate, with immediate effect, the appointment of the Selling Agent, the Calculation Agent or the Agent Bank, as the case may be, and/or (y) appoint a Replacement Selling Agent, a Replacement Calculation Agent and/or a Replacement Agent Bank, as the case may be, in accordance with paragraph (a) above, on behalf of the Issuer.

## **18. RESTRICTIONS**

So long as any of the Securities remains outstanding, the Issuer will not, without the written consent of the Trustee and the Counterparty (if any):

- (a) engage in any activity or do anything whatsoever, except:
  - (i) issue Securities and issue or, as the case may be, enter into Alternative Investments subject to a maximum aggregate principal amount outstanding at any time of U.S.\$50,000,000,000 (or its equivalent in other currencies);
  - (ii) acquire and own Charged Assets or any assets used to secure any Debt Investments and exercise its rights and perform its obligations in respect thereof;
  - (iii) enter into and perform its obligations under the Transaction Documents;
  - (iv) enforce any of its rights under the Transaction Documents, any Securities or the Mortgaged Property relating to any Series;
  - (v) as permitted by sub-paragraph (b) below; and
  - (vi) perform any act incidental to or necessary in connection with any of the above, including without limitation, entering into any swap, option or forward foreign exchange agreement in connection with the issue of Securities;
- (b) have any Subsidiaries except, if the Issuer has issued rated Securities, with the written consent of S&P (in the case of Securities rated by S&P) and with prior notification to Moody's (in the case of Securities rated by Moody's) and, in any event, only Subsidiaries:
  - (i) which are wholly owned by the Issuer;
  - (ii) whose share capital is fully paid up by the Issuer;
  - (iii) whose activities are limited to the same extent as those of the Issuer under the Trust Instrument (including, without limitation, the terms of any securities or other debt instruments issued or loans entered into, by such Subsidiary being required to be on substantially the same terms as those of the Securities); and

- (iv) in respect of whose activities the Issuer will have no liability;
- (c) subject to sub-paragraph (a) above, dispose of any of its property or other assets or any part thereof or interest therein (otherwise than in accordance with Condition 9 (*Purchase*));
- (d) create or permit within its control to subsist any charge, mortgage, lien or other encumbrance over the Mortgaged Property other than the Security Interests in respect of all Series of Securities of the Issuer;
- (e) have any employees;
- (f) declare any dividends or make any distributions of any other kind;
- (g) issue any further shares;
- (h) take any action which would lead to the dissolution, liquidation or winding up of itself or to the amendment of its constitutional documents; or
- (i) perform such other activities as are expressly restricted in the Trust Instrument.

## **19. MEETINGS OF SECURITYHOLDERS, MODIFICATION, WAIVER AND SUBSTITUTION**

The Trust Instrument contains provisions for convening meetings of Securityholders to consider any matter affecting their interests, including the modification by Extraordinary Resolution of the Issue Terms or other provisions of the Trust Instrument. The quorum at any such meeting for passing an Extraordinary Resolution will be one or more persons holding or representing in aggregate not less than  $66\frac{2}{3}$  per cent. in Outstanding Principal Amount of the Securities for the time being outstanding, or at any adjourned such meeting one or more persons being or representing Securityholders whatever the Outstanding Principal Amount of the Securities so held or represented. An Extraordinary Resolution passed at any meeting of Securityholders or in the form of a written resolution (as described in the Trust Instrument) will be binding on all Securityholders, whether or not they are present at the meeting.

The Trustee may agree, without the consent of the Securityholders (but, in the case of Securities which are rated, subject to (in the case of Securities rated by S&P) Rating Agency Confirmation from S&P and/or (in the case of Securities rated by Moody's) prior notification to Moody's), to any modification of, or to any waiver or authorisation of any breach or proposed breach of, any of the Issue Terms or any other Transaction Document as set out in the next sentence and as more fully set out in the Trust Instrument. The Trustee may so agree if, in the opinion of the Trustee, any such modification, waiver or authorisation is not materially prejudicial to the interests of the Securityholders or any modification of, or waiver or authorisation of any breach or proposed breach as aforesaid is of a formal, minor or technical nature or to correct a manifest error. No such modification shall be effective without the consent of the Counterparty (if any) (such consent not to be unreasonably withheld or delayed). Notwithstanding the foregoing, the Trustee shall agree to make any modification (whether or not it may be materially prejudicial to the Securityholders) requested by the Dealer in respect of a Series of Securities if, and to the extent that, such modification is to correct an error in the

Conditions arising from a discrepancy between the Conditions and the final termsheet provided to the initial Securityholders, as certified by the relevant Dealer to the Trustee.

Subject as provided in the Trust Instrument, the Trustee, if it is satisfied that it would not be materially prejudicial to the interests of the Securityholders, may agree, without the consent of the Securityholders (but, in the case of Securities which are rated, subject to (in the case of Securities rated by S&P) Rating Agency Confirmation (from S&P only) and/or prior notification to Moody's (in the case of Securities rated by Moody's)), to the substitution of any other company in place of the Issuer as principal debtor under the Securities, the Trust Instrument and the Transaction Documents. No such substitution shall be effective without the consent of the Counterparty (if any) (such consent not to be unreasonably withheld or delayed). Under the Trust Instrument, the Trustee may require the Issuer to use its reasonable endeavours to procure the substitution as principal debtor of a company incorporated in some other jurisdiction than that of the Issuer upon the occurrence of one of the events referred to in Condition 8(b)(i) (*Redemption for taxation reasons*).

In connection with any exercise of its trusts, powers, authorities or discretions, the Trustee shall not have regard to the consequences of such exercise for individual Securityholders resulting from their being for any purpose domiciled or resident in, or otherwise connected with, or subject to the jurisdiction of, any particular territory. In connection with any such exercise, no person shall be entitled to claim, whether from the Issuer, any substitute Issuer, the Counterparty (if any), the Trustee or any other person, any indemnification or payment in respect of any tax consequence of any such exercise upon any person.

Any such modification, waiver, authorisation or substitution shall be binding on the Counterparty (if any) and all Securityholders and (if the Securities are listed and the Stock Exchange so requires) the Stock Exchange and, unless the Trustee agrees otherwise, any such modification or substitution shall be notified to the Securityholders by the Issuer as soon as practicable thereafter.

## 20. FURTHER ISSUES

The Issuer shall be at liberty from time to time, without the consent of the Securityholders (but subject to the consent of the Counterparty (if any) in the case of (a) below), to create and issue further securities either:

- (a) so as to be consolidated and form a single Series with the Securities (such further Securities, the "**Further Fungible Securities**"), provided that the Issuer provides additional Charged Assets as security for the original issue of Securities and any Further Fungible Securities either on a Nominal Basis or a Market Value Basis as specified in the Issue Terms and enters into an additional or supplemental Charged Agreement(s) (if applicable) (and references to "**Securities**", "**Charged Assets**" and "**Charged Agreements**" shall thereafter be deemed to be references to such terms as amended to take into account the further issue); or
- (b) to form a separate Series from the Securities upon such terms as to security, interest, premium, redemption and otherwise as the Issuer may, in its absolute discretion, at the time of the issue thereof determine.

Any such securities shall be constituted in accordance with the Trust Instrument. The Trust Instrument contains provisions for convening a single meeting of the Securityholders and the holders of securities of other Series in certain circumstances where the Trustee so decides.

In addition, such Further Fungible Securities, when issued, shall preserve the economic equivalence of the existing Securities and the Calculation Agent shall, subject to Rating Agency Confirmation in the case of Securities that are rated, but without the consent of any other person, make such amendments as are necessary, including without limitation, any consequential amendments to the Notional Amount.

## **21. LIABILITIES AND INDEMNIFICATION OF THE TRUSTEE**

The Trust Instrument contains provisions for the indemnification of the Trustee and for its relief from responsibility, including provisions relieving it from taking proceedings unless indemnified, secured and/or prefunded to its satisfaction. The Trustee is entitled to enter into business transactions with the Issuer, the Counterparty (if any), any obligor in respect of the Charged Assets or any of their subsidiary or associated companies without accounting for any profit resulting therefrom.

The Trustee is exempted from any liability in respect of any loss or theft of the Mortgaged Property, from any obligation to insure the Mortgaged Property and from any claim arising from the fact that the Mortgaged Property is held in a clearing system or in safe custody by a bank or other custodian. The Trust Instrument also provides that the Trustee shall accept without investigation, requisition or objection such right, benefit, title and interest, if any, as the Issuer may have in and to any of the Mortgaged Property and is not bound to make any investigation into the same or into the Mortgaged Property in any respect.

The Trustee shall not be bound or concerned to make any investigation into the creditworthiness of any obligor in respect of the Mortgaged Property, the validity of any such obligor's obligations under or in respect of the Mortgaged Property or any of the terms of the Charged Assets (including, without limitation, whether the cashflows from the Charged Assets and the Securities are matched) or to monitor the value of any Charged Assets.

## **22. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

No person shall have any right to enforce any term or condition of this Security under the Contracts (Rights of Third Parties) Act 1999, but this does not affect any right or remedy of any person which exists or is available apart from that Act.

## **23. GOVERNING LAW**

The Trust Instrument, the Securities and the Charged Agreement(s) and any non-contractual obligations arising out of or in connection with such agreements are governed by, and will be construed in accordance with, English law.

## **24. JURISDICTION**

The Issuer has, in the Trust Instrument, irrevocably agreed for the benefit of the Trustee and the Securityholders that the courts of England are to have jurisdiction to settle any

disputes which may arise out of or in connection with the Trust Instrument, the Securities and the Charged Agreement(s) (including any proceedings relating to obligations arising out of or in connection with such agreements) and that accordingly any suit, action or proceedings (together referred to as "**Proceedings**") arising out of or in connection therewith (including any Proceedings relating to any non-contractual obligations arising out of or in connection therewith) may be brought in such courts.

The Issuer has, in the Trust Instrument, irrevocably waived any objection which it may have now or hereafter to the laying of the venue of any Proceedings in any such court and any claim that any such Proceedings have been brought in an inconvenient forum. The Issuer has further irrevocably agreed that a judgment in any Proceedings brought in the courts of England shall be conclusive and binding upon the Issuer and may be enforced in the courts of any other jurisdiction. Nothing contained in this Condition shall limit any right to take Proceedings against the Issuer 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.

The Issuer has in the Trust Instrument appointed an agent in London for service of process in England in respect of any Proceedings and has undertaken that in the event of such person ceasing so to act it will appoint such other person as the Trustee may approve.

## **25. DEFINITIONS**

Capitalised terms used in these Conditions have the meanings given to them in the Definitions Module as modified and supplemented by the relevant Trust Instrument and/or Issue Terms.

**REGISTERED SECURITIES CONDITIONS MODULE**

**MARCH 2012 EDITION**

**for use in  
an issue of repackaged Securities  
arranged by  
MERRILL LYNCH INTERNATIONAL**

## REGISTERED SECURITIES CONDITIONS MODULE

**This Registered Securities Conditions Module modifies and supplements the basic terms and conditions for Securities governed by English law as set out in the Bearer Securities Base Conditions Module and will apply in respect of all Series of Securities issued in registered form. Other Conditions Modules will apply in addition, as specified in the Issue Terms.**

***All references to "Bearer Securities" in the Bearer Securities Base Conditions Module will be deemed to be references to "Registered Securities".***

***All references to "Principal Paying Agent" and "Paying Agent" in the Bearer Securities Base Conditions Module will, where the context so requires, be deemed to be references to the "Registrar".***

***Condition 1 as set out in the Bearer Securities Base Conditions Module will not apply and the following Conditions 1.1, 1.2, 1.3, 1.4 and 1.5 shall be substituted therefor.***

### 1.1 FORM, DENOMINATION AND TITLE

- (a) Registered Securities are in the Specified Denomination(s) specified in the Issue Terms and integral multiples thereof; provided, however, that, unless otherwise specified in the Issue Terms, any Series of Registered Securities offered or sold in the United States or to, or for the account of benefit of, U.S. Persons, will be issued only in Authorised Denominations.

Title to Registered Securities will pass by transfer and registration in accordance with Condition 1.4 (*Transfer of Registered Securities*) and in accordance with the terms of the Trust Instrument and the Agency Agreement.

- (b) Unless otherwise provided in the Issue Terms, a Non-U.S. Series of Registered Securities will be represented by a N-USD Regulation S Global Certificate in the case of N-USD Securities and a USD Regulation S Global Certificate, in the case of USD Securities, deposited with a Common Depositary and registered in the name of a common nominee of Euroclear and Clearstream, Luxembourg. Prior to the expiry of the Distribution Compliance Period, beneficial interests in a Regulation S Global Certificate may not be offered or sold to, or for the account or benefit of, a U.S. Person and may not be held otherwise than through Euroclear and Clearstream, Luxembourg.

Unless otherwise provided in the Issue Terms, a U.S. Series of Registered Securities will be represented by (a) (in the case of USD Securities) a USD Rule 144 A Global Certificate, deposited with or on behalf of DTC and registered in the name of its nominee Cede & Co, and by a USD Regulation S Global Certificate deposited with a Common Depositary and registered in the name of a common nominee of Euroclear and Clearstream, Luxembourg or by (b) (in the case of N-USD Securities) a N-USD Rule 144A Global Certificate, and N-USD Regulation S Global Certificate, each deposited with a Common Depositary and registered in the name of a common nominee of Euroclear and Clearstream, Luxembourg, and/or Individual Certificates.

- (c) Registered Securities may only be offered and sold in the United States or to, or for the account or benefit of, U.S. Persons when provided for in the Issue Terms in transactions



exempt from the registration requirements of the Securities Act and under circumstances where the Issuer is not required to register under the 1940 Act. The Issue Terms will specify whether the Securities are being offered and sold in private transactions (i) to persons whom the seller reasonably believes to be QIBs, or (ii) to IAIs who are acquiring the Securities for investment purposes only and not with a view to resale or distribution thereof. The Issue Terms will also specify whether the Issuer is relying on the exception from the definition of "investment company" under the 1940 Act set out in Section 3(c)(1) or Section 3(c)(7) thereof.

If the Section 3(c)(1) exception is stated to apply in the Issue Terms, then Registered Securities sold to QIBs and/or IAIs will be issued in the form of Individual Certificates only and such Registered Securities will not be eligible for deposit or clearance in any clearing system.

If the Section 3(c)(7) exception is stated to apply in the Issue Terms, the applicable Issue Terms will specify whether the Securities of such series will be issued in the form of Individual Certificates and/or in the form of Rule 144A Global Certificates. If the Issue Terms state that the Registered Securities are to be issued in the form of Individual Certificates, such Individual Certificates will not be eligible for deposit or clearance with any clearing system. If, however, the Issue Terms specify that Rule 144A Global Certificates are to be issued, then any Registered Securities to be offered and sold in the United States or to or for the account or benefit of U.S. Persons will be represented by a N-USD Rule 144A Global Certificate, in the case of N-USD Securities, or a USD Rule 144A Global Certificate in the case of USD Securities, and any Securities of such U.S. Series to be offered and sold outside the United States to non-U.S. Persons in reliance on Regulation S of the Securities Act will be represented by a N-USD Regulation S Global Certificate in the case of N-USD Securities or a USD Regulation S Global Certificate, in the case of USD Securities, in each case, deposited with a Common Depositary for Euroclear and Clearstream, Luxembourg.

- (d) No beneficial owner of an interest in a Global Security will be able to exchange or transfer that interest, except in accordance with the applicable procedures of the Clearing Systems. In addition, Regulation S Global Certificates, Rule 144A Global Certificates, Individual Certificates and, if applicable, any Definitive Registered Securities will be subject to certain restrictions on transfer set out in a legend or legends thereon.
- (e) For so long as any of the Securities is represented by a Regulation S Global Certificate held by a Common Depositary or for so long as DTC or its nominee is the registered holder of a USD Rule 144A Global Certificate, each person who is for the time being shown in the records of the Clearing Systems as entitled to a particular nominal amount of Securities shall be deemed to be the holder of such nominal amount of Securities for all purposes other than with respect to the payment of principal, premium (if any) or interest on such Securities. With respect to such payment, such Common Depositary or DTC or its nominee shall be deemed to be the holder of such nominal amount of Securities in accordance with and subject to the terms of the relevant Global Security. Any certificate or other document issued by the Clearing Systems as to the nominal amount of Securities standing to the account of any person shall be conclusive and binding for all purposes save in the case of manifest error. In determining whether a particular person is entitled to a particular nominal amount of notes as aforesaid, the Trustee may rely on such evidence and/or information and/or certification as it shall, in its absolute discretion, think fit and, if

it does so rely, such evidence and/or information and/or certification shall, in the absence of manifest error, be conclusive and binding on all concerned.

- (f) Subject to paragraph (e) above, the Issuer, the Counterparty, the Trustee and the Agents may deem and treat the person or persons in whose name(s) a Registered Security is registered as the absolute owner(s) of such Security for all purposes. Except as ordered by a court of competent jurisdiction or as required by applicable law, the Issuer, the Counterparty, the Trustee and the Agents shall not be affected by any notice to the contrary, whether or not the Security shall be overdue and notwithstanding any notation of ownership or other writing thereon. All payments made to any such person shall be valid and, to the extent of the sums so paid, effective to satisfy and discharge the liability for the moneys payable upon such Securities.

## **1.2 REGISTRATION**

The Issuer will cause to be kept at the specified office of the Registrar for the time being the Register. The Issuer will procure that, as soon as practicable after the Issue Date, the Register is duly made up in respect of the subscribers of the Registered Securities and certificates for the Registered Securities will be despatched.

The Issuer has initially appointed the person named as Registrar in the Issue Terms acting through its specified office set out in the Issue Terms. The Issuer may also appoint one or more Transfer Agents for the purpose of facilitating exchanges of Securities, in which case references in the following provisions of this Condition and in Conditions 1.3 (*Exchange of Registered Securities*) and 1.4 (*Transfer of Registered Securities*) to the Registrar shall include, where the context so permits, references to such Transfer Agent(s).

The Issuer reserves the right, with the approval of the Trustee, at any time to vary or terminate the appointment of the Registrar and to appoint another or a further Registrar, provided that there will at all times be a Registrar with a specified office in such place as the Trustee may approve. Any variation or termination of appointment shall only take effect (other than in the case of insolvency of the Registrar, when it shall be of immediate effect) after not more than 60 nor less than 45 days' notice thereof shall have been given to the Securityholders in accordance with Condition 15 (*Notices*) and any change in the Specified Office of the Registrar shall also be promptly so notified.

## **1.3 EXCHANGE OF REGISTERED SECURITIES**

- (a) *Exchange of Rule 144A Global Certificates for Definitive Registered Securities*

Subject to Condition 1.1(e) (*Form, denomination and title*), so long as DTC or its nominee is the registered holder of a USD Rule 144A Global Certificate, DTC or such nominee, as the case may be, will be considered the sole holder of the Securities represented thereby for all purposes. Registration of title to Securities in a name other than a depositary or a nominee for DTC will not be permitted unless (i) DTC notifies the Issuer that it is no longer willing or able to discharge properly its responsibilities as depositary with respect to the USD Rule 144A Global Certificates, or ceases to be a "clearing agency" registered under the Exchange Act, or is at any time no longer eligible to act as such and the Issuer is unable to locate a qualified successor within 90 days of receiving notice of such ineligibility on the part of DTC or (ii) the Issuer, at its option, and after consultation with

DTC, elects to terminate the book-entry system through DTC. In such circumstances, the Issuer will cause sufficient Definitive Registered Securities to be executed and delivered to the Registrar for completion, authentication and despatch to the relevant Securityholders.

Subject to Condition 1.1(e) (*Form, denomination, and title*), for so long as Euroclear or Clearstream, Luxembourg or its common nominee is the registered holder of the N-USD Rule 144A Global Certificate, Euroclear or Clearstream, Luxembourg or such common nominee, as the case may be, will be considered the sole holder of the Securities represented thereby for all purposes. Registration of title to Securities in a name other than a depositary or a common nominee for Euroclear or Clearstream, Luxembourg, will not be permitted unless i) an event of default has occurred and is continuing, or (ii) Euroclear and Clearstream, Luxembourg have been closed for business or the Issuer has been notified of such closure of Euroclear and Clearstream, Luxembourg, and no successor clearing system is available.

A person having an interest in a Rule 144A Global Certificate must provide the Registrar with: (i) a written order containing instructions and such other information as the Issuer and the Registrar may require to complete, execute and deliver such Definitive Registered Securities; and (ii) a completed and signed Investment Letter substantially in the form set out in the Trust Instrument (copies of which are available from the Registrar). Any Definitive Registered Securities so issued shall bear a legend substantially to the effect set out on the Rule 144A Global Certificate and any transfers thereof will thereafter require the delivery of a Transfer Certificate and Investment Letter each substantially in the form set out in the applicable Trust Instrument and available from the Registrar, with such modifications and amendments as are necessary to account for the definitive nature of the Securities.

(b) *General*

Securities may be presented for exchange at the specified office of the Registrar. Any such exchange shall be effected without service charge but upon payment of any taxes and other governmental charges, including stamp duties. Definitive Registered Securities issued in exchange will be delivered at the specified office of the Registrar, or (at the risk and, if mailed at the request of the holder otherwise than by ordinary uninsured mail, expense of the holder) mailed to such address, subject to the restrictions (if any) specified in the Issue Terms, as the holder may request, as soon as practicable after issue.

Securityholders wishing to exchange Securities should apply to the specified office of the Registrar for information relating to the procedure for such exchange.

#### **1.4 TRANSFER OF REGISTERED SECURITIES**

(a) *Transfer of Individual Certificates and Regulation S Global Certificates*

Registered Securities that are sold outside the United States or to non-U.S. Persons in compliance with Regulation S under the Securities Act in the form of Regulation S Global Certificates or Registered Securities that are sold within the United States or to, or for the account or benefit of, U.S. Persons as part of a U.S. Series in the form of Individual Certificates may, subject to Condition 1.1(d) (*Form, denomination and title*) and to the

provisions of the Trust Instrument and of the Agency Agreement, be transferred by the registered holder free of and without regard to any set-off, counterclaim or equity between the Issuer and the first or any subsequent registered holder of such Securities, in whole or in part (being the Specified Denomination(s) of the Securities given in the Issue Terms, or an integral multiple thereof), by delivery of the relevant Registered Security certificate or certificates to the Registrar at its specified office together with the form of transfer in writing duly completed and signed and upon compliance with such transfer restrictions which may be set out on the legend and such other reasonable requirements as the Issuer and the Registrar may prescribe, including, in the case of Individual Certificates, delivery of an Investment Letter by the transferee in the form substantially as set out in the Trust Instrument, without service charge but upon payment of any taxes, duties and other governmental charges in respect of such transfer.

No transfer of a Registered Security shall be recognised by the Issuer unless entered on the Register. In no event may the Registrar register the transfer of a Regulation S Global Certificate or an Individual Certificate in violation of the restrictive legend (if any) set out on the face of such Security. A Registered Security may be registered only in the name of, and transferred only to, a named person (or persons, not exceeding 4 in number) and the Registrar will not accept transfers of Registered Securities to "bearer".

The Registrar will within 14 days of any duly made request to register the transfer of a Registered Security enter the transferee in the Register and authenticate and deliver a Registered Security certificate to the transferee (and, in the case of transfer of part only of a Registered Security, a Registered Security certificate for the untransferred balance to the transferor), at the specified office of the Registrar, or (at the risk and, if mailed at the request of the transferee or, as appropriate, transferor otherwise than by ordinary uninsured mail, expense of the transferee or, as appropriate, transferor) mail the Registered Security certificate to such address, subject to the restrictions (if any) specified in the Issue Terms, as the transferee (or, as appropriate, the transferor) may request or, alternatively, in the case of transfers effected through the Stock Exchange (if any) on which the Issuer has agreed to maintain a listing of the Securities or any other recognised stock exchange or similar market approved by the Issuer, will deliver the Registered Security certificate in accordance with the normal procedures and systems of such exchange or market.

(b) *Transfers of Registered Securities of a U.S. Series Represented by Rule 144A Global Certificates and Regulation S Global Certificates*

Where the Issue Terms specify that Securities are being offered under circumstances which will not require the Issuer to register as an investment company under the 1940 Act in reliance on the exception contained in Section 3(c)(7) thereof and also specify that the Securities are being issued in the form of Global Certificates, then, until the first day following the expiry of the Distribution Compliance Period, beneficial interests in a Regulation S Global Certificate may not be offered or sold in the United States or to, or for the account or benefit of, U.S. Persons unless the transferor delivers to the Registrar a duly completed Rule 144A Transfer Certificate and the transferee delivers a duly completed Investment Letter (each substantially in the form set out in the Trust Instrument). In addition, if a person holding a beneficial interest in a Rule 144A Global Certificate makes a transfer at any time to a non-U.S. person in accordance with either Rule 903 or Rule 904 of Regulation S, the transferor will be required to deliver a

Regulation S Transfer Certificate and the transferee will be required to deliver an Investment Letter (each substantially in the form set out in the Trust Instrument) certifying, among other things, its status as a non-U.S. person. In the event of any such transfers, the Registrar will make the appropriate entries in the Register to reflect the principal amount of the Securities represented by each of the Global Certificates. The Issuer and the Trustee reserve the right prior to any sale or other transfer to require the delivery of such other certifications, legal opinions and other information as the Issuer or the Trustee may reasonably require to confirm that the proposed sale or other transfer complies with the restrictions described herein. Transfers by a holder of an interest in a Global Certificate to a transferee who wishes to take delivery of such interest through the same Global Certificate may be made at any time without certification.

(c) *General*

In the event of a partial redemption of Securities under Condition 8 (*Redemption*), neither the Issuer nor the Registrar will be required:

- (i) to register the transfer of interests in Registered Global Securities (or parts of Registered Global Securities) for interests in another Registered Global Security and interests in Registered Global Securities for definitive Registered Securities and *vice versa* during the period beginning on the 65th day before the date of the partial redemption and ending on the day on which notice is given specifying the serial numbers of Securities called (in whole or in part) for redemption (both inclusive); or
- (ii) to register the transfer of any Registered Security (or part of a Registered Security) called for partial redemption.

Each U.S. person to whom a beneficial interest in any Registered Securities shall have been transferred but who does not in connection with such transfer become identified as a registered holder of such Registered Securities in the Register shall promptly notify the Issuer in writing of such transfer, stating the amount of beneficial interest in the Registered Securities transferred, the date of transfer and the name and address of such U.S. person.

## **1.5. SPECIAL PROVISIONS RELATING TO USD RULE 144A GLOBAL CERTIFICATE**

(a) *Clearing and Settlement of USD Rule 144A Global Certificate: Book-Entry Ownership*

The Issuer and any custodian with whom any USD Rule 144A Global Certificate are deposited will make applications to DTC for acceptance in its book-entry settlement system of the USD Rule 144A Global Certificate. Each USD Rule 144A Global Certificate representing different Securities will have a different CUSIP or CINs number. The USD Rule 144A Global Certificates and definitive Registered Securities will be subject to such restrictions on transfer as are set out under "***Subscription and Sale and Transfer Restrictions***" in the Supplemental Information Memorandum.

Upon issuance of the USD Rule 144A Global Certificate, DTC or its custodian will credit on its internal system the respective principal amounts of the individual beneficial interests represented by such USD Rule 144A Global Certificate to the accounts of the persons who have accounts with DTC ("**participants**"). Ownership of beneficial interests in the USD

Rule 144A Global Certificate will be limited to participants in DTC and persons who hold interests through participants. Ownership of beneficial interests in the USD Rule 144A Global Certificate will be shown on, and the transfer of that ownership will be effected only through, records maintained by DTC or its nominee and the records of participants. Beneficial owners will not receive certificates representing their ownership interests in the USD Rule 144A Global Certificate, except in the limited circumstances set out above.

(b) *Secondary Market Transfers of Interests in USD Rule 144A Global Certificates*

Transfer of interests in USD Rule 144A Global Certificates within DTC will be in accordance with the usual rules and operating procedures of DTC. The laws of some states in the United States require that certain persons take physical delivery in definitive form of securities. Consequently, the ability to transfer an interest in a USD Rule 144A Global Certificate to such persons may be limited. Because DTC can only act on behalf of direct participants, who in turn act on behalf of indirect participants and certain banks, the ability of a person having an interest in a USD Rule 144A Global Certificate to pledge such interest to persons or entities that do not participate in the DTC system, or otherwise take actions in respect of such interest, may be affected by the lack of a physical certificate evidencing such interest.

Subject to compliance with the transfer restrictions applicable to the Securities described above, cross-market transfers between DTC, on the one hand, and directly or indirectly through Euroclear or Clearstream, Luxembourg participants, on the other, will be effected in DTC in accordance with the DTC rules on behalf of Euroclear or Clearstream, Luxembourg, as the case may be, by its respective depository. However, such cross-market transactions will require delivery of instructions to Euroclear or Clearstream, Luxembourg, as the case may be, by the counterparty in such system in accordance with its rules and procedures and within its established deadlines (local time). Euroclear or Clearstream, Luxembourg, as the case may be, will, if the transaction meets its settlement requirements, deliver instructions to its respective depository to take action to effect final settlement on its behalf by delivering in accordance with normal procedures for same-day funds settlement applicable to DTC. Clearstream, Luxembourg participants and Euroclear participants may not deliver instructions directly to the depositories for Clearstream, Luxembourg or Euroclear. Because of time-zone differences, credits of securities received in Euroclear or Clearstream, Luxembourg as a result of a transaction with a DTC participant will be made during the securities settlement processing day dated the business day following the DTC settlement date and such credits of any transactions in such securities settled during such processing will be reported to the relevant Euroclear or Clearstream, Luxembourg participant on such business day. Cash received in Euroclear or Clearstream, Luxembourg as a result of sales of securities by or through a Euroclear participant or a Clearstream, Luxembourg participant to a DTC participant will be received with value on the DTC settlement date but will not be available in the relevant Euroclear or Clearstream, Luxembourg cash account until the business day following settlement in DTC.

(c) *Information concerning DTC, Euroclear and Clearstream, Luxembourg*

The Issuer understands that DTC will take any action permitted to be taken by a holder of Securities (including, without limitation, the presentation of a USD Rule 144A Global Certificate for exchange as described below) only at the direction of one or more participants in whose account the DTC interests in USD Rule 144A Global Certificates are

credited and only in respect of such portion of the aggregate principal amount of the USD Rule 144A Global Certificates as to which such participant or participants has or have given such direction. However, in the circumstances described above, DTC will surrender the USD Rule 144A Global Certificates for exchange for individual Definitive Registered Securities.

The Issuer understands that DTC is a limited-purpose trust company organised under the laws of the State of New York, a "banking organization" within the meaning of the New York Banking Law, a member of the U.S. Federal Reserve System, a "clearing corporation" within the meaning of the Uniform Commercial Code and a "Clearing Agency" registered pursuant to the provisions of Section 17A of the Exchange Act, as amended. DTC was created to hold securities for its participants and facilitate the clearance and settlement of securities transactions between participants through electronic book-entry changes in accounts of its participants, thereby eliminating the need for physical movement of certificates. Participants include securities brokers and dealers, banks, trust companies and clearing corporations and may include certain other organisations. Indirect access to the DTC system is available to others, such as banks, brokers, dealers and trust companies, that clear through or maintain a custodial relationship with all participants, either directly or indirectly.

Although DTC, Clearstream, Luxembourg and Euroclear have agreed to the foregoing procedures in order to facilitate transfers of beneficial interests in the DTC Global Securities among participants of DTC, Clearstream, Luxembourg and Euroclear, they are under no obligation to perform or continue to perform such procedures and such procedures may be discontinued after reasonable notice. Neither the Issuer nor any Agent will have any responsibility for the performance by DTC, Clearstream, Luxembourg or Euroclear or their respective participants or indirect participants of their respective obligations under the rules and procedures governing their operations.

***The following Condition 8(i) will apply to any Registered Securities of a U.S. Series.***

**8(i) U.S. REGULATORY REDEMPTION**

If specified in the Issue Terms that the Securities are to be offered in the United States or to, or for the account or benefit of, U.S. Persons and that the Securities are subject to mandatory transfer and/or redemption pursuant to this Condition, then, unless otherwise provided in the Issue Terms, the Issuer may, if in the sole determination of the Issuer it is necessary to do so to maintain any applicable exemption from or exception to the 1940 Act (i) by notice to any Securityholder require such Securityholder to transfer the Securities held by it within such period as may be specified in the notice or, following the expiry of such period, the Issuer may cause such Securities to be transferred on behalf of the Securityholder or (ii) give not less than 15 days' notice to any Securityholder and upon the expiry of such notice redeem all of the Securities held by such Securityholder at their outstanding redemption amount together with any interest accrued to the date fixed for redemption and in such event, unless otherwise provided in the Issue Terms, the security created by or pursuant to the Trust Instrument over a proportion of the Charged Assets equal to the proportion that the Outstanding Principal Amount of the Securities to be redeemed bears to the aggregate Outstanding Principal Amount of the Securities immediately prior to such redemption shall become enforceable. By subscription for, or acquisition of, any Security, each Securityholder accepts and is bound by this provision.

***Condition 9 as set out in the Bearer Securities Base Conditions Module will not apply and the following Condition 9 shall be substituted therefor.***

## **9. PURCHASE**

- (a) The Issue Terms will specify whether the Issuer may, through the Counterparty, purchase Securities (or any of them) at any time in the open market or otherwise at any price.
- (b) On any such purchase the Charged Agreements (or a proportionate part thereof which corresponds to the Securities to be purchased) will be terminated. The Trust Instrument provides that the Security Interests over the Charged Assets (or a proportionate part thereof) will be released against receipt by the Trustee of the net proceeds of the realisation of such Charged Assets.
- (c) No interest will be payable with respect to a Security purchased in respect of the period from the Issue Date or the previous Interest Payment Date, as the case may be, to the date of such purchase.
- (d) In the case of purchase of part only of a Definitive Registered Security, the Registrar shall deliver, *mutatis mutandis* in accordance with Condition 1.4 (*Transfer of Registered Securities*), a Registered Security certificate for the unpurchased balance to the relevant Securityholder.

***Condition 10 as set out in the Bearer Securities Base Conditions Module will not apply and the following Condition 10 shall be substituted therefor.***

## **10. PAYMENTS**

- (a) *Payments in respect of Regulation S Global Certificates, N-USD Rule 144A Global Certificates and Individual Certificates*

All payments in respect of Registered Securities will be made in each case subject to such (if any) other provisions (including any requirements as to certification of ownership) as are set out herein or in the Issue Terms and to any fiscal or other laws and regulations applicable in the place of payment.

Payments of principal, premium (if any) and interest (if any) in respect of Individual Certificates or Regulation S Global Certificates, or N-USD Rule 144A Global Certificates as applicable, will be made to the persons shown on the Register at the close of business on the Record Date following surrender (in the case of payments of principal and premium (if any)) to the Registrar of the relevant Individual Certificate or Regulation S Global Certificate, or N-USD Rule 144A Global Certificates, as applicable.

Subject as provided below, payments in respect of Individual Certificates, Regulation S Global Certificates, or N-USD Rule 144A Global Certificates, will be made by a cheque in the Currency of Issue drawn on a bank in the city specified in the Issue Terms as the place of payment and mailed (at the risk and, if mailed at the request of the Securityholder otherwise than by ordinary uninsured mail, expense of the Securityholder) on the relevant due date to the holder or to the first named of joint holders of such Registered Security at his registered address or in accordance with mandate instructions acceptable to the



Registrar. Notwithstanding the foregoing, all amounts payable to the Clearing Systems or their respective nominees as registered holder of a Regulation S Global Certificate or a N-USD Rule 144A Global Certificate, shall be paid by transfer by the Registrar to such account in the Currency of Issue as the Clearing Systems or their respective nominees may specify for payment in the Currency of Issue or conversion into U.S. dollars (such conversion being effected as specified in the Issue Terms) as the case may be.

If and for so long as Registered Securities are represented by a Regulation S Global Certificate or a N-USD Rule 144A Global Certificates, each of the persons shown in the records of the Clearing Systems as the holder of a Registered Security must look solely to such Clearing Systems for his share of each payment so made by the Issuer to the registered holder of the Regulation S Global Certificate or a N-USD Rule 144A Global Certificate, subject to and in accordance with the respective rules and procedures of the Clearing Systems. Such persons shall have no claim directly against the Issuer in respect of payments due on the Registered Securities for so long as such Regulation S Global Certificate or N-USD Rule 144A Global Certificate is outstanding and the Issuer will be discharged by payment to the registered holder of such Regulation S Global Certificate or N-USD Rule 144A Global Certificate in respect of each amount so paid.

*Payments in respect of USD Rule 144A Global Certificates*

Each USD Rule 144A Global Certificate will be registered in the name of DTC's nominee, Cede & Co., and payments of the principal of and interest on each USD Rule 144A Global Certificate will be to or to the order of Cede & Co., as the registered owner of such USD Rule 144A Global Certificate. The Issuer expects that the nominee, upon receipt of any such payment, will immediately credit DTC participants' accounts with payments in amounts proportionate to their respective beneficial interests in the principal amount of the relevant USD Rule 144A Global Certificate as shown on the records of DTC or the nominee. The Issuer also expects that payments by DTC participants to owners of beneficial interests in such USD Rule 144A Global Certificate held through such DTC participants will be governed by standing instructions and customary practices, as is the case with securities registered in "street name" for the accounts of customers. Such payments will be the responsibility of such DTC participants.

Neither the Issuer nor the Trustee will have any responsibility or liability for any aspect of the records relating to or payments made on account of ownership interests in the USD Rule 144A Global Certificate or for maintaining, supervising or reviewing any records relating to such ownership interests.

- (b) If the due date for payment of any amount of principal, premium (if any) or, if applicable, interest in respect of any Security is not a Payment Day, the holder of such Security shall not be entitled to payment until the next following Payment Day in the relevant place and shall not be entitled to any further interest or other payment in respect of any such delay. If a Security is presented for payment at a time when, as a result of differences in time zones, it is not practicable to transfer the relevant amount to an account for value on the date of presentation, the Issuer shall not be obliged so to do but shall be obliged to transfer the relevant amount to such account for value on the first practicable date after the date of presentation.
- (c) Subject as provided in the terms relating to payment:

- (i) payments in a Currency of Issue other than euro will be made by credit or transfer to an account in the relevant Currency of Issue (which, in the case of a payment in Japanese yen to a non-resident of Japan, shall be a non-resident account) maintained by the payee with, or, at the option of the payee, by a cheque in such Currency of Issue drawn on, a bank in the principal financial centre of the country of such Currency of Issue (which, if the Currency of Issue is Australian dollars or New Zealand dollars, shall be Sydney and Auckland, respectively); and
- (ii) payments in euro will be made by credit or transfer to a euro account (or any other account to which euro may be credited or transferred) specified by the payee or, at the option of the payee, by a euro cheque.

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

***Condition 13 as set out in the Bearer Securities Base Conditions Module will not apply and the following Condition 13 shall be substituted therefor.***

### **13. PRESCRIPTION**

The Issuer shall be discharged from its obligation to pay principal (and premium, if any) on a Registered Security to the extent that the relevant Registered Security certificate or Registered Global Security has not been presented to the Registrar by, or a cheque which has been duly despatched in the Currency of Issue remains uncashed at, the end of the period of 10 years from the Relevant Date in respect of such payment. The Issuer shall be discharged from its obligation to pay interest on a Registered Security to the extent that a cheque which has been duly despatched in the Currency of Issue remains uncashed at, or (in the case of Registered Securities represented by a Registered Global Security) the Registered Global Security has not been presented to the Registrar by, the end of the period of 5 years from the Relevant Date in respect of such payment.

For this purpose, the "**Relevant Date**" means the date on which the payment in respect of the Security first becomes due and payable. However, if the full amount of the moneys payable on such date has not been received by the Principal Paying Agent or the Trustee on or prior to such date, the "**Relevant Date**" means the date on which such moneys shall have been so received and notice to that effect shall have been given to the Securityholders in accordance with Condition 15 (*Notices*).

***Condition 15 as set out in the Bearer Securities Base Conditions Module will not apply and the following Condition 15 shall be substituted therefor.***

### **15. NOTICES**

All notices regarding Registered Securities will be valid if (i) published (A) in one leading London daily newspaper or, if this is not possible, in one other English language daily newspaper approved by the Trustee with general circulation in Europe and (B) if and for so long as the Securities are listed on the Luxembourg Stock Exchange and the rules of that Stock Exchange so require, in one daily newspaper published in Luxembourg approved by the Trustee and (C) if and for so long as the Securities are listed on the Irish Stock Exchange and the Irish Stock Exchange so requires, in one daily newspaper

published in Ireland approved by the Trustee, filed with the Companies Announcements Office of the ISE or (ii) at the option of the Issuer, mailed to the holders at their respective addresses as shown in the Register and, if mailed, shall be deemed to have been served when, in the ordinary course of post, they would be received. It is expected that any publication as described in the foregoing will be made in (i) the *Financial Times* and/or (as the case may be) (ii) the *Luxemburger Wort* or the *Tageblatt* and/or (iii) the *Irish Times*.

All notices regarding Securities represented by a Registered Global Security will be valid if published as described above or if delivered to DTC, Euroclear and/or Clearstream, Luxembourg, as the case may be for communication by such Clearing System to the Securityholders. Any notice delivered to a Clearing System as aforesaid shall be deemed to have been given on the day of such delivery.

The Issuer shall also ensure that notices are duly published in a manner which complies with the rules and regulations of any other Stock Exchange on which the Securities are for the time being listed.

Any notice published in a newspaper as aforesaid shall be deemed to have been given on the date of such publication or, if published more than once, on the date of the first such publication or, if published in 2 newspapers, on the date of the first such publication in both newspapers. If publication is not practicable in any such newspaper as is mentioned above, notice will be valid if given in such other manner, and shall be deemed to have been given on such date, as the Trustee shall determine.

***The following Condition 18.1 will apply to any Registered Securities of a U.S. Series.***

## **18.1 RESTRICTIONS ON ISSUANCE**

The Issuer will not issue any Securities under the Section 3(c)(1) or the Section 3(c)(7) exception to the definition of "investment company" under the 1940 Act without (i) the consent of the Trustee and the Counterparty and (ii) if requested by the Trustee and the Counterparty, obtaining an opinion from counsel in the jurisdiction of the Issuer satisfactory to it and to its U.S. counsel to the effect that such Series of Securities to be issued under the Section 3(c)(1) or the Section 3(c)(7) exception will be secured exclusively by the Charged Assets, Charged Agreements and other assets designated to and/or pledged for the benefit of such Series of Securities and that such Charged Assets, Charged Agreements and other assets will be available only for the benefit of such holders of Securities (including upon a liquidation of the Issuer).

Following an issue of Securities pursuant to the Section 3(c)(1) or the Section 3(c)(7) exception, the Issuer will not issue additional Securities of such Series or another Series which are sufficiently similar to the Securities issued pursuant to the Section 3(c)(1) or the Section 3(c)(7) exception so as to cause the offer and sale of such additional Securities to be integrated with the offering and sale of the Securities issued pursuant to the Section 3(c)(1) or the Section 3(c)(7) exception for the purposes of determining the availability of the Section 3(c)(1) or the Section 3(c)(7) exception from definition of "investment company" under the 1940 Act.

**GENERAL DEFINITIONS MODULE**

**MARCH 2012 EDITION**

**to be incorporated by reference into  
the Conditions and the Trust Instrument  
for an issue of repackaged Securities  
arranged by  
MERRILL LYNCH INTERNATIONAL**

## 1. GENERAL DEFINITIONS

The following capitalised terms used in the Trust Instrument in respect of a Series of Securities into which this General Definitions Module is incorporated shall have the meanings set out below, except where the context otherwise requires or as may be modified and/or supplemented by the Issue Terms and/or Trust Instrument in respect of such Securities:

**"1940 Act"** means the United States Investment Company Act of 1940, as amended.

**"2000 ISDA Definitions"** means, in relation to a Series of Securities, the 2000 ISDA Definitions as published by ISDA and as amended and updated as at the Issue Date of the first Tranche of such Securities.

**"2006 ISDA Definitions"** means, in relation to a Series of Securities, the 2006 ISDA Definitions as published by ISDA and as amended and updated as at the Issue Date of the first Tranche of such Securities.

**"2002 ISDA Equity Derivatives Definitions"** means, in relation to a Series of Equity-Linked Securities, the 2002 ISDA Equity Derivatives Definitions as published by ISDA and as amended and updated as at the Issue Date of the first Tranche of such Equity-Linked Securities.

**"Account Bank"** means, in relation to a Series of Securities, the entity (if any) appointed as such under the Agency Agreement and as specified in the Issue Terms.

**"Additional Agreement"** means, in relation to a Series of Securities, any agreements entered into by the Issuer other than the Trust Instrument, Agency Agreement, Charged Agreement(s), Sale Agreement, Placing Agreement and any Additional Charging Document.

**"Additional Charging Document"** means, in relation to a Series of Securities, any non-English law governed security document entered into by the Issuer for the purposes of granting security over or in respect of any part of the Mortgaged Property for such Series.

**"Affiliate"** has the meaning given to such term in the Swap Agreement.

**"Agency Agreement"** means, in relation to a Series of Securities, the agency agreement entered into by, among others, the Issuer, the Trustee and the Agents in respect of such Series by execution of the relevant Trust Instrument and into which the terms of the Agency Terms Module are incorporated by reference, as the same may be modified and supplemented by the Trust Instrument.

**"Agency Terms Module"** means the Agency Terms Module (March 2012 Edition) containing the standard agency and custodian provisions for an issue of Securities or such other edition as specified in the Issue Terms.

**"Agent Bank"** means, in relation to a Series of Securities, the entity (if any) appointed as such under the Agency Agreement and as specified in the Issue Terms, and includes any Replacement Agent Bank.

**"Agent Bank Default"** means, in relation to the Agent Bank, the Agent Bank or any of its Affiliates also acts as the Counterparty in relation to the relevant Series of Securities and, having taken into account any applicable grace period, an Event of Default (as defined in the Swap Agreement) has occurred under the Swap Agreement and the Counterparty is the Defaulting Party (as defined in the Swap Agreement).

**"Agents"** means, in relation to a Series of Securities, each of the agents of the Issuer appointed under the Agency Agreement and as specified in the Issue Terms and, for the avoidance of doubt, includes any Replacement Selling Agent, Replacement Calculation Agent and Replacement Agent Bank.

**"Alternative Investments"** means any indebtedness in respect of moneys borrowed or raised by the Issuer (other than in the form of Securities) on terms similar to the Securities (in particular as to limited recourse and extinguishment of claims) and includes, without limitation, loans, loan certificates and schuldscheine.

**"Appointee"** means any attorney, manager, agent, delegate, receiver or other person appointed by the Trustee or by another Appointee under the Trust Instrument.

**"Arranger"** means Merrill Lynch International.

**"Auditors"** means, in relation to an Issuer, the auditors (if any) for the time being of such Issuer or, in the event of their being unable or unwilling promptly to carry out any action requested of them pursuant to the provisions of the Trust Instrument, such other firm of accountants as may be nominated or approved by the Trustee.

**"Authorised Denomination"** means U.S.\$250,000 and integral multiples of U.S.\$1 in excess thereof.

**"Bearer Global Security"** means a Temporary Bearer Global Security and/or a Permanent Bearer Global Security, as the context may require.

**"Bearer Securities"** means those Securities which are for the time being in bearer form.

**"Bearer Securities Base Conditions Module"** means the Bearer Securities Base Conditions Module (March 2012 Edition) containing the base conditions for an issue of Bearer Securities or such other edition as specified in the Issue Terms.

**"Beneficial Owners"** means any person holding a beneficial interest in the USD Rule 144A Global Certificates from time to time.

**"benefit plan investor"** means (A) any employee benefit plan (as defined in section 3(3) of ERISA), (B) any plan described in section 4975(e)(1) of the U.S. Internal Revenue Code, or (C) any entity whose underlying assets include plan assets by reason of a plan's investment in the entity (within the meaning of the U.S. Department of Labor Regulations section 2510.3-101).

**"Business Day"** means a day which is both:

- (a) a day (other than a Saturday or Sunday) on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in London and any Additional Business Centre specified in the Issue Terms; and
- (b) either (i) in relation to any sum payable in a Currency of Issue other than euro, a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in the principal financial centre of the country of the relevant Currency of Issue (if other than London and any Additional Business Centre and which, if the Currency of Issue is Australian dollars or New Zealand dollars, shall be Sydney and Auckland, respectively) or (ii) in relation to any sum payable in euro, a day on which the Target2 System is open.

**"Business Day Convention"** means one of the following, as specified in the Issue Terms:

- (a) **"FRN Convention"** means that, in any case where Specified Periods are specified in the Issue Terms, the date subject to such convention (i) if there is no numerically corresponding day in the calendar month in which an date subject to such convention should occur, shall be the last day that is a Business Day in the relevant month and the provisions of (B) below shall apply *mutatis mutandis* or (ii) if any date subject to such convention would otherwise fall on a day which is not a Business Day, shall be postponed to the next day which is a Business Day unless it would thereby fall into the next calendar month, in which event (A) such date subject to such convention shall be brought forward to the immediately preceding Business Day and (B) each subsequent date subject to such convention shall be the last Business Day in the month which falls the Specified Period after the preceding applicable date subject to such convention occurred; or
- (b) **"Following Business Day Convention"** means that, if any date subject to such convention would otherwise fall on a day which is not a Business Day, such date subject to such convention shall be postponed to the next day which is a Business Day; or
- (c) **"Modified Following Business Day Convention"** means that, if any date subject to such convention would otherwise fall on a day which is not a Business Day, such date subject to such convention shall be postponed to the next day which is a Business Day unless it would thereby fall into the next calendar month, in which event such date subject to such convention shall be brought forward to the immediately preceding Business Day; or
- (d) **"Preceding Business Day Convention"** means that, if any date subject to such convention would otherwise fall on a day which is not a Business Day, such date subject to such convention shall be brought forward to the immediately preceding Business Day.

**"C Rules"** means U.S. Treas. Reg. section 1.163-5(c)(2)(i)(C) (or any successor U.S. Treasury regulation section, including without limitation, regulations issued in accordance

with Internal Revenue Service Notice 2012-20 or otherwise in connection with the United States Hiring Incentives to Restore Employment Act of 2010).

**"Calculation Agent"** means, in relation to a Series of Securities, the entity (if any) appointed as such under the Agency Agreement and as specified in the Issue Terms, and includes any Replacement Calculation Agent.

**"Calculation Agent Default"** means, in relation to the Calculation Agent, the Calculation Agent also acts as the Counterparty in relation to the relevant Series of Securities and, having taken into account any applicable grace period, an Event of Default (as defined in the Swap Agreement) has occurred under the Swap Agreement and the Counterparty is the Defaulting Party (as defined in the Swap Agreement).

**"Calculation Amount"** means, in relation to a Series of Securities, the Specified Denomination if there is only one Specified Denomination, but where there is more than one Specified Denomination, the highest common factor or otherwise as specified in the Issue Terms. For clarification purposes, there must be a common factor in the case of two or more Specified Denominations.

**"Cash Collateral"** means, in relation to a Series of Securities, (a) the Price (as defined in the Sale Agreement) payable by the Issuer to the Vendor in respect of the sale of the Initial Charged Assets multiplied by (b) the principal amount of the Initial Charged Assets not delivered by the Vendor on the Completion Date (or the date thereafter agreed by the Issuer and the Vendor) divided by the total principal amount of the Initial Charged Assets specified in the Issue Terms.

**"Cash Deposit Account"** means, in relation to a Series of Securities and as may be further described in the Issue Terms, the segregated account established in the name of the Issuer with HSBC Bank plc or any of its affiliates.

**"Charged Agreement(s)"** means, in relation to a Series of Securities, the Swap Agreement(s) (if any) together with any Swap Guarantee in respect of such Swap Agreement(s) (if any).

**"Charged Assets"** means, in relation to a Series of Securities, the benefits, interest, right and title in and to the bonds, notes, securities, commodities, loans, schuldscheine, equity interests (including shares and participating income notes), contractual or other rights (including, without limitation, with respect to sub-participations or swap, option, exchange and hedging arrangements (but, for the avoidance of doubt, excluding Charged Agreements)), or other assets as specified in the Issue Terms and, where applicable, the instruments and other documents representing, evidencing, acknowledging and/or transferring or otherwise relating to the same. The term "Charged Assets" shall include the Initial Charged Assets and any substitute or replacement Charged Assets.

**"Clearing Systems"** means, in relation to a Series of Securities, any of Euroclear, Clearstream, Luxembourg and DTC, as the case may be, and includes any additional or alternative clearing systems specified in the Issue Terms.

**"Clearstream, Luxembourg"** means Clearstream Banking, société anonyme.



**"Collateral Top Up Costs"** has the meaning given to it in Condition 4(b)(ii) (*Charged Assets – Substitution at the request of Securityholders*).

**"Common Depositary"** means a common depositary on behalf of Euroclear and Clearstream, Luxembourg.

**"Common Safekeeper"** means a common safekeeper for Euroclear and Clearstream, Luxembourg.

**"Common Service Provider"** means a common service provider appointed by Euroclear and Clearstream, Luxembourg to service the Securities.

**"Conditions"** means, in relation to a Series of Securities, the provisions of the Conditions Modules incorporated by reference into the relevant Issue Terms as the same may be modified and/or supplemented by such Issue Terms.

**"Conditions Modules"** means the modules containing terms and conditions which will apply to a Series of Securities to the extent incorporated into the Issue Terms (including, without limitation, the Bearer Securities Base Conditions Module, the Registered Securities Conditions Module, the Credit-Linked Securities Conditions Module and/or such other modules as may be proposed by the Arranger from time to time).

**"Consenting Holders"** has the meaning given to it in Condition 4(b)(ii) (*Charged Assets – Substitution at the request of Securityholders*).

**"Counterparty"** means, in relation to a Series of Securities, the entity or entities (if any) designated as the counterparty or counterparties in the Issue Terms.

**"Counterparty Account"** means, in relation to a Series of Securities, the account of the Counterparty from time to time designated for such purpose, which account being initially as set out in the Issue Terms.

**"Counterparty Priority Basis"** means first, in meeting the claims of the Counterparty (or if more than one Counterparty, meeting the claims of all such Counterparties on the basis as specified in the Issue Terms) under the Charged Agreement(s) and, thereafter, in meeting the claims of the Securityholders on a *pari passu* and *pro rata* basis.

**"Counterparty/Securityholder Priority Basis"** means (a) Counterparty Priority Basis or (b) if the Counterparty is the Defaulting Party in respect of and as defined in the Swap Agreement at any time, Securityholder Priority Basis.

**"Couponholders"** means the several persons who are for the time being holders of the Coupons.

**"Coupons"** means the bearer interest coupons appertaining to the Bearer Securities in definitive form (other than in the case of Zero-Coupon Securities) or, as the context may require, a specific number thereof and includes any replacements for Coupons issued pursuant to Condition 14 (*Replacement of Securities*) and, where the context so permits, the Talons.

**"Credit-Linked Definitions Module"** means the Credit-Linked Definitions Module (March 2012 Edition) containing definitions relating to Credit-Linked Securities or such other edition as specified in the Issue Terms.

**"Credit-Linked Loan Terms Module"** means the Credit-Linked Loan Terms Module (March 2012 Edition) containing the additional terms for a Credit-Linked Loan or such other edition as specified in the Loan Facility Terms.

**"Credit-Linked Securities Conditions Module"** means the Credit-Linked Securities Conditions Module (March 2012 Edition) containing the additional conditions for an issue of Credit-Linked Securities or such other edition as specified in the Issue Terms.

**"Currency of Issue"** means, in relation to a Series of Securities, the currency in which the Issue Terms of such Securities specify that the principal, premium (if any) and/or interest, if any, and all other amounts are payable by the Issuer.

**"Custodian"** means, in relation to a Series of Securities, the entity (if any) appointed as such under the Agency Agreement and as specified in the Issue Terms and, if applicable, any subcustodian of, or any other entity appointed by, the Custodian.

**"Custodian Account"** means, in relation to a Series of Securities, the account designated as the Custodian Account in the Issue Terms.

**"D Rules"** means U.S. Treas. Reg. section 1.163-5(c)(2)(i)(D) or any successor U.S. Treasury regulation section, including without limitation, regulations issued in accordance with Internal Revenue Service Notice 2012-20 or otherwise in connection with the United States Hiring Incentives to Restore Employment Act of 2010).

**"Day Count Fraction"** means either Fixed Day Count Fraction or Floating Day Count Fraction or as otherwise specified in the Issue Terms.

**"Dealer"** means, in relation to a Series of Securities, the entity or entities designated as dealer in the Issue Terms.

**"Debt Investments"** means the Securities and/or Alternative Investments that may be issued by, or entered into by, the Issuer pursuant to the Programme.

**"Definitions Modules"** means the General Definitions Module and, as the case may be, the Credit-Linked Definitions Module and/or such other modules as may be proposed by the Arranger from time to time.

**"Definitive Registered Security"** means a definitive certificate representing a Registered Security substantially in the form of Part 3-E of the First Schedule to the Trust Terms Module to be issued only in the limited circumstances set out in the Conditions and bearing a legend substantially in the form of the legend appearing on the Rule 144A Global Certificate or Regulation S Global Certificate in exchange for which such Definitive Registered Security is issued.

**"Determination Date"** means, in relation to a Series of Securities, the dates as set out in the Issue Terms, if applicable.

**"Determination Period"** means each period from (and including) a Determination Date to (but excluding) the next Determination Date (including, where either the Interest Commencement Date or the final Interest Payment Date is not a Determination Date, the period commencing on the first Determination Date prior to, and ending on the first Determination Date falling after, such date).

**"Distribution Compliance Period"** means the period commencing on the later of the first date the Securities are offered to the public or the settlement date for the Securities, and ending on the day that is 40 calendar days thereafter.

**"DTC"** means The Depository Trust Company at its office at 55 Water Street, New York, N.Y. 10041, United States of America.

**"DTC Important Notice"** means a notice substantially in the form set out in Part 10 of the First Schedule to the Trust Terms Module to be sent to DTC in connection with the issuance of the USD Rule 144A Global Certificates.

**"ERISA"** means the United States Employee Retirement Income Security Act of 1974, as amended.

**"Early Redemption Amount"** means, in relation to a Series of Securities, that portion of the Realisation Amount available for distribution to the Securityholders in accordance with the relevant Security Ranking Basis, as apportioned *pro rata* amongst all the Securities or as may otherwise be specified in the Issue Terms.

**"Eligible Assets"** means cash deposits or any debt securities:

- (a) of any Group of 7 country (or any country that becomes a member of the Group of 7 if such Group of 7 expands its membership);
- (b) which have the same credit rating as the Initial Charged Assets at the Issue Date or better; and
- (c) which are non-amortising,

unless otherwise specified in the Issue Terms.

**"Eligible Investments"** means securities or other assets of the type or types specified as such in the relevant Issue Terms.

**"Eligible Investors"** means:

- (a) if the Issue Terms specify that the Issuer will be relying on Section 3(c)(1) of the 1940 Act, (A) persons who constitute one beneficial owner for the purpose of Section 3(c)(1) of the 1940 Act and the rules thereunder and (B) either (X) institutions that qualify as IAs or (Y) QIBs, but excluding therefrom: (i) a partnership, common trust fund, special trust, pension fund, retirement plan or other entity in which the partners, beneficiaries or participants, as the case may be, may designate the particular investments to be made or the allocation thereof, (ii) an entity that was formed, reformed or recapitalised for the specific purpose of

investing in the Securities, and (iii) any entity that will have invested more than 40 per cent. of its assets in securities of the Issuer subsequent to any purchase of the Securities; or

- (b) if the Issue Terms specify that the Issuer will be relying on Section 3(c)(7) of the 1940 Act, persons who are QIBs and QPs but excluding therefrom: (i) QIBs that are broker dealers that own and invest on a discretionary basis less than U.S.\$25 million in securities as determined under Rule 144A of the Securities Act, (ii) a partnership, common trust fund, special trust, pension fund, retirement plan or other entity in which the partners, beneficiaries or participants, as the case may be, may designate the particular investments to be made or the allocation thereof, (iii) an entity that was formed, reformed or recapitalised for the specific purpose of investing in the Securities, (iv) any investment company excepted from the 1940 Act solely pursuant to Section 3(c)(1) or Section 3(c)(7) thereof and formed prior to April 30, 1996, that has not received the consent of its beneficial owners with respect to the treatment of such entity as a qualified purchaser in the manner required by Section 2(a)(51)(C) of the 1940 Act and rules thereunder and (v) any entity that will have invested more than 40 per cent. of its assets in the securities of the Issuer subsequent to any purchase of the Securities.

**"Equity-Linked Securities"** means Securities which incorporate, amongst other things, the 2002 ISDA Equity Derivatives Definitions.

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.

**"Euroclear"** means Euroclear Bank S.A./N.V.

**"Euroclear/Clearstream Important Notice"** means a notice substantially in the form set out in Part 11 of the First Schedule to the Trust Terms Module to be sent to each of Euroclear and Clearstream, Luxembourg, respectively, in connection with the issuance of the Rule 144A Global Certificates.

**"EURIBOR"** means Euro-zone inter-bank offered rate.

**"Event of Default"** means, in relation to the Securities of any Series, any of the conditions, events or acts provided in Condition 11 (*Events of Default*) to be events upon the occurrence of which the Securities of such Series would, subject only to notice by the relevant Trustee as therein provided, become immediately due and repayable.

**"Exchange Act"** means the United States Securities Exchange Act of 1934, as amended.

**"Exchange Date"** means, where applicable, the date which is 40 days after the date on which the Temporary Bearer Global Security is issued.

**"Exchange Event"** means that (i) an Event of Default has occurred and is continuing or (ii) Euroclear and Clearstream, Luxembourg have been closed for business or the Issuer has been notified of such closure of Euroclear and Clearstream, Luxembourg, and no successor clearing system is available.

**"Extraordinary Resolution"** has the meaning set out in paragraph 20 of the Third Schedule to the Trust Terms Module.

**"Final Redemption Amount"** means, in relation to a Series of Securities, the Final Redemption Amount set out in the Issue Terms.

**"Fitch"** means Fitch Ratings Ltd. or any successor to the rating business thereof.

**"Fixed Day Count Fraction"** means, in respect of the calculation of an amount of interest for any Fixed Interest Period:

- (a) if "Actual/Actual (ICMA)" is specified in the Issue Terms:
  - (i) in the case of Securities where the number of days in the relevant period from (and including) the most recent Interest Payment Date (or, if none, the Interest Commencement Date) to (but excluding) the relevant payment date (the **"Accrual Period"**) is equal to or shorter than the Determination Period during which the Accrual Period ends, the number of days in such Accrual Period divided by the product of (A) the number of days in such Determination Period and (B) the number of Determination Dates (as specified in the Issue Terms) that would occur in one calendar year; or
  - (ii) in the case of Securities where the Accrual Period is longer than the Determination Period during which the Accrual Period ends, the sum of:
    - (A) the number of days in such Accrual Period falling in the Determination Period in which the Accrual Period begins divided by the product of (1) the number of days in such Determination Period and (2) the number of Determination Dates that would occur in one calendar year; and
    - (B) the number of days in such Accrual Period falling in the next Determination Period divided by the product of (1) the number of days in such Determination Period and (2) the number of Determination Dates that would occur in one calendar year; and
- (b) if "30/360" is specified in the Issue Terms, the number of days in the period from (and including) the most recent Interest Payment Date (or, if none, the Interest Commencement Date) to (but excluding) the relevant payment date (such number of days being calculated on the basis of a year of 360 days with 12 30-day months) divided by 360.

**"Fixed Interest Period"** means, in relation to Fixed Rate Securities, the period from (and including) an Interest Payment Date (or the Interest Commencement Date) to (but excluding) the next (or first) Interest Payment Date.

**"Fixed Rate Securities"** means an issue of Securities in respect of which interest accrues at a fixed rate as stated in the Issue Terms applicable to such Securities.

**"Floating Day Count Fraction"** means, in respect of the calculation of an amount of interest for any Interest Period:

- (a) if "Actual/365" or "Actual/Actual" is specified in the Issue Terms, the actual number of days in the Interest Period divided by 365 (or, if any portion of that Interest Period falls in a leap year, the sum of (i) the actual number of days in that portion of the Interest Period falling in a leap year divided by 366 and (ii) the actual number of days in that portion of the Interest Period falling in a non-leap year divided by 365);
- (b) if "Actual/365 (Fixed)" is specified in the Issue Terms, the actual number of days in the Interest Period divided by 365;
- (c) if "Actual/365 (Sterling)" is specified in the Issue Terms, the actual number of days in the Interest Period divided by 365 or, in the case of an Interest Payment Date falling in a leap year, 366;
- (d) if "Actual/360" is specified in the Issue Terms, the actual number of days in the Interest Period divided by 360;
- (e) if "30/360", "360/360" or "Bond Basis" is specified in the Issue Terms, the number of days in the Interest Period divided by 360, calculated on a formula basis as follows:

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

where:

"Y<sub>1</sub>" is the year, expressed as a number, in which the first day of the Interest Period falls;

"Y<sub>2</sub>" is the year, expressed as a number, in which the day immediately following the last day of the Interest Period falls;

"M<sub>1</sub>" is the calendar month, expressed as a number, in which the first day of the Interest Period falls;

"M<sub>2</sub>" is the calendar month, expressed as a number, in which the day immediately following the last day of the Interest Period falls;

"D<sub>1</sub>" is the first calendar day, expressed as a number, of the Interest Period, unless such number is 31, in which case D<sub>1</sub> will be 30; and

"D<sub>2</sub>" is the calendar day, expressed as a number, immediately following the last day included in the Interest Period, unless such number would be 31 and D<sub>1</sub> is greater than 29, in which case D<sub>2</sub> will be 30;

- (f) if "30E/360" or "Eurobond Basis" is specified in the Issue Terms, the number of days in the Interest Period divided by 360, calculated on a formula basis as follows:

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

where:

"Y<sub>1</sub>" is the year, expressed as a number, in which the first day of the Interest Period falls;

"Y<sub>2</sub>" is the year, expressed as a number, in which the day immediately following the last day of the Interest Period falls;

"M<sub>1</sub>" is the calendar month, expressed as a number, in which the first day of the Interest Period falls;

"M<sub>2</sub>" is the calendar month, expressed as a number, in which the day immediately following the last day of the Interest Period falls;

"D<sub>1</sub>" is the first calendar day, expressed as a number, of the Interest Period, unless such number would be 31, in which case D<sub>1</sub> will be 30; and

"D<sub>2</sub>" is the calendar day, expressed as a number, immediately following the last day included in the Interest Period, unless such number would be 31, in which case D<sub>2</sub> will be 30;

- (g) if "30E/360 (ISDA)" is specified in the applicable Issue Terms, the number of days in the Interest Period divided by 360, calculated on a formula basis as follows:

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

where:

"Y<sub>1</sub>" is the year, expressed as a number, in which the first day of the Interest Period falls;

"Y<sub>2</sub>" is the year, expressed as a number, in which the day immediately following the last day of the Interest Period falls;

"M<sub>1</sub>" is the calendar month, expressed as a number, in which the first day of the Interest Period falls;

"M<sub>2</sub>" is the calendar month, expressed as a number, in which the day immediately following the last day of the Interest Period falls;

"D<sub>1</sub>" is the first calendar day, expressed as a number, of the Interest Period, unless (i) that day is the last day of February or (ii) such number would be 31, in which case D<sub>1</sub> will be 30; and

"D<sub>2</sub>" is the calendar day, expressed as a number, immediately following the last day included in the Interest Period, unless (i) that day is the last day of February but not the Maturity Date or (ii) such number would be 31, in which case D<sub>2</sub> will be 30.

**"Floating Rate Option"** means, in respect of a Series of Floating Rate Securities, the option (which may, but need not, be provided in the ISDA Definitions) which is specified in the Issue Terms of such Securities.

**"Floating Rate Securities"** means an issue of Securities in respect of which interest at a floating rate is determined in accordance with the Issue Terms applicable to such Securities.

**"FSA"** means the Financial Services Authority or any successor regulator which may be appointed from time to time.

**"FSA Rules"** means the rules and regulations as amended or varied from time to time, of the FSA, including its Conduct of Business Rules, established under or pursuant to the FSMA by which the Custodian is regulated.

**"FSMA"** means the Financial Services and Markets Act 2000.

**"Further Fungible Securities"** has the meaning given to it in Condition 19 (*Further Issues*).

**"General Definitions Module"** means the General Definitions Module (March 2012 Edition) containing general definitions for an issue of Securities or such other edition as specified in the Issue Terms.

**"Global Security"** means a Temporary Bearer Global Security and/or a Permanent Bearer Global Security and/or a Regulation S Global Certificate and/or a Rule 144A Global Certificate, as the context may require.

**"IAI"** means an institutional investor that qualifies as an accredited investor (within the meaning of paragraphs (1), (2), (3) or (7) of Rule 501(a) of Regulation D under the Securities Act).

**"ICSDs"** means the international central securities depositaries, Euroclear and Clearstream, Luxembourg.

**"Indexed Interest Securities"** means an issue of Securities in respect of which the amount payable in respect of interest is calculated by reference to an index and/or a formula in accordance with the relevant Issue Terms.

**"Individual Certificates"** means Registered Securities issued in physical definitive form and registered in the name of the holder thereof.

**"Initial Charged Assets"** has the meaning given to it in Condition 4 (*Charged Assets*) and in respect of each Series of Securities, as specified in the Issue Terms.

**"Initial Tranche"** means, if the Securities of a Series are, in accordance with the terms of the Trust Instrument relating to such Series, to be issued in tranches, the initial tranche specified in the Trust Instrument in respect of that Series.

**"Instructing Creditor"** means, in relation to a Series of Securities, either: (a) the Counterparty only; (b) the Securityholders only; or (c) the Counterparty and the



Securityholders, as specified in the Issue Terms. For the avoidance of doubt, where "the Counterparty or the Securityholders" are specified as the Instructing Creditor there is no requirement for the Counterparty and the Securityholders to act together as Instructing Creditors.

**"Interest Amount"** has the meaning set out in Condition 7(b)(iv) (*Types of Securities - Floating Rate Securities and Indexed Interest Securities*).

**"Interest Determination Date"** means, in relation to a Series of Securities, the date(s) set out in the Issue Terms where Screen Rate Determination is specified as applicable.

**"Interest Payment Date"** means, in relation to a Series of Securities, the date(s) set out in the Issue Terms.

**"Interest Period"** has the meaning set out in Condition 7(b)(i) (*Types of Securities - Floating Rate Securities and Indexed Interest Securities*).

**"investment company"** means an investment company for the purposes of the 1940 Act.

**"Investment Letter"** means a letter substantially in the form attached as Part 9 of the First Schedule to the Trust Terms Module, to be delivered by each initial purchaser that is a U.S. person or that purchased the Securities during the Distribution Compliance Period when the Issuer is relying on the exception from the 1940 Act set out in Section 3(c)(1) or Section 3(c)(7) thereof, or in such other form as is set out in the Trust Instrument.

**"Irish Stock Exchange"** means the Irish Stock Exchange Limited.

**"ISDA"** means the International Swaps and Derivatives Association, Inc.

**"ISDA Definitions"** means the 2000 ISDA Definitions or the 2006 ISDA Definitions or such other definitions as may be specified in the Issue Terms.

**"Issue Date"** means, in relation to a Tranche of Securities, the date specified in the Issue Terms relating to such Securities as such, being the date on which such Securities are constituted.

**"Issue Terms"** means, in relation to a Series of Securities, the issue terms set out in the Trust Instrument relating to such Securities, including the terms of the Conditions Modules and Definitions Modules incorporated by reference, as the same may be modified and/or supplemented.

References to **"Japanese Yen"**, **"Yen"** and **"¥"** are to the lawful currency of Japan.

**"Liability"** means any loss, damage, cost, charge, claim, demand, expense, judgment, action, proceeding or other liability whatsoever (including, without limitation, in respect of taxes, duties, levies, imposts and other charges) and including any value added tax or similar tax charged or chargeable in respect thereof and legal fees and expenses on a full indemnity basis.

**"LIBOR"** means London inter-bank offered rate.

**"Liquidation Assets"** has the meaning given to it in Condition 4(b)(ii) (*Charged Assets – Substitution at the request of Securityholders*).

**"Liquidation Proceeds"** has the meaning given to it in Condition 4(b)(ii) (*Charged Assets – Substitution at the request of Securityholders*).

**"Loan Facility Agreement"** means the loans, howsoever described, (including, without limitation, Credit-Linked Loans) constituted by the Trust Instrument and incorporating therein the Loan Terms Modules.

**"Loan Facility Terms"** means, in relation to a Loan Facility Agreement, the loan facility terms set out in the Trust Instrument relating to such Loan Facility Agreement including the terms of the Loan Terms Modules and Definitions Modules incorporated by reference, as the same may be modified and/or supplemented.

**"Loan Facility Terms Module"** means the Loan Facility Terms Module (March 2012 Edition) (as updated) containing the base terms for a Loan Facility Agreement or such other edition as specified in the Loan Facility Terms.

**"Loan Terms Modules"** means the modules containing the terms which will apply to a Loan Facility Agreement to the extent incorporated into the Loan Facility Terms (including, without limitation, the Loan Facility Terms Module, the Credit-Linked Loan Terms Module and/or such other modules as may be proposed by the Arranger from time to time).

**"Luxembourg Stock Exchange"** means The Luxembourg Stock Exchange.

**"Margin"** means, in relation to a Series of Floating Rate Securities, the margin (if any) set out in the Issue Terms.

**"Market Value Basis"** means:

- (i) in the case of substitution of Charged Assets, that the value of the assets required to be provided by the Issuer shall be equal to the Market Value of the then subsisting Charged Assets on the date specified by the Counterparty in the Substitution Notice given by the Counterparty, and, for these purposes, **"Market Value"** shall mean the firm bid price obtained by the Calculation Agent from 3 dealers (one of whom may be the Counterparty) in such assets as it may in its discretion select (or, if more than one, the arithmetical average of such prices, disregarding the highest and lowest quotes) or, if less than 2 such bid prices are quoted by or available to such Calculation Agent, it shall be calculated by the Calculation Agent in such other manner as it shall determine in good faith and in a commercially reasonable manner; and
- (ii) in the case of the issue of Further Fungible Securities, that the additional assets required to be provided by the Issuer in respect of the Further Fungible Securities shall be calculated in accordance with a formula that takes into account the Market Value of the Charged Assets and the replacement costs of the Charged Agreement(s), if any, all as more fully described in the Issue Terms.

**"Maturity Date"** means, in relation to a Series of Securities, the final date on which the Securities are expressed to be redeemable as specified in the Issue Terms (which date may in certain circumstances be extended in accordance with the Issue Terms).

**"Maximum Interest Rate"** means, in relation to a Series of Securities, if applicable, such rate as is specified as the Maximum Interest Rate in the Issue Terms.

**"Minimum Interest Rate"** means, in relation to a Series of Securities, if applicable, such rate as is specified as the Minimum Interest Rate in the Issue Terms.

**"Moody's"** means Moody's Investors Services Limited or any successor to the rating business thereof.

**"Mortgaged Property"** means, in relation to any Series of Securities, the assets over which the Security Interests are created by the Issuer from time to time in relation to such Securities, including, as applicable, the Charged Assets and the Rights under the Transaction Documents.

**"New Series of Securities"** has the meaning given to it in Condition 4(b)(ii) (*Charged Assets – Substitution at the request of Securityholders*).

**"Nominal Basis"** means:

- (i) in the case of substitution of Charged Assets, that the assets required to be provided by the Issuer shall be of a nominal amount equal to the nominal amount of the Charged Assets being substituted; and
- (ii) in the case of the issue of Further Fungible Securities, that the additional assets required to be provided by the Issuer shall be in a nominal amount which bears the same proportion to the nominal amount of the Further Fungible Securities as the proportion which the nominal amount of such assets forming part of the Mortgaged Property for the existing Securities of such Series bears to the nominal amount thereof as at such date.

**"Non-U.S. Series"** means a series of Securities all of which will be offered and sold outside the United States to non-U.S. Persons.

**"N-USD Securities"** means Securities denominated in a currency other than U.S. Dollars.

**"N-USD Regulation S Global Certificate"** - means a registered global security in the form or substantially in the form set out in Part 3-A of the First Schedule to the Trust Terms Module (in the case of a Non-U.S. Series) or Part 3-D of the First Schedule to the Trust Terms Module (in the case of a U.S. Series) with such modifications (if any) as may be agreed between the Issuer, the Trustee and the Counterparty, comprising some or all of the Registered Securities of the same Series sold outside the United States to non-U.S. Persons in reliance on Regulation S under the Securities Act, issued by the Issuer pursuant to the Trust Instrument.

**"N-USD Rule 144A Global Certificate"** means a fully registered global security substantially in the form of Part 3-C of the First Schedule to the Trust Terms Module with such modifications (if any) as may be agreed between the Issuer, the Trustee and the Counterparty, comprising some or all of the Registered Securities of the same Series pursuant to which any Securities offered and sold to or for the account or benefit of U.S. Persons in accordance with the legend appearing thereon will be represented.

**"Optional Call Redemption Amount"** in relation to a Series of Securities shall have the meaning set out in the Issue Terms.

**"Optional Call Redemption Date"** in relation to a Series of Securities shall have the meaning set out in the Issue Terms.

**"Optional Put Redemption Amount"** in relation to a Series of Securities shall have the meaning set out in the Issue Terms.

**"Optional Put Redemption Date"** in relation to a Series of Securities shall have the meaning set out in the Issue Terms.

**"outstanding"** means, in relation to a Series of Securities, all the Securities of that Series issued (or, in the case of Partly Paid Securities, the paid up amount thereof) other than:

- (a) those Securities to the extent that they shall have been redeemed in part pursuant to the relevant Issue Terms;
- (b) those Securities which have been redeemed in full pursuant to the relevant Issue Terms;
- (c) those Securities in respect of which the date for redemption in accordance with the relevant Issue Terms has occurred and the redemption moneys (including all premium (if any) and interest (if any) payable thereon) have been duly paid to the Trustee, the Registrar and/or the Principal Paying Agent in the manner provided in the Agency Agreement (and where appropriate notice to that effect has been given to the Securityholders in accordance with Condition 15 (*Notices*)) and remain available for payment against presentation of the Securities;
- (d) those Securities which have been purchased and cancelled in accordance with Condition 9 (*Purchase*);
- (e) those Securities in respect of which claims have become void under Condition 13 (*Prescription*);
- (f) those mutilated or defaced Securities which have been surrendered and cancelled and in respect of which replacements have been issued pursuant to Condition 14 (*Replacement of Securities*);
- (g) (for the purpose only of ascertaining the nominal amount of the Securities of that Series outstanding and without prejudice to the status for any other purpose of the Securities) those Securities which are alleged to have been lost, stolen or destroyed

and in respect of which replacements have been issued pursuant to Condition 14 (*Replacement of Securities*); and

- (h) any Temporary Global Security to the extent that it shall have been exchanged for definitive Bearer Securities or a Permanent Bearer Global Security and any Permanent Bearer Global Security to the extent that it shall have been exchanged for definitive Bearer Securities in each case pursuant to its provisions; and

PROVIDED THAT for each of the following purposes, namely:

- (i) the right to attend and vote at any meeting of the Securityholders or any of them;
- (ii) the determination of how many and which Securities are for the time being outstanding for the purposes of Conditions 11 (*Events of Default*) and 12 (*Enforcement*) and paragraphs 2, 5, 6 and 9 of the Third Schedule to the Trust Terms Module;
- (iii) any discretion, power or authority (whether contained in the Trust Instrument or vested by operation of law) which the Trustee is required, expressly or impliedly, to exercise in or by reference to the interests of the Securityholders or any of them; and
- (iv) the determination by the Trustee whether any event, circumstance, matter or thing is, in its opinion, materially prejudicial to the interests of the Securityholders or any of them,

those Securities (if any) which are for the time being held by, for the benefit of, or on behalf of, the Issuer, the Counterparty (if any), the Swap Guarantor (if any) or any Subsidiary of the Issuer, the Counterparty or the Swap Guarantor (if any) shall (unless and until ceasing to be so held) be deemed not to remain outstanding.

**"Outstanding Principal Amount"** means in relation to a Security, the principal amount of such Security outstanding from time to time.

**"Pari Passu Basis"** means, in meeting the claims of the Securityholders and the Counterparty (or if more than one Counterparty, meeting the claims of all such Counterparties on the basis as specified in the Issue Terms) under the Charged Agreement(s), on a *pari passu* and *pro rata* basis.

**"Partly Paid Securities"** means Securities which are issued on a partly paid basis.

**"Paying Agents"** means, in relation to a Series of Securities, the entities (if any) appointed as such under the Agency Agreement and as specified in the Issue Terms and includes, for the avoidance of doubt, the Principal Paying Agent.

**"Payment Day"** means any day which (subject to Condition 13 (*Prescription*)) is:

- (i) a day (other than a Saturday or Sunday) on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in:

- (A) the relevant place of presentation;
  - (B) London; and
  - (C) any Additional Financial Centre specified in the Issue Terms; and
- (ii) either (1) in relation to any sum payable in a Currency of Issue other than euro, a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in the principal financial centre of the country of the relevant Currency of Issue (if other than the place of presentation, London and any Additional Financial Centre and which if the Currency of Issue is Australian dollars or New Zealand dollars shall be Sydney and Auckland, respectively) or (2) in relation to any sum payable in euro, a day on which the Target2 System is open.

**"Permanent Bearer Global Security"** means a permanent bearer global security in the form or substantially in the form set out in Part 2 of the First Schedule to the Trust Terms Module with such modifications (if any) as may be agreed between the Issuer, the Trustee and the Counterparty, comprising some or all of the Bearer Securities of the same Issue, issued by the Issuer pursuant to the Trust Instrument either on issue of the Securities or in exchange for the whole or part of the Temporary Bearer Global Security issued in respect of such Bearer Securities (all as indicated in the Issue Terms).

**"Placing Agreement"** means, in relation to a Series of Securities, the placing agreement entered into by the Issuer and the Dealer(s) in respect of such Series by execution of the relevant Trust Instrument and into which the terms of the Placing Terms Module are incorporated by reference as the same may be modified and/or supplemented by the Trust Instrument.

**"Placing Terms Module"** means the Placing Terms Module (March 2012 Edition) containing the provisions relating to the purchase and/or placing of Securities or such other edition as specified in the Issue Terms.

**"Potential Event of Default"** means any condition, event or act which, with the lapse of time and/or the issue, making or giving of any notice, certification, declaration, demand, determination and/or request and/or the taking of any similar action and/or the fulfilment of any similar condition, would constitute an Event of Default.

**"Principal Paying Agent"** means, in relation to a Series of Securities, the entity appointed as such under the Agency Agreement and as specified in the Issue Terms.

**"Principal Protected CDO Securities"** means, unless otherwise specified in the Issue Terms, Securities which do not bear a pre-determined rate of interest and where:

- (i) in the event that distributions are made by, or payments of interest and/or principal are made by, the obligor of the relevant Charged Assets specified in the Issue Terms, such sums will be paid to the Securityholders within two Business Days (or such other number of days as may be specified in the Issue Terms) of receipt thereof; and

(ii) the Issue Terms will set out the expected dates of any distributions or payments.

**"Programme"** means the U.S.\$50,000,000,000 Limited Recourse Secured Debt Issuance Programme of the Issuer.

**"Put Notices"** has the meaning given to it in Condition 8(e) (*Redemption - Redemption at the option of the Securityholders*).

**"QIB"** means a "qualified institutional buyer" as defined in Rule 144A under the Securities Act.

**"QP"** or **"Qualified Purchaser"** means a "qualified purchaser" within the meaning set out in Section 2(a)(51) of the 1940 Act and the rules thereunder.

**"Rate of Interest"** means, in relation to a Series of Securities, the Rate of Interest set out in the Issue Terms.

**"Rating Agency"** means, in relation to a Series of Securities that is rated, each rating agency specified in the Issue Terms.

**"Rating Agency Confirmation"** means, in relation to a Series of Securities that is rated the notification of the relevant event specified in the Issue Terms to the Rating Agency and confirmation from the Rating Agency that there has been no adverse change to the credit rating granted by such Rating Agency in respect of such Securities.

**"Realisation Amount"** means the net proceeds of realisation of, or enforcement with respect to the Security Interests over, the Charged Assets or the Mortgaged Property, as applicable (following payment of all amounts due to the Trustee or, as the case may be, the Selling Agent, including any costs, expenses and taxes incurred in connection with such realisation or enforcement).

**"Record Date"** means, in relation to a payment in respect of Individual Certificates or Regulation S Global Certificates, close of business on the Business Day immediately prior to the date on which the relevant payment is due.

**"Reference Banks"** means, in the case of a determination of LIBOR, the principal London office of 4 major banks in the London inter-bank market and, in the case of a determination of EURIBOR, the principal Euro-zone office of 4 major banks in the Euro-zone inter-bank market, in each case selected by the Principal Paying Agent or as specified in the Issue Terms.

**"Reference Rate"** means, in relation to a Series of Securities, the Reference Rate set out in the Issue Terms where Screen Rate Determination is specified as applicable.

**"Register"** means a register on which shall be entered the names and addresses of the subscribers of the Registered Securities or, as the case may be, of the latest transferees of the same notified to the Registrar in accordance with Condition 1.4(c) of the Registered Securities Conditions Module (*Transfer of Registered Securities - General*), together with

the particulars of the Registered Securities held by them respectively and of all transfers of Registered Securities.

**"Registered Global Securities"** means, together, the Regulation S Global Certificates and the Rule 144A Global Certificates.

**"Registered Securities"** means those of the Securities which are for the time being in registered form.

**"Registered Securities Conditions Module"** means the Registered Securities Conditions Module (March 2012 Edition) containing the provisions relating to an issue of Registered Securities and provisions additional to or instead of provisions in the Bearer Securities Base Conditions Module or such other edition as specified in the Issue Terms.

**"Registrar"** means, in relation to a Series of Securities (being, or which are exchangeable for, Registered Securities), the entity appointed as such under the Agency Agreement and as specified in the Issue Terms.

**"Regulation S Global Certificates"** means collectively, the USD Regulation S Global Certificate and the N-USD Regulation S Global Certificate.

**"Regulation S Transfer Certificate"** means a transfer certificate substantially in the form attached to the Rule 144A Global Certificate, being the certificate to be delivered to the Registrar in order to request a transfer of an interest in a Rule 144A Global Certificate to a non-U.S. person taking an interest in a Regulation S Global Certificate representing Securities of the same Series.

**"Relevant Date"** has the meaning set out in Condition 13 (*Prescription*).

**"Relevant Screen Rate"** means, in relation to a Series of Securities, the relevant screen rate set out in the Issue Terms where Screen Rate Determination is specified as applicable.

**"repay", "redeem" and "pay"** shall each include both the others and cognate expressions shall be construed accordingly and shall (where the context so permits) be deemed to include references to delivery of the Charged Assets in accordance with the Issue Terms.

**"Replacement Agent Bank"** means the Replacement Agent Bank appointed by the Issuer or the Trustee, as the case may be, in accordance with Condition 17 (*Appointment of Replacement Selling Agent, Replacement Calculation Agent and Replacement Agent Bank*).

**"Replacement Assets"** has the meaning given to it in Condition 4(b)(ii) (*Charged Assets – Substitution at the request of Securityholders*).

**"Replacement Calculation Agent"** means the Replacement Calculation Agent appointed by the Issuer or the Trustee, as the case may be, in accordance with Condition 17 (*Appointment of Replacement Selling Agent, Replacement Calculation Agent and Replacement Agent Bank*).



**"Replacement Selling Agent"** means the Replacement Selling Agent appointed by the Issuer or the Trustee, as the case may be, in accordance with Condition 17 (*Appointment of Replacement Selling Agent, Replacement Calculation Agent and Replacement Agent Bank*).

**"Replacement Swap"** has the meaning given to it in Condition 4(b)(ii) (*Charged Assets – Substitution at the request of Securityholders*).

**"Requesting Securityholder"** has the meaning given to it in Condition 4(b)(ii) (*Charged Assets – Substitution at the request of Securityholders*).

**"Required Minimum Securityholders"** means Securityholders holding at least 50 per cent. of the aggregate principal amount of the Securities then outstanding, in each case including any Requesting Securityholder.

**"Restructure Documents"** has the meaning given to it in Condition 4(b)(ii) (*Charged Assets – Substitution at the request of Securityholders*).

**"Rights"** means, in relation to any agreement or asset, all rights, title and interest of the relevant person in, to and under such agreement or asset including, without limitation:

- (i) the Issuer's rights under the Agency Agreement, including all its rights in respect of all funds and/or assets held from time to time by any of the Agents for payment in respect of the Securities or otherwise in relation to the Securities or the Charged Assets; and
- (ii) the Issuer's rights to the Charged Assets, including all its rights in respect thereof or relating thereto and any sums or assets derived therefrom whether or not against third parties, including, without limitation, the Issuer's rights against the Custodian to redelivery of equivalent Charged Assets and any proceeds of the sale of the Charged Assets.

**"Rule 144A Global Certificates"** means, collectively, the USD Rule 144A Global Certificate and the N-USD Rule 144A Global Certificate.

**"Rule 144A Transfer Certificate"** means a transfer certificate substantially in the form attached to the a Regulation S Global Certificate representing Securities of a U.S. Series, being the certificate to be delivered to a Registrar in order to request a transfer of an interest in the Regulation S Global Certificate to a U.S. person taking an interest in a Rule 144A Global Certificate representing Securities of the same Series.

**"Sale Agreement"** means, in relation to a Series of Securities, the sale agreement entered into by the Issuer and the Vendor in respect of such Series by execution of the relevant Trust Instrument pursuant to which the Issuer agrees to purchase the relevant Charged Assets and into which the terms of the Sale Agreement Terms Module are incorporated by reference, as the same may be modified and/or supplemented by the Trust Instrument.

**"Sale Agreement Terms Module"** means the Sale Agreement Terms Module (March 2012 Edition) containing the standard provisions of sale of the Charged Assets to the Issuer or such other edition as specified in the Issue Terms.

**"Sale Request"** has the meaning given to it in Condition 4(b)(ii) (*Charged Assets – Substitution at the request of Securityholders*).

**"S&P"** means Standard & Poor's Ratings Services, a Division of the McGraw-Hill Companies, Inc. or any successor to the rating business thereof.

**"Section 3(c)(1) exception"** means the exception to the definition of "investment company" set out in Section 3(c)(1) of the 1940 Act and the rules thereunder.

**"Section 3(c)(7) exception"** means the exception to the definition of "investment company" set out in Section 3(c)(7) of the 1940 Act and the rules thereunder.

**"Securities"** means the bonds, notes or other securities of a Series, howsoever described, constituted by the Trust Instrument and for the time being outstanding or, as the context may require, a specific number thereof, such Securities being denominated in the Currency of Issue and:

- (i) having such maturity as may be specified in the Issue Terms and, in any case, such minimum or maximum maturity as may be allowed or required from time to time by the relevant central bank (or equivalent body) or any laws or regulations applicable to the relevant Currency of Issue;
- (ii) having such minimum denomination as may be allowed or required from time to time by the relevant central bank (or equivalent body) or any laws or regulations applicable to the relevant Currency of Issue; and
- (iii) if sold within the United States or to a U.S. person, having an Authorised Denomination, or the equivalent in other Currencies of Issue;

and reference to **"Securities"** shall be deemed to include Coupons in the case of Bearer Securities in definitive form and Further Fungible Securities unless the context otherwise requires.

**"Securities Act"** means the United States Securities Act of 1933, as amended.

**"Securities and Exchange Law"** means the Securities and Exchange Law of Japan.

**"Security Documents"** means, in relation to a Series of Securities, the Trust Instrument and any Additional Charging Documents.

**"Securityholder Priority Basis"** means, first, in meeting claims of the Securityholders under the Securities on a *pari passu* and *pro rata* basis and, thereafter, in meeting the claims of the Counterparty (or if more than one Counterparty, meeting the claims of all such Counterparties on the basis as specified in the Issue Terms) under the Charged Agreement(s).

**"Securityholders"** means the several persons who are for the time being holders of the Securities (being, in the case of Bearer Securities, the bearers thereof and, in the case of Registered Securities, the several persons whose names are entered in the register of

holders of the Registered Securities as the holders thereof) save that, in respect of the Securities of any Series, for so long as such Securities or any part thereof are represented by a Bearer Global Security deposited with a depositary for Euroclear and/or Clearstream, Luxembourg or so long as DTC or its nominee is the registered holder of a Global Security each person who is for the time being shown in the records of Euroclear or Clearstream, Luxembourg or, as the case may be, DTC as the holder of a particular nominal amount of the Securities of such Issue shall be deemed to be the holder of such nominal amount of such Securities (and the holder of the relevant Global Security shall be deemed not to be the holder) for all purposes of the Trust Instrument other than with respect to the payment of principal, premium (if any) or interest (if any) on such Securities, the right to which shall be vested, as against the relevant Issuer and the relevant Trustee, solely in such depositary or, as the case may be, DTC or its nominee and for which purpose such depositary or, as the case may be, DTC or its nominee shall be deemed to be the holder of such nominal amount of such Securities in accordance with and subject to its terms and the provisions of the Trust Instrument and the expressions "**Securityholder**", "**holder of Securities**" and related expressions shall be construed accordingly.

"**Security Interests**" means, in relation to a Series of Securities, the security interests created, or intended to be created at any time, in favour of the Trustee under the Security Documents.

"**Security Ranking Basis**" has the meaning given to it in Condition 5 (*Application of Proceeds*).

"**Selling Agent**" means, in relation to a Series of Securities, the entity (if any) appointed as such under the Agency Agreement and as specified in the Issue Terms, and includes any Replacement Selling Agent.

"**Selling Agent Default**" means, in relation to the Selling Agent, the Selling Agent also acts as the Counterparty in relation to the relevant Series of Securities and an Event of Default (as defined in the Swap Agreement) has occurred under the Swap Agreement and the Counterparty is the Defaulting Party (as defined in the Swap Agreement).

"**Series**" means a Tranche of Securities together with any further Tranche or Tranches of Securities which are (i) expressed to be consolidated and form a single series and (ii) identical in all respects (including as to listing) except for the respective Issue Dates, Interest Commencement Dates and/or Issue Prices and initial Common Code and ISIN.

"**Shortfall Date**" has the meaning given to it in Condition 8(a) (*Redemption – Final Redemption*).

"**Specified Denomination**" means, in relation to a Series of Securities, the denomination(s) of the Securities as specified in the Issue Terms.

"**Specified Time**" means 11.00 a.m. (London time, in the case of a determination of LIBOR, or Brussels time, in the case of a determination of EURIBOR).

References to "**Sterling**", "**Pounds Sterling**", "**Pounds**" and "**£**" are to the lawful currency of the United Kingdom.

**"Stock Exchange"** means, in relation to a Series of Securities, each stock exchange or securities market (if any) specified in the Issue Terms.

**"Subsidiary"** means any company which is for the time being a subsidiary (within the meaning of Section 1159 of the Companies Act 2006 of Great Britain) or a subsidiary undertaking (within the meaning of Section 1162 and Schedule 7 of the Companies Act 2006 of Great Britain).

**"Substitution Notice"** has the meaning given to it in Condition 4(b)(i) (*Charged Assets - Substitution of Charged Assets*).

**"sub-unit"** means, with respect to any currency other than the euro, the lowest amount of such currency that is available as legal tender in the country of such currency and, with respect to the euro, means one cent.

**"successor"** means any successor to any one or more persons appointed in relation to the Securities pursuant to the Trust Instrument and/or such other or further persons appointed as such.

**"Swap Adjustment Cost"** has the meaning given to it in Condition 4(b)(ii) (*Charged Assets – Substitution at the request of Securityholders*).

**"Swap Agreement"** means, in relation to a Series of Securities, each interest rate and/or currency exchange and/or credit default swap agreement(s) or other hedging agreement(s) as evidenced by either (i) a 1992 ISDA Master Agreement (Multicurrency - Cross Border) or (ii) a 2002 ISDA Master Agreement, as specified in the Issue Terms and schedule thereto entered into by the Issuer and the Counterparty by the execution of the relevant Trust Instrument and into which the terms of the Swap Schedule Terms Module are incorporated by reference, as the same may be modified and supplemented by the Trust Instrument, together with the confirmation entered into by the Issuer and the Counterparty, each dated the Issue Date.

**"Swap Guarantee"** means, in relation to a Series of Securities, the guarantee dated the Issue Date executed by the Swap Guarantor in respect of the payment obligations of the Counterparty under the Swap Agreement(s) (if any).

**"Swap Guarantor"** means, in relation to a Series of Securities, the guarantor (if any) of the payment obligations of the Counterparty under any Swap Agreement(s) as designated in the Issue Terms.

**"Swap Schedule Terms Module"** means the Swap Schedule Terms Module (March 2012 Edition) containing the standard provisions of a swap schedule in relation to an issue of Securities as specified in the Issue Terms or such other edition as specified in the Issue Terms.

**"Talons"** means the talons (if any) appertaining to, and exchangeable in accordance with the provisions therein contained for further Coupons appertaining to, the Bearer Securities in definitive form of any Series (other than Zero-Coupon Securities) and includes any replacements for Talons issued pursuant to Condition 14 (*Replacement of Securities*).

**"Target2 System"** means the Trans-European Automated Real-Time Gross Settlement Express Transfer (TARGET2) System.

**"Temporary Bearer Global Security"** means a temporary bearer global security in the form or substantially in the form set out in Part 1 of the First Schedule to the Trust Terms Module with such modifications (if any) as may be agreed between the Issuer, the Trustee and the Counterparty, comprising some or all of the Securities of the same Series, issued by the Issuer pursuant to the Trust Instrument.

**"Tranche"** means, in relation to a Series of Securities which are, in accordance with the terms of the Trust Instrument, to be issued in tranches, the Initial Tranche and any further tranches issued in accordance with the Trust Instrument relating to that Series.

**"Transaction Documents"** means, in relation to a Series of Securities, the Trust Instrument, the Agency Agreement, the Sale Agreement, the Placing Agreement, the Charged Agreements, the Additional Agreements and any Additional Charging Document, in each case entered into in relation to such Securities and all agreements incidental to the issue of such Securities.

**"Transfer Agents"** means, in relation to a Series of Registered Securities, the entity or entities appointed as such under the Agency Agreement and as specified in the Issue Terms.

**"Transfer Certificate"** means the Regulation S Transfer Certificate and/or the Rule 144A Transfer Certificate as the context may require.

**"Trust Corporation"** means a corporation entitled by rules made under the Public Trustee Act 1906 of Great Britain or entitled pursuant to any other comparable legislation applicable to a trustee in any other jurisdiction to carry out the functions of a custodian trustee.

**"Trustee"** means, in relation to a Series of Securities, the entity designated as the trustee in the Issue Terms.

**"Trust Instrument"** means, in respect of a Tranche of Securities, a trust instrument dated the Issue Date of such Tranche of Securities and made between, among others, the Issuer and the Trustee.

**"Trust Terms Module"** means the Trust Terms Module (March 2012 Edition) containing the trust terms constituting and/or securing the Securities or such other edition as specified in the Issue Terms.

References to **"U.S. dollars"**, **"U.S.\$"** and **"U.S. cents"** are to the lawful currency of the United States of America.

**"USD Securities"** means Securities denominated in U.S. dollars.

**"USD Regulation S Global Certificates"** means a registered global security in the form or substantially in the form set out in Part 3-A of the First Schedule to the Trust Terms

Module (in the case of a Non-U.S. Series) or Part 3-D of the First Schedule to the Trust Terms Module (in the case of a U.S. Series) with such modifications (if any) as may be agreed between the Issuer, the Trustee and the Counterparty, comprising some or all of the Registered Securities of the same Series sold outside the United States to non-U.S. Persons in reliance on Regulation S under the Securities Act, issued by the Issuer pursuant to the Trust Instrument.

**"USD Rule 144A Global Certificates"** means a fully registered book-entry security substantially in the form of Part 3-B of the First Schedule to the Trust Terms Module to be deposited on or prior to the issue date for the Securities with or on behalf of DTC and registered in the name of its nominee Cede & Co. pursuant to which any USD Securities offered and sold to or for the account or benefit of U.S. Persons in accordance with the legend appearing thereon will be represented.

**"U.S. Internal Revenue Code"** means the United States Internal Revenue Code of 1986, as amended.

**"U.S. Person"** has the meaning set out in Regulation S under the Securities Act.

**"U.S. Series"** means a series of Registered Securities all or a portion of which will be offered or sold within the United States or to, or for the account or benefit of, U.S. Persons.

**"Vendor"** means, in relation to a Series of Securities, the entity designated as the vendor of the Charged Assets in the Issue Terms.

**"Zero-Coupon Securities"** means an issue of Securities which bear no interest.

## **2. STATUTORY PROVISIONS**

Save where the context otherwise requires, references in any Transaction Document or Conditions Module to any statutory provision shall be deemed also to refer to any statutory modification or re-enactment thereof or to any statutory instrument, order or regulation made thereunder or under any such re-enactment.

## **3. AMENDMENTS**

References in any Transaction Document or Conditions Module to that or any other Transaction Document, Conditions Module, agreement, deed or document shall be deemed also to refer to such module, agreement, deed or document as amended, supplemented, varied, replaced or novated (in whole or in part) from time to time and to modules, agreements, deeds and documents executed pursuant thereto.

## **4. SCHEDULES**

Any Schedule, Appendix or Exhibit annexed to a Transaction Document or Conditions Module forms part of such Transaction Document or Conditions Module and shall have the same force and effect as if set out in the body of such Transaction Document or Conditions Module. Any reference to a Transaction Document or Conditions Module shall include any such Schedule, Appendix or Exhibit.

## **5. HEADINGS**

Headings in any Transaction Document or Conditions Module and herein are for ease of reference only.

**6. NUMBER**

In any Transaction Document or Conditions Module and herein, save where the context otherwise requires, words importing the singular number include the plural and *vice versa*.

**7. SUCCESSORS**

Save where the context otherwise requires, references in any Transaction Document or Conditions Module and herein to any party to the Transaction Documents or Conditions Module shall include references to its successors (or, in the case of a Reference Entity, its Successors (as defined in the Credit-Linked Definitions Module)) and assigns, whether in security or otherwise, whomsoever.

**8. MISCELLANEOUS**

In each Transaction Document or Conditions Module, unless the contrary intention appears, a reference to:

(a) **"assets"** includes properties, revenues and rights of every description;

an **"authorisation"** includes an authorisation, consent, approval, resolution, licence, exemption, filing, registration and notarisation;

a **"month"** is a reference to a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that, if there is no numerically corresponding day in the month in which that period ends, that period shall end on the last Business Day in that calendar month;

a **"regulation"** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental body, agency, department or regulatory, self-regulatory or other authority or organisation; and

(b) a time of day is a reference to London time.

## **SUBSCRIPTION AND SALE AND TRANSFER RESTRICTIONS**

The Dealer agrees that it will (to the best of its knowledge and belief) comply with all applicable securities laws and regulations in force in any jurisdiction in which it purchases, offers, sells or delivers the Securities or possesses or distributes this Supplemental Information Memorandum or the Information Memorandum and will obtain any consent, approval or permission required by it for the purchase, offer, sale or delivery by it of Securities under the laws and regulations in force in any jurisdiction to which it is subject or in which it makes such purchases, offers, sales or deliveries and the Issuer shall not have any responsibility therefor.

Neither the Issuer nor the Dealer represents that Securities may at any time lawfully be sold in compliance with any applicable registration or other requirements in any jurisdiction, or pursuant to any exemption available thereunder, or assumes any responsibility for facilitating such sale.

In particular, the selling restrictions in the following jurisdictions, as set out in the Information Memorandum and described here, apply:

United States (Non U.S. Series); and

European Economic Area (including the United Kingdom, Ireland and France).



## **USE OF PROCEEDS**

The net proceeds of the issue of the Securities, which amounts to EUR 34,300,000, shall be used by the Issuer to purchase the Initial Charged Assets on 2 October 2012.

## **Method of Payment**

On the Issue Date, delivery of beneficial interests in the Temporary Bearer Global Security will be made in book-entry form through the facilities of Euroclear or Clearstream, Luxembourg, in each case against payment therefor in immediately available funds.

## DESCRIPTION OF THE INITIAL CHARGED ASSETS AND THE ISSUER OF THE INITIAL CHARGED ASSETS

*The information in the following sections concerning the Initial Charged Assets and the Underlying Obligor has been accurately reproduced from information taken from the offering circular for the Bank of America Corporation EUR 34,300,000 in aggregate principal amount of the Fixed to CMF-Linked Notes due 10 February 2023 (the **Charged Assets OM**). So far as the Issuer is aware and is able to ascertain from information provided in the Charged Assets OM, no facts have been omitted which would render the information reproduced herein inaccurate or misleading.*

### A. Initial Charged Assets

**The Initial Charged Assets comprise the following:**

Issuer:	Bank of America Corporation.
Issue Date:	10 February 2011.
Initial aggregate nominal amount issued on issue date:	EUR 34,300,000.
Denomination:	EUR 100,000.
First Interest Payment Date:	10 February 2012.
Maturity Date:	10 February 2023.
Interest Rate:	<p>In respect of each interest period from (and including) 10 February 2012 to (but excluding) 10 February 2014, 6.70 per cent. per annum payable annually in arrear.</p> <p>In respect of each interest period from (and including) 10 February 2014 to (but excluding) 10 February 2023 the interest rate determined by the calculation agent in accordance with the following (subject to a minimum interest rate of zero per cent. per annum and a maximum interest rate of 8.00 per cent. per annum):</p> <p><b>100 per cent. x CMF 20y10y EUR Swap</b>; where</p> <p><b>CMF 20y10y EUR Swap</b> means the annual mid-market swap rate for euro swap transactions with a designated maturity of ten years, starting 20 years from the start of the relevant interest period, expressed as a percentage per annum and quoted on an annual 30/360 day count basis, determined by the calculation agent at its sole discretion and in good faith by reference to the EUR-ISDA EURIBOR swap rates.</p>

Interest Payment Dates:	10 February in each year, from (an including) 10 February 2012 to (and including) 10 February 2023.
Charged Asset Business Days:	TARGET2.
Business Day Convention:	Following.
Clearing System:	Euroclear Bank S.A./N.A. and Clearstream Banking.
ID Codes:	ISIN XS0588061530. Common Code: 058806153.
Listing:	The Initial Charged Assets are traded on the regulated market of, and listed on the Official List of, the London Stock Exchange.
Governing Law:	English law.

## **B. Description of the Underlying Obligor**

Bank of America Corporation (“**BAC**”) is a Delaware corporation, a bank holding company, and a financial holding company. BAC was incorporated on 31 July 1998 (for an unlimited duration) as a part of the merger of BankAmerica Corporation with NationsBank Corporation. BAC was initially registered with the State of Delaware, Secretary of State, Division of Corporations on 31 July 1998 under registration number is 2927442. BAC operates under the General Corporation Law of the State of Delaware, Title 8 of the Delaware Code 1953, sections 101 through 398, known as the “Delaware General Corporation Law”. BAC’s registered office in Delaware is at the Corporation Trust Company, Corporate Trust Center, 1209 Orange Street, Wilmington, Delaware 19801, United States. BAC’s headquarters and principal place of business are located at 100 North Tryon Street, Charlotte, North Carolina 28255, United States, telephone number (704) 386-5681. BAC’s objects and purposes are to engage in any lawful act or activity for which corporations may be organised and incorporated in the General Corporation Law of the State of Delaware, as specified in paragraph 2 of BAC’s amended and restated certificate of incorporation.

BAC, together with its subsidiaries, provides a diversified range of banking and non-banking financial services and products in all 50 states of the United States, the District of Columbia, and more than 40 non-U.S. countries. BAC provides these services and products through six business segments: (1) Deposits, (2) Global Card Services, (3) Consumer Real Estate Services (formerly Home Loans & Insurance), (4) Global Commercial Banking, (5) Global Banking & Markets and (6) Global Wealth & Investment Management.

This information in relation to the Initial Charged Assets and the Underlying Obligor has been extracted from public sources and translations thereof and has not been independently verified by the Issuer or Merrill Lynch International.

## DESCRIPTION OF THE COUNTERPARTY

Merrill Lynch International Bank Limited ("**MLIB**") is a limited company and is an indirectly and wholly owned subsidiary of Merrill Lynch & Co., Inc.. Merrill Lynch & Co., Inc. was purchased by and has been wholly owned by Bank of America Corporation since 1 January 2009. MLIB was incorporated in Ireland on 21 February 1995 pursuant to the Companies Act, 1963 to 1990 with a registration number with the Companies Registration Office in Ireland of 229165. MLIB and its subsidiaries (the "**MLIB Group**") are principally engaged in the provision of domestic and international banking and global foreign exchange services.

MLIB has overseas branches in Frankfurt, Paris, Seoul, Milan, London, Rome, Amsterdam, Madrid, Singapore, Bahrain, Brussels and Toronto and a representative office in Bangkok. MLIB conducts international capital markets and private client business from Dublin and its various branch locations, and has a private client bank subsidiary in Switzerland and a number of mortgage subsidiaries in the United Kingdom.

## FORM OF INTEREST RATE SWAP CONFIRMATION

MERRILL LYNCH INTERNATIONAL BANK LIMITED  
CENTRAL PARK  
LEOPARDSTOWN  
DUBLIN 18  
IRELAND

2 October 2012

TITANIUM CAPITAL PUBLIC LIMITED COMPANY  
5 Harbourmaster Place  
International Financial Services Centre  
Dublin 1  
Ireland

RE: TRANSACTION (SERIES 19)  
Ref: 12 BD1006046

Dear Sir or Madam,

The purpose of this communication is to confirm the terms and conditions of the Interest Rate Swap Transaction entered into between Merrill Lynch International Bank Limited (**Party A**) and Titanium Capital Public Limited Company (**Party B**) on the date hereof (the **Transaction**). This communication constitutes a **Confirmation** as referred to in the Agreement specified below.

This Confirmation supplements, forms part of, and is subject to, the 1992 ISDA Master Agreement dated as of 2 October 2012 (the **Agreement**), between you and us. The Transaction relates to the issue by Party B of its Series 19 EUR 34,300,000 Stepdown Notes due 10 February 2023 (the **Securities**). Notwithstanding Part 5(h) of the Swap Schedule Terms Module, March 2012 Edition, the Agreement (including the Transaction evidenced by this Confirmation) constitutes a single agreement for the purpose of Section 1(c) of the Agreement. All the provisions contained in the Agreement govern this Confirmation except as expressly modified below.

The definitions and provisions contained in the 2006 ISDA Definitions, as published by the International Swaps and Derivatives Association, Inc. (the **2006 Definitions**), are incorporated into this Confirmation by this reference. Any reference in the 2006 Definitions to a **Swap Transaction** shall be deemed to include references to a **Transaction** under this Confirmation. In the event of any inconsistency between the 2006 Definitions and the provisions of this Confirmation, the provisions of this Confirmation shall prevail. Any terms used in this Transaction and not otherwise defined herein shall be deemed to have the meanings given to them in the trust instrument dated 2 October 2012 (as amended and/or supplemented from time to time, the **Trust Instrument**) between, *inter alios*, Party B and HSBC Corporate Trustee Company (UK) Limited and relating to the Securities.

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

## **1. General Terms**

Trade Date:	13 September 2012.
Effective Date:	2 October 2012.
Termination Date:	10 February 2023.
Business Days:	London, New York and TARGET Settlement Days.
Calculation Agent:	Party A.

## **2. Party A Payment Amounts**

Fixed Rate Payer:	Party A.
Fixed Rate Payer Payments:	The Fixed Rate Payer shall pay to Party B on each Interest Payment Date (as defined in the Trust Instrument), an amount equal to the Fixed Interest Amount payable in respect of the Securities on such Interest Payment Date to and including the Maturity Date.

## **3. Party B Payment Amounts**

Floating Rate Payer:	Party B.
Floating Rate Payer Payments:	The Floating Rate Payer shall pay to Party A all amounts scheduled to be received in respect of interest on the Charged Assets (in accordance with the terms thereof as at the Issue Date and notwithstanding any amendments to such terms subsequent to the Issue Date) on the first Business Day following the date on which such amounts are scheduled to be received by the Floating Rate Payer in respect of the Charged Assets (whether or not such amounts are received by the Floating Rate Payer under the Charged Assets).

## **4. Non-Reliance Representation**

Each party represents to the other party that:

- (a) it is acting for its own account, and has made its own independent decisions to enter into the Transaction evidenced by this Confirmation and as to whether such Transaction is appropriate or proper for it based on its own judgement and upon advice from such legal, tax, regulatory, accounting and/or other advisors as it has deemed necessary. It is not relying on any communication (written or oral) of the other party as investment advice or as a recommendation to enter into such Transaction, it being understood that information and explanations related to the

terms and conditions of such Transaction shall not be considered investment advice or a recommendation to enter into such Transaction. No communication (written or oral) received from the other party shall be deemed to be an assurance or guarantee as to the expected results of such Transaction.

- (b) it is capable of assessing the merits of and understanding (through independent professional advice), and understands and accepts, the terms, conditions and risks of the Transaction evidenced by this Confirmation. It is also capable of assuming, and assumes, the financial and other risks of such Transaction; and
- (c) the other party to the Transaction is not acting as a fiduciary or an adviser for it in respect of the Transaction evidenced by this Confirmation.

## **5. Purchases and further issues**

In the event of a purchase by Party B of some but not all of the Securities pursuant to Condition 9 (*Purchase*) or a further issuance of Securities pursuant to Condition 20 (*Further Issues*), the Calculation Agent shall, without the consent of Party A, Party B or any other parties, adjust the provisions of this Confirmation to reflect such partial purchase or further issue and to preserve the economic equivalence of the Transaction documented hereunder after such partial purchase or further issue.

## **6. Governing Law**

This Confirmation and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with the laws of England.

## **7. Rounding**

All amounts payable by a party under this Transaction shall be rounded to the nearest cent (half a cent being rounded downwards).

## **8. Offices**

For the purposes of Section 10(c) of the Agreement and this Transaction only, Party A is acting out of its head office.

## **9. Termination Currency**

The termination currency shall be EUR.

## **10. Contracts (Rights of Third Parties) Act 1999**

A person who is not a party to this Transaction has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Transaction, but this does not affect any right or remedy of the third party which exists or is available apart from that Act.

## **11. Notice and Account Details**

Notices to Party A:	Attention: Structured Notes Trading Desk Paul Summer/Alexis Renard
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Tel: 00 44 207 995 3815  
Email: [dg.structured\\_notes\\_trading\\_london@baml.com](mailto:dg.structured_notes_trading_london@baml.com)

Payments to Party A: Payment to: Bank of America NA London  
(Direct via TARGET)  
SWIFT Code: BOFAGB22

In favour of: Merrill Lynch International Bank  
SWIFT Code: MLMBIE2X  
Account No: GB16 BOFA 1650 5066 1180 87

Notices to Party B: Titanium Capital plc  
5 Harbourmaster Place  
International Financial Services Centre  
Dublin 1  
Ireland

Attention: The Directors  
Tel: 00 353 1680 6000  
Fax: 00 353 1680 6050

Payments to Party B: HSBC Bank plc, London  
(SWIFT: MIDLGB22)  
For the account of: Titanium Capital plc Series 19  
assigned to HSBC Corporate Trustee Company (UK)  
Limited as Trustee to Titanium Capital plc  
Account Number: 73558519  
Ref: CTLA/Titanium 19

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

Yours faithfully,

**MERRILL LYNCH INTERNATIONAL  
BANK LIMITED**

By:

Authorised Signatory

Accepted            and            confirmed            as  
of the date written above:

Signed by a duly authorised attorney of

**TITANIUM CAPITAL PUBLIC LIMITED COMPANY**

By:

Name:

Title:

## GENERAL INFORMATION

1. There are no governmental, legal or arbitration proceedings (including any such proceedings which are pending or threatened of which the Issuer is aware) in the 12 months preceding the date of this document which may have or have had in such period a significant effect on the financial position or profitability of the Issuer.
2. No material fees are payable by the Issuer in respect of which the Issuer does not have the right of reimbursement. The estimated total expenses related to the admission of the Securities to trading on the Irish Stock Exchange are approximately EUR 3,500.
3. The auditors of the Issuer are Deloitte and Touche, Earlsfort Terrace, Dublin 2, Ireland who are chartered accountants qualified to practise in Ireland and members of the Institute of Chartered Accountants in Ireland, and who have audited the Issuer's accounts, without qualification, in accordance with generally accepted auditing standards in Ireland for each of the two financial years ended on 31 December 2009 and 31 December 2010. The auditors of the Issuer have no material interest in the Issuer.
4. For the term of the Securities, the audited financial statements of the Issuer for the period ended 31 December 2009 and 31 December 2010 will be available in physical form during normal business hours on any weekday (Saturdays, Sundays and public holidays excepted) at the registered office of the Issuer and from the specified offices of the Paying Agents, Registrar and Transfer Agents.
5. There has been no significant change in the financial or trading position of the Issuer since 31 December 2010 and there has been no material adverse change in the financial position or prospects of the Issuer since 31 December 2010.
6. Certain world wide web addresses may be cited in this Supplemental Information Memorandum. The content of any such world wide web addresses does not form part of this Supplemental Information Memorandum and is not incorporated by reference herein.
7. The Issuer does not intend to provide any post-issuance information in relation to the Securities or the Charged Assets.
8. Arthur Cox Listing Services Limited is acting solely in its capacity as listing agent for the Issuer in connection with the Securities and is not itself seeking admission of the Securities to the official list of the Irish Stock Exchange or to trading on the regulated market of the Irish Stock Exchange for the purposes of the Prospectus Directive.
9. The issue of the Securities was authorised by a resolution of the Board of Directors of the Issuer passed on 1 October 2012.

## **REGISTERED OFFICE OF THE ISSUER**

**Titanium Capital Public Limited Company**  
5 Harbourmaster Place  
International Financial Services Centre  
Dublin 1  
Ireland

## **TRUSTEE**

**HSBC Corporate Trustee Company (UK) Limited**  
Level 24  
8 Canada Square  
London E14 5HQ  
England

## **COUNTERPARTY, CALCULATION AGENT AND AGENT BANK**

**Merrill Lynch International Bank Limited**  
Central Park  
Leopardstown  
Dublin 18  
Ireland

## **VENDOR, SELLING AGENT AND DEALER**

**Merrill Lynch International**  
2 King Edward Street  
London EC1A 1HQ  
England

## **PRINCIPAL PAYING AGENT, REGISTRAR AND CUSTODIAN**

**HSBC Bank plc**  
8 Canada Square  
London E14 5HQ  
England

## **LEGAL ADVISERS**

To the Issuer  
as to Irish law:  
**Arthur Cox**  
Earlsfort Centre  
Earlsfort Terrace  
Dublin 2, Ireland

To the Dealer and the Trustee  
as to English law:  
**Mayer Brown International LLP**  
201 Bishopsgate  
London EC2M  
England

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