

DATED 20 DECEMBER 2012

MORGAN STANLEY & CO. INTERNATIONAL PLC  
AS ISSUER

BNY MELLON CORPORATE TRUSTEE SERVICES LIMITED  
AS TRUSTEE

THE BANK OF NEW YORK MELLON, LONDON BRANCH  
AS PRINCIPAL PAYING AGENT AND CALCULATION AGENT

THE BANK OF NEW YORK MELLON (LUXEMBOURG) S.A.)  
AS REGISTRAR AND TRANSFER AGENT

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AGENCY AGREEMENT

IN RESPECT OF

MORGAN STANLEY & CO. INTERNATIONAL PLC

UP TO U.S. \$5,000,000,000

SECURED NOTE PROGRAMME

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**THIS AGREEMENT** is made on 20 December 2012

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**BETWEEN:**

- (1) **MORGAN STANLEY & CO. INTERNATIONAL PLC** (the "**Issuer**") and in its capacity as determination agent (the "**Determination Agent**") in respect of each Series of Notes where it is named as the Determination Agent in the applicable Issue Terms and which expression shall, where the context so admits, include any other determination agent appointed in respect of the Notes of any Series;
- (2) **THE BANK OF NEW YORK MELLON, LONDON BRANCH** as principal paying agent (the "**Principal Paying Agent**", together with any paying agents appointed pursuant to this agreement (each a "**Paying Agent**") and together with the Principal Paying Agent, the "**Paying Agents**") and as initial calculation agent (the "**Calculation Agent**");
- (3) **THE BANK OF NEW YORK MELLON (LUXEMBOURG) S.A.** as registrar (the "**Registrar**") and as transfer agent (the "**Transfer Agent**" and together with any further transfer agents appointed pursuant to this Agreement, the "**Transfer Agents**"); and
- (4) **BNY MELLON CORPORATE TRUSTEE SERVICES LIMITED** as trustee (the "**Trustee**").

**WHEREAS:**

- (A) The Issuer has established an up to U.S.\$5,000,000,000 secured note programme (the "**Programme**") for the issuance of notes (the "**Notes**").
- (B) Each Series of Notes will be constituted by, be subject to, and have the benefit of, a principal trust deed dated on or about 20 December 2012 between the Issuer and the Trustee, as may be amended from time to time (the "**Principal Trust Deed**") and the applicable Supplemental Trust Deed.
- (C) The Issuer has made an application to the Central Bank of Ireland (the "**Central Bank**") for Notes issued under the Programme to be admitted to listing on the Official List of the Irish Stock Exchange plc (the "**Irish Stock Exchange**") and to be admitted to trading on the regulated market of the Irish Stock Exchange (the "**Main Securities Market**"). Notes may also be issued on the basis that they will not be admitted to listing, trading and/or quotation by any competent authority, stock exchange and/or quotation system or that they will be admitted to listing, trading and/or quotation by such other or further competent authorities, stock exchanges and/or quotation systems as may be agreed between the Issuer and any relevant dealer in respect of the Notes.
- (D) In connection with the Programme, the Issuer has prepared a base prospectus dated on or about 20 December 2012 which has been approved by the Central Bank as a base prospectus issued in compliance with Directive 2003/71/EC (the "**Prospectus Directive**") and relevant implementing measures in Ireland.

- (E) The Issuer, the Agents (as defined below) and the Trustee wish to record certain arrangements which they have made in relation to the Notes to be issued under the Programme.

**IT IS AGREED** as follows:

1. **INTERPRETATION**

1.1 **Definitions**

Words and expressions defined in this Agency Agreement, unless otherwise defined herein, shall have the meaning given to them in the master schedule of definitions signed for identification purposes on or about 20 December 2012 by, among others, the Issuer and the Trustee, as may be amended from time to time (the "**Master Schedule of Definitions**"). If there is an inconsistency between the definitions herein and the Master Schedule of Definitions, the definitions used herein shall apply. In this Agreement:

**"Regulations"** means the regulations concerning the transfer of Registered Notes as the same may from time to time be promulgated by the Issuer and approved by the Registrar (the initial regulations being set out in Schedule 6 (*Regulations Concerning Transfers and Registration of Registered Notes*) of this Agreement.

1.2 **Records**

Any reference in this Agreement to the records of an ICSD shall be to the records that each of the ICSDs holds for its customers which reflect the amount of such customers' interests in the Notes (but excluding any interest in any Notes of one ICSD shown in the records of another ICSD).

1.3 **Clauses and Schedules**

Any reference in this Agreement to a Clause or a sub-clause or a Schedule is, unless otherwise stated, to a clause or a sub-clause hereof or a schedule hereto.

1.4 **Principal and interest**

In this Agreement, any reference to principal or interest includes any additional amounts payable in relation thereto under the Conditions.

1.5 **Other agreements**

All references in this Agreement to an agreement, instrument or other document (including the Principal Trust Deed, the Base Prospectus and the Custody Agreement) shall be construed as a reference to that agreement, instrument or other document as the same may be amended, supplemented, replaced or novated from time to time. In addition, in the context of any particular Tranche of Notes, each reference in this Agreement to the Base Prospectus shall be construed as a reference to the Base Prospectus as supplemented and/or amended by the relevant Issue Terms.

## 1.6 **Legislation**

Any reference in this Agreement to any legislation (whether primary legislation or regulations or other subsidiary legislation made pursuant to primary legislation) shall be construed as a reference to such legislation as the same may have been, or may from time to time be, amended or re-enacted.

## 1.7 **Headings**

Headings and sub-headings are for ease of reference only and shall not affect the construction of this Agreement.

## 2. **APPOINTMENT OF THE AGENTS**

### 2.1 **Appointment**

The Issuer and for the purposes of Clause 7.8 (*Agents to act for the Trustee*) only, the Trustee appoint each of the Agents at their respective Specified Offices as their agent in relation to the Notes for the purposes specified in this Agreement and in the Conditions and all matters incidental thereto.

### 2.2 **Acceptance of appointment**

Each of the Agents accepts its appointment as agent of the Issuer, and for the purposes of Clause 7.8 (*Agents to act for the Trustee*) only, the Trustee in relation to the Notes and shall perform all matters expressed to be performed by it in, and otherwise comply with, the Conditions and the provisions of this Agreement and, in connection therewith, shall take all such action as may be incidental thereto.

### 2.3 **Obligations Several**

The obligations of the Agents are several and not joint.

## 3. **ISSUANCE OF NOTES**

### 3.1 **Issuance procedure**

The Issuer shall, as soon as practicable but in any event, not later than 5.00 p.m. (Local time) on the fifth Local Banking Day prior to the proposed Issue Date:

- 3.1.1 *Confirmation of terms:* confirm by fax to the Principal Paying Agent, or, if such Series of Notes are to be Registered Notes, the Registrar (copied to the Principal Paying Agent) all such information as the Principal Paying Agent, or, as the case may be, the Registrar may reasonably require to carry out its functions under this Agreement and in particular, whether customary eurobond or medium term note settlement and payment procedures will apply to the relevant Tranche or Series, as the case may be, and (if one or more Master Global Notes or Master Global Note Certificates are to be used), such details as are necessary to enable it to complete a duplicate of each relevant Master Global Note or Master Global Note Certificate and (if medium term note settlement and payment procedures are to apply) the account of the Issuer to which payment should be made;

- 3.1.2 *Issue Terms*: deliver a copy, duly executed, of the Issue Terms and the related Drawdown Prospectus in relation to the relevant Tranche or Series, as the case may be, to the Principal Paying Agent, or, as the case may be, the Registrar (copied to the Principal Paying Agent); and
- 3.1.3 *Global Notes*: unless a Master Global Note is to be used and the Issuer shall have provided such document to the Principal Paying Agent pursuant to Clause 3.2 (*Master Global Notes*), ensure that there is delivered to the Principal Paying Agent an appropriate Global Note (in unauthenticated (and, if applicable, uneffectuated) form but executed on behalf of the Issuer and otherwise complete) in relation to the relevant Tranche.
- 3.1.4 *Global Note Certificates*: unless one or more Master Global Note Certificates are to be used and the Issuer shall have provided such documents to the Registrar pursuant to Clause 3.2 (*Master Global Notes*), ensure that there is delivered to the Registrar an appropriate Global Note Certificate (in unauthenticated (and, if applicable, uneffectuated) form but executed on behalf of the Issuer and otherwise complete) in relation to each relevant Tranche.

### 3.2 **Master Global Notes**

The Issuer may, at its option, deliver from time to time to the Principal Paying Agent a stock of Master Temporary Global Notes and Master Permanent Global Notes and/or, to the Registrar, a stock of Master Global Note Certificates.

### 3.3 **Delivery of Drawdown Prospectus**

The Principal Paying Agent shall on behalf of the Issuer, where the relevant Notes are to be admitted to listing on the Official List of the Irish Stock Exchange and to trading on the Main Securities Market, deliver a copy of the Drawdown Prospectus in relation to the relevant Tranche or Series, as the case may be, to the Central Bank as soon as practicable but in any event not later than 10:00 a.m. (Dublin time) on the Dublin business day prior to the proposed issue date therefor.

### 3.4 **Authentication, effectuation and delivery of Global Notes**

Immediately before the issue of any Global Note or Global Note Certificate, the Principal Paying Agent (or its agent on its behalf) or, as the case may be, the Registrar (or an agent on its behalf), shall authenticate it. Following authentication of any Global Note or Global Note Certificate, the Principal Paying Agent or, as the case may be, the Registrar shall:

- 3.4.1 *Medium term note settlement procedures*: in the case of a Tranche or Series, as the case may be, of Notes which is not syndicated among two or more Dealers but which is intended to be cleared through a clearing system, on the Local Banking Day immediately preceding its Issue Date deliver each relevant Global Note or Global Note Certificate to the relevant depositary for DTC, Euroclear and/or Clearstream, Luxembourg (which in the case of an NGN Temporary Global Note or an NGN Permanent Global Note or a Global Note Certificate to be held under the NSS shall be a specified Common Safekeeper)

or to the relevant depository for such other clearing system as shall have been agreed between the Issuer and the Principal Paying Agent or, as the case may be, the Registrar and:

- (a) instruct the clearing systems to whom (or to whose depository or Common Safekeeper) each relevant Global Note or Global Note Certificate has been delivered, to credit the underlying Notes represented by such Global Note to the securities account(s) at such clearing systems that have been notified to the Principal Paying Agent or, as the case may be, the Registrar by the Issuer, on a delivery against payment basis or, if specifically agreed between them, on a delivery free of payment basis; and
- (b) in the case of an NGN Temporary Global Note or an NGN Permanent Global Note, or a Global Note Certificate to be held under the NSS, instruct the Common Safekeeper to effectuate the Global Note (provided that, if the Principal Paying Agent is the Common Safekeeper, the Principal Paying Agent shall effectuate the Global Note).

3.4.2 *Eurobond settlement procedures:* in the case of a Tranche or Series, as the case may be, of Notes which is syndicated among two or more Dealers, at or about the time on the Issue Date specified in the Relevant Agreement deliver each relevant Global Note or Global Note Certificate to, or to the order of, the Mandated Dealer at such place as shall be specified in the Relevant Agreement or such other time, date and/or place as may have been agreed between the Issuer, the Mandated Dealer and the Principal Paying Agent or, as the case may be, the Registrar (*provided that* in the case of an NGN Temporary Global Note or an NGN Permanent Global Note or a Global Note Certificate to be held under the NSS it must be delivered to a specified Common Safekeeper together with instructions to the Common Safekeeper to effectuate the Global Note), against the delivery to the Principal Paying Agent (on behalf of the Issuer) of such acknowledgement of receipt as shall be agreed in writing in connection with the closing procedure for the relevant Tranche or Series, as the case may be; or

3.4.3 *Other settlement procedures:* otherwise, at such time, on such date, deliver each relevant Global Note or Global Note Certificate to such person and in such place as may have been agreed between the Issuer and the Principal Paying Agent or, as the case may be, the Registrar (*provided that* in the case of an NGN Temporary Global Note or an NGN Permanent Global Note or a Global Note Certificate to be held under the NSS it must be delivered to a specified Common Safekeeper together with instructions to the Common Safekeeper to effectuate the Global Note).

### 3.5 **Repayment of advance**

If the Principal Paying Agent should pay an amount (an "**advance**") to the Issuer in the belief that a payment has been or will be received from a Dealer, and if such payment is not received by the Principal Paying Agent on the date that the Principal Paying Agent pays the Issuer, the Issuer shall forthwith repay the advance (unless

prior to such repayment the payment is received from the Dealer) and shall pay interest on such amount which shall accrue (as well after as before judgment) on the basis of a year of 365 days (366 days in the case of a leap year) in the case of an advance paid in sterling or 360 days in the case of an advance paid in any other currency and, in either case, the actual number of days elapsed from the date of payment of such advance until the earlier of (i) repayment of the advance or (ii) receipt by the Principal Paying Agent of the payment from the Dealer, and at the rate per annum which is the aggregate of one per cent. per annum and the rate specified by the Principal Paying Agent as reflecting its cost of funds for the time being in relation to the unpaid amount.

### **3.6 Delivery of Permanent Global Note**

The Issuer shall, in relation to each Tranche of Notes which is represented by a Temporary Global Note which is due to be exchanged for a Permanent Global Note in accordance with its terms, ensure that there is delivered to the Principal Paying Agent not less than five Local Banking Days before the relevant Temporary Global Note becomes exchangeable therefor, the Permanent Global Note (in unauthenticated (and, if applicable, uneffectuated) form, but executed by the Issuer and otherwise complete) in relation thereto unless a Master Permanent Global Note is to be used and the Issuer has provided a Master Permanent Global Note to the Principal Paying Agent pursuant to Clause 3.2 (*Master Global Notes*). The Principal Paying Agent shall authenticate and deliver such Permanent Global Note in accordance with the terms hereof and of the relevant Temporary Global Note and, in the case of an NGN Permanent Global Note, instruct the Common Safekeeper to effectuate the Permanent Global Note.

### **3.7 Delivery of Definitive Notes or Individual Note Certificates**

The Issuer shall, in relation to each Tranche of Notes which is represented by a Global Note or Global Note Certificate which is due to be exchanged for Definitive Notes or Individual Note Certificates in accordance with its terms, ensure that there is delivered to the Principal Paying Agent or the Registrar, as the case may be, not less than ten Local Banking Days before the relevant Global Note or Global Note Certificate becomes exchangeable therefor, the Definitive Notes or Individual Note Certificates, as the case may be, (in unauthenticated form but executed by the Issuer and otherwise complete) in relation thereto. The Principal Paying Agent or the Registrar, as the case may be, shall authenticate and deliver such Definitive Notes or Individual Note Certificates in accordance with the terms hereof and of the relevant Global Note or Global Note Certificate.

### **3.8 Coupons**

Where any Definitive Notes are to be delivered in exchange for a Global Note, the Principal Paying Agent shall ensure that in the case of Definitive Notes with Coupons attached, such Definitive Notes shall have attached thereto only such Coupons as shall ensure that neither loss nor gain of interest shall accrue to the bearer thereof upon such exchange.



### 3.9 **Duties of Principal Paying Agent, Registrar and Replacement Agent**

Each of the Principal Paying Agent, Registrar and the Replacement Agent shall hold in safe custody all unauthenticated Temporary Global Notes, Permanent Global Notes or Definitive Notes (including any Coupons attached thereto), Global Note Certificates or Individual Note Certificates delivered to it in accordance with this Clause 3 and Clause 5 (*Replacement Notes*) and shall ensure that they (or, in the case of Master Global Notes or Master Global Note Certificates, copies thereof) are authenticated, effectuated (if applicable) and delivered only in accordance with the terms hereof, of the Conditions and, if applicable, the relevant Note. The Issuer shall ensure that each of the Principal Paying Agent, Registrar and the Replacement Agent holds sufficient Notes, Note Certificates or Coupons to fulfil its respective obligations under this Clause 3 and Clause 5 (*Replacement Notes*) and each of the Principal Paying Agent, Registrar and the Replacement Agent undertakes to notify the Issuer if it holds insufficient Notes, Note Certificates or Coupons for such purposes.

### 3.10 **Authority to authenticate and effectuate**

Each of the Principal Paying Agent, Registrar and the Replacement Agent is authorised by the Issuer to authenticate and, if applicable, effectuate such Temporary Global Notes, Permanent Global Notes, Definitive Notes, Global Note Certificates and Individual Note Certificates as may be required to be authenticated or, as the case may be, effectuated hereunder by the signature of any of their respective officers or any other person duly authorised for the purpose by the Principal Paying Agent, Registrar or (as the case may be) the Replacement Agent.

### 3.11 **Exchange of Temporary Global Note**

On each occasion on which a portion of a Temporary Global Note is exchanged for a portion of a Permanent Global Note or, as the case may be, for Definitive Notes, the Principal Paying Agent shall:

- 3.11.1 *CGN Temporary Global Note*: in the case of a CGN Temporary Global Note, note or procure that there is noted on the Schedule to the CGN Temporary Global Note the aggregate principal amount thereof so exchanged and the remaining principal amount of the CGN Temporary Global Note (which shall be the previous principal amount thereof less the aggregate principal amount so exchanged) and shall procure the signature of such notation on its behalf; and
- 3.11.2 *NGN Temporary Global Note*: in the case of an NGN Temporary Global Note, instruct the ICSDs (in accordance with the provisions of Schedule 1 (*Duties under the Issuer-ICSDs Agreement*)) to make appropriate entries in their records to reflect the aggregate principal amount thereof so exchanged and the remaining principal amount of the NGN Temporary Global Note (which shall be the previous principal amount thereof less the aggregate principal amount so exchanged).

The Principal Paying Agent shall cancel or procure the cancellation of each Temporary Global Note against surrender of which full exchange has been made for a Permanent Global Note or Definitive Notes or, in the case of an NGN Temporary

Global Note exchangeable for an NGN Permanent Global Note, instruct the Common Safekeeper to destroy such NGN Temporary Global Note.

### 3.12 **Exchange of Permanent Global Note**

On each occasion on which a portion of a Permanent Global Note is exchanged for Definitive Notes, the Principal Paying Agent shall:

3.12.1 *CGN Permanent Global Note*: in the case of a CGN Permanent Global Note, note or procure that there is noted on the Schedule to the CGN Permanent Global Note the aggregate principal amount thereof so exchanged and the remaining principal amount of the CGN Permanent Global Note (which shall be the previous principal amount thereof less the aggregate principal amount so exchanged) and shall procure the signature of such notation on its behalf; and

3.12.2 *NGN Permanent Global Note*: in the case of an NGN Permanent Global Note, instruct the ICSDs (in accordance with the provisions of Schedule 1 (*Duties under the Issuer-ICSDs Agreement*)) to make appropriate entries in their records to reflect the aggregate principal amount thereof so exchanged and the remaining principal amount of the NGN Permanent Global Note (which shall be the previous principal amount thereof less the aggregate principal amount so exchanged).

The Principal Paying Agent shall cancel or procure the cancellation of each Permanent Global Note against surrender of which full exchange has been made for Definitive Notes.

### 3.13 **Exchange of Global Note Certificate**

If a Global Note Certificate becomes exchangeable for Individual Note Certificates in accordance with its terms, the Registrar shall authenticate and deliver to each person designated by a Clearing System an Individual Note Certificate in accordance with the terms of this Agreement and the Global Note Certificate.

### 3.14 **Delivery of Coupon sheets by Issuer**

The Issuer shall, in relation to any Definitive Notes to which a Talon is attached upon the initial delivery thereof, on each occasion on which a Talon becomes exchangeable for further Coupons, not less than five Local Banking Days before the date on which the final Coupon comprised in any Coupon sheet (which includes a Talon) matures (the "**Talon Exchange Date**"), ensure that there is delivered to the Principal Paying Agent such number of Coupon sheets as may be required in order to enable the Paying Agents to fulfil their obligation under Clause 3.15 (*Delivery of Coupon Sheets by Paying Agents*).

### 3.15 **Delivery of Coupon sheets by Paying Agents**

The relevant Paying Agent shall, against the presentation and surrender of any Talon, on or after the Talon Exchange Date in respect of such Talon, deliver a Coupon sheet *provided, however, that* if any Talon is presented and surrendered for exchange to a Paying Agent and the Replacement Agent has delivered a replacement therefor such

Paying Agent shall forthwith notify the Issuer of such presentation and surrender and shall not exchange against the same unless and until it is so instructed by the Issuer. After making such exchange, the Paying Agent shall cancel each Talon surrendered to it and in respect of which a Coupon sheet shall have been delivered and shall (if such Paying Agent is not the Principal Paying Agent) deliver the same to the Principal Paying Agent.

### 3.16 **Changes in Dealers**

The Issuer undertakes to notify the Principal Paying Agent and the Registrar of any changes in the identity of the Dealers appointed generally in respect of the Programme and the Principal Paying Agent agrees to notify the other Agents thereof as soon as reasonably practicable thereafter.

### 3.17 **Election of Common Safekeeper**

The Issuer hereby authorises and instructs the Principal Paying Agent to elect an ICSD to be Common Safekeeper for each issue of an NGN Temporary Global Note or an NGN Permanent Global Note or a Global Note Certificate to be held under the NSS in relation to which one of the ICSDs must be Common Safekeeper. From time to time, the Issuer and the Principal Paying Agent may agree to vary this election. The Issuer acknowledges that in connection with the election of either of the ICSDs as Common Safekeeper any such election is subject to the right of the ICSDs to jointly determine that the other shall act as Common Safekeeper in relation to any such issue and agrees that no liability shall attach to the Principal Paying Agent in respect of any such election made by it.

## 4. **TRANSFERS OF REGISTERED NOTES**

### 4.1 **Maintenance of the Register**

The Registrar shall maintain in relation to the Registered Notes a register (the "**Register**"), which shall be kept at its Specified Office in accordance with the Conditions and be made available by the Registrar to the Issuer, the Trustee and the other Agents for inspection and for the taking of copies or extracts therefrom at all reasonable times. The Register shall show the aggregate principal amount, serial numbers and dates of issue of Note Certificates, the names and addresses of the initial Holders thereof and the dates of all transfers to, and the names and addresses of, all subsequent Holders thereof, all cancellations of Note Certificates and all replacements of Note Certificates and, in the case of each Series of Notes represented on issue by one or more Global Note Certificates, the aggregate principal amount from time to time of Notes represented by each such Global Note Certificate.

### 4.2 **Registration of Transfers in the Register**

The Registrar shall receive requests for the transfer of Registered Notes in accordance with the Conditions and the Regulations and shall make the necessary entries in the Register.

#### 4.3 **Transfer Agents to receive requests for Transfers of Registered Notes**

Each of the Transfer Agents shall receive requests for the transfer of Registered Notes in accordance with the Conditions and the Regulations and assist, if required, in the issue of new Note Certificates to give effect to such transfers and, in particular, upon any such request being duly made, shall promptly notify the Registrar of:

- 4.3.1 the aggregate principal amount of the Registered Notes to be transferred;
- 4.3.2 the name(s) and addresses to be entered on the Register of the Holder(s) of the new Note Certificate(s) to be issued in order to give effect to such transfer; and
- 4.3.3 the place and manner of delivery of the new Note Certificate(s) to be delivered in respect of such transfer,

and shall forward the Note Certificate(s) relating to the Registered Notes to be transferred (with the relevant form(s) of transfer duly completed) to the Registrar with such notification.

### 5. **REPLACEMENT NOTES**

#### 5.1 **Delivery of replacements**

Subject to receipt of sufficient Temporary Global Notes, Permanent Global Notes, Definitive Notes, Coupons, Global Note Certificates and Individual Note Certificates in accordance with Clause 3.9 (*Duties of Principal Paying Agent, Registrar and Replacement Agent*), the Replacement Agent shall, upon and in accordance with the instructions (which instructions may, without limitation, include terms as to the payment of expenses and as to evidence, security and indemnity) of the Issuer but not otherwise, authenticate (if necessary) and deliver a Temporary Global Note, Permanent Global Note, Definitive Note, Coupon, Global Note Certificate or Individual Note Certificate as the case may be, as a replacement for any of the same which has been mutilated or defaced or which has or has been alleged to have been destroyed, stolen or lost *provided, however, that:*

- 5.1.1 *Surrender or destruction:* no Temporary Global Note, Permanent Global Note, Definitive Note, Coupon, Global Note Certificate or Individual Note Certificate as the case may be, shall be delivered as a replacement for any of the same which has been mutilated or defaced otherwise than against surrender of the same or, in the case of an NGN Temporary Global Note or an NGN Permanent Global Note or a Global Note Certificate to be held under the NSS, appropriate confirmation of destruction from the Common Safekeeper; and
- 5.1.2 *Effectuation:* any replacement NGN Temporary Global Note or NGN Permanent Global Note or a Global Note Certificate to be held under the NSS shall be delivered to the Common Safekeeper together with instructions to effectuate it.

The Replacement Agent shall not issue a replacement for any of the same until the applicant has furnished the Replacement Agent with such evidence and indemnity as

the Issuer and/or the Replacement Agent may reasonably require and has paid such costs and expenses as may be incurred in connection with such replacement.

## **5.2 Replacements to be numbered**

Each replacement Temporary Global Note, Permanent Global Note, Definitive Note, Coupon, Global Note Certificate or Individual Note Certificate delivered hereunder shall bear a unique certificate or (as the case may be) serial number.

## **5.3 Cancellation of mutilated or defaced Notes**

The Replacement Agent shall cancel each mutilated or defaced Temporary Global Note, Permanent Global Note, Definitive Note, Coupon, Global Note Certificate or Individual Note Certificate surrendered to it and in respect of which a replacement has been delivered.

## **5.4 Notification**

The Replacement Agent shall notify the Issuer, the Trustee and the other Agents of the delivery by it in accordance herewith of any replacement Temporary Global Note, Permanent Global Note, Definitive Note, Coupon, Global Note Certificate or Individual Note Certificate specifying the serial number thereof and the certificate or (as the case may be) serial number (if any and if known) of the Note which it replaces and confirming (if such be the case) that the Note which it replaces has been cancelled and (if such is the case) destroyed in accordance with Clause 5.5 (*Destruction*).

## **5.5 Destruction**

Unless the Issuer instructs otherwise, the Replacement Agent shall destroy each mutilated or defaced Temporary Global Note, Permanent Global Note, Definitive Note, Coupon, Global Note Certificate or Individual Note Certificate surrendered to and cancelled by it and in respect of which a replacement has been delivered and shall furnish the Issuer with a certificate as to such destruction specifying the certificate or serial numbers (if any) of the Temporary Global Note, Permanent Global Note, Definitive Notes (distinguishing between different denominations), in numerical sequence and the total number by payment or maturity date of Coupons (distinguishing Talons), Global Note Certificate or Individual Note Certificates, so destroyed. In the case of an NGN Temporary Global Note or an NGN Permanent Global Note or a Global Note Certificate to be held under the NSS which has been destroyed by the Common Safekeeper, the Replacement Agent shall furnish the Issuer with a copy of the confirmation of destruction received by it from the Common Safekeeper.

## **6. PAYMENTS TO THE PRINCIPAL PAYING AGENT**

### **6.1 Issuer to pay Principal Paying Agent**

In order to provide for the payment of principal and interest in respect of the Notes as the same becomes due and payable, the Issuer shall pay to the Principal Paying Agent, on or before the date which is the day on which such payment becomes due, an amount equal to the amount of principal and/or (as the case may be) interest falling due in respect of the Notes on such date.

## 6.2 Manner and time of payment

Each amount payable by the Issuer under Clause 6.1 (*Issuer to pay Principal Paying Agent*) shall be paid unconditionally by credit transfer in the currency in which the Notes of the relevant Series are denominated or, if different, payable and in immediately available, freely transferable, cleared funds not later than 10.00 a.m. (Local Time) on the relevant day to such account with such bank as the Principal Paying Agent may from time to time by notice to the Issuer have specified for the purpose. The Issuer shall, before 10.00 a.m. (Local Time) on the second Local Banking Day before the due date of each payment by it under Clause 6.1 (*Issuer to pay Principal Paying Agent*), procure that the bank effecting payment for it confirms by authenticated SWIFT message to the Principal Paying Agent the payment instructions relating to such payment.

## 6.3 Exclusion of liens and interest

The Principal Paying Agent shall be entitled to deal with each amount paid to it under this Clause 6 in the same manner as other amounts paid to it as a banker by its customers *provided, however, that:*

6.3.1 *Liens:* it shall not exercise against the Issuer, or the Trustee any lien, right of set-off or similar claim in respect thereof; and

6.3.2 *Interest:* it shall not be liable to any person for interest thereon.

No monies held by any Agent need be segregated except as required by law.

## 6.4 Application by Principal Paying Agent

The Principal Paying Agent shall apply each amount paid to it hereunder in accordance with Clause 7 (*Payments to Noteholders*) and shall not be obliged to repay any such amount unless the claim for the relevant payment becomes void under Condition 16 (*Prescription*) or otherwise ceases in accordance with the Conditions, in which event it shall refund at the written request of the Issuer such portion of such amount as relates to such payment by paying the same by credit transfer to such account with such bank as the Issuer has by notice to the Principal Paying Agent specified for the purpose.

## 6.5 Failure to confirm payment

If the Principal Paying Agent has not by 10.00 a.m. (Local Time) on the due date of any payment received the full amount payable under Clause 6.1 (*Issuer to pay Principal Paying Agent*), it shall forthwith notify the Issuer, the Trustee and the Paying Agents thereof. If the Principal Paying Agent subsequently receives notification of such payment instructions or payment of the amount due, it shall forthwith notify the Issuer, the Trustee and the Paying Agents thereof.

## 7. PAYMENTS TO NOTEHOLDERS

### 7.1 Payments by Paying Agents

The Principal Paying Agent or each other Paying Agent acting through its respective Specified Office shall make payments of interest or, as the case may be, principal in respect of Notes in accordance with the Conditions applicable thereto (and, in the case of a Temporary Global Note, a Permanent Global Note or a Global Note Certificate, the terms thereof) *provided, however, that:*

7.1.1 *Replacements:* if any Temporary Global Note, Permanent Global Note, Definitive Note, Coupon, Global Note Certificate or Individual Note Certificate is presented or surrendered for payment to any Paying Agent and such Paying Agent has delivered a replacement therefor or has been notified that the same has been replaced, such Paying Agent shall forthwith notify the Issuer of such presentation or surrender and shall not make payment against the same until it is so instructed by the Issuer and has received the amount to be so paid;

7.1.2 *No obligation:* a Paying Agent shall not be obliged (but shall be entitled) to make payments of principal or interest in respect of the Notes, if:

(a) in the case of the Principal Paying Agent, it has not received the full amount of any payment due to it under Clause 6.1 (*Issuer to pay Principal Paying Agent*); or

(b) in the case of any other Paying Agent:

(i) it has been notified in accordance with Clause 6.5 (*Failure to confirm payment*) that confirmation of the relevant payment instructions has not been received, unless it is subsequently notified that confirmation of such payment instructions has been received; or

(ii) it is not able to establish that the Principal Paying Agent has received (whether or not at the due time) the full amount of any payment due to it under Clause 6.1 (*Issuer to pay Principal Paying Agent*);

7.1.3 *Cancellation:* each Paying Agent shall:

(a) cancel or procure the cancellation of each Temporary Global Note, Permanent Global Note, Definitive Note (in the case of early

redemption, together with such unmatured Coupons or unexchanged Talons as are attached to or are surrendered with it at the time of such redemption), or, as the case may be, Coupon against surrender of which it has made full payment and shall (if such Paying Agent is not the Principal Paying Agent) deliver or procure the delivery of each Temporary Global Note, Permanent Global Note, Definitive Note (together with as aforesaid) or Coupon so cancelled by it to the Principal Paying Agent and, in the case of full payment in respect of an NGN Temporary Global Note or an NGN Permanent Global Note or a Global Note Certificate to be held under the NSS, the Principal Paying Agent shall instruct the Common Safekeeper to destroy the relevant Global Note; and

- (b) cancel or procure the cancellation of each Global Note Certificate or Individual Note Certificate against surrender of which it has made full payment and shall deliver or procure the delivery of each Global Note Certificate or Individual Note Certificate so cancelled to the Registrar; and

7.1.4 *Recording of payments:* upon any payment being made in respect of the Notes represented by a Temporary Global Note or a Permanent Global Note, the relevant Paying Agent or, as the case may be, the Registrar shall:

- (a) in the case of a CGN Temporary Global Note or a CGN Permanent Global Note, enter or procure that there is entered on the Schedule thereto (or, in the absence of a Schedule, on the face thereof) the amount of such payment and, in the case of payment of principal, the remaining principal amount of the Notes represented by such Global Note (which shall be the previous principal amount less the principal amount in respect of which payment has then been paid) and shall procure the signature of such notation on its behalf; and
- (b) in the case of an NGN Temporary Global Note or an NGN Permanent Global Note, instruct the ICSDs (in accordance with the provisions of Schedule 1 (*Duties under the Issuer-ICSDs Agreement*)) to make appropriate entries in their records to reflect the amount of such payment and, in the case of payment of principal, the remaining principal amount of the Notes represented by such Global Note (which shall be the previous principal amount less the principal amount in respect of which payment has then been paid).

7.1.5 *Withholding taxes:* notwithstanding any other provision of this Agreement, each Paying Agent shall be entitled to make a deduction or withholding from any payment which it makes under this Agreement for or on account of any present or future taxes, duties or charges if and to the extent so required by applicable law, regulation or agreement, in which event such Paying Agent shall make such payment after such withholding or deduction has been made and shall account to the relevant authorities for the amount so withheld or deducted.



## 7.2 **Exclusion of liens and commissions**

No Paying Agent shall exercise any lien, right of set-off or similar claim against any person to whom it makes any payment under Clause 7.1 (*Payments by Paying Agents*) in respect thereof, nor shall any commission or expense be charged by it to any such person in respect thereof.

## 7.3 **Reimbursement by Principal Paying Agent**

If a Paying Agent other than the Principal Paying Agent makes any payment in accordance with Clause 7.1 (*Payments by Paying Agents*):

7.3.1 *Notification:* it shall notify the Principal Paying Agent and, in the case of a Global Note Certificate or an Individual Note Certificate, the Registrar of the amount so paid by it, the certificate or serial number (if any) of the Temporary Global Note, Permanent Global Note, Definitive Note, Coupon, Global Note Certificate or Individual Note Certificate against presentation or surrender of which payment of principal or interest was made and (if applicable) the number of Coupons by maturity against which payment of interest was made; and

7.3.2 *Payment:* subject to and to the extent of compliance by the Issuer with Clause 6.1 (*Issuer to pay Principal Paying Agent*) (whether or not at the due time), the Principal Paying Agent shall pay to such Paying Agent out of the funds received by it under Clause 6.1 (*Issuer to pay Principal Paying Agent*), by credit transfer in immediately available, freely transferable, cleared funds to such account with such bank as such Paying Agent may by notice to the Principal Paying Agent have specified for the purpose, an amount equal to the amount so paid by such Paying Agent.

## 7.4 **Appropriation by Principal Paying Agent**

If the Principal Paying Agent makes any payment in accordance with Clause 7.1 (*Payments by Paying Agents*), it shall be entitled to appropriate for its own account out of the funds received by it under Clause 6.1 (*Issuer to pay Principal Paying Agent*) an amount equal to the amount so paid by it.

## 7.5 **Reimbursement by Issuer**

Subject to sub-clauses 7.1.1 (*Payments by Paying Agents - Replacements*) and 7.1.2 (*Payments by Paying Agents - No obligation*) if any Paying Agent makes a payment in respect of Notes at a time at which the Principal Paying Agent has not received the full amount of the relevant payment due to it under Clause 6.1 (*Issuer to pay Principal Paying Agent*), and the Principal Paying Agent is not able out of the funds received by it under Clause 6.1 (*Issuer to pay Principal Paying Agent*) to reimburse such Paying Agent therefor (whether by payment under Clause 7.3 (*Reimbursement by Principal Paying Agent*) or appropriation under Clause 7.4 (*Appropriation by Principal Paying Agent*)), the Issuer shall from time to time on demand pay to the Principal Paying Agent for the account of such Paying Agent:

7.5.1 *Unfunded amount*: the amount so paid out by such Paying Agent and not so reimbursed to it; and

7.5.2 *Funding cost*: interest on such amount from the date on which such Paying Agent made such payment until the date of reimbursement of such amount;

*provided, however, that any payment made under sub-clause 7.5.1 (Reimbursement by Issuer - Unfunded amount) shall satisfy pro tanto the Issuer's obligations under Clause 6.1 (Issuer to pay Principal Paying Agent).*

## 7.6 **Interest**

Interest shall accrue for the purpose of sub-clause 7.5.2 (*Reimbursement by Issuer - Funding cost*) (as well after as before judgment) on the basis of a year of 365 days (366 days in the case of a leap year) in the case of an amount paid in sterling or 360 days in the case of an amount paid in any other currency (unless otherwise specified in the Supplemental Trust Deed in respect of a Series of Notes) and, in either case, the actual number of days elapsed and at the rate per annum which is the aggregate of one per cent. per annum and the rate per annum specified by the Principal Paying Agent as reflecting its cost of funds for the time being in relation to the unpaid amount.

## 7.7 **Partial payments**

If at any time and for any reason a Paying Agent makes a partial payment in respect of any Temporary Global Note, Permanent Global Note, Definitive Note, Coupon, Global Note Certificate or Individual Note Certificate presented or surrendered for payment to or to the order of that Paying Agent, such Paying Agent shall:

7.7.1 *Endorsement*: in the case of a CGN Temporary Global Note, CGN Permanent Global Note, Definitive Note, Coupon, Global Note Certificate or Individual Note Certificate endorse thereon a statement indicating the amount and date of such payment; and

7.7.2 *ICSDs' records*: in the case of an NGN Temporary Global Note or an NGN Permanent Global Note, instruct the ICSDs (in accordance with the provisions of Schedule 1 (*Duties under the Issuer-ICSDs Agreement*)) to make appropriate entries in their respective records to reflect such partial payments.

## 7.8 **Agents to act for the Trustee**

If any Event of Default occurs, the Agents shall, if so required by notice given by the Trustee to the Issuer and the Agents (or such of them as are specified by the Trustee):

7.8.1 act thereafter, until otherwise instructed by the Trustee, as the agents of the Trustee in relation to payments to be made by or on behalf of the Trustee under the Principal Trust Deed (save that the Trustee's liability for the indemnification, remuneration and/or payment of out-of-pocket expenses of any of the Agents shall be limited to the amounts for the time being held by the Trustee on the trusts of the Principal Trust Deed relating to the relevant Notes and available to the Trustee for such purpose) and thereafter to hold all Notes, Coupons and Talons and all sums, documents and records held by them in respect of Notes, Coupons and Talons on behalf of the Trustee; and/or

- 7.8.2 deliver up all Notes, Coupons and Talons and all sums, documents and records held by them in respect of Notes, Coupons and Talons to the Trustee or as the Trustee shall direct in such notice; *provided, however, that* such notice shall not be deemed to apply to any document or record which the any Agent is obliged not to release by any law or regulation.

## 8. MISCELLANEOUS DUTIES OF THE AGENTS

### 8.1 Records

The Principal Paying Agent or, as the case may be, the Registrar shall:

- 8.1.1 *Records*: separately in respect of each Series of Notes, maintain a record of, in the case of the Principal Paying Agent, all Temporary Global Notes, Permanent Global Notes, Definitive Notes, Coupons and, in the case of the Registrar, all Note Certificates delivered hereunder and of their redemption, payment, exchange, cancellation, mutilation, defacement, alleged destruction, theft or loss or replacement *provided, however, that* no record need be maintained of the serial numbers of Coupons (save insofar as that a record shall be maintained of the serial numbers of unmatured Coupons and/or unexchanged Talons missing at the time of redemption or other cancellation of the relevant Definitive Notes and, in the case of Coupons, of any subsequent payments against such Coupons) and shall send forthwith to the other Paying Agents a list of any unmatured Coupons and/or unexchanged Talons missing upon redemption of the relevant Definitive Note;
- 8.1.2 *Certifications*: separately in respect of each Series of Notes, maintain a record of all certifications received by it in accordance with the provisions of any Temporary Global Note and all certifications received by it in accordance with Clause 8.3 (*Cancellation*);
- 8.1.3 *Rate of exchange*: upon request by the Issuer, inform the Issuer of the spot rate of exchange quoted by it for the purchase of the currency in which the relevant Notes are denominated against payment of U.S. dollars (or such other currency specified by the Issuer) on the date on which the Relevant Agreement in respect of such Notes was made or, if there is no such agreement, the relevant Issue Date; and
- 8.1.4 *Inspection*: make such records available for inspection at all reasonable times by the Issuer, the Trustee and the other Agents.

### 8.2 Information from Paying Agents

The Paying Agents shall make available to the Principal Paying Agent and the Registrar such information as may reasonably be required for:

- 8.2.1 the maintenance of the records referred to in Clause 8.1 (*Records*); and
- 8.2.2 the Principal Paying Agent and the Registrar to perform the duties set out in Schedule 1 (*Duties under the Issuer-ICSDs Agreement*).

### 8.3 Cancellation

The Issuer may from time to time deliver, to the Principal Paying Agent Definitive Notes and unmatured Coupons appertaining thereto and to the Registrar Note Certificates of which it, or any of its respective affiliates is the Holder for cancellation, whereupon the Principal Paying Agent or, as the case may be, Registrar shall cancel the same and, if applicable, make the corresponding entries in the Register. In addition, the Issuer may from time to time:

- 8.3.1 *Principal Paying Agent*: procure the delivery to the Principal Paying Agent of a CGN Temporary Global Note or a CGN Permanent Global Note with instructions to cancel a specified aggregate principal amount of Notes represented thereby (which instructions shall be accompanied by evidence satisfactory to the Principal Paying Agent that the Issuer is entitled to give such instructions) whereupon the Principal Paying Agent shall note or procure that there is noted on the Schedule to such CGN Temporary Global Note or (as the case may be) CGN Permanent Global Note the aggregate principal amount of Notes so to be cancelled and the remaining principal amount thereof (which shall be the previous principal amount thereof less the aggregate principal amount of the Notes so cancelled) and shall procure the signature of such notation on its behalf; or
- 8.3.2 *ICSDs*: instruct the Principal Paying Agent to cancel a specified aggregate principal amount of Notes represented by an NGN Temporary Global Note or an NGN Permanent Global Note (which instructions shall be accompanied by evidence satisfactory to the Principal Paying Agent that the Issuer, is entitled to give such instructions) whereupon the Principal Paying Agent shall instruct the ICSDs (in accordance with the provisions of Schedule 1 (*Duties under the Issuer-ICSDs Agreement*)) to make appropriate entries in their respective records to reflect such cancellation.

### 8.4 Definitive Notes and Coupons in issue

As soon as practicable (and in any event within three months) after each interest or other payment date in relation to any Series of Notes, after each date on which Notes are cancelled in accordance with Clause 8.3 (*Cancellation*), and after each date on which the Notes fall due for redemption in accordance with the Conditions, the Principal Paying Agent shall notify the Issuer the Trustee and the other Paying Agents (on the basis of the information available to it and distinguishing between the Notes of each Series) of the number of any Definitive Notes and/or the number of Coupons (by reference to maturity) against presentation or surrender of which payment has been made and of the number of any Definitive Notes (distinguishing between different denominations) or, as the case may be, Coupons which have not yet been presented or surrendered for payment.

### 8.5 Note Certificates in issue

As soon as practicable (and in any event within three months) after each date on which Notes fall due for redemption, the Registrar shall notify the Issuer and the Trustee of the serial numbers and principal amount of any Note Certificates against surrender of which payment has been made and of the serial numbers and principal

amount of any Note Certificates (and the names and addresses of the Holders thereof) which have not yet been surrendered for payment.

## 8.6 Destruction

The Principal Paying Agent or, as the case may be, the Registrar:

- 8.6.1 *Cancelled Notes:* may destroy each Temporary Global Note, Permanent Global Note, Definitive Note, Coupon, Global Note Certificate or Individual Note Certificate cancelled by it (or cancelled by another Paying Agent or Replacement Agent and delivered to it) in accordance with Clause 3.11 (*Exchange of Temporary Global Note*), Clause 3.12 (*Exchange of Permanent Global Note*), Clause 3.15 (*Delivery of Coupon sheets by Paying Agents*), Clause 5.3 (*Cancellation of mutilated or defaced Notes*) or sub-clause 7.1.3 (*Payments by Paying Agents - Cancellation*) or Clause 8.3 (*Cancellation*), in which case it shall (upon the Issuer's request) furnish the Issuer with a certificate as to such destruction distinguishing between the Notes of each Series and specifying the certificate or serial numbers of the Temporary Global Note, Permanent Global Note, Definitive Notes, Global Note Certificate and Individual Note Certificates in numerical sequence (and, in the case of Definitive Notes, containing particulars of any unmatured Coupons and unexchanged Talons attached thereto or surrendered therewith) and the total number by payment or maturity date of Coupons (distinguishing Talons) so destroyed;
- 8.6.2 *Destruction by Common Safekeeper:* may instruct the Common Safekeeper to destroy each NGN Temporary Global Note, NGN Permanent Global Note or a Global Note Certificate to be held under the NSS in accordance with Clause 3.11 (*Exchange of Temporary Global Note*) or Clause 7.1 (*Payments by Paying Agents*) in which case, upon receipt of confirmation of destruction from the Common Safekeeper, the Principal Paying Agent shall (upon the Issuer's request) furnish the Issuer with a copy of such confirmation (provided that, if the Principal Paying Agent is the Common Safekeeper, the Principal Paying Agent shall destroy each NGN Temporary Global Note and NGN Permanent Global Note in accordance with Clause 3.11 (*Exchange of Temporary Global Note*) or Clause 7.1 (*Payments by Paying Agents*) and furnish the Issuer with confirmation of such destruction); and
- 8.6.3 *Notes electronically delivered to the Common Safekeeper:* where it has delivered any authenticated Global Note or Global Note Certificate to a Common Safekeeper for effectuation using electronic means, is authorised and instructed to destroy the authenticated Global Note retained by it following its receipt of confirmation from the Common Safekeeper that the relevant Global Note has been effectuated.

## 8.7 Voting Certificates and Block Voting Instructions

Each Paying Agent shall, at the request of the Holder of any Bearer Note held in a clearing system, issue Voting Certificates and Block Voting Instructions in a form and manner which comply with the provisions of Schedule 1 (*Provisions for Meetings of Noteholders*) to the Principal Trust Deed (except that it shall not be required to issue

the same less than forty-eight hours before the time fixed for any Meeting therein provided for). Each Paying Agent shall keep a full record of Voting Certificates and Block Voting Instructions issued by it and will give to the Issuer and the Trustee not less than twenty-four hours before the time appointed for any Meeting or adjourned Meeting full particulars of all Voting Certificates and Block Voting Instructions issued by it in respect of such meeting or adjourned Meeting.

## 8.8 Forms of Proxy and Block Voting Instructions

The Registrar shall, at the request of the Holder of any Registered Note held in a clearing system, issue Forms of Proxy and Block Voting Instructions in a form and manner which comply with the provisions of Schedule 1 (*Provisions for Meetings of Noteholders*) to the Principal Trust Deed (except that it shall not be required to issue the same less than forty-eight hours before the time fixed for any Meeting therein provided for). The Registrar shall keep a full record of Forms of Proxy and Block Voting Instructions issued by it and will give to the Issuer and the Trustee not less than twenty-four hours before the time appointed for any Meeting or adjourned Meeting full particulars of all Forms of Proxy and Block Voting Instructions issued by it in respect of such meeting or adjourned Meeting.

## 8.9 Provision of documents

8.9.1 The Issuer shall provide to the Principal Paying Agent (for distribution among the Paying Agents) and the Registrar:

- (a) *Specimens*: at the same time as it is required to deliver any Definitive Notes pursuant to Clause 3.7 (*Delivery of Definitive Notes or Individual Note Certificates*), specimens of such Notes;
- (b) *Documents for inspection*: sufficient copies of all documents required to be available for inspection as provided in the Base Prospectus or, in relation to any Notes, the Conditions; and
- (c) *Tax redemption*: in the event that the provisions of Condition 10.2 (*Tax Redemption*) become relevant in relation to any Notes, the documents required under Condition 10.2 or Condition 10.3;

8.9.2 The Registrar shall provide the Principal Paying Agent with all such information as the Principal Paying Agent may reasonably require in order to perform the obligations set out in Clause 8.11 (*Notifications and Filings*) hereof.

## 8.10 Documents available for inspection

Each of the Paying Agents and the Registrar shall make available for inspection during normal business hours at its Specified Office such documents as may be specified as so available at the specified office of such agent in the Base Prospectus or, in relation to any Notes, the Conditions, or as may be required by any listing authority, stock exchange and/or quotation system by which any Notes may from time to time be admitted to listing, trading and/or quotation.

### **8.11 Notifications and filings**

The Principal Paying Agent shall (on behalf of the Issuer) make all necessary notifications and filings as may be required from time to time in relation to the issue, purchase and redemption of Notes by all applicable laws, regulations and guidelines and, in particular but without limitation, those promulgated by, Japanese governmental or regulatory authorities, in the case of Notes denominated in Japanese Yen and the Bank of England, in the case of Notes denominated in or linked to sterling. Save as aforesaid, the Issuer, shall be solely responsible for ensuring that each Note to be issued or other transactions to be effected hereunder shall comply with all applicable laws and regulations of any governmental or other regulatory authority and that all necessary consents and approvals of, notifications to and registrations and filings with, any such authority in connection therewith are effected, obtained and maintained in full force and effect.

### **8.12 Completion of distribution**

The Principal Paying Agent, or as the case may be, the Registrar agrees with the Issuer that, in relation to any Tranche or Series, as the case may be, of Notes which is sold to or through more than one Dealer, to the extent that it is notified by each Relevant Dealer that the distribution of the Notes of that Tranche or Series purchased by such Relevant Dealer is complete, it will notify all the Relevant Dealers of the completion of distribution of the Notes of that Tranche or Series.

### **8.13 Forwarding of communications**

Each Agent shall promptly forward to the Issuer a copy of any notice or communication addressed to the Issuer which is received by such Agent.

### **8.14 Publication of notices**

The Principal Paying Agent, or as the case may be, the Registrar shall, upon and in accordance with the instructions of the Issuer and/or the Trustee but not otherwise, arrange for the publication in accordance with the Conditions of any notice which is to be given to the Holders of any Notes and shall supply a copy thereof to each other Agent.

### **8.15 Issuer-ICSDs Agreement**

The Principal Paying Agent and Registrar shall comply with the provisions set out in Schedule 1 (*Duties under the Issuer-ICSDs Agreement*).

## **9. EARLY REDEMPTION AND EXERCISE OF OPTIONS**

### **9.1 Exercise of call or other option**

If the Issuer intends (other than consequent upon an Event of Default) to redeem all or any of the Notes prior to their stated maturity date or to exercise any other option under the Conditions, it shall, not less than 14 days prior to the latest date for the publication of the notice of redemption or of exercise of such option required to be given to the Holders of any Notes (or such other period as may be agreed by the Issuer, the Trustee and the Principal Paying Agent), give notice of such intention to

the Principal Paying Agent, the Registrar (in respect of Registered Notes) and the Trustee stating the date on which such Notes are to be redeemed or such option is to be exercised.

## 9.2 **Exercise of put option**

Each Paying Agent shall make available to Noteholders during the period specified in Condition 10.6 (*Redemption at the Option of Noteholders*) for the deposit of Put Option Notices forms of Put Option Notice upon request during usual business hours at its Specified Office. Upon receipt by a Paying Agent of a duly completed Put Option Notice and, in the case of a Put Option Notice relating to Definitive Notes or Individual Note Certificates, such Definitive Notes and Individual Note Certificates in accordance with Condition 10.6 (*Redemption at the Option of Noteholders*), such Paying Agent shall notify the Issuer and (in the case of a Paying Agent other than the Principal Paying Agent) the Principal Paying Agent thereof indicating the certificate or serial numbers (if any) and principal amount of the Notes in respect of which the Put Option is exercised. Any such Paying Agent with which a Definitive Note or Individual Note Certificate is deposited shall deliver a duly completed Put Option Receipt to the depositing Noteholder and shall hold such Definitive Note or Individual Note Certificate on behalf of the depositing Noteholder (but shall not, save as provided below or in the Conditions, release it) until the Optional Redemption Date (Put), when it shall present such Definitive Note or Individual Note Certificate to itself for payment of the redemption moneys therefor and interest (if any) accrued to such date in accordance with the Conditions and Clause 7 (*Payments to Noteholders*) and pay such amounts in accordance with the directions of the Noteholder contained in the Put Option Notice; *provided, however, that* if, prior to the Optional Redemption Date (Put), such Definitive Note or Notes evidenced by such Individual Note Certificate become immediately due and payable or upon due presentation of such Definitive Note or Individual Note Certificate payment of such redemption moneys is improperly withheld or refused, the relevant Paying Agent shall mail notification thereof to the depositing Noteholder at such address as may have been given by such Noteholder in the relevant Put Option Notice and shall, in the case of a Definitive Note, hold such Note at its Specified Office for collection by the depositing Noteholder against surrender of the relevant Put Option Receipt and, in the case of an Individual Note Certificate, mail such Note Certificate by uninsured post to, and at the risk of, the Noteholder at such address as may have been given by such Noteholder in the relevant Put Option Notice. For so long as any outstanding Definitive Note is held by a Paying Agent in accordance with the preceding sentence, the depositor of the relevant Definitive Note, and not the relevant Paying Agent, shall be deemed to be the bearer of such Definitive Note for all purposes. Any Paying Agent which receives a Put Option Notice in respect of Notes represented by a Permanent Global Note or a Global Note Certificate shall make payment of the relevant redemption moneys and interest accrued to the Optional Redemption Date (Put) in accordance with the Conditions, Clause 7 (*Payments to Noteholders*) and the terms of the Permanent Global Note or Global Note Certificate, as the case may be.



### 9.3 **Details of exercise**

At the end of any applicable period for the exercise of such option or, as the case may be, not later than 7 days after the latest date for the exercise of such option in relation to a particular date, each Paying Agent shall:

9.3.1 in the case of the exercise of an option in respect of a Permanent Global Note or a Definitive Note, promptly notify the Principal Paying Agent of the principal amount of the Notes in respect of which such option has been exercised with it together with their certificate or, as the case may be, serial numbers and the Principal Paying Agent shall promptly notify such details to the Issuer and the Trustee; and

9.3.2 in the case of the exercise of an option in respect of a Global Note Certificate or an Individual Note Certificate, promptly notify the Registrar of the principal amount of the Notes in respect of which such option has been exercised with it together with their certificate or, as the case may be, serial numbers and the Registrar shall promptly notify such details to the Issuer and the Trustee.

## 10. **APPOINTMENT AND DUTIES OF THE CALCULATION AGENT AND THE DETERMINATION AGENT**

### 10.1 **Appointment of the Calculation Agent**

The Issuer, and for the purposes of Clause 7.8 (*Agents to act for the Trustee*) only, the Trustee, appoint the Principal Paying Agent at its Specified Office as Calculation Agent in relation to each Series of Notes in respect of which it is named as such in the relevant Issue Terms for the purposes specified in this Agreement and in the Conditions and all matters incidental thereto.

### 10.2 **Appointment of the Determination Agent**

The Issuer, and for the purposes of Clause 7.8 (*Agents to act for the Trustee*) only, the Trustee, appoints Morgan Stanley & Co. International plc at its Specified Office as Determination Agent in relation to each Series of Notes in respect of which it is named as such in the relevant Issue Terms for the purposes specified in this Agreement and in the Conditions and all matters incidental thereto.

### 10.3 **Acceptance of appointment by the Calculation Agent**

The Principal Paying Agent accepts its appointment as Calculation Agent in relation to each Series of Notes in respect of which it agrees to be named as such in the relevant Issue Terms and shall perform all matters expressed to be performed by it in, and otherwise comply with, the Conditions and the provisions of this Agreement and, in connection therewith, shall take all such action as may be incidental thereto. The Principal Paying Agent acknowledges and agrees that it shall be named in the relevant Issue Terms as Calculation Agent in respect of each Series of Notes unless the Dealer (or one of the Dealers) through whom such Notes are issued has agreed with the Issuer to act as Calculation Agent or the Issuer otherwise agrees to appoint another institution as Calculation Agent.

#### 10.4 **Acceptance of appointment by the Determination Agent**

Morgan Stanley & Co. International plc accepts its appointment as Determination Agent in relation to each Series of Notes in respect of which it agrees to be named as such in the relevant Issue Terms and shall perform all matters expressed to be performed by it in, and otherwise comply with, the Conditions and the provisions of this Agreement and, in connection therewith, shall take all such action as may be incidental thereto. Morgan Stanley & Co. International plc acknowledges and agrees that it shall be named in the relevant Issue Terms as Determination Agent in respect of each Series of Notes unless the Dealer (or one of the Dealers) through whom such Notes are issued has agreed with the Issuer to act as Determination Agent or the Issuer otherwise agrees to appoint another institution as Determination Agent.

#### 10.5 **Calculations and determinations**

The Calculation Agent or the Determination Agent (as the case may be) shall in respect of each Series of Notes in relation to which it is appointed as such:

10.5.1 *Determinations*: obtain such quotes and rates and/or make such determinations, calculations, adjustments, notifications and publications as may be required to be made by it by the Conditions at the times and otherwise in accordance with the Conditions; and

10.5.2 *Records*: maintain a record of all quotations obtained by it and of all amounts, rates and other items determined or calculated by it and make such records available for inspection at all reasonable times by the Issuer and the Agents.

### 11. **FEES AND EXPENSES**

#### 11.1 **Fees**

The Issuer shall pay to the Principal Paying Agent for account of the Agents (other than the Calculation Agent and the Determination Agent) such fees as may have been agreed between the Issuer and the Principal Paying Agent in respect of the services of the Agents (other than the Calculation Agent and the Determination Agent) hereunder (plus any applicable value added tax). The Issuer shall pay to any Calculation Agent or Determination Agent (as the case may be) such fees as may be agreed between the Issuer and such Calculation Agent or Determination Agent (as the case may be) in respect of its services hereunder (plus any applicable value added tax).

#### 11.2 **Front-end expenses**

The Issuer shall on demand reimburse the Principal Paying Agent and each other Agent for all expenses (including, without limitation, legal fees and any publication, advertising, communication, courier, postage and other out-of-pocket expenses) properly incurred in connection with its services hereunder (plus any applicable value added tax) other than such costs and expenses as are separately agreed to be reimbursed out of the fees payable under Clause 11.1 (*Fees*).

### 11.3 Taxes

The Issuer shall pay all stamp, registration and other taxes and duties (including any interest and penalties thereon or in connection therewith) which may be payable upon or in connection with the execution and delivery of this Agreement and any letters of appointment under which any Agent is appointed as agent hereunder, and the Issuer shall indemnify each Agent on demand against any claim, demand, action, liability, damages, cost, loss or expense (including, without limitation, legal fees and any applicable value added tax) which it may incur or which may be made against it as a result or arising out of or in relation to any failure to pay or delay in paying any of the same. All payments by the Issuer under this Clause 11 or Clause 12.4 (*Indemnity in favour of the Agents*) shall be made free and clear of, and without withholding or deduction for, any taxes, duties, assessments or governmental charges of whatsoever nature imposed, levied, collected, withheld or assessed by the United Kingdom or any political subdivision or any authority thereof or therein having power to tax, unless such withholding or deduction is required by law. In that event, the Issuer shall pay such additional amounts as will result in the receipt by the relevant Agent of such amounts as would have been received by it if no such withholding or deduction had been required.

### 11.4 Fees following an Event of Default

If any Event of Default occurs, the Agents agree that, in respect of each Series of Notes, any outstanding fees payable by the Issuer under this Clause 11 to the Agents in respect of such Series of Notes shall be payable from the Realisation Proceeds held by the Trustee in relation to such Series of Notes, in accordance with the applicable order of priority as specified in the Conditions and the applicable Issue Terms. The Issuer shall remain liable for any shortfall in relation to such outstanding fees however each Agent agrees that it shall not have recourse to the Realisation Proceeds in respect of any other Series of Notes.

## 12. TERMS OF APPOINTMENT

### 12.1 Rights and Powers

Each of the Paying Agents, the Registrar, the Transfer Agents, the Replacement Agents and (in the case of sub-clauses 12.1.4 (*Rights and Powers - Genuine documents*), 12.1.5 (*Rights and Powers - Lawyers*) and 12.1.6 (*Rights and Powers - Expense or liability*)) each Calculation Agent and the Determination Agent) may, in connection with its services hereunder:

12.1.1 *Absolute owner*: except as ordered by a court of competent jurisdiction or as required by law and notwithstanding any notice of ownership, trust or any other interest therein, any writing thereon or any notice of any previous loss or theft thereof, but subject to sub-clause 7.1.1 (*Payments by Paying Agents - Replacements*), treat the Holder of any Note or Coupon as the absolute owner thereof and make payments thereon accordingly;

12.1.2 *Correct terms*: assume that the terms of each Temporary Global Note, Permanent Global Note, Definitive Note, Coupon, Global Note Certificate or Individual Note Certificate as issued are correct;

- 12.1.3 *Determination by Issuer*: refer any question relating to the ownership of any Temporary Global Note, Permanent Global Note, Definitive Note, Coupon, Global Note Certificate or Individual Note Certificate or the adequacy or sufficiency of any evidence supplied in connection with the replacement of any of the same to the Issuer for determination by the Issuer and rely upon any determination so made;
- 12.1.4 *Genuine documents*: rely upon the terms of any notice, communication, certificate or other document reasonably believed by it to be genuine;
- 12.1.5 *Lawyers*: engage and pay for the advice or services of any lawyers or other experts whose advice or services it considers necessary and rely upon any advice so obtained (and such Paying Agent, Registrar, Transfer Agent, Replacement Agent or, as the case may be, such Calculation Agent or Determination Agent shall be protected and shall incur no liability as against the Issuer in respect of any action taken, or suffered to be taken, in accordance with such advice and in good faith); and
- 12.1.6 *Expense or liability*: treat itself as being released from any obligation to take any action hereunder which it reasonably expects will result in any expense or liability to it, the payment of which within a reasonable time is not, in its reasonable opinion, assured to it.

## 12.2 **Extent of Duties**

Each Agent shall only be obliged to perform the duties set out herein and such other duties as are necessarily incidental thereto. No Agent shall:

- 12.2.1 *Fiduciary duty*: be under any fiduciary duty or other obligation towards or have any relationship of agency or trust for or with any person other than the Issuer and the Trustee; or
- 12.2.2 *Enforceability of any Notes*: be responsible for or liable in respect of the legality, validity or enforceability of any Temporary Global Note, Permanent Global Note, Definitive Note, Coupon, Global Note Certificate or Individual Note Certificate or any act or omission of any other person (including, without limitation, any other Agent).

## 12.3 **Freedom to transact**

Each Agent may purchase, hold and dispose of Notes and may enter into any transaction (including, without limitation, any depository, trust or agency transaction) with any Holders of Notes or with any other party hereto in the same manner as if it had not been appointed as the agent of the Issuer in relation to the Notes.

## 12.4 **Indemnity in favour of the Agents**

The Issuer shall severally indemnify each Agent against any claim, demand, action, liability, damages, cost, loss or expense (including, without limitation, legal fees and any applicable value added tax) which it incurs, other than such costs and expenses as are separately agreed to be reimbursed out of the fees payable under Clause 11.1 (*Fees*) and otherwise than by reason of its own negligence, wilful default or fraud, as

a result or arising out of or in relation to its acting as the agent of the Issuer in relation to the Notes. The indemnity contained in this Clause 12.4 shall survive the termination or expiry of this Agreement

## 12.5 **No liability for consequential loss**

Notwithstanding any provision in this Agreement to the contrary, no Agent shall in any event be liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), whether or not foreseeable, even if that Agent has been advised of the likelihood of such loss or damage and regardless of whether the claim for loss or damage is made in negligence, for breach of contract or otherwise.

## 13. **CHANGES IN AGENTS**

### 13.1 **Resignation**

Any Agent may resign its appointment as the agent of the Issuer hereunder and/or in relation to any Series of Notes upon the expiration of not less than 90 days' notice to that effect by such Agent to the Issuer (with a copy to the Trustee and, in the case of an Agent other than the Principal Paying Agent, to the Principal Paying Agent and in the case of an Agent other than the Registrar, to the Registrar) *provided, however, that:*

13.1.1 *Payment date:* if in relation to any Series of Notes any such resignation which would otherwise take effect less than 90 days before or after the maturity date or other date for redemption of such Series or any interest or other payment date in relation to any such Series it shall not take effect, in relation to such Series only, until the ninetieth day following such date; and

13.1.2 *Successors:* in respect of any Series of Notes, in the case of the Principal Paying Agent, the Registrar, the Calculation Agent, the Determination Agent or the Required Agent, such resignation shall not be effective until a successor thereto has (with the prior written approval of the Trustee) been appointed by the Issuer as their agent in relation to such Series of Notes in accordance with Clause 13.4 (*Additional and successor agents*) or in accordance with Clause 13.5 (*Agents may appoint successors*) and notice of such appointment has been given in accordance with the Conditions.

### 13.2 **Revocation**

The Issuer may revoke their appointment of any Agent as their agent hereunder and/or in relation to any Series of Notes by not less than thirty days' notice to that effect to such Agent (with a copy, in the case of an Agent other than the Principal Paying Agent, to the Principal Paying Agent and in the case of an Agent other than the Registrar, to the Registrar) *provided, however, that* in respect of any Series of Notes, in the case of the Principal Paying Agent, the Registrar, the Calculation Agent, the Determination Agent or any Required Agent, such revocation shall not be effective until a successor thereto has (with the prior written approval of the Trustee) been appointed by the Issuer as their agent in relation to such Series of Notes and notice of such appointment has been given in accordance with the Conditions.

### 13.3 **Immediate termination upon notice**

The appointment of any Agent shall terminate immediately upon notice from the Issuer if:

- 13.3.1 *Incapacity*: such Agent, in the Issuer's opinion, becomes incapable of acting;
- 13.3.2 *Receiver*: a secured party takes possession, or a receiver, manager or other similar officer is appointed, of the whole or any part of the undertaking, assets and revenues of such Agent;
- 13.3.3 *Insolvency*: such Agent admits in writing its insolvency or inability to pay its debts as they fall due;
- 13.3.4 *Liquidator*: an administrator or liquidator of such Agent or the whole or any part of the undertaking, assets and revenues of such Agent is appointed (or application for any such appointment is made);
- 13.3.5 *Composition*: such Agent takes any action for a readjustment or deferment of any of its obligations or makes a general assignment or an arrangement or composition with or for the benefit of its creditors or declares a moratorium in respect of any of its indebtedness;
- 13.3.6 *Winding-up*: an order is made or an effective resolution is passed for the winding-up of such Agent; or
- 13.3.7 *Analogous event*: any event occurs which has an analogous effect to any of the foregoing.

If the appointment of the Principal Paying Agent, Registrar, Calculation Agent, the Determination Agent or any Required Agent is terminated in accordance with this Clause 13.3, the Issuer shall forthwith appoint a successor in accordance with Clause 13.4 (*Additional and successor agents*).

### 13.4 **Additional and successor agents**

The Issuer may (with the prior written approval of the Trustee) appoint a successor Principal Paying Agent, registrar or calculation agent and additional or successor paying agents and transfer agents and shall forthwith give notice of any such appointment to the continuing Agents, the Noteholders and the Trustee, whereupon the Issuer, the continuing Agents, the Trustee and the additional or successor principal paying agent, registrar, calculation agent, paying agent, transfer agent or determination agent shall acquire and become subject to the same rights and obligations between themselves as if they had entered into an agreement in the form *mutatis mutandis* of this Agreement.

### 13.5 **Agents may appoint successors**

If the Principal Paying Agent, Registrar, Calculation Agent, the Determination Agent or any Required Agent gives notice of its resignation in accordance with Clause 13.1 (*Resignation*) and by the tenth day before the expiry of such notice a successor has not been duly appointed in accordance with Clause 13.4 (*Additional and successor*

*agents*), the Principal Paying Agent or (as the case may be), Registrar, Calculation Agent, the Determination Agent or Required Agent may itself, following such consultation with the Issuer as is practicable in the circumstances and with the prior written approval of the Trustee, appoint as its successor any reputable and experienced financial institution and give notice of such appointment to the Issuer, the remaining Agents, the Trustee and the Noteholders, whereupon the Issuer, the remaining Agents, the Trustee and such successor shall acquire and become subject to the same rights and obligations between themselves as if they had entered into an agreement in the form *mutatis mutandis* of this Agreement.

### 13.6 Release

Upon any resignation or revocation taking effect under Clause 13.1 (*Resignation*) or 13.2 (*Revocation*) or any termination taking effect under Clause 13.3 (*Immediate termination upon notice*), the relevant Agent shall:

- 13.6.1 *Discharge*: be released and discharged from its obligations under this Agreement (save that it shall remain entitled to the benefit of and subject to Clause 11.3 (*Taxes*), Clause 12 (*Terms of Appointment*) and Clause 13 (*Changes in Agents*));
- 13.6.2 *Principal Paying Agent's records*: in the case of the Principal Paying Agent, deliver to the Issuer and to its successor a copy, certified as true and up-to-date by an officer or authorised signatory of the Principal Paying Agent, of the records maintained by it in accordance with Clause 8.1 (*Records*);
- 13.6.3 *Calculation Agent's records*: in the case of any Calculation Agent, deliver to the Issuer and its successor a copy, certified as true and up-to-date by an officer or authorised signatory of such Calculation Agent, of the records maintained by it in accordance with Clause 10 (*Appointment and Duties of the Calculation Agent and the Determination Agent*);
- 13.6.4 *Determination Agent's records*: in the case of the Determination Agent (except where the Determination Agent is Morgan Stanley & Co. International plc), deliver to the Issuer and to its successor, a copy, certified as true and up-to-date by an officer or authorised signatory of the Determination Agent, of the records maintained by it in accordance with Clause 10 (*Appointment and Duties of the Calculation Agent and the Determination Agent*);
- 13.6.5 *Registrar's records*: in the case of the Registrar, deliver to the Issuer and its successor a copy, certified as true and up-to-date by an officer or authorised signatory of the Registrar, of the records maintained by it in accordance with Clause 4.1 (*Maintenance of the Register*); and
- 13.6.6 *Moneys and papers*: forthwith (upon payment to it of any amount due to it in accordance with Clause 11 (*Fees and Expenses*) or Clause 12.4 (*Indemnity in favour of the Agents*)) transfer all moneys and papers (including any unissued Notes held by it hereunder and any documents held by it pursuant to Clause 8.10 (*Documents available for inspection*)) to its successor and, upon appropriate notice, provide reasonable assistance to its successor for the discharge of its duties and responsibilities hereunder.

### 13.7 Merger

Any legal entity into which any Agent or the Trustee is merged or converted or any legal entity resulting from any merger or conversion to which such Agent or (as the case may be) the Trustee is a party shall, to the extent permitted by applicable law, be the successor to such Agent or, as the case may be, the Trustee without any further formality, whereupon the Issuer, the other Agents, the Trustee and such successor shall acquire and become subject to the same rights and obligations between themselves as if they had entered into an agreement in the form *mutatis mutandis* of this Agreement. Notice of any such merger or conversion shall forthwith be given by such successor to the Issuer, the Trustee (if applicable), the other Agents and the Noteholders.

### 13.8 Changes in Specified Offices

If any Agent decides to change its Specified Office (which may only be effected within the same city unless the prior written approval of the Issuer has been obtained), it shall give notice to the Issuer (with a copy to the Trustee and the other Agents) of the address of the new Specified Office stating the date on which such change is to take effect, which date shall be not less than 30 days after the date of such notice. The Issuer shall at its own expense not less than 14 days prior to the date on which such change is to take effect (unless the appointment of the relevant Agent is to terminate pursuant to any of the foregoing provisions of this Clause 13 (*Changes in Agents*) on or prior to the date of such change) give notice thereof to the Noteholders.

## 14. NOTICES

### 14.1 Addressees for notices

All notices and communications hereunder shall be made in writing (by letter, e-mail (if applicable) or fax), shall be effective upon receipt by the addressee and shall be sent as follows:

#### 14.1.1 if to the Issuer to it at:

Address: 25 Cabot Square  
Canary Wharf, London  
E14 4QA

E-mail: [ssfunding@morganstanley.com](mailto:ssfunding@morganstanley.com)  
Fax: +44 (0)20 7677 7990  
Attention: Structured Secured Funding c/o Susan O'Flynn and Chasham  
Mitra

#### 14.1.2 if to the Trustee to it at:

Address: One Canada Square  
Canary Wharf, London  
E14 5AL

Fax: +44 (0)20 7964 2356  
Attention: Corporate Trust Administration



14.1.3 if to the Principal Paying Agent, the Registrar, a Paying Agent, the Calculation Agent, the Determination Agent or a Transfer Agent to it at the address, e-mail or fax number specified against its name in Schedule 2 (*The Specified Offices of the Agents*)

or, in any case, to such other address, e-mail or fax number or for the attention of such other person or department as the addressee has by prior notice to the sender specified for the purpose.

## 14.2 Effectiveness

Every notice or communication sent in accordance with Clause 14.1 (*Addressees for notices*) shall be effective as follows:

14.2.1 if sent by letter or fax, upon receipt by the addressee; and

14.2.2 if sent by e-mail upon receipt in readable form at the specified e-mail address;

*provided, however, that any such notice or communication which would otherwise take effect after 4.00 p.m. on any particular day shall not take effect until 10.00 a.m. on the immediately succeeding business day in the place of the addressee.*

The Issuer hereby acknowledges that it is fully aware of the risk associated with transmitting instructions via facsimile, and being aware of these risks authorises any Agent to accept and act upon any instruction sent to the Agent in the Issuer's name or in the name of one or more appropriate authorised signers of the Issuer via facsimile. Any Agent shall be entitled to the benefit of the provisions of Clause 12.4 (*Indemnity in favour of the Agents*) when accepting or acting upon any instructions, communications or documents transmitted by facsimile, and shall not be liable in the event any facsimile transmission is not received, or is mutilated, illegible, interrupted, duplicated, incomplete, unauthorised or delayed for any reason, including (but not limited to) electronic or telecommunications failure.

## 15. LAW AND JURISDICTION

### 15.1 Governing law

This Agreement and all non-contractual obligations arising out of or in connection with it are governed by English law.

### 15.2 English courts

The courts of England have exclusive jurisdiction to settle any dispute (a "**Dispute**"), arising out of or in connection with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) or the consequences of its nullity.

### 15.3 Appropriate forum

The parties agree that the courts of England are the most appropriate and convenient courts to settle any Dispute and, accordingly, that they will not argue to the contrary.

15.4 **Rights of the Agents to take proceedings outside England**

Clause 15.2 (*English courts*) is for the benefit of the Agents and the Trustee only. As a result, nothing in this Clause 15 (*Law and jurisdiction*) prevents the Agents or the Trustee from taking proceedings relating to a Dispute ("**Proceedings**") in any other courts with jurisdiction. To the extent allowed by law, the Agents or the Trustee may take concurrent Proceedings in any number of jurisdictions.

16. **MODIFICATION**

For the avoidance of doubt, this Agreement may be amended by further agreement among the parties hereto and without the consent of the Noteholders.

17. **COUNTERPARTS**

This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which when so executed shall constitute one and the same binding agreement between the parties.

18. **RIGHTS OF THIRD PARTIES**

A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

**AS WITNESS** the hands of the duly authorised representatives of the parties hereto the day and year first before written.

**SCHEDULE 1**  
**DUTIES UNDER THE ISSUER-ICSDS AGREEMENT**

In relation to each Tranche of Bearer Notes that are, or are to be, represented by an NGN Temporary Global Note or an NGN Permanent Global Note or a Global Note Certificate to be held under the NSS, the Principal Paying Agent or the Registrar will comply with the following provisions:

1. *Initial issue outstanding amount:* The Principal Paying Agent or the Registrar will inform each of the ICSDs, through the Common Service Provider appointed by the ICSDs to service the Notes, of the initial issue outstanding amount (the "IOA") for such Tranche on or prior to the relevant Issue Date.
2. *Mark up or mark down:* If any event occurs that requires a mark up or mark down of the records which an ICSD holds for its customers to reflect such customers' interest in the Notes, the Principal Paying Agent or the Registrar will (to the extent known to it) promptly provide details of the amount of such mark up or mark down, together with a description of the event that requires it, to the ICSDs (through the Common Service Provider) to ensure (i) that the IOA of any NGN Temporary Global Notes or NGN Permanent Global Notes, as set out in the records of Euroclear and Clearstream, Luxembourg, or (ii) the IOA of any Global Note Certificate held under the NSS, as reflected in the records of Euroclear and Clearstream, Luxembourg remains at all times accurate.
3. *Reconciliation of records:* The Principal Paying Agent or the Registrar will at least once every month reconcile its record of the IOA of the Notes with information received from the ICSDs (through the Common Service Provider) with respect to the IOA maintained by the ICSDs for the Notes and will promptly inform the ICSDs (through the Common Service Provider) of any discrepancies.
4. *Resolution of discrepancies:* The Principal Paying Agent or the Registrar will promptly assist the ICSDs (through the Common Service Provider) in resolving any discrepancy identified in the IOA of Notes any NGN Temporary Global Notes or NGN Permanent Global Notes or in the records reflecting the IOA of any Global Note Certificate held under the NSS.
5. *Details of payments:* The Principal Paying Agent or the Registrar will promptly provide the ICSDs (through the Common Service Provider) details of all amounts paid by it under the Notes (or, where the Notes provide for delivery of assets other than cash, of the assets so delivered).
6. *Change of amount:* The Principal Paying Agent will (to the extent known to it) promptly provide to the ICSDs (through the Common Service Provider) notice of any changes to the Notes that will affect the amount of, or date for, any payment due under the Notes.
7. *Notices to Noteholders:* The Principal Paying Agent or the Registrar will (to the extent known to it) promptly provide to the ICSDs (through the Common Service Provider) copies of all information that is given to the Holders of the Notes.

8. *Communications from ICSDs:* The Principal Paying Agent or the Registrar will promptly pass on to the Issuer all communications it receives from the ICSDs directly or through the Common Service Provider relating to the Notes.
9. *Default:* The Principal Paying Agent or the Registrar will (to the extent known to it) promptly notify the ICSDs (through the Common Service Provider) of any failure by the Issuer to make any payment or delivery due under the Notes when due.

**SCHEDULE 2**  
**THE SPECIFIED OFFICES OF THE AGENTS**

**The Principal Paying Agent:**

The Bank of New York Mellon, London Branch  
One Canada Square  
Canary Wharf, London  
E14 5AL  
Fax: +44 (0) 20 7964 2356  
  
Attention: Corporate Trust Administration

**The Registrar:**

The Bank of New York Mellon (Luxembourg) S.A.  
Vertigo Building – Polaris  
2 -4 rue Engène Ruppert  
L – 2453 Luxembourg  
Grand Duchy of Luxembourg  
Fax: +352 34 2090 6035  
  
Attention: Peter Bun

**The Transfer Agent:**

The Bank of New York Mellon (Luxembourg) S.A.  
Vertigo Building – Polaris  
2 -4 rue Engène Ruppert  
L – 2453 Luxembourg  
Grand Duchy of Luxembourg  
Fax: +352 34 2090 6035  
  
Attention: Peter Bun

**The Calculation Agent:**

The Bank of New York Mellon, London Branch  
One Canada Square  
Canary Wharf, London  
E14 5AL  
Fax: +44 (0) 20 7964 2356  
  
Attention: Corporate Trust Administration

**The Determination Agent**

Morgan Stanley & Co. International plc  
25 Cabot Square  
Canary wharf, London  
E14 4QA

E-mail: [ssfunding@morganstanley.com](mailto:ssfunding@morganstanley.com)  
Fax: +44 (0)20 7677 7990

Attention: Structured Secured Funding c/o Susan O'Flynn and Chasham  
Mitra

**SCHEDULE 3**  
**FORM OF CALCULATION AGENT/ DETERMINATION AGENT APPOINTMENT LETTER**

*[On letterhead of the Issuer]*

*[for use if the Calculation Agent is **not** a Dealer or if the Determination Agent is not Morgan Stanley & Co. International plc]*

[Date]

[Name of Calculation Agent/ Determination Agent]  
[Address]

Dear Sirs,

**Morgan Stanley & Co. International plc**

**Up to U.S. \$5,000,000,000 Secured Note Programme**

We refer to the agency agreement dated on or about 20 December 2012 entered into in respect of the above Secured Note Programme (as amended or supplemented from time to time, the "**Agency Agreement**") between, among others, ourselves as Issuer, BNY Mellon Corporate Trustee Services Limited as Trustee, The Bank of New York Mellon, London Branch as Principal Paying Agent and certain other financial institutions named therein, a copy of which has been supplied to you by us.

All terms and expressions which have defined meanings in the Agency Agreement shall have the same meanings when used herein.

**EITHER**

[We hereby appoint you as [Calculation Agent/ Determination Agent] at your specified office detailed in the Confirmation as our agent in relation to [*specify relevant Series of Notes*] (the "**Notes**") upon the terms of the Agency Agreement for the purposes specified in the Agency Agreement and in the Conditions and all matters incidental thereto.]

**OR**

[We hereby appoint you as [Calculation Agent/ Determination Agent] at your specified office detailed in the Confirmation set out below as our agent in relation to each Series of Notes in respect of which you are named as [Calculation Agent/ Determination Agent] in the relevant Issue Terms upon the terms of the Agency Agreement and (in relation to each such Series of Notes) in the Conditions and all matters incidental thereto.]

We hereby agree that, notwithstanding the provisions of the Agency Agreement or the Conditions, your appointment as [Calculation Agent/ Determination Agent] may only be revoked in accordance with Clause 13.2 (*Revocation*) thereof if you have been negligent in the exercise of your obligations thereunder or have failed to exercise or perform your obligations thereunder.

Please complete and return to us the Confirmation on the copy of this letter duly signed by an authorised signatory confirming your acceptance of this appointment.

This letter and all non-contractual obligations arising out of or in connection with it are governed by English law and the provisions of Clause 15 (*Law and Jurisdiction*) of the Agency Agreement shall apply to this letter as if set out herein in full.

A person who is not a party to the agreement described in this letter has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of such agreement.

Yours faithfully

Morgan Stanley & Co. International plc

By:

*FORM OF CONFIRMATION*

**EITHER**

We hereby accept our appointment as [Calculation Agent/ Determination Agent] of the Issuer in relation to the Notes, and shall perform all matters expressed to be performed by the [Calculation Agent/ Determination Agent] in, and shall otherwise comply with, the Conditions and the provisions of the Agency Agreement and, in connection therewith, shall take all such action as may be incidental thereto.

**OR**

We hereby accept our appointment as [Calculation Agent/ Determination Agent] of the Issuer in relation to each Series of Notes in respect of which we are named as [Calculation Agent/ Determination Agent] in the relevant Issue Terms, and shall perform all matters expressed to be performed by the [Calculation Agent/ Determination Agent] in, and shall otherwise comply with (in relation to each such Series of Notes) the Conditions and the provisions of the Agency Agreement and, in connection therewith, shall take all such action as may be incidental thereto.

For the purposes of [the Notes] [each such Series of Notes] and the Agency Agreement our specified office and communication details are as follows:

Address: [ ]

E-mail: [ ]

Fax: [ ]

Attention: [ ]



[Calculation Agent/ Determination Agent]

By:

Date:

**SCHEDULE 4  
FORM OF PUT OPTION NOTICE**

To: [Paying Agent]

**MORGAN STANLEY & CO. INTERNATIONAL PLC**  
Up to U.S. \$5,000,000,000 Secured Note Programme

**PUT OPTION NOTICE\***

***OPTION 1 (DEFINITIVE NOTES) - [complete/delete as applicable]***

By depositing this duly completed Notice with the above Paying Agent in relation to [*specify relevant Series of Notes*] (the "**Notes**") in accordance with Condition 10.6 (*Redemption at the Option of Noteholders*), the undersigned Holder of the Notes specified below and deposited with this Put Option Notice exercises its option to have such Notes redeemed in accordance with Condition 10.6 (*Redemption at the Option of Noteholders*) on [date].

This Notice relates to the Note(s) bearing the following certificate numbers and in the following denominations:

**Certificate Number**

**Denomination**

.....	.....
.....	.....
.....	.....

***OPTION 2 (PERMANENT GLOBAL NOTE) - [complete/delete as applicable]***

By depositing this duly completed Notice with the above Paying Agent for the [*specify relevant Series of Notes*] (the "**Notes**") in accordance with Condition 10.6 (*Redemption at the Option of Noteholders*) and the terms of the Permanent Global Note issued in respect of the Notes, the undersigned Holder of the Permanent Global Note exercises its option to have [currency] [amount] of the Notes redeemed accordance with Condition 10.6 (*Redemption at the Option of Noteholders*) on [date].

***OPTION 3 (INDIVIDUAL NOTE CERTIFICATES) - [complete/delete as applicable]***

---

\* The Put Option Notice, duly completed and executed, should be deposited at the specified office of any Paying Agent. If the relevant Notes are in definitive form or individual note certificate form, such Definitive Notes and all Coupons, or as the case may be, Individual Note Certificate relating thereto and maturing after the date fixed for redemption should be deposited with the Put Option Notice. If the relevant Notes are in global form, the Put Option Notice should be submitted in accordance with the operating rules and regulations of the relevant clearing system and, if possible, the relevant interests in the relevant Global Note or Global Note Certificate should be blocked to the satisfaction of the relevant Paying Agent.

By depositing this duly completed Notice with the above Paying Agent in relation to [*specify relevant Series of Notes*] (the "**Notes**") in accordance with Condition 10.6 (*Redemption at the Option of Noteholders*), the undersigned Holder of the principal amount of Notes specified below and evidenced by the Individual Note Certificate(s) referred to below and presented with this Put Option Notice exercises its option to have such Notes redeemed in accordance with Condition 10.6 (*Redemption at the Option of Noteholders*) on [*date*].

This Notice relates to Note(s) in the aggregate principal amount of [*currency*]..... evidenced by Individual Note Certificates bearing the following serial numbers:

.....  
.....  
.....

**OPTION 4 (GLOBAL NOTE CERTIFICATE)**

By depositing this duly completed Notice with the above Paying Agent in relation to [*specify relevant Series of Notes*] (the "**Notes**") in accordance with Condition 10.6 (*Redemption at the Option of Noteholders*), the undersigned Holder of the principal amount of Notes specified below exercises its option to have such Notes redeemed in accordance with Condition 10.6 (*Redemption at the Option of Noteholders*) on [*date*].

This Notice relates to Note(s) in the aggregate principal amount of [*currency*].....

**[END OF OPTIONS]**

Payment should be made by [*complete and delete as appropriate*]:

- [*currency*] cheque drawn on a bank in [*currency centre*] and in favour of [*name of payee*] and mailed at the payee's risk by uninsured airmail post to [*name of addressee*] at [*addressee's address*].]

**OR**

- transfer to [*details of the relevant account maintained by the payee*] with [*name and address of the relevant bank*].]

**OPTION (INDIVIDUAL NOTE CERTIFICATES) - [*complete/delete as applicable*]**

If the Individual Note Certificates referred to above are to be returned to the undersigned in accordance with the Conditions and the Agency Agreement relating to the Notes, they should be returned by post to:

.....  
.....  
.....

The undersigned acknowledges that any Individual Note Certificates so returned will be sent by uninsured airmail post at the risk of the registered Holder.

Name of Holder: .....

Signature of Holder: .....

**[END OF OPTIONS]**

All notices and communications relating to this Put Option Notice should be sent to the address specified below.

Name of Holder: .....

Contact details: .....

.....

.....

Signature of Holder: .....

Date: .....

*[To be completed by Paying Agent:]*

Received by:.....

*[Signature and stamp of Paying Agent:]*

At its office at .....

.....

On .....

**THIS NOTICE WILL NOT BE VALID UNLESS ALL OF THE PARAGRAPHS REQUIRING COMPLETION HAVE BEEN DULY COMPLETED.**

**SCHEDULE 5  
FORM OF PUT OPTION RECEIPT**

**MORGAN STANLEY & CO. INTERNATIONAL PLC**  
Up to U.S. \$5,000,000,000 Secured Note Programme

**PUT OPTION RECEIPT<sup>†</sup>**

***OPTION 1 (DEFINITIVE NOTES)***

We hereby acknowledge receipt of a Put Option Notice relating to [*specify relevant Series of Notes*] (the "**Notes**") having the certificate number(s) [and denomination(s)] set out below. We will hold such Note(s) in accordance with the terms of the Conditions of the Notes and the Agency Agreement dated on or about 20 December 2012 relating thereto.

In the event that, pursuant to such Conditions and the Agency Agreement, the depositor of such Note(s) becomes entitled to their return, we will return such Definitive Note(s) to the depositor against presentation and surrender of this Put Option Receipt.

**Certificate Number**

**Denomination**

.....	.....
.....	.....
.....	.....

***OPTION 2 (INDIVIDUAL NOTE CERTIFICATES)***

We hereby acknowledge receipt of a Put Option Notice relating to [*specify relevant Series of Notes*] (the "**Notes**") having the principal amount specified below and evidenced by the Individual Note Certificate(s) referred to below. We will hold such Individual Note Certificate(s) in accordance with the terms of the Conditions of the Notes and the Agency Agreement dated on or about 20 December 2012 relating thereto.

In the event that, pursuant to such Conditions and the Agency Agreement, the Noteholder becomes entitled to the return of such Individual Note Certificate(s), we will return such Individual Note Certificate(s) to the Noteholder by uninsured post to, and at the risk of, the Noteholder at such address as may have been given by such Noteholder in the relevant Put Option Notice.

**Certificate Number**

**Denomination**

.....	.....
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<sup>†</sup> A Receipt will only be issued in the case of deposit of a Definitive Note or an Individual Note Certificate.

.....

***END OF OPTIONS***

Dated: [*date*]

**[*PAYING AGENT*]**

By: .....

*duly authorised*

**SCHEDULE 6**  
**REGULATIONS CONCERNING TRANSFERS AND REGISTRATION OF REGISTERED NOTES**

1. Subject to paragraph 4 and paragraph 11 below, Registered Notes may be transferred by execution of the relevant form of transfer under the hand of the transferor or, where the transferor is a corporation, under its common seal or under the hand of two of its officers duly authorised in writing. Where the form of transfer is executed by an attorney or, in the case of a corporation, under seal or under the hand of two of its officers duly authorised in writing, a copy of the relevant power of attorney certified by a financial institution in good standing or a notary public or in such other manner as the Registrar may require or, as the case may be, copies certified in the manner aforesaid of the documents authorising such officers to sign and witness the affixing of the seal must be delivered with the form of transfer. In this Schedule, "**transferor**" shall, where the context permits or requires, include joint transferors and shall be construed accordingly.
2. The Note Certificate issued in respect of the Registered Notes to be transferred must be surrendered for registration, together with the form of transfer (including any certification as to compliance with restrictions on transfer included in such form of transfer) endorsed thereon, duly completed and executed, at the Specified Office of the Registrar or any Transfer Agent, and together with such evidence as the Registrar or (as the case may be) the relevant Transfer Agent may reasonably require to prove the title of the transferor and the authority of the persons who have executed the form of transfer. The signature of the person effecting a transfer of a Registered Note shall conform to any list of duly authorised specimen signatures supplied by the Holder of such Note or be certified by a financial institution in good standing, notary public or in such other manner as the Registrar or such Transfer Agent may require.
3. No Noteholder may require the transfer of a Registered Note to be registered during the period of 15 calendar days ending on the due date for any payment of principal or interest in respect of such Note.
4. No Noteholder which has executed a Form of Proxy in relation to a Meeting of Holders of Registered Notes may require the transfer of a Note covered by such Form of Proxy to be registered until the earlier of the conclusion of the Meeting and its adjournment for want of a quorum.
5. The executors or administrators of a deceased Holder of a Registered Note (not being one of several joint Holders) and, in the case of the death of one or more of several joint Holders, the survivor or survivors of such joint Holders, shall be the only persons recognised by the Issuer as having any title to such Registered Note.
6. Any person becoming entitled to any Registered Notes in consequence of the death or bankruptcy of the Holder of such Registered Notes may, upon producing such evidence that he holds the position in respect of which he proposes to act under this paragraph or of his title as the Registrar or the relevant Transfer Agent may require (including legal opinions), become registered himself as the Holder of such Notes or, subject to the provisions of these Regulations, the Notes and the Conditions as to transfer, may transfer such Registered Notes. The Issuer, the Transfer Agents, the Registrar and the Paying Agents shall be at liberty to retain any amount payable upon

the Registered Notes to which any person is so entitled until such person is so registered or duly transfers such Notes.

7. Unless otherwise required by him and agreed by the Issuer and the Registrar, the Holder of any Notes shall be entitled to receive only one Note Certificate in respect of his holding.
8. The joint Holders of any Registered Note shall be entitled to one Note Certificate only in respect of their joint holding which shall, except where they otherwise direct, be delivered to the joint Holder whose name appears first in the Register in respect of the joint holding.
9. Where there is more than one transferee (to hold other than as joint Holders), separate forms of transfer (obtainable from the Specified Office of the Registrar or any Transfer Agent) must be completed in respect of each new holding.
10. A Holder of Registered Notes may transfer all or part only of his holding of Notes provided that both the principal amount of Notes transferred and the principal amount of the balance not transferred are a Specified Denomination. Where a Holder of Registered Notes has transferred part only of his holding of Registered Notes, a new Note Certificate in respect of the balance of such holding will be delivered to him.
11. The Issuer, the Transfer Agents and the Registrar shall, save in the case of the issue of replacement Registered Notes pursuant to Condition 17 (*Replacement of Notes and Coupons*), make no charge to the Holders for the registration of any holding of Registered Notes or any transfer thereof or for the issue of any Registered Notes or for the delivery thereof at the Specified Office of any Transfer Agent or the Registrar or by uninsured post to the address specified by the Holder, but such registration, transfer, issue or delivery shall be effected against such indemnity from the Holder or the transferee thereof as the Registrar or the relevant Transfer Agent may require in respect of any tax or other duty of whatever nature which may be levied or imposed in connection with such registration, transfer, issue or delivery.
12. Provided a transfer of a Registered Note is duly made in accordance with all applicable requirements and restrictions upon transfer and the Note(s) transferred are presented to a Transfer Agent and/or the Registrar in accordance with the Agency Agreement and these Regulations, and subject to unforeseen circumstances beyond the control of such Transfer Agent or the Registrar arising, such Transfer Agent or the Registrar will, within five business days of the request for transfer being duly made, deliver at its Specified Office to the transferee or despatch by uninsured post (at the request and risk of the transferee) to such address as the transferee entitled to the Registered Notes in relation to which such Note Certificate is issued may have specified, a Note Certificate in respect of which entries have been made in the Register, all formalities complied with and the name of the transferee completed on the Note Certificate by or on behalf of the Registrar; and, for the purposes of this paragraph, "**business day**" means a day on which commercial banks are open for business (including dealings in foreign currencies) in the cities in which the Registrar and (if applicable) the relevant Transfer Agent have their respective Specified Offices.



SIGNATURES

*The Issuer and the Determination Agent*

MORGAN STANLEY & CO. INTERNATIONAL PLC

By:   
SUSAN O'FLYNN


*The Principal Paying Agent and the Calculation Agent*

THE BANK OF NEW YORK MELLON, LONDON BRANCH

By:   
Aric Kay-Russell  
Authorised Signatory

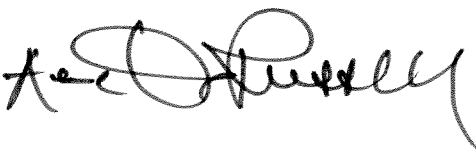
*The Registrar*

THE BANK OF NEW YORK MELLON (LUXEMBOURG) S.A.

By:   
Aric Kay-Russell  
Authorised Signatory

*The Transfer Agent*

THE BANK OF NEW YORK MELLON (LUXEMBOURG) S.A.

By:   
Aric Kay-Russell  
Authorised Signatory

*The Trustee*

**BNY MELLON CORPORATE TRUSTEE SERVICES LIMITED**

By:

A handwritten signature in black ink, appearing to read "Aric Kay-Russell". The signature is written in a cursive, flowing style.

Aric Kay-Russell  
Authorised Signatory