

OFFERING CIRCULAR FOR NON-PRINCIPAL PROTECTED SECURITIES

28 June 2019

## Morgan Stanley

as issuer and guarantor  
*(incorporated under the laws of the State of Delaware in the United States of America)*

### MORGAN STANLEY FINANCE LLC

as issuer  
*(formed under the laws of the State of Delaware in the United States of America)*

#### Regulation S Program for the Issuance of Notes, Series A and B, Warrants and Certificates

Under the Regulation S Program for the Issuance of Notes, Series A and B, Warrants and Certificates (the "**Program**") described in this Offering Circular (the "**Offering Circular**"), Morgan Stanley ("**Morgan Stanley**") and Morgan Stanley Finance LLC, a wholly-owned finance subsidiary of Morgan Stanley ("**MSFL**" and together with Morgan Stanley, the "**Issuers**" and each, an "**Issuer**"), may offer from time to time Series A Notes and Series B Notes (together, the "**Notes**"), Warrants (the "**Warrants**") and Certificates (the "**Certificates**"). The Notes, Warrants and Certificates which are being offered under this Offering Circular (including Notes issued under the Issue and Paying Agency Agreement and, in the case of Warrants and Certificates, as issued under the Securities Agency Agreement (in each case, as defined below)) shall be referred to collectively as "**Program Securities**" in this Offering Circular.

References herein to "this Offering Circular" shall, where applicable, be deemed to be references to this Offering Circular as supplemented from time to time. The specific terms of any Program Securities will be as set forth in this Offering Circular and (i) completed by the applicable Pricing Supplement prepared in relation to the Program Securities, or (ii) supplemented, amended and/or replaced to the extent described in the relevant drawdown Listing Particulars (defined below), as the case may be. References herein to Pricing Supplement shall be deemed to be references to Listing Particulars where applicable.

The payment of all amounts due in respect of the Notes, Warrants and Certificates issued by MSFL will be fully and unconditionally guaranteed by Morgan Stanley (in such capacity, the "**Guarantor**") pursuant to a guarantee dated as of 10 April 2017 (as supplemented and/or amended and/or restated and/or replaced from time to time).

### MORGAN STANLEY

as Arranger

## Important Notices

### Warning

This Offering Circular does not constitute a "prospectus" for the purposes of Article 5.4 of Directive 2003/71/EC (as amended including by Directive 2010/73/EU, the "**Prospectus Directive**"), and has been prepared on the basis that no prospectus shall be required under the Prospectus Directive for any Program Securities to be offered and sold under it. This Offering Circular has not been approved or reviewed by any regulator which is a competent authority under the Prospectus Directive in the European Economic Area (the "**EEA**") or in any other jurisdiction.

### Approvals

This Offering Circular has been approved by:

- (a) the Irish Stock Exchange trading as Euronext Dublin ("**Euronext Dublin**") as base "**Listing Particulars**" (as defined in the rules of the Global Exchange Market of Euronext Dublin, as revised from time to time) pursuant to the listing and admission to trading rules of Euronext Dublin for the purpose of providing information with regard to the issue of Program Securities hereunder, to be admitted to the Official List of Euronext Dublin and trading on its Global Exchange Market during the twelve month period following the date hereof. The Global Exchange Market is the exchange regulated market of Euronext Dublin and is not a regulated market for the purposes of the Markets in Financial Instruments Directive 2014/65/EU, as amended ("**MiFID II**"); and
- (b) the Luxembourg Stock Exchange pursuant to the appendices to the Rules and Regulations of the Luxembourg Stock Exchange, to be admitted to trading on the Luxembourg Stock Exchange's Euro MTF market and to the Official List of the Luxembourg Stock Exchange. The Luxembourg Stock Exchange's Euro MTF market is not a regulated market for the purposes of MiFID II. Pursuant to Article 10(2) of Part 2 of the Rules and Regulations of the Luxembourg Stock Exchange, every significant new factor relating to the information contained in this Offering Circular, which is capable of affecting the assessment of the Program Securities and arises after the date hereof, shall be covered by a supplement to this Offering Circular. This Offering Circular constitutes a Base Prospectus for the purpose of Luxembourg law dated July 10, 2005 on Prospectus for Securities, as amended.

### Listing

Applications have been made for the Series A Notes, the Warrants and the Certificates to be:

- (a) admitted to the Official List of Euronext Dublin and trading on its Global Exchange Market. As noted above, the Global Exchange Market is the exchange regulated market of Euronext Dublin and is not a regulated market for the purposes of MiFID II; and
- (b) admitted to the Official List of the Luxembourg Stock Exchange and to trading on the Luxembourg Stock Exchange's Euro MTF market,

in each case during the period from and including the date hereof up to but excluding 28 June 2020.

Series A Notes, the Warrants and the Certificates may also be unlisted. The applicable Pricing Supplement will specify whether and, if so, where, such Program Securities are to be listed.

The Series B Notes will not be admitted to listing, trading and/or quotation by any listing authority, stock exchange and/or quotation system.

### Responsibility statements

Morgan Stanley accepts responsibility for the information contained in this Offering Circular with the exception of any information in respect of MSFL. To the best of the knowledge of Morgan Stanley the information contained in this Offering Circular in respect of which it accepts responsibility is in accordance with the facts and does not omit anything likely to affect the importance of such information.

MSFL accepts responsibility for the information contained in this Offering Circular with the exception of any information in respect of Morgan Stanley. To the best of the knowledge of MSFL the information contained in this Offering Circular in respect of which it accepts responsibility is in accordance with the facts and does not omit anything likely to affect the importance of such information.

### **Offering restrictions in the EEA**

This Offering Circular has been prepared on the basis that any offer of Program Securities in any Member State of the European Economic Area ("EEA") which has implemented the Prospectus Directive (each, a "**Relevant Member State**") will be made pursuant to an exemption under the Prospectus Directive, as implemented in that Relevant Member State, from the requirement to publish a prospectus for offers of Program Securities. Accordingly, any person making or intending to make an offer in that Relevant Member State of Program Securities which are the subject of an offering contemplated in this Offering Circular as completed by a Pricing Supplement in relation to the offer of those Program Securities may only do so in circumstances in which no obligation arises for the relevant Issuer or the Distribution Agents to publish or supplement a prospectus pursuant to Article 3 of the Prospectus Directive in relation to such offer. None of the Issuers, the Guarantor or the Distribution Agents has authorised, nor do they authorise, the making of any offer of Program Securities in circumstances in which an obligation arises for the Issuer to publish a prospectus in the EEA or in any other jurisdiction.

### **No consent given or responsibility taken for any public offerings in the European Economic Area**

None of the Issuers, the Guarantor or the Distribution Agents consents to the use of this Offering Circular (or any supplement thereto or any Pricing Supplement) by any financial intermediary or any other person for the purpose of making a public offering of the Program Securities in the EEA, and none of the Issuers, the Guarantor or the Distribution Agents accepts any responsibility for the content of this Offering Circular (or any supplement thereto or any Pricing Supplement) to any person with respect to the making of a public offering of the Program Securities by any financial intermediary or other person or for the actions of such financial intermediary or other person making such offer. The Issuers, the Guarantor and the Distribution Agents agree and acknowledge that this Offering Circular may only be used for the purposes which it has been published, as further described herein.

### **Rating**

Program Securities may or may not be rated. Any credit rating applied for in relation to an issue of Program Securities will be specified in the applicable Pricing Supplement.

### **Program borrowing limit**

The U.S. dollar value, determined as of the respective issue dates, of the aggregate principal amount of Notes outstanding and the aggregate issue price of the Warrants and Certificates outstanding and any other notes, warrants and or certificates authorized for issuance pursuant to the Authorizing Resolutions (as defined below), shall not at any one time exceed U.S.\$55,000,000,000. The Program Securities were authorised by Morgan Stanley pursuant to resolutions (the "**Authorizing Resolutions**") adopted at a meeting of the Board of Directors of Morgan Stanley held on 25 September 1998, as amended and updated pursuant to resolutions adopted at meetings of the Board of Directors of Morgan Stanley held on 17 June 2003, 14 December 2004, 20 September 2005, 12 December 2006, 19 June 2007, 17 September 2007 and 16 June 2008.

### **Governing law**

The Notes, Warrants and Certificates will be governed by the laws of England and Wales.

### **Risk warning**

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

An investment in the Program Securities entails certain risks, which vary depending on the specification and type or structure of the Program Securities.

Each potential investor should determine whether an investment in the Program Securities is appropriate in its particular circumstances. An investment in the Program Securities requires a thorough understanding of the nature of

the relevant transaction. Potential investors should be experienced with respect to an investment in the Program Securities and be aware of the related risks.

An investment in the Program Securities is only suitable for potential investors who:

- (a) have the requisite knowledge and experience in financial and business matters to evaluate the merits and risks of an investment in the Program Securities and the information contained or incorporated by reference into this document;
- (b) have access to, and knowledge of, appropriate analytical tools to evaluate such merits and risks in the context of the potential investor's particular financial situation and to evaluate the impact the Program Securities will have on their overall investment portfolio;
- (c) understand thoroughly the terms of the Program Securities and are familiar with the behaviour of the Relevant Underlying or Relevant Factor as applicable and financial markets;
- (d) are capable of bearing the economic risk of an investment in the Program Securities until the maturity date of the Notes or exercise date of the Warrants or Certificates;
- (e) recognise that it may not be possible to dispose of the Program Securities for a substantial period of time, if at all before the maturity date; and
- (f) are familiar with the behaviour of the Relevant Underlying or Relevant Factor, as applicable and relevant financial markets and be able to evaluate (either alone or with the help of a financial and legal adviser) possible scenarios for economic, interest rate and other factors that may affect its investment and its ability to bear the applicable risks.

The Program Securities are complex financial instruments. Sophisticated institutional investors generally do not purchase complex financial instruments as standalone investments. They purchase complex financial instruments as a way to reduce risk or enhance yield with an understood, measured, appropriate addition of risk to their overall portfolios. A potential investor should not invest in the Program Securities unless it has the expertise (either alone or with a financial and legal adviser) to evaluate how the Program Securities will perform under changing conditions, the resulting effects on the value of the Program Securities and the impact this investment will have on the potential investor's overall investment portfolio. The Issuers, the Guarantor and Morgan Stanley & Co. International plc (which may act, in whole or in part, through an affiliate thereof) and Morgan Stanley & Co LLC (as Distribution Agents), disclaim any responsibility to advise prospective investors of any matters arising under the law of the country in which they reside that may affect the purchase of, or holding of, or the receipt of payments or deliveries on the Program Securities.

### ***Secured Overnight Financing Rate***

As further described under “*Risk Factors Relating to the Program Securities*” below, the interest rate on the Notes may, in certain circumstances, be determined by reference to either a Term SOFR or Compounded SOFR (each as defined in the Terms and Conditions of the Notes).

SOFR is published by the New York Federal Reserve and is intended to be a broad measure of the cost of borrowing cash overnight collateralized by U.S. Treasury securities. The New York Federal Reserve reports that SOFR includes all trades in the Broad General Collateral Rate and bilateral Treasury repurchase agreement (repo) transactions cleared through the delivery-versus-payment service offered by the Fixed Income Clearing Corporation (the “**FICC**”), a subsidiary of the Depository Trust and Clearing Corporation (“**DTCC**”), and SOFR is filtered by the New York Federal Reserve to remove some (but not all) of the foregoing transactions considered to be “specials”. According to the New York Federal Reserve, “specials” are repos for specific-issue collateral, which take place at cash-lending rates below those for general collateral repos because cash providers are willing to accept a lesser return on their cash in order to obtain a particular security.

The New York Federal Reserve reports that SOFR is calculated as a volume-weighted median of transaction-level tri-party repo data collected from The Bank of New York Mellon as well as General Collateral Finance Repo transaction data and data on bilateral Treasury repo transactions cleared through the FICC’s delivery-versus-payment service. The New York Federal Reserve also notes that it obtains information from DTCC Solutions LLC, an affiliate of DTCC.

If data for a given market segment were unavailable for any day, then the most recently available data for that segment would be utilized, with the rates on each transaction from that day adjusted to account for any change in the level of market rates in that segment over the intervening period. SOFR would be calculated from this adjusted prior day's data for segments where current data were unavailable, and unadjusted data for any segments where data were available. To determine the change in the level of market rates over the intervening period for the missing market segment, the New York Federal Reserve would use information collected through a daily survey conducted by its Trading Desk of primary dealers' repo borrowing activity. Such daily survey would include information reported by Morgan Stanley & Co. LLC, a wholly owned subsidiary of the Issuer, as a primary dealer.

The New York Federal Reserve notes on its publication page for SOFR that use of SOFR is subject to important limitations, indemnification obligations and disclaimers, including that the New York Federal Reserve may alter the methods of calculation, publication schedule, rate revision practices or availability of SOFR at any time without notice.

Each U.S. government securities business day, the New York Federal Reserve publishes SOFR on its website at approximately 8:00 a.m., New York City time. If errors are discovered in the transaction data provided by The Bank of New York Mellon or DTCC Solutions LLC, or in the calculation process, subsequent to the initial publication of SOFR but on that same day, SOFR and the accompanying summary statistics may be republished at approximately 2:30 p.m., New York City time. Additionally, if transaction data from The Bank of New York Mellon or DTCC Solutions LLC had previously not been available in time for publication, but became available later in the day, the affected rate or rates may be republished at around this time. Rate revisions will only be effected on the same day as initial publication and will only be republished if the change in the rate exceeds one basis point. Any time a rate is revised, a footnote to the New York Federal Reserve's publication would indicate the revision. This revision threshold will be reviewed periodically by the New York Federal Reserve and may be changed based on market conditions.

Because SOFR is published by the New York Federal Reserve based on data received from other sources, the Issuer has no control over its determination, calculation or publication. See "*Risk Factors Relating to the Program Securities*" below.

The information contained in this section "*Secured Overnight Financing Rate*" is based upon the New York Federal Reserve's Website and other U.S. government sources.

**Investing in the Program Securities involves risks. See "*Risk Factors Relating to the Program Securities*" beginning on page 7 of this Offering Circular.**

**Important U.S. notices**

THE PROGRAM SECURITIES AND ANY GUARANTEE IN RESPECT THEREOF, AND THE SECURITIES TO BE DELIVERED ON EXERCISE OR REDEMPTION OF THE PROGRAM SECURITIES (IF ANY), HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION OF THE UNITED STATES. NONE OF THE ISSUERS OR THE GUARANTOR ARE REGISTERED, OR WILL REGISTER, UNDER THE U.S. INVESTMENT COMPANY ACT OF 1940, AS AMENDED. TRADING IN THE PROGRAM SECURITIES HAS NOT BEEN APPROVED BY THE U.S. COMMODITY FUTURES TRADING COMMISSION UNDER THE U.S. COMMODITY EXCHANGE ACT OF 1936, AS AMENDED (THE "CEA").

THE PROGRAM SECURITIES, ANY INTEREST THEREIN AND ANY GUARANTEE IN RESPECT THEREOF, AND THE SECURITIES TO BE DELIVERED ON EXERCISE OR REDEMPTION OF THE PROGRAM SECURITIES (IF ANY), MAY NOT BE OFFERED, SOLD, PLEDGED, ASSIGNED, DELIVERED OR OTHERWISE TRANSFERRED, EXERCISED OR REDEEMED AT ANY TIME, DIRECTLY OR INDIRECTLY, WITHIN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, U.S. PERSONS (AS DEFINED IN REGULATION S UNDER THE SECURITIES ACT). HEDGING TRANSACTIONS INVOLVING ANY "EQUITY SECURITIES" OF "DOMESTIC ISSUERS" (AS SUCH TERMS ARE DEFINED IN THE SECURITIES ACT AND REGULATIONS THEREUNDER) MAY ONLY BE CONDUCTED IN ACCORDANCE WITH THE SECURITIES ACT. SEE "*SUBSCRIPTION AND SALE*" AND "*NO OWNERSHIP BY U.S. PERSONS*".

IN MAKING AN INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE RELEVANT ISSUER AND, WHERE APPLICABLE, THE GUARANTOR AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THE PROGRAM SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE U.S. SECURITIES EXCHANGE COMMISSION ANY STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY IN THE UNITED STATES NOR HAVE ANY OF THE FOREGOING AUTHORITIES PASSED UPON OR ENDORSED THE MERITS OF THE OFFERING OF ANY PROGRAM SECURITIES OR THE ACCURACY OR ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENCE IN THE UNITED STATES.

**Payments by Morgan Stanley and MSFL and United States Withholding Tax**

A Non-U.S. Holder should expect that a withholding agent will treat coupon payments (if any) on Program Securities as subject to U.S. federal withholding tax, unless the Non-U.S. Holder certifies on a properly completed appropriate Internal Revenue Service ("IRS") Form W-8BEN or W-8BEN-E that it is not a U.S. person and that it is eligible for the benefits of a Qualifying Treaty as defined in "*United States Federal Taxation*", or meets other certification and eligibility requirements as described in "*United States Federal Taxation*".

Program Securities are not deposits and are not covered by any deposit protection scheme.

THE PROGRAM SECURITIES ARE NOT DEPOSITS OR SAVINGS ACCOUNTS AND ARE NOT INSURED BY THE U.S. FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY OR INSTRUMENTALITY OR DEPOSIT PROTECTION SCHEME ANYWHERE, NOR ARE THEY OBLIGATIONS OF, OR GUARANTEED BY, A BANK.

No other person is authorised to give information on the Program Securities beyond what is in this Offering Circular and related Pricing Supplement

No person has been authorised by Morgan Stanley or MSFL to give any information or to make any representation not contained or incorporated by reference in this Offering Circular, and, if given or made, that information or representation should not be relied upon as having been authorised by Morgan Stanley or MSFL.

**The information in this Offering Circular (including any supplement) is subject to change**

Neither the delivery of this Offering Circular nor the offering, sale or delivery of any Program Securities will, in any circumstances, create any implication that the information contained in this Offering Circular is true subsequent to the date hereof or the date upon which this Offering Circular has been most recently amended or supplemented or that

there has been no adverse change in the financial situation of either of Morgan Stanley or MSFL since the date hereof or, as the case may be, the date upon which this Offering Circular has been most recently amended or supplemented or the balance sheet date of the most recent financial statements which have been incorporated into this Offering Circular by way of a supplement to this Offering Circular, or that any other information supplied from time to time is correct at any time subsequent to the date on which it is supplied or, if different, the date indicated in the document containing the same. Investors should review, *inter alia*, the most recent financial statements of Morgan Stanley and/or MSFL (as applicable) when evaluating any Program Securities or an investment therein (such financial statements shall not form a part of this Offering Circular unless they have been expressly incorporated herein, including by way of a supplement to this Offering Circular).

### Distribution

Each Issuer is offering the Program Securities on a continuing basis through Morgan Stanley & Co. International plc, which may act in whole or in part through an affiliate thereof, and Morgan Stanley & Co. LLC (the "**Distribution Agents**"), who have agreed to use reasonable efforts to solicit offers to purchase the Program Securities. Each Issuer may also sell Program Securities to the Distribution Agents as principal for their own account at a price to be agreed upon at the time of sale. The Distribution Agents may resell any Program Securities they purchase as principal at prevailing market prices, or at other prices, as they determine. Each Issuer or the Distribution Agents may reject any offer to purchase Program Securities, in whole or in part. See "*Subscription and Sale*" beginning on page 402.

### Compliance with all applicable laws

Each investor must comply with all applicable laws and regulations in each country or jurisdiction in or from which the investor purchases, offers, sells or delivers the Program Securities or has in the investor's possession or distributes this Offering Circular or any accompanying Pricing Supplement.

### General restriction on distribution of this Offering Circular

The distribution of this Offering Circular and the offering, sale and delivery of Program Securities in certain jurisdictions may be restricted by law. Persons into whose possession this Offering Circular comes are required by Morgan Stanley and MSFL to inform themselves about and to observe those restrictions.

**MIFID II product governance / target market** – The Pricing Supplement in respect of any Program Securities may include a legend entitled "**MiFID II Product Governance**" which will outline the target market assessment in respect of the Program Securities and which channels for distribution of the Program Securities are appropriate. Any person subsequently offering, selling or recommending the Program Securities (a "**distributor**") should take into consideration the target market assessment; however, a distributor subject to MiFID II is responsible for undertaking its own target market assessment in respect of the Program Securities (by either adopting or refining the target market assessment) and determining appropriate distribution channels.

A determination will be made in relation to each issue about whether, for the purpose of the MiFID Product Governance rules under EU Delegated Directive 2017/593 (the "**MiFID Product Governance Rules**"), any dealer subscribing for any Program Securities is a manufacturer in respect of such Program Securities, but otherwise neither the dealer(s) nor any of its respective affiliates will be a manufacturer for the purpose of the MiFID Product Governance Rules.

**PRIIPs / IMPORTANT – EEA RETAIL INVESTORS** – If the Pricing Supplement in respect of any Program Securities includes a legend entitled "Prohibition of Sales to EEA Retail Investors", the Program Securities are not intended to be offered, sold or otherwise made available to and should not be offered, sold or otherwise made available to any retail investor in the EEA. For these purposes, a retail investor means a person who is one (or more) of:

- (A) a retail client as defined in point (11) of Article 4(1) of MiFID II;
- (B) a customer within the meaning of Directive 2002/92/EC, as amended or superseded (the "**Insurance Mediation Directive**"), where that customer would not qualify as a professional client as defined in point (10) of Article 4(1) of MiFID II; or
- (C) not a qualified investor as defined in the Prospectus Directive, as amended or superseded.

Consequently, if the Pricing Supplement in respect of any Program Securities includes a legend entitled “Prohibition of Sales to EEA Retail Investors”, no key information document required by Regulation (EU) No 1286/2014, as amended (the **"PRIIPs Regulation"**) for offering or selling the Program Securities or otherwise making them available to retail investors in the EEA has been or will be prepared and therefore offering or selling the Program Securities or otherwise making them available to any retail investor in the EEA may be unlawful under the PRIIPs Regulation.

### **Benchmarks Regulation**

Interest and/or other amounts payable under the Program Securities may be calculated by reference to certain reference rates. Any such reference rate may constitute a benchmark for the purposes of Regulation (EU) 2016/1011 (the **"Benchmarks Regulation"**). If any such reference rate does constitute such a benchmark, the Pricing Supplement will indicate whether or not the benchmark is provided by an administrator included in the register of administrators and benchmarks established and maintained by the European Securities and Markets Authority (**"ESMA"**) pursuant to Article 36 (Register of administrators and benchmarks) of the Benchmarks Regulation. Transitional provisions in the Benchmarks Regulation may have the result that the administrator of a particular benchmark is not required to appear in the register of administrators and benchmarks at the date of the Pricing Supplement. The registration status of any administrator under the Benchmarks Regulation is a matter of public record and, save where required by applicable law, the Issuer does not intend to update the Pricing Supplement to reflect any change in the registration status of the administrator.

### **No post-issuance information**

Subject to the applicable Pricing Supplement, none of the Issuers, the Guarantor or the Distribution Agents intends to provide post-issuance information in respect of the Program Securities unless required to do so by applicable laws and regulations.

### **Read and construe with each supplement and document incorporated by reference**

This Offering Circular does not constitute an offer of or an invitation to subscribe for or purchase any Program Securities and should not be considered as a recommendation by either of Morgan Stanley or MSFL that any recipient of this Offering Circular should subscribe for or purchase any Program Securities. Each recipient of this Offering Circular will be taken to have made its own investigation and appraisal of the condition (financial or otherwise) of Morgan Stanley or MSFL (as applicable) and of the particular terms of any offered Program Securities.

### **General offer restriction**

Neither this Offering Circular nor any Pricing Supplement may be used for the purpose of an offer or solicitation by anyone in any jurisdiction in which that offer or solicitation is not authorised or to any person to whom it is unlawful to make such an offer or solicitation.

### **Language**

The language of this Offering Circular is English. Certain legislative references and technical terms have been cited in their original language in order that the correct technical meaning may be ascribed to them under applicable law.

### **CNY Program Securities**

In this Offering Circular, references to **"CNY Program Securities"** are to Program Securities denominated in CNY or Renminbi deliverable in Hong Kong, or such other CNY Centre as specified in the applicable Pricing Supplement.

### **Important Swiss notice**

The Program Securities do not qualify as units of a collective investment scheme according to the relevant provisions of the Swiss Federal Act on Collective Investments Scheme (**"CISA"**), as amended, and are not registered thereunder. Therefore, the Program Securities are neither governed by the CISA nor supervised by the Swiss Financial Market Supervisory Authority (**"FINMA"**). Accordingly, investors do not have the benefit of the specific investor protection provided under the CISA.



## **Defined terms**

See "*Index of Defined Terms*" at the end of this document.

## **Stabilising legend**

**In connection with the issue of any tranche of Program Securities under the Program, any Distribution Agent or any other agent specified for that purpose in the applicable Pricing Supplement as the stabilising manager (or any person acting for the stabilising manager) may over allot or effect transactions with a view to supporting the market price of any of the Program Securities at a level higher than that which might otherwise prevail for a limited period. However, there is no assurance that the stabilising manager (or any agent of the stabilising manager) will undertake stabilising action. Any stabilising action may begin on or after the date on which adequate public disclosure of the terms of the offer of the relevant tranche of Program Securities is made and, if commenced, may be discontinued at any time, but must be brought to an end no later than the earlier of 30 days after the issue date of the relevant tranche of Program Securities and 60 days after the date of the allotment of the relevant tranche of Program Securities. Any stabilising action or over allotment must be conducted by the stabilising manager (or any person acting for the stabilising manager) in accordance with all applicable laws and rules.**

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## SUMMARY

*This summary must be read as an introduction to the Offering Circular relating to the Program Securities. Any decision to invest in any Program Securities should be based on a consideration of the Offering Circular as a whole, including the documents incorporated by reference.*

Words and expressions defined in the "Terms and Conditions of the Notes" below or elsewhere in this Offering Circular have the same meanings in this summary.

## THE ISSUER AND THE GUARANTOR

**Legal name and commercial name of the Issuers:** Morgan Stanley ("Morgan Stanley")  
Morgan Stanley Finance LLC ("MSFL")

**Legal Entity Identifier (LEI):** Morgan Stanley: IGJSJL3JD5P30I6NJZ34  
Morgan Stanley Finance LLC: 5493003FCPSE9RKT4B56

**Domicile and legal form of the Issuers, the legislation under which each Issuer operate and each country of incorporation:** Morgan Stanley was incorporated under the laws of the State of Delaware. As a financial holding company, it is regulated by the Board of Governors of the Federal Reserve System (the "**Federal Reserve**") under the Bank Holding Company Act of 1956, as amended (the "**BHC Act**"). As a major financial services firm, Morgan Stanley is subject to extensive regulation by U.S. federal and state regulatory agencies and securities exchanges and by regulators and exchanges in each of the major markets where it conducts its business. Morgan Stanley has its registered office at The Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801, U.S.A., and its principal executive office at 1585 Broadway, New York, NY 10036, U.S.A.

MSFL is a wholly-owned finance subsidiary of Morgan Stanley and a limited liability company formed pursuant to the Delaware Limited Liability Company Act on 27 March 2002 for an unlimited duration under the name of Morgan Stanley Tower LLC. On 8 January 2016 Morgan Stanley Tower LLC changed its name to Morgan Stanley Finance, LLC. On 12 January 2016 Morgan Stanley Finance, LLC changed its name to Morgan Stanley Finance LLC. MSFL's registered address is at Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801. MSFL's principal place of business is 1585 Broadway, New York, NY 10036. MSFL is formed under, and subject to, the laws of the state of Delaware, United States.

**The group and the Issuer's position within the group:** Morgan Stanley is the ultimate parent undertaking of the group comprising Morgan Stanley and its consolidated subsidiaries (the "**Morgan Stanley Group**").

MSFL has no subsidiaries. It is a wholly-owned finance subsidiary of Morgan Stanley.

**Selected Financial Information of Morgan Stanley:**

**Selected financial information of Morgan Stanley:**

			At 31 March (unaudited)	
Consolidated Balance Sheets (U.S.\$ in millions)	At 31 December 2017	At 31 December 2018	2018	2019
Total assets	851,733	853,531	858,495	875,964
Total liabilities and equity	851,733	853,531	858,495	875,964
			Three months ended 31 March (unaudited)	

## Summary

Consolidated Income Statements (U.S.\$ in millions)	2017	2018	2018	2019
Net revenues	37,945	40,107	11,077	10,286
Income from continuing operations before income taxes	10,403	11,237	3,420	2,955
Net income	6,216	8,883	2,704	2,468

### Selected key financial information relating to MSFL:

#### Selected key financial information of MSFL:

Statement of Financial Position (in U.S.\$)	31 December 2016	31 December 2017	31 December 2018
Net Income	10,771,000	(14,277,000)	1,906,000
Total Assets	2,143,572,000	8,330,820,000	13,848,062,000
Total Liabilities	2,154,905,000	8,424,285,000	13,715,765,000

### The Issuers' principal activities:

Morgan Stanley, a financial holding company, is a global financial services firm that, through its subsidiaries and affiliates, advises, and originates, trades, manages and distributes capital for, governments, institutions and individuals. Morgan Stanley maintains significant market positions in each of its business segments – Institutional Securities, Wealth Management and Investment Management.

MSFL's principal activity is the issuance of securities.

### Risks

The following is a summary only and must be read in conjunction with the section entitled "Risk Factors" of the Registration Document dated 7 June 2019 (which is incorporated by reference into this Offering Circular).

#### Key Risks Specific to the Issuers:

The following key risks affect Morgan Stanley and, since Morgan Stanley is the ultimate holding company of MSFL, also impact MSFL:

**Market Risk:** Morgan Stanley's results of operations may be materially affected by market fluctuations and by global and economic conditions and other factors including changes in asset values. Holding large and concentrated positions may expose Morgan Stanley to losses. These factors may result in losses for a position or portfolio owned by Morgan Stanley.

**Credit Risk:** Morgan Stanley is exposed to the risk that third parties that are indebted to it will not perform their obligations, as well as that a default by a large financial institution could adversely affect financial markets. Such factors give rise to the risk of loss arising when a borrower, counterparty or issuer does not meet its financial obligations to Morgan Stanley.

**Operational Risk:** Morgan Stanley is subject to the risk of loss, or of damage to its reputation, resulting from inadequate or failed processes, or systems, from human factors or from external events (e.g. fraud, theft, legal and compliance risks, cyber attacks or

damage to physical assets). Morgan Stanley may incur operational risk across the full scope of its business activities, including revenue-generating activities (e.g. sales and trading) and support and control groups (e.g. information technology and trade processing). A cyber attack, information or security breach or a technology failure could adversely affect Morgan Stanley's ability to conduct its business, manage its exposure to risk or result in disclosure or misuse of confidential or proprietary information and otherwise adversely impact its results of operations, liquidity and financial condition, as well as cause reputational harm.

***Liquidity Risk:*** Liquidity is essential to Morgan Stanley's businesses and Morgan Stanley relies on external sources to finance a significant portion of its operations. Morgan Stanley's borrowing costs and access to the debt capital markets depend on its credit ratings. Morgan Stanley is a holding company, has no operations and depends on dividends, distributions and other payments from its subsidiaries. Further, Morgan Stanley's liquidity and financial condition have in the past been, and in the future could be, adversely affected by U.S. and international markets and economic conditions. As a result of the foregoing, there is a risk that Morgan Stanley will be unable to finance its operations due to a loss of access to the capital markets or difficulty in liquidating its assets. Additionally, liquidity risk encompasses Morgan Stanley's ability (or perceived ability) to meet its financial obligations without experiencing significant business disruption or reputational damage that may threaten its viability as a going concern. Morgan Stanley also experiences associated funding risks triggered by the market or idiosyncratic stress events that may negatively affect its liquidity or may impact its ability to raise new funding.

***Legal, Regulatory and Compliance Risk:*** Morgan Stanley is subject to the risk of legal or regulatory sanctions, material financial loss including fines, penalties, judgments, damages and/or settlements, or loss to reputation it may suffer as a result of its failure to comply with laws, regulations, rules, related self-regulatory organization standards and codes of conduct applicable to its business activities. Morgan Stanley is also subject to contractual and commercial risk, such as the risk that a counterparty's performance obligations will be unenforceable. Additionally, Morgan Stanley is subject to anti-money laundering, anti-corruption and terrorist financing rules and regulations. The uncertainties and ambiguities as to the interpretation and application of the U.S. Tax Cuts and Jobs Act could adversely affect Morgan Stanley.

***Risk Management:*** Morgan Stanley's risk management strategies, models and processes may not be fully effective in mitigating its risk exposures in all market environments or against all types of risk. The expected replacement of London Interbank Offered Rate ("LIBOR") and replacement or reform of other interest rates could adversely affect its business, financial condition and results of operations.

***Competitive Environment:*** Morgan Stanley faces strong competition from other financial services firms, which could lead to pricing pressures that could materially adversely affect its revenue and profitability. Further, automated trading markets may adversely affect Morgan Stanley's business and may increase competition (for example, by putting increased pressure on bid-offer spreads, commissions, markups or comparable fees). Finally, Morgan Stanley's ability to retain and attract qualified employees is critical to the success of its business and the failure to do so may materially adversely affect its performance.

***International Risk:*** Morgan Stanley is subject to numerous political, economic, legal, tax, operational, franchise and other risks as a result of its international operations (including risks of possible nationalisation, expropriation, price controls, capital controls, exchange controls, increased taxes and levies and other restrictive governmental actions, as well as the outbreak of hostilities or political and governmental instability) which could adversely impact its businesses in many ways. The United Kingdom's anticipated withdrawal from the European Union could adversely affect Morgan Stanley.

**Acquisition, Divestiture and Joint Venture Risk:** Morgan Stanley may be unable to fully capture the expected value from acquisitions, divestitures, joint ventures, minority stakes and strategic alliances.

**Risk Relating to the Exercise of Resolution Measures Powers:** The application of regulatory requirements and strategies in the United States or other jurisdictions to facilitate the orderly resolution of large financial institutions may pose a greater risk of loss for Morgan Stanley's security holders and subject Morgan Stanley to other restrictions.

MSFL has no independent operations beyond the issuance and administration of its securities and is expected to have no independent assets available for distributions to holders of MSFL Notes if they make claims in respect of the Notes in a bankruptcy, resolution or similar proceeding. Accordingly, any recoveries by such holders will be limited to those available under the related Guarantee by Morgan Stanley and that Guarantee will rank *pari passu* with all other outstanding unsecured and unsubordinated obligations of Morgan Stanley present and future, but, in the event of insolvency, only to the extent permitted by laws affecting creditors' rights. Holders will have recourse only to a single claim against Morgan Stanley and its assets under the Guarantee. Holders of Notes issued by MSFL should accordingly assume that in any such proceedings they would not have any priority over and should be treated *pari passu* with the claims of other unsecured, unsubordinated creditors of Morgan Stanley, including holders of Morgan Stanley-issued securities.

## PROGRAM SECURITIES

**Type:** The Issuers may offer from time to time Program Securities in the form of Notes, Warrants and Certificates.

**Listing:** Applications have been made for Program Securities (other than Series B Notes which will not be listed) to be admitted to the Official List of Euronext Dublin and trading on its Global Exchange Market and to the Official List of the Luxembourg Stock Exchange and trading on the Luxembourg Stock Exchange's Euro MTF market. Program Securities may also be unlisted or listed on another exchange, all as specified in the applicable Pricing Supplement.

**No registration:** The Program Securities, and any guarantee in respect thereof and the securities to be delivered upon exercise or redemption of the Program Securities (if any), have not been and will not be registered under the Securities Act or the securities laws of any state or other jurisdiction of the United States and may not be offered, sold, pledged, assigned, delivered or otherwise transferred, exercised or redeemed in the United States or to, or for the account or benefit of, U.S. Persons (as defined in Regulation S). Hedging transactions involving any "equity securities" of "domestic issuers" (as such terms are defined in the Securities Act and regulations thereunder) may only be conducted in accordance with the Securities Act. The Program Securities are subject to transfer restrictions. See "*Subscription and Sale*" and "*No Ownership by U.S. Persons*".

**Structural subordination:** Morgan Stanley's access to assets held by subsidiaries may be restricted. The securities issued by Morgan Stanley, including the guarantees of the MSFL Program Securities, are Morgan Stanley's unsecured senior obligations, but Morgan Stanley's assets consist primarily of equity in, and receivables from, its subsidiaries. As a result, Morgan Stanley's ability (i) to make payments on its Notes, Warrants and Certificates, (ii) to make payments with respect to its guarantee of Program Securities issued by MSFL and (iii) to pay dividends on its preferred stock and common stock, in each case depends upon its receipt of dividends, loan payments and other funds from its subsidiaries. In addition, the direct creditors of any subsidiary will have a prior claim on the subsidiary's assets, if any, and Morgan Stanley's rights and the rights of its creditors, including your rights as an owner of Morgan Stanley's Notes, Warrants and Certificates or your rights under its guarantee of MSFL Program Securities, will be subject to that prior claim, except to the extent that any claims Morgan Stanley may have as a creditor of that subsidiary are paid. This subordination of parent company creditors to prior claims of creditors of subsidiaries over the subsidiaries' assets is referred to as structural subordination.

In addition, various statutes and regulations restrict some of Morgan Stanley's subsidiaries from paying dividends or making loans or advances to Morgan Stanley. These restrictions could prevent those subsidiaries from paying the cash to Morgan Stanley that it needs in order to pay you. These restrictions include:

- the net capital requirements under the Exchange Act, and the rules of some exchanges and other regulatory bodies, which apply to some of Morgan Stanley's principal subsidiaries, such as Morgan Stanley & Co. LLC and Morgan Stanley & Co. International plc, and
- banking regulations, which apply to Morgan Stanley Bank, N.A., a national bank, Morgan Stanley Private Bank, National Association (formerly Morgan Stanley Trust FSB), a national bank, and other bank subsidiaries of Morgan Stanley.

*Status of the MSFL Program Securities; relationship with Morgan Stanley securities:* The Program Securities issued by MSFL are its unsecured obligations and holders of these Program Securities are direct creditors of MSFL, as well as direct creditors of Morgan Stanley under the related guarantee. As a finance subsidiary, MSFL has no independent operations beyond the issuance and administration of its securities and is expected to have no independent assets available for distributions to holders of MSFL Program Securities if they make claims in respect of the securities in a bankruptcy, resolution or similar proceeding. Accordingly, any recoveries by such holders will be limited to those available under the related guarantee by Morgan Stanley and that guarantee will rank *pari passu* with all other unsecured, unsubordinated obligations of Morgan Stanley. Holders of Program Securities issued by MSFL should accordingly assume that in any such proceedings they would not have any priority over and should be treated *pari passu* with the claims of other unsecured, unsubordinated creditors of Morgan Stanley, including holders of Morgan Stanley-issued securities.

*Guarantee:* Payment of all amounts due in respect of Program Securities issued by MSFL will be guaranteed by Morgan Stanley.

*Distribution:* Each Issuer is offering Program Securities on a continuing basis through the Distribution Agents, who have agreed to use reasonable efforts to solicit offers to purchase the same. Each Issuer may also sell Program Securities to the Distribution Agents as principal for their own account at prices agreed upon at the time of sale. The Distribution Agents may resell Program Securities purchased as principal. Each Issuer or the Distribution Agents may reject any offer to purchase Program Securities.

*Form:* Each Issuer may issue Program Securities in registered form only, which may be in global registered form or individual registered form.

*U.S. withholding requirement:* A Non-U.S. Holder should expect that a withholding agent will treat coupon payments (if any) on Program Securities as subject to U.S. federal withholding tax, unless the Non-U.S. Holder certifies on a properly completed appropriate IRS Form W-8BEN or W-8BEN-E that it is not a United States person and that it is eligible for the benefits of a Qualifying Treaty as defined in "United States Federal Taxation", or meets other certification and eligibility requirements as described in "United States Federal Taxation". For additional information on withholding requirements applicable to the Program Securities, see the discussion in "United States Federal Taxation".

*Denomination of Notes:* Notes may be denominated or payable in any currency, be issued at any price and have any maturity, in each case subject to all applicable consents being obtained and compliance with applicable legal and regulatory requirements.

*Redemption of Notes:* Notes may be redeemed at par or at such other redemption amount (detailed in a formula or otherwise) or by delivery of securities of an issuer not affiliated with Morgan Stanley, as specified in the applicable Pricing Supplement.

*Early redemption:* Early redemption will be permitted for taxation reasons, or in certain circumstances following the occurrence of an Administrator/Benchmark Event or relevant adjustment events applicable to the Program Securities, but will otherwise be permitted only to the extent specified in the applicable Pricing Supplement or as may be required in the event of a default by the Issuer. In the case of certain Notes, if such Notes are redeemed early for any reason, the amount payable by the Issuer may be less than the amount that would have been paid had the Notes been redeemed at maturity. In the event of default by the Issuer, the investor would have an unsecured claim against the Issuer or, if applicable, the Guarantor.

*Interest on Notes:* Notes may be interest bearing or non-interest bearing. Interest (if any) may accrue at a fixed rate or a floating rate, or a rate which varies during the lifetime of the relevant Series.

*Exercise of Warrants and Certificates:* Upon exercise, Warrants and Certificates may entitle the holder to receive from the Issuer a Cash Settlement Amount, or may entitle the holder to receive delivery of or to deliver an amount of securities (each as specified or calculated in accordance with the applicable Pricing Supplement), and may be American, European or Bermudan Style Securities, as specified in the applicable Pricing Supplement.

*Governing law:* The Notes, Warrants and Certificates will be governed by English law.

*Use of proceeds:* The net proceeds from the sale of Program Securities by Morgan Stanley will be used by Morgan Stanley for general corporate purposes, in connection with hedging Morgan Stanley's obligations under the Program Securities, or both.

Unless specified otherwise in the applicable Pricing Supplement, MSFL intends to lend the net proceeds from the sale of the Program Securities it offers to Morgan Stanley. Unless specified otherwise in the applicable Pricing Supplement, Morgan Stanley intends to use the proceeds from such loans for general corporate purposes.

*Debt or derivative securities:* Program Securities may not be ordinary debt securities and the return and/or interest and/or principal may be linked to the performance of, amongst other things, one or more of an index or formula, changes in the prices of securities, funds, commodities or futures contracts, movements in currency exchange rates and to the credit of one or more entities not affiliated with the Issuers (such items are referred to in this Offering Circular in relation to Notes as the "**Relevant Underlying**" and in relation to Certificates and Warrants, as the "**Relevant Factor**"). The return on such Program Securities may be influenced by unpredictable factors, including the value of the underlying or factor which may in turn be linked to the creditworthiness of an underlying entity, market prices of underlying, market volatility, interest rates, currency exchange rates, inflation, the length of time until maturity and other economic, financial, environmental, legal, regulatory, social and political influences which may not be within the Issuers' control. Where Program Securities are linked to emerging market countries or currencies, the impact of the factors outlined previously are magnified.

**These factors may cause a partial or total loss of an investor's investment in Program Securities and may involve the investor receiving a return that they might not have anticipated when purchasing Program Securities.**

*Credit risk:* An investment in the Program Securities bears the risk that the relevant Issuer and/or the Guarantor, if applicable, is not able to fulfil its obligations in respect of such Program Securities.

*No rights in the underlying:* Investment in Program Securities may carry similar risks to a direct investment in the Relevant Underlying or Relevant Factor; however investors will not have legal or beneficial ownership in such underlying.

*Illiquid secondary market:* Investment in Program Securities may be illiquid and investors should be prepared to hold Program Securities to maturity or expiration as there may be no secondary market therefor.

*Conflicts of interest:* Investors should be aware of potential conflicts of interest with the Determination Agent.

*Stamp duty and tax generally:* There may be stamp duty implications for investors in the Warrants or Certificates. Investors should seek professional tax advice in relation to the tax implications to them of an investment in Program Securities.

*Consult professional advisers:* Prospective investors should consult with their own professional advisors if they consider it necessary before purchasing any Program Securities.

*Where to obtain documents:* Certain documents relating to the Program Securities will be available at The Bank of New York Mellon, One Canada Square, London E14 5AL and also at the principal executive office of Morgan Stanley and the principal executive office of MSFL.



## **RISK FACTORS RELATING TO THE PROGRAM SECURITIES**

*Prospective investors should read the entire Offering Circular (and where appropriate, any applicable Pricing Supplement). Words and expressions defined elsewhere in this Offering Circular have the same meanings in this section.*

Prospective investors should consider the section entitled "Risk Factors" at pages 2 to 19 of the Registration Document dated 7 June 2019 in respect of Morgan Stanley referred to in the section entitled "*Incorporation by Reference*" in this Offering Circular and the factors described below and consult with their own professional advisors if they consider it necessary. Prospective investors should note that the risks described below are not the only risks the Issuers and/or the Guarantor face. Each of the Issuers and the Guarantor believes that such factors represent the principal risks inherent in investing in Program Securities issued under the Program but the inability of an Issuer and/or the Guarantor, if applicable, to pay interest, principal or other amounts on or in connection with any Program Securities may occur for other reasons, which may not be considered significant risks by such Issuer based on information currently available to it or which it may not currently be able to anticipate.

The Issuers and the Distribution Agents, disclaim any responsibility to advise prospective purchasers of any matters arising under the laws of the country in which they reside that may affect the purchase of, or holding of, or the receipt of payments on the Program Securities. These persons should consult their own legal and financial advisors concerning these matters. This section describes generally the most significant risks of investing in Program Securities linked to securities, indices, futures contracts or funds, to commodity prices, to currency prices, to the credit of one or more entities not affiliated with the Issuers or to other assets. Each investor should carefully consider whether the Program Securities, as described herein and in the applicable Pricing Supplement, are suited to its particular circumstances before deciding to purchase any Program Securities.

### **Risk Factors relating to MSFL Notes and MSFL Securities**

The principal risks with respect to Morgan Stanley described in the Registration Document (as supplemented from time to time) will also represent the principal risks with respect to MSFL, either as an individual entity or as part of the Morgan Stanley Group.

#### ***As a finance subsidiary, MSFL has no independent operations and is expected to have no independent assets***

MSFL has no independent operations beyond the issuance and administration of its securities and is expected to have no independent assets available for distributions to holders of MSFL Program Securities if they make claims in respect of the Program Securities in a bankruptcy, resolution or similar proceeding. Accordingly, any recoveries by such holders will be limited to those available under the related guarantee by Morgan Stanley and that guarantee will rank *pari passu* with all other outstanding, unsecured and unsubordinated obligations of Morgan Stanley present and future, but, in the event of insolvency, only to the extent permitted by laws affecting creditors' rights. Holders will have recourse only to a single claim against Morgan Stanley and its assets under the guarantee. Holders of Program Securities issued by MSFL should accordingly assume that in any such proceedings they would not have any priority over and should be treated *pari passu* with the claims of other unsecured, unsubordinated creditors of Morgan Stanley, including holders of Morgan Stanley-issued securities.

#### ***Program Securities issued by MSFL will not have the benefit of any cross-default or cross-acceleration with other indebtedness of MSFL or Morgan Stanley; A Morgan Stanley covenant default or bankruptcy, insolvency or reorganization event does not constitute an Event of Default with respect to MSFL Program Securities***

Unless otherwise stated in the applicable Pricing Supplement, the Program Securities issued by MSFL will not have the benefit of any cross-default or cross-acceleration with other indebtedness of MSFL or Morgan Stanley. In addition, a covenant default by Morgan Stanley, as guarantor, or an event of bankruptcy, insolvency or reorganization of Morgan Stanley, as guarantor, does not constitute an event of default with respect to any Program Securities issued by MSFL.

## **Risk Factors relating to the Program Securities**

### ***Program Securities linked to one or more securities, indices, futures contracts, funds, commodities, currencies and/or underlying reference obligations***

The Issuers may issue (i) Notes with principal and/or interest determined by reference to a single security, index, futures contract, exchange traded fund ("ETF") or other funds, to baskets of securities, indices, futures contracts, ETFs or other funds, to currency prices, commodity prices, interest rates, to the credit of one or more entities not affiliated with the Issuer, or other assets or instruments (each, a **"Relevant Underlying"**) and (ii) Warrants and Certificates with a return determined by reference to an index or formula, to changes in the prices of securities, indices, futures contracts, ETFs, funds or commodities, to movements in currency exchange rates or other factors (each a **"Relevant Factor"**). In addition, the Issuers may issue Notes with principal or interest payable in one or more currencies which may be different from the currency in which the Notes are denominated. Potential investors should be aware that:

- (a) they may lose all or a substantial portion of their principal or investment, depending on the performance of each Relevant Underlying or Relevant Factor, as applicable;
- (b) the market price of such Program Securities may be very volatile;
- (c) Warrants and Certificates do not pay interest and investors in Notes may receive no interest;
- (d) payment or payment of principal or interest, if applicable, may occur at a different time or in a different currency than expected;
- (e) a Relevant Underlying or Relevant Factor, as applicable, may be subject to significant fluctuations that may not correlate with changes in interest rates, currencies, other indices or prices of futures contracts;
- (f) if a Relevant Underlying is applied to Notes or a Relevant Factor is applied to Warrants and Certificates in conjunction with a multiplier greater than one or such Relevant Underlying or Relevant Factor contains some other leverage factor, the effect of changes in the Relevant Underlying on principal or interest payable on such Notes or Relevant Factor, on such Warrants or Certificates is likely to be magnified; and
- (g) the timing of changes in a Relevant Underlying or Relevant Factor, as applicable, may affect the actual yield to investors, even if the average level is consistent with their expectations. In general, the earlier the change in the Relevant Underlying or Relevant Factor, the greater the effect on yield.

### ***The Program Securities are not ordinary debt securities***

The terms of certain Notes and of the Warrants and Certificates differ from those of ordinary debt securities because the Notes may not pay interest, the Warrants and Certificates do not pay interest and, on maturity, depending on the performance of the Relevant Underlying or Relevant Factor, as applicable, may return less than the amount invested or nothing, or may return assets or securities of an issuer that is not affiliated with the Issuers, the value of which is less than the amount invested. Prospective investors who consider purchasing the Program Securities should reach an investment decision only after carefully considering the suitability of the Program Securities in light of their particular circumstances. The price of the Program Securities may fall in value as rapidly as it may rise, and investors in the Program Securities may potentially lose all of their investment. Investors in Warrants or Certificates will sustain a total loss of their investment if the Warrants or Certificates expire out of the money.

### ***The value of the Program Securities linked to the Relevant Underlying or Relevant Factor, as applicable may be influenced by unpredictable factors***

The value of the Program Securities may be influenced by several factors beyond each Issuer's and/or its respective Affiliates' and, where applicable, the Guarantor's control, including:

- (a) *Valuation of the Relevant Underlying or Relevant Factor.* The market price or value of a Program Security at any time is expected to be affected primarily by changes in the level of the Relevant Underlying or Relevant Factor to which the Program Securities are linked. It is impossible to predict how the level of the Relevant Underlying or Relevant Factor will vary over time. The historical performance value (if any) of the Relevant Underlying or Relevant Factor does not indicate the future performance of the Relevant Underlying or Relevant Factor. Factors which may have an effect on the value of the Relevant Underlying or Relevant

Factor include the rate of return of the Relevant Underlying or Relevant Factor and, where relevant, the financial position and prospects of the issuer of the Relevant Underlying or Relevant Factor, the specified entity with respect to Credit-Linked Notes or the market price or value of the applicable underlying security, index, futures contract, ETF, fund or futures contract or basket of securities, indices, futures contracts, ETFs or funds. In addition, the level of the Relevant Underlying or Relevant Factor may depend on a number of inter related factors, including economic, financial and political events and their effect on the capital markets generally and relevant stock exchanges. Potential investors should also note that whilst the market value of the Program Securities is linked to the Relevant Underlying or Relevant Factor and will be influenced (positively or negatively) by the Relevant Underlying or Relevant Factor, any change may not be comparable and may be disproportionate. It is possible that while the Relevant Underlying or Relevant Factor is increasing in value, the value of the Program Securities may fall. Further, the Conditions of the Program Securities will allow the Determination Agent to make adjustments or take any other appropriate action if circumstances occur where the Program Securities or any exchanges or price sources are affected by market disruption, adjustment events or circumstances affecting normal activities;

- (b) *Volatility.* The term "**volatility**" refers to the actual and anticipated frequency and magnitude of changes of the market price with respect to a Relevant Underlying or Relevant Factor. Volatility is affected by a number of factors such as macroeconomic factors (i.e. those economic factors which have broad economic effects), speculative trading and supply and demand in the options, futures and other derivatives markets. Volatility of a Relevant Underlying or Relevant Factor will move up and down over time (sometimes more sharply than at other times) and different Relevant Underlyings or Relevant Factors will most likely have separate volatilities at any particular time;
- (c) *Dividend Rates and other Distributions.* The value of certain Equity-Linked Notes, Fund-Linked Notes and Futures Contract-Linked Notes and of the Warrants and Certificates could, in certain circumstances, be affected by fluctuations in the actual or anticipated rates of dividend (if any) or other distributions on a Relevant Underlying or Relevant Factor;
- (d) *Interest Rates.* Investments in the Notes may involve interest rate risk. The interest rate level may fluctuate on a daily basis and cause the value of the Notes to change on a daily basis. The interest rate risk is a result of the uncertainty with respect to future changes of the market interest rate level. In general, the effects of this risk increase as the market interest rates increase;
- (e) *Remaining Term.* Generally, the effect of pricing factors over the term of the Program Securities will decrease as the maturity date approaches. However, this reduction in the effect of pricing factors will not necessarily develop consistently up until the maturity date, but may undergo temporary acceleration and/or deceleration. Even if the price of the Relevant Underlying or Relevant Factor rises or falls there may a reduction or increase, as the case may be, in the value of the Program Securities due to the other value determining factors. Given that the term of the Program Securities is limited, investors cannot rely on the price of the Relevant Underlying or Relevant Factor or the value of the Program Securities recovering again prior to maturity;
- (f) *Creditworthiness.* Any prospective investor who purchases the Program Securities is relying upon the creditworthiness of the relevant Issuer and/or the Guarantor, if applicable, and has no rights against any other person. If the relevant Issuer becomes insolvent, investors may suffer potential loss of their entire investment irrespective of any favourable development of the other value determining factors, such as a Relevant Underlying or Relevant Factor; and
- (g) *Exchange Rates.* Even where payments in respect of the Program Securities are not expressly linked to a rate or rates of exchange between currencies, the value of the Program Securities could, in certain circumstances, be affected by such factors as fluctuations in the rates of exchange between any currency in which any payment in respect of the Program Securities is to be made and any currency in which a Relevant Underlying or Relevant Factor is traded, appreciation or depreciation of any such currencies and any existing or future or governmental or other restrictions on the exchangeability of such currencies. There can be no assurance that rates of exchange between any relevant currencies which are current rates at the date of issue of the Program Securities will be representative of the relevant rates of exchange used in computing the value of the Program Securities at any time thereafter. Where Notes are described as being "quantoed", the value of the Relevant Underlying will be converted from one currency (the "**Relevant Underlying Currency**") into a new currency (the "**Settlement Currency**") on the date and in the manner specified in, or implied by, the Conditions using a fixed exchange rate. The cost to the Issuer of maintaining such a fixing between the Relevant Underlying Currency and the Settlement Currency will have an implication on the value of the Notes. The implication

will vary during the term of the Notes. No assurance can be given as to whether or not, taking into account relative exchange rate and interest rate fluctuations between the Relevant Underlying Currency and the Settlement Currency, a quanto feature in a Note would at any time enhance the return on the Note over a level of a similar security issued without such a quanto feature, and a quanto feature may worsen the return.

Some or all of the above factors will influence the price investors will receive if an investor sells its Program Securities prior to maturity, which is usually referred to as "secondary market practice". For example, investors may have to sell certain Program Securities at a substantial discount from the principal amount or investment amount if the market price or value of the applicable Relevant Underlying or Relevant Factor is at, below, or not sufficiently above the initial market price or value or if market interest rates rise. The secondary market price may be lower than the market value of the issued Program Securities as at the Issue Date to take into account, amongst other things, amounts paid to distributors and other intermediaries relating to the issue and sale of the Program Securities and amounts relating to the hedging of the Issuer's obligations. As a result of all of these factors, any investor that sells the Program Securities before the stated expiration or maturity date, may receive an amount in the secondary market which may be less than the then intrinsic market value of the Program Securities and which may also be less than the amount the investor would have received had the investor held the Program Securities through to maturity.

#### *Notes where denominations involve integral multiples*

In relation to any issue of Notes which have denominations consisting of a minimum Specified Denomination plus one or more higher integral multiples of another smaller amount, it is possible that such Notes may be traded in amounts in excess of the minimum Specified Denomination that are not integral multiples of such minimum Specified Denomination. In such a case a holder who, as a result of trading such amounts, holds an amount which is less than the minimum Specified Denomination in his account with the relevant clearing system would not be able to sell the remainder of such holding without first purchasing a principal amount of Notes at or in excess of the minimum Specified Denomination such that its holding amounts to a Specified Denomination. Further, a holder who, as a result of trading such amounts, holds an amount which is less than the minimum Specified Denomination in his account with the relevant clearing system at the relevant time may not receive a definitive Note in respect of such holding (should definitive Notes be printed) and would need to purchase a principal amount of Notes at or in excess of the minimum Specified Denomination such that its holding amounts to a Specified Denomination.

#### *Credit risk*

Holders of Program Securities bear the credit risk of the Issuer that is the risk that the relevant Issuer and, if applicable, the Guarantor is not able to meet its obligations under such Program Securities, irrespective of whether such Program Securities are referred to as capital or principal protected or how any principal, interest or other payments under such Program Securities are to be calculated. Any rating of the relevant Issuer or the Guarantor reflects the independent opinion of the relevant rating agency and is not a guarantee of the credit quality of such Issuer or Guarantor.

#### *Currency exchange conversions may affect payments on some Warrants and Certificates*

The applicable Pricing Supplement may provide for (i) payments on a non-U.S. dollar-denominated Warrant or Certificate to be made in U.S. dollars or (ii) payments in respect of Warrants or Certificates to be made in a currency other than U.S. dollars. In these cases, Morgan Stanley & Co. International plc, in its capacity as Exchange Rate Agent (the "**Exchange Rate Agent**"), or such other exchange rate agent identified in the applicable Pricing Supplement, will convert the applicable currency into U.S. dollars or U.S. dollars into the applicable currency. The investor will bear the costs of the conversion through deductions from those payments.

#### *Certain considerations regarding the use of the Program Securities as hedging instruments*

Any person intending to use the Program Securities as a hedge instrument should recognise the "correlation risk" of doing this. Correlation risk is the potential differences in exposure for a potential investor that may arise from the ownership of more than one financial instrument. The Program Securities may not hedge exactly a Relevant Underlying, Relevant Factor or portfolio of which a Relevant Underlying or Relevant Factor forms a part. In addition, it may not be possible to liquidate the Program Securities at a level which directly reflects the price of the Relevant Underlying, Relevant Factor or portfolio of which the Relevant Underlying or Relevant Factor forms a part. Potential investors should not rely on the ability to conclude transactions during the term of the Program Securities to offset or limit the relevant risks. This depends on the market situation and the specific Relevant Underlying or Relevant Factor conditions. It is possible that such transactions will only be concluded at an unfavourable market price, resulting in a corresponding loss for the Noteholder or the Securityholder.

***Effect on the Program Securities of hedging transactions by the Issuer***

The Issuer may use a portion of the total proceeds from the sale of the Program Securities for transactions to hedge the risks of the Issuer relating to the Program Securities. In such case, the Issuer or any of its Affiliates may conclude transactions that correspond to the obligations of the Issuer under the Program Securities. As a rule, such transactions are concluded prior to or on the Issue Date, but it is also possible to conclude such transactions after issue of the Program Securities. On or before a valuation date the Issuer or any of its Affiliates may take the steps necessary for closing out any hedging transactions. It cannot, however, be ruled out that the price of a Relevant Underlying or Relevant Factor will be influenced by such transactions. Entering into or closing out these hedging transactions may influence the probability of occurrence or non-occurrence of determining events in the case of Program Securities with a value based on the occurrence of a certain event in relation to a Relevant Underlying or Relevant Factor.

***Financial Transaction Tax Risk***

If "*Implementation of Financial Transaction Tax*" is specified in the applicable Pricing Supplement to be applicable to a Series, then if, on or after the Trade Date, due to the adoption of or any change in any applicable law or regulation (including, without limitation, any law or regulation implementing a system of financial transaction tax in any jurisdiction, including the European Union, relating to any tax payable in respect of the transfer of, or issue or modification or redemption of, any financial instruments), the Issuer determines that it (directly or through an Affiliate) would incur or has incurred a materially increased amount of tax, transfer tax, duty, stamp duty, stamp duty reserve tax, expense or fee (other than brokerage commissions) in relation to its obligations under such Series or its related hedge positions ("**Additional Tax**"), the Issuer may adjust the Conditions of such Series to reduce the amount otherwise payable under such Series to holders of such Program Securities in order to pass on to the holders of such Program Securities the full amount of such Additional Tax imposed on the Issuer.

***Issuer call option risk***

The Issuer may have the right to call for the termination of the Program Securities at any time or at the time as specified in the applicable Pricing Supplement. Following the exercise by the Issuer of such Issuer call option, the investors will be entitled to receive a pre-determined amount which may be less than the amount that the investors would have been entitled to receive under the terms of the Program Securities if such option had not been exercised.

In addition, investors in such Program Securities will no longer be able to realise his or her expectation for a gain in the value of such Program Securities and, if applicable, will no longer participate in the performance of the Relevant Underlying or Relevant Factor, as applicable.

An optional termination feature of the Program Securities is likely to limit their market value. During any period when the Issuer may elect to terminate the Program Securities, the market value of those Program Securities generally will not rise substantially above the price at which they can be terminated.

The Issuer may be expected to terminate the Program Securities when its cost of borrowing is lower than the interest rate on the Program Securities. At those times, an investor generally would not be able to reinvest the termination proceeds at an effective interest rate as high as the interest rate on the Program Securities being terminated and may only be able to do so at a significantly lower rate. Investors should consider reinvestment risk in light of other investments available at the time.

***Program Securities linked to a single emerging market security, a single emerging market ETF or other fund, or a basket of securities or a basket of indices composed, in part or in whole, of emerging market securities or a basket of ETFs or other funds composed, in part or in whole, of emerging market ETFs or funds or futures contracts linked to any of the foregoing***

Fluctuations in the trading prices of the underlying emerging market equity will affect the value of Equity-Linked Notes, Fund-Linked Notes or Futures Contract-Linked Notes where the underlying asset is such a share or comprised of any such shares and of Warrant and Certificates linked to emerging market securities, futures contracts and/or ETFs or other funds. Changes may result over time from the interaction of many factors directly or indirectly affecting economic and political conditions in the related countries or member nations, including economic and political developments in other countries. Of particular importance to potential risks are: (i) rates of inflation; (ii) interest rate levels; (iii) balance of payments; and (iv) the extent of governmental surpluses or deficits in the relevant country. All of these factors are, in turn, sensitive to the monetary, fiscal and trade policies pursued by the related countries, the governments of the related countries and member nations (if any), and other countries important to international trade

and finance. Government intervention could materially and adversely affect the value of such Program Securities. Governments use a variety of techniques, such as intervention by their central bank or imposition of regulatory controls or taxes to affect the trading of the underlying equity. Thus, a special risk in purchasing such Program Securities is that their trading value and amount payable at maturity could be affected by the actions of governments, fluctuations in response to other market forces and the movement of currencies across borders. Emerging markets stocks may be more volatile than the stocks in more developed markets.

#### ***Program Securities linked to commodities***

Commodity markets are influenced by, among other things, changing supply and demand relationships, weather, governmental, agricultural, commercial and trade programs and policies designed to influence commodity prices, world political and economic events, changes in interest rates and factors affecting the exchange(s) or quotation system(s) on which any such commodities may be traded.

Where a Program Security linked to a commodity references a futures contract, this reference should be taken as if the futures contract had the specified commodity as the underlying commodity. Investments in futures and options contracts involve additional risks including, without limitation, leverage (margin is usually a percentage of the face value of the contract and exposure can be nearly unlimited).

A holder of a futures position may find such positions become illiquid because certain commodity exchanges limit fluctuations in certain futures contract prices during a single day by regulations referred to as "daily price fluctuation limits" or "daily limits". Under such daily limits during a single trading day no trades may be executed at prices beyond the daily limits. Once the price of a contract for a particular future has increased or decreased by an amount equal to the daily limit, positions in the future can neither be taken nor liquidated unless traders are willing to effect trades at or within the limit. This could prevent a holder from promptly liquidating unfavourable positions and subject it to substantial losses. Futures contract prices in various commodities occasionally have exceeded the daily limit for several consecutive days with little or no trading. Similar occurrences could prevent the liquidation of unfavourable positions and subject an investor in a Note linked to such contract prices to substantial losses.

Commodity future prices reflect the expectations of the market players as to the future value of the commodity and may not be consistent with the current prices of the relevant commodity.

#### ***Emerging markets currencies***

Where the Program Securities are denominated in an emerging market currency or linked to one or more emerging market currencies, such emerging market currencies can be significantly more volatile than currencies of more developed markets. Emerging markets currencies are highly exposed to the risk of a currency crisis happening in the future and this could trigger the need for the Determination Agent (Morgan Stanley & Co. International plc or other specified entity) to make adjustments to the terms and conditions of the Program Securities.

#### ***Risks related to CNY Program Securities***

*Renminbi is not a freely convertible currency at present.*

The PRC government continues to regulate conversion between Renminbi and foreign currencies. The People's Bank of China ("PBOC") has established Renminbi clearing and settlement systems for certain locations pursuant to settlement agreements relating to the clearing of Renminbi business between PBOC and certain clearing banks. However, the current size of Renminbi and Renminbi denominated financial assets outside the PRC remains limited, and its growth is subject to many constraints which are directly affected by PRC laws and regulations on foreign exchange and may adversely affect the liquidity of CNY Program Securities.

There is no assurance that the PRC government will continue to gradually liberalise control over cross border remittance of Renminbi in the future or that new regulations in the PRC will not be promulgated in the future which have the effect of restricting or eliminating the remittance of Renminbi into or outside the PRC. In the event that funds cannot be repatriated outside the PRC in Renminbi, this may affect the overall availability of Renminbi outside the PRC and the ability of the Issuer to source Renminbi to finance its obligations under the CNY Program Securities.

The limited availability of Renminbi outside the PRC may affect the liquidity of the CNY Program Securities and the Issuer's ability to source Renminbi on satisfactory terms to make payments in respect of the CNY Program Securities.

*Investment in CNY Program Securities is subject to exchange rate risks*

The value of Renminbi against the Hong Kong dollar and other foreign currencies fluctuates and is affected by developments in or affecting the PRC, PBOC currency exchange policy, international political and economic conditions and many other factors. All payments with respect to the CNY Program Securities will be made in CNY, except in the case of CNY Inconvertibility, CNY Non-transferability or CNY Illiquidity (as defined in Condition 20 (*CNY Disruption Events*) of the Terms and Conditions of the Notes (in respect of the Notes) and Condition 18 (*CNY Disruption Events*) of the Terms and Conditions of the Warrants and Certificates (in respect of Warrants and Certificates)), in which case all payments and settlement in CNY will be made in accordance with the provisions of Condition 20 (*CNY Disruption Events*) of the Terms and Conditions of the Notes (in respect of the Notes) and Condition 18 (*CNY Disruption Events*) of the Terms and Conditions of the Warrants and Certificates (in respect of Warrants and Certificates). As a result, the value of CNY payments may vary with the prevailing exchange rates in the marketplace. If the value of CNY depreciates against the relevant currency, the value of the investment in relevant currency will have declined. In the case of CNY Inconvertibility, CNY Non-transferability or CNY Illiquidity (as defined in Condition 20 (*CNY Disruption Events*) (in respect of Notes) and Condition 18 (*CNY Disruption Events*) (in respect of Warrants and Certificates)), such a decline may be very substantial.

*Payments for the CNY Program Securities will only be made to investors in the manner specified in the CNY Program Securities*

All payments to investors in respect of the Program Securities will be made solely (i) for so long as the CNY Program Securities are represented by a Registered Global Instrument held with the common depositary for Clearstream Banking société anonyme and Euroclear Bank S.A./N.V. or any alternative clearing system by transfer to a CNY bank account maintained outside the PRC, or (ii) for so long as the CNY Program Securities are in definitive form, by transfer to a CNY bank account maintained outside the PRC, in each case in accordance with prevailing rules and regulations. The Issuer cannot be required to make payment by any other means (including in any other currency or by transfer to a bank account in the PRC). In addition, there can be no assurance that access to Renminbi for the purposes of making payments under the CNY Program Securities or generally may remain or will not become restricted. If it becomes impossible to convert Renminbi from/to another freely convertible currency, or transfer Renminbi between accounts in the relevant offshore CNY centre(s), or the general Renminbi exchange market in the relevant offshore CNY centre(s) becomes illiquid, any payment of Renminbi under the CNY Program Securities may be delayed or all payments and settlement will be made in accordance with the Disruption Fallbacks described in Condition 20 (*CNY Disruption Events*) (in respect of Notes) or Condition 18 (*CNY Disruption Events*) (in respect of Warrants and Certificates).

***Effect of the liquidity of the Relevant Underlying or Relevant Factor on Program Security pricing***

An Issuer's and/or its Affiliates' hedging costs tend to be higher the less liquidity the Relevant Underlying or Relevant Factor has or the greater the difference between the "buy" and "sell" prices for the Relevant Underlying, Relevant Factor or derivatives contracts referenced to the Relevant Underlying or Relevant Factor. When quoting prices for the Program Securities, the Issuer and/or its Affiliates will factor in such hedging costs and will pass them on to the Noteholders and Securityholders by incorporating them into the "buy" and "sell" prices. Thus, Noteholders and Securityholders selling their Program Securities on an exchange or on the over-the-counter market may be doing so at a price that is substantially lower than the actual value of the Program Securities at the time of sale.

***No affiliation with underlying companies***

The underlying issuer for any single security or basket security, ETF or other fund or any Fund Adviser, the publisher of an underlying index, the sponsor of a futures contract, or any specified entity with respect to Credit-Linked Notes, will not be an affiliate of Morgan Stanley or MSFL unless otherwise specified in the applicable Pricing Supplement. Morgan Stanley or its subsidiaries may presently or from time to time engage in business with any underlying company, fund or any specified entity, including entering into loans with, or making equity investments in, the underlying company, fund or specified entity, or its affiliates or subsidiaries or providing investment advisory services to the underlying company, fund or specified entity, including merger and acquisition advisory services. Moreover, no Issuer has the ability to control or predict the actions of the underlying company, fund, index publisher, futures contract sponsor or specified entity, including any actions, or reconstitution of index components, of the type that would require the Determination Agent to adjust the pay out to the investor at maturity. No underlying company, fund Fund Adviser, index publisher, futures contract sponsor or specified entity, for any issuance of Program Securities is involved in the offering of the Program Securities in any way or has any obligation to consider the investor's interest as an owner of the Program Securities in taking any corporate actions that might affect the value of the Program

Securities. None of the money an investor pays for the Program Securities will go to the underlying company, fund or Fund Adviser or specified entity, for such Program Securities.

Fluctuations in the value of any one component of the Relevant Underlying may, where applicable, be offset or intensified by fluctuations in the value of other components. The historical value (if any) of the Relevant Underlying or the components of the Relevant Underlying does not indicate their future performance. Where the value of the components is determined in a different currency to the value of the Relevant Underlying, investors may be exposed to exchange rate risk.

***Exchange rates and exchange controls may affect the value or return of the Program Securities***

*General Exchange Rate and Exchange Control Risks.* An investment in a Program Security denominated in, or the payment of which is linked to the value of, currencies other than the investor's home currency entails significant risks. These risks include the possibility of significant changes in rates of exchange between its home currency and the other relevant currencies and the possibility of the imposition or modification of exchange controls by the relevant governmental authorities. These risks generally depend on economic and political events over which the Issuers have no control. Investors should consult their financial and legal advisors as to any specific risks entailed by an investment in Program Securities that are denominated or payable in, or the payment of which is linked to the value of, a currency other than the currency of the country in which such investor resides or in which such investor conducts its business, which is referred to as their home currency. Such Program Securities are not appropriate investments for investors who are not sophisticated in foreign currency transactions.

*Exchange Rates Will Affect the Investor's Investment.* In recent years, rates of exchange between some currencies have been highly volatile and this volatility may continue in the future. Fluctuations in any particular exchange rate that have occurred in the past are not necessarily indicative, however, of fluctuations that may occur during the term of any Program Security. Depreciation against the investor's home currency or the currency in which a Program Security is payable would result in a decrease in the effective yield of the Program Security (in the case of a Note) below its coupon rate and could result in an overall loss to an investor on the basis of the investor's home currency. In addition, depending on the specific terms of a Currency-Linked Note or Warrant or Certificate, changes in exchange rates relating to any of the relevant currencies could result in a decrease in its effective yield and in the investor's loss of all or a substantial portion of the value of that Program Security.

*The Issuers Have No Control Over Exchange Rates.* Currency exchange rates can either float or be fixed. Exchange rates of most economically developed nations are permitted to fluctuate in value relative to each other. However, from time to time governments may use a variety of techniques, such as intervention by a country's central bank, the imposition of regulatory controls or taxes, or changes in interest rate to influence the exchange rates of their currencies. Governments may also issue a new currency to replace an existing currency or alter the exchange rate or relative exchange characteristics by a devaluation or revaluation of a currency. These governmental actions could change or interfere with currency valuations and currency fluctuations that would otherwise occur in response to economic forces, as well as in response to the movement of currencies across borders.

As a consequence, these government actions could adversely affect yields or pay outs in the investor's home currency for (i) Program Securities denominated or payable in currencies other than U.S. dollars and (ii) Currency-Linked Notes or Currency Program Securities.

The Issuers will not make any adjustment or change in the terms of the Program Securities in the event that exchange rates should become fixed, or in the event of any devaluation or revaluation or imposition of exchange or other regulatory controls or taxes, or in the event of other developments affecting any currency. The investor will bear those risks.

*Some Currencies May Become Unavailable.* Governments have imposed from time to time, and may in the future impose, exchange controls that could also affect the availability of a Specified Currency (as defined herein). Even if there are no actual exchange controls, it is possible that the applicable currency for any security would not be available when payments on that security are due.

*Alternative Payment Method Used If Payment Currency Becomes Unavailable.* If a payment currency is unavailable in respect of the Notes because the euro has been substituted for that currency, the relevant Issuer would make the payments in euro. Some Notes may specify a different form of payment if a non U.S. payment currency is unavailable to the relevant Issuer.



*Currency Exchange Information may be provided in the Pricing Supplement.* The applicable Pricing Supplement or offering circular supplement, where relevant, may include information with respect to any relevant exchange controls and any relevant historic exchange rate information for any Program Security. The investor should not assume that any historic information concerning currency exchange rates will be representative of the range of, or trends in, fluctuations in currency exchange rates that may occur in the future.

***The United Kingdom's anticipated withdrawal from the European Union could adversely affect Morgan Stanley.***

It is difficult to predict the future of the United Kingdom's relationship with the European Union, the uncertainty of which may increase the volatility in the global financial markets in the short- and medium-term and may negatively disrupt regional and global financial markets. Additionally, depending on the outcome, such uncertainty may adversely affect the manner in which Morgan Stanley operates certain of its businesses in Europe.

On June 23, 2016, the United Kingdom electorate voted to leave the European Union. On March 29, 2017, the United Kingdom invoked Article 50 of the Lisbon Treaty, which triggered a two-year period, subject to extension (which would need the unanimous approval of the European Union Member States), during which the United Kingdom government negotiated a form of withdrawal agreement with the European Union. The United Kingdom government and the European Union have agreed to delay the United Kingdom's scheduled withdrawal from the European Union until October 31, 2019. Absent any further changes to this time schedule, the United Kingdom is expected to leave the European Union by 31 October 2019 at the latest.

The proposed withdrawal agreement includes a transition period until December 2020 and provides that the United Kingdom will leave the European Union single market and will seek a phased period of implementation for a new United Kingdom - European Union relationship that may cover the legal and regulatory framework applicable to financial institutions with significant operations in Europe, such as Morgan Stanley.

The withdrawal agreement was rejected by the United Kingdom Parliament on 15 January 2019 and on two subsequent occasions. As a result, the terms and conditions of the anticipated withdrawal from the European Union remain uncertain. Discussions are ongoing within the United Kingdom Parliament on the negotiated withdrawal agreement and the alternatives to it, and between the United Kingdom government and the European Union.

The ongoing political uncertainty in relation to the proposed withdrawal agreement in the United Kingdom means there is a risk that these arrangements may not be ready for implementation by 31 October 2019 or that there will be no transition period. Potential effects of the United Kingdom exit from the European Union and potential mitigation actions may vary considerably depending on the timing of withdrawal, the nature of any transition, implementation or successor arrangements, and the future trading arrangements between the United Kingdom and the European Union.

If the withdrawal agreement (or any alternative agreement) is not agreed and as a result no transition period applies, Morgan Stanley's United Kingdom licensed entities may be unable to rely on European Union passporting rights to provide services in a number of European Union jurisdictions beginning on the date the United Kingdom leaves the European Union, absent further regulatory relief. Even if a transition period is agreed, Morgan Stanley's United Kingdom licensed entities may lose their rights to provide services in a number of European Union jurisdictions after such transition period unless the new United Kingdom – European Union relationship provides for such rights.

In order to prepare for this risk, Morgan Stanley is taking steps to make changes to its European operations in an effort to ensure that it can continue to provide cross-border banking and investment and other services in European Union Member States without the need for separate regulatory authorisations in each member state. However, as a result of the political uncertainty described above, it is currently unclear what the final post-Brexit structure of Morgan Stanley's European operations will be. Given the potential negative disruption to regional and global financial markets, and depending on the extent to which Morgan Stanley may be required to make material changes to its European operations beyond those currently planned, Morgan Stanley's results of operations and business prospects could be negatively affected.

***Reform of LIBOR and EURIBOR and other interest rate index and equity, commodity and foreign exchange rate index "benchmarks"***

The London Interbank Offered Rate ("LIBOR"), the Euro Interbank Offered Rate ("EURIBOR") and other indices which are deemed "benchmarks" are the subject of recent national, international and other regulatory guidance and proposals for reform. Some of these reforms are already effective while others are still to be implemented. These reforms may cause such "benchmarks" to perform differently than in the past, or to disappear entirely, or have other consequences which cannot be predicted. Any such consequence could have a material adverse effect on any Program Securities linked to a "benchmark."

Any of the international, national or other proposals for reform or the general increased regulatory scrutiny of “benchmarks” could increase the costs and risks of administering or otherwise participating in the setting of a “benchmark” and complying with any such regulations or requirements. Such factors may have the effect of discouraging market participants from continuing to administer or participate in certain “benchmarks,” trigger changes in the rules or methodologies used in certain “benchmarks” or lead to the disappearance of certain “benchmarks”. The disappearance of a “benchmark” or changes in the manner of administration of a “benchmark” could have materially adverse consequences in relation to Program Securities linked to such “benchmark”.

***Expected replacement of London Interbank Offered Rate and replacement or reform of other interest rates could adversely affect our business, financial condition and results of operations***

Central banks around the world, including the Federal Reserve, have commissioned working groups of market participants and official sector representatives with the goal of finding suitable replacements for LIBOR and replacements or reforms of other interest rate benchmarks, such as EURIBOR and EONIA. It is expected that a transition away from the widespread use of such rates to alternative rates based on observable market transactions and other potential interest rate benchmark reforms will occur over the course of the next few years. For example, the Financial Conduct Authority, which regulates LIBOR, has announced that it has commitments from panel banks to continue to contribute to LIBOR through the end of 2021, but that it will not use its powers to compel contributions beyond such date. Accordingly, there is considerable uncertainty regarding the publication of LIBOR beyond 2021.

On April 3, 2018, the Federal Reserve Bank of New York commenced publication of three reference rates based on overnight U.S. Treasury repurchase agreement transactions, including the Secured Overnight Financing Rate, which has been recommended as an alternative to United States dollar LIBOR by the Alternative Reference Rates Committee. Further, the Bank of England is publishing a reformed Sterling Overnight Index Average, comprised of a broader set of overnight Sterling money market transactions, which has been selected by the Working Group on Sterling Risk-Free Reference Rates as the alternative rate to Sterling LIBOR. Central bank-sponsored committees in other jurisdictions, including Europe, Japan and Switzerland, have, or are expected to, select alternative reference rates denominated in other currencies.

The market transition away from IBORs to alternative reference rates is complex and could have a range of adverse impacts on Morgan Stanley’s business, financial condition and results of operations. In particular, any such transition or reform could:

- Adversely impact the pricing, liquidity, value of, return on and trading for a broad array of financial products, including any IBOR-linked securities, loans and derivatives that are included in Morgan Stanley’s financial assets and liabilities;
- Require extensive changes to documentation that governs or references IBOR or IBOR-based products, including, for example, pursuant to time-consuming renegotiations of existing documentation to modify the terms of outstanding securities and related hedging transactions;
- Result in inquiries or other actions from regulators in respect of Morgan Stanley’s preparation and readiness for the replacement of IBOR with one or more alternative reference rates;
- Result in disputes, litigation or other actions with counterparties regarding the interpretation and enforceability of provisions in IBOR-based products such as fallback language or other related provisions, including in the case of fallbacks to the alternative reference rates, any economic, legal, operational or other impact resulting from the fundamental differences between the IBORs and the various alternative reference rates;
- Require the transition and/or development of appropriate systems and analytics to effectively transition our risk management processes from IBOR-based products to those based on one or more alternative reference rates in a timely manner, including by quantifying value and risk for various alternative reference rates, which may prove challenging given the limited history of the proposed alternative reference rates; and
- Cause Morgan Stanley to incur additional costs in relation to any of the above factors.

Depending on several factors including those set forth above, Morgan Stanley’s business, financial condition and results of operations could be materially adversely impacted by the market transition or reform of certain benchmarks. Other factors include the pace of the transition to replacement or reformed rates, the specific terms and parameters for

and market acceptance of any alternative reference rate, prices of and the liquidity of trading markets for products based on alternative reference rates, and our ability to transition and develop appropriate systems and analytics for one or more alternative reference rates.

***LIBOR, EURIBOR and other interest rate benchmark discontinuance, prohibition on use or reform may lead to adjustments to the terms of the Notes or an early redemption of the Notes***

*Fallback arrangements where (i) the Relevant Rates Benchmark is other than U.S. dollar LIBOR and (ii) the provisions of Condition 6.11 (Relevant Rates Benchmark Discontinuance or Prohibition on Use) are applicable*

Where any variable by reference to which interest is payable under the Notes is an index, benchmark, rate or price source which is specified in the Conditions as a “Relevant Rates Benchmark”, the administrator or sponsor (or the Relevant Rates Benchmark) may be required to be authorised, registered, recognised, endorsed or otherwise included in an official register in order for the Issuer, the Determination Agent or the Calculation Agent to be permitted to use the Relevant Rates Benchmark and perform their respective obligations under the Notes. If the Determination Agent determines that such a requirement applies to the administrator or sponsor (or the Relevant Rates Benchmark) but it has not been satisfied, and if the applicable Pricing Supplement specifies that the provisions of Condition 6.11 (*Relevant Rates Benchmark Discontinuance or Prohibition on Use*) are applicable, then an “Administrator/Benchmark Event” will occur.

In order to address the risk of an Administrator/Benchmark Event occurring or a possible discontinuance of LIBOR (referred to above) and other reference rates, the Conditions include certain fallback provisions. These provisions apply to “Relevant Rates Benchmarks” (which will include LIBOR, EURIBOR and other similar interbank rates). The fallback provisions will be triggered if the Determination Agent determines that (i) the administrator or regulatory supervisor (or other applicable regulatory body) in connection with such Relevant Rates Benchmark announces that the administrator has ceased or will cease permanently or indefinitely to provide such Relevant Rates Benchmark and there is no successor administrator that will continue to provide the Relevant Rates Benchmark, or (ii) unless otherwise specified in the applicable Pricing Supplement, an Administrator/Benchmark Event occurs in relation to such Relevant Rates Benchmark.

Following the occurrence of any of these events the Determination Agent may replace the Relevant Rates Benchmark with any “Alternative Pre-nominated Reference Rate” which has been specified in the applicable Pricing Supplement or if no Alternative Pre-nominated Reference Rate is specified in the applicable Pricing Supplement, with an alternative rate that is consistent with accepted market practice. If an Alternative Pre-nominated Reference Rate or other alternative rate is used then the Determination Agent may also make other adjustments to the Notes, including to the new rate and to the Margin, which are consistent with accepted market practice for the use of such rate with debt obligations such as the Note. If the Determination Agent is unable to identify an alternative rate and determine the necessary adjustments to the terms of the Notes then the Issuer may redeem the Notes. The replacement of the Relevant Rates Benchmark by an Alternative Pre-nominated Reference Rate or other alternative rate and the making of other adjustments to the Notes and other determinations, decisions or elections that may be made under the terms of the Notes in connection with the replacement of a Relevant Rates Benchmark could adversely affect the value of the Notes, the return on the Notes and the price at which the Noteholder can sell such Notes. Any early redemption of the Notes will result in the Noteholder losing any future return on the Notes and may result in the Noteholder incurring a loss on its investment in the Notes.

Any determination or decision of the Determination Agent described above will be made in the Determination Agent’s discretion (in some cases after consultation with the Issuer).

In addition, (i) the composition and characteristics of the Alternative Pre-nominated Reference Rate or other alternative rate will not be the same as those of the Relevant Rates Benchmark which it replaces, the Alternative Pre-nominated Reference Rate or other alternative rate will not be the economic equivalent of the Relevant Rates Benchmark that it replaces, there can be no assurance that the Alternative Pre-nominated Reference Rate or other alternative rate will perform in the same way as the Relevant Rates Benchmark that it replaces would have at any time and there is no guarantee that the Alternative Pre-nominated Reference Rate or other alternative rate will be a comparable substitute for the Relevant Rates Benchmark which it replaces, (each of which means that the replacement of the Relevant Rates Benchmark by the Alternative Pre-nominated Reference Rate or other alternative rate could adversely affect the value of the Notes, the return on the Notes and the price at which the Noteholder can sell such Notes), (ii) any failure of the Alternative Pre-nominated Reference Rate or other alternative rate to gain market acceptance could adversely affect the Notes, (iii) the Alternative Pre-nominated Reference Rate or other alternative rate may have a very limited history and the future performance of the Alternative Pre-nominated Reference Rate or other alternative rate cannot be predicted based on historical performance, (iv) the secondary trading market for Notes linked to the Alternative Pre-nominated Reference Rate or other alternative rate may be limited and (v) the

administrator of the Alternative Pre-nominated Reference Rate or other alternative rate may make changes that could change the value of the Alternative Pre-nominated Reference Rate or other alternative rate or discontinue the Alternative Pre-nominated Reference Rate or other alternative rate and has no obligation to consider the Noteholder's interests in doing so.

*Fallback arrangements where the Relevant Rates Benchmark is U.S. dollar LIBOR: If U.S. dollar LIBOR is discontinued, any Floating Rate Notes referencing U.S. Dollar LIBOR will bear interest by reference to a different base rate, which could adversely affect the value of the Notes, the return on the Notes and the price at which the Noteholder can sell such Notes; there is no guarantee that any Benchmark Replacement will be a comparable substitute for U.S. dollar LIBOR.*

If the Issuer or its designee determines that a Benchmark Transition Event and its related Benchmark Replacement Date have occurred in respect of LIBOR (with the applicable period of maturity in the case of Screen Rate Determination or the applicable Designated Maturity in the case of ISDA Determination) and cannot determine the Interpolated Benchmark as of the Benchmark Replacement Date, then the interest rate on the Notes will no longer be determined by reference to LIBOR, but instead will be determined by reference to a different base rate, which will be a different benchmark than LIBOR, plus a spread adjustment, which is referred to as a "Benchmark Replacement," as further described under Condition 6.12 (*Effect of Benchmark Transition Event*) below. In such a case, in the first instance, the interest rate on the Notes will be determined based on Term SOFR, which is a forward-looking term rate based on SOFR that is currently being considered for development by the Alternative Reference Rates Committee (the "ARRC"), which is a group of private-market participants convened by the Federal Reserve Board and the Federal Reserve Bank of New York to help ensure a successful transition from U.S. dollar LIBOR to SOFR. There can be no assurance that the development of a Term SOFR will be completed and selected or recommended by the ARRC.

If a particular Benchmark Replacement or Benchmark Replacement Adjustment cannot be determined, then the next-available Benchmark Replacement or Benchmark Replacement Adjustment will apply. These replacement rates and adjustments may be selected, recommended or formulated by (i) the Relevant Governmental Body (such as the ARRC), (ii) ISDA or (iii) in certain circumstances, the Issuer or its designee. In addition, the terms of the Notes expressly authorize the Issuer or its designee to make Benchmark Replacement Conforming Changes with respect to, among other things, changes to the definition of "interest period," timing and frequency of determining rates and making payments of interest and other administrative matters. The determination of a Benchmark Replacement, the calculation of the interest rate on the Notes by reference to a Benchmark Replacement (including the application of a Benchmark Replacement Adjustment), any implementation of Benchmark Replacement Conforming Changes and any other determinations, decisions or elections that may be made under the terms of the Notes in connection with a Benchmark Transition Event could adversely affect the value of the Notes, the return on the Notes and the price at which the Noteholder can sell such Notes.

Any determination, decision or election described above will be made in the Issuer's or its designee's sole discretion.

In addition, (i) the composition and characteristics of the Benchmark Replacement will not be the same as those of LIBOR, the Benchmark Replacement will not be the economic equivalent of LIBOR, there can be no assurance that the Benchmark Replacement will perform in the same way as LIBOR would have at any time and there is no guarantee that the Benchmark Replacement will be a comparable substitute for LIBOR (each of which means that a Benchmark Transition Event could adversely affect the value of the Notes, the return on the Notes and the price at which the Noteholder can sell such Notes), (ii) any failure of the Benchmark Replacement to gain market acceptance could adversely affect the Notes, (iii) the Benchmark Replacement may have a very limited history and the future performance of the Benchmark Replacement cannot be predicted based on historical performance, (iv) the secondary trading market for Notes linked to the Benchmark Replacement may be limited and (v) the administrator of the Benchmark Replacement may make changes that could change the value of the Benchmark Replacement or discontinue the Benchmark Replacement and has no obligation to consider the Noteholder's interests in doing so.

For example, if the Benchmark Replacement is a Term SOFR or Compounded SOFR, as adjusted as described herein, the composition and characteristics of SOFR are not the same as those of LIBOR and the Benchmark Replacement, as so adjusted, will not be the economic equivalent of LIBOR. In June 2017, the ARRC announced SOFR as its recommended alternative to U.S. dollar LIBOR. SOFR is a broad Treasury repo financing rate that represents overnight secured funding transactions. This means that SOFR is fundamentally different from LIBOR for two key reasons. First, SOFR is a secured rate, while LIBOR is an unsecured rate. Second, SOFR is an overnight rate, while LIBOR represents interbank funding over different maturities. As a result, there can be no assurance that SOFR (including a Term SOFR or Compounded SOFR) will perform in the same way as LIBOR would have at any time, including, without limitation, as a result of changes in interest and yield rates in the market, market volatility or global or regional economic, financial, political, regulatory, judicial or other events. For example, since publication of SOFR

began on April 3, 2018, daily changes in SOFR have, on occasion, been more volatile than daily changes in comparable benchmark or other market rates. Furthermore, a Benchmark Replacement of Term SOFR (if developed and selected or recommended by the ARRC) or Compounded SOFR, even with the application of a Benchmark Replacement Adjustment and any implementation of Benchmark Replacement Conforming Changes, will not have the same composition and characteristics as those of LIBOR and there is no guarantee that such Benchmark Replacement, as so adjusted, will be suitable as a substitute for LIBOR. For additional information regarding SOFR, see “*Secured Overnight Financing Rate*” above.

See also “*Risk Factors Relating to the Program Securities—Reform of LIBOR and EURIBOR and other interest rate index and equity, commodity and foreign exchange rate index “Benchmarks”*”, “*—Expected replacement of London Interbank Offered Rate and replacement or reform of other interest rates could adversely affect our business, financial condition and results of operations*” and “*—LIBOR, EURIBOR and other interest rate benchmark discontinuance, prohibition on use or reform may lead to adjustments to the terms of the Notes or an early redemption of the Notes*” above.

#### *Fallback arrangements - general*

The application of any of these fallbacks may adversely affect the value of the Noteholder’s investment in the Notes.

If neither of the fallbacks described above in “*Fallback arrangements where (i) the Relevant Rates Benchmark is other than U.S. dollar LIBOR and (ii) the provisions of Condition 6.11 (Relevant Rates Benchmark Discontinuance or Prohibition on Use) are applicable*” or “*Fallback arrangements where the Relevant Rates Benchmark is U.S. dollar LIBOR: If U.S. dollar LIBOR is discontinued, any Floating Rate Notes referencing U.S. Dollar LIBOR will bear interest by reference to a different base rate, which could adversely affect the value of the Notes, the return on the Notes and the price at which the Noteholder can sell such Notes; there is no guarantee that any Benchmark Replacement will be a comparable substitute for U.S. dollar LIBOR*” applies, and either of LIBOR or EURIBOR have been permanently discontinued, the Determination Agent will use, as a substitute for LIBOR or EURIBOR, and for each future Interest Determination Date, the alternative reference rate selected by the central bank, reserve bank, monetary authority or any similar institution (including any committee or working group thereof) in the jurisdiction of the applicable index currency that is consistent with accepted market practice. The Determination Agent will also make other adjustments to the Notes, including to the new rate and to the Margin, which are consistent with accepted market practice for the use of such alternative rate for debt obligations such as the Notes. However, in the case of EURIBOR only, if the Determination Agent determines that no such alternative rate exists on the relevant date, it will make a determination of an alternative rate as a substitute for EURIBOR, for debt obligations such as the Notes, as well as other adjustments to the Notes, including to the new rate and to the Margin, that is consistent with accepted market practice.

The replacement of LIBOR or EURIBOR by an alternative rate and the making of other adjustments to the Notes and other determinations, decisions or elections that may be made under the terms of the Notes in connection with the replacement of LIBOR or EURIBOR could adversely affect the value of the Notes, the return on the Notes and the price at which the Noteholder can sell such Notes.

Any determination or decision described above will be made in the Determination Agent’s discretion (after consultation with the Issuer).

In addition, (i) the composition and characteristics of the alternative rate will not be the same as those of the Relevant Rates Benchmark which it replaces, the alternative rate will not be the economic equivalent of the Relevant Rates Benchmark that it replaces, there can be no assurance that the alternative rate will perform in the same way as the Relevant Rates Benchmark that it replaces would have at any time and there is no guarantee that the alternative rate will be a comparable substitute for the Relevant Rates Benchmark which it replaces, (each of which means that the replacement of the Relevant Rates Benchmark by the alternative rate could adversely affect the value of the Notes, the return on the Notes and the price at which the Noteholder can sell such Notes), (ii) any failure of the alternative rate to gain market acceptance could adversely affect the Notes, (iii) the alternative rate may have a very limited history and the future performance of the alternative rate cannot be predicted based on historical performance, (iv) the secondary trading market for Notes linked to the alternative rate may be limited and (v) the administrator of the alternative rate may make changes that could change the value of the alternative rate or discontinue the alternative rate and has no obligation to consider the Noteholder’s interests in doing so.

**Prospective investors should review the Conditions to ascertain whether and how such provisions apply to the Program Securities and what constitutes an Administrator/Benchmark Event.**

#### ***Administrator/Benchmark Events***

Where the Relevant Underlying, Relevant Factor or otherwise any variable by reference to which interest, principal or other amounts payable under the Program Securities is a “Relevant Benchmark” for the purposes of the Conditions, the administrator or sponsor (or the Relevant Benchmark) may be required to be authorised, registered, recognised, endorsed or otherwise included in an official register in order for the Issuer, the Determination Agent or the Calculation Agent to be permitted to use the Relevant Benchmark and perform their respective obligations under the Program Securities. If the Determination Agent determines that such a requirement applies to the administrator or sponsor (or the Relevant Benchmark) but it has not been satisfied then an “Administrator/Benchmark Event” will occur and the Determination Agent or the Issuer may then apply certain fallbacks. For the avoidance of doubt, Administrator/Benchmark Events shall not apply where the Relevant Rates Benchmark is U.S. dollar LIBOR.; see Condition 6.12 (*Effect of Benchmark Transition Event*) below.

In the case where the Program Securities reference a Relevant Equity Index Benchmark, a Relevant Commodity Benchmark that is a Commodity Index, a Relevant Property Index Benchmark or a Relevant Futures Contract Benchmark, these fallbacks may include one or more of the Determination Agent replacing the Relevant Equity Index Benchmark, the Relevant Commodity Benchmark, the Relevant Property Index Benchmark or the Relevant Futures Contract Benchmark with any “Alternative Pre-nominated Index” or (in the case of Futures Contract-Linked Notes or Futures Contract Securities) an “Alternative Pre-nominated Futures Contract” which has been specified in the applicable Pricing Supplement, making adjustments to the amounts payable by the Issuer under the Program Securities, adjusting the other terms and conditions of the Program Securities or the Issuer redeeming the Program Securities.

In the case where the Program Securities reference a Relevant Commodity Benchmark (other than a Commodity Index) the fallbacks may include the Determination Agent making a determination of the relevant level, price, value or amount by reference to a fallback reference price, postponing the Pricing Date, determining the relevant level, price, value or amount on the basis of quotations provided to the Determination Agent by each of the Reference Dealers, the Determination Agent otherwise determining, in its reasonable discretion, the relevant level, price, value or amount (or a method for determining the relevant level, price, value or amount), taking into consideration the latest available quotation for the relevant Commodity Reference Price and any other information that it deems relevant, or the Issuer redeeming the Program Securities.

In the case where the Program Securities reference a Relevant FX Benchmark the fallbacks may include the Determination Agent making a determination of the Settlement Rate or using a fallback reference price to determine the Settlement Rate, or the Issuer redeeming the Program Securities.

In the case where Program Securities which are Notes reference a Relevant Rates Benchmark, the fallbacks summarised in the risk factor entitled “—*LIBOR, EURIBOR and other interest rate benchmark discontinuance, prohibition on use or reform may lead to adjustments to the terms of the Notes or an early redemption of the Notes*” above will apply.

#### ***Secondary trading of the Program Securities may be limited***

Potential investors should be willing to hold the Program Securities until maturity. The nature and extent of any secondary market in the Program Securities cannot be predicted and there may be little or no secondary market in the Program Securities. As a consequence any person intending to hold the Program Securities should consider liquidity in the Program Securities as a risk. Where the Program Securities are listed or quoted on an exchange or quotation system, this does not imply greater or lesser liquidity than if equivalent Program Securities were not so listed or quoted and the Issuer cannot guarantee that the listing or quotation will be permanently maintained. Where the Program Securities are not listed or quoted, it becomes more difficult to purchase and sell such Program Securities and there may also be a lack of transparency with regard to pricing information.

Further, although an Issuer may apply to have certain issuances of Program Securities admitted to the Official List of Euronext Dublin and trading on its Global Exchange Market or admitted to listing on the Luxembourg Stock Exchange and to trading on the Luxembourg Stock Exchange’s Euro MTF market, or admitted to listing, trading and/or quotation by any other listing authority, stock exchange and/or quotation system, approval for any listing is subject to meeting the relevant listing requirements. Even if there is a secondary market, it may not provide enough liquidity to allow the investor to sell or trade the Program Securities easily. Morgan Stanley & Co. International plc and other affiliates of Morgan Stanley may from time to time, make a market in the Program Securities, but they are not required to do so. If at any time Morgan Stanley & Co. International plc and other affiliates of the Issuers were to

cease making a market in the Program Securities, it is likely that there would be little or no secondary market for the Program Securities.

***Investors have no shareholder rights***

As an owner of Program Securities, investors will not have voting rights or rights to receive dividends, interest or other distributions, as applicable, or any other rights with respect to any underlying security, ETF, other fund, index or futures contract.

***Exchange rates may affect the value of a judgment***

The Notes, Warrants and Certificates and any non-contractual obligations arising out of or in connection with them shall be governed by English law. Although an English court has the power to grant judgment in the currency in which a Program Security is denominated, it may decline to do so in its discretion. If judgment were granted in a currency other than that in which a Program Security is denominated, the investor will bear the relevant currency risk.

***Potential conflicts of interest between the investor and the Determination Agent***

Potential conflicts of interest may exist between the investor and the Determination Agent, which may be an affiliate of the Issuer and the Guarantor, if applicable. Certain determinations made by the Determination Agent may require it to exercise discretion and make subjective judgements. As Determination Agent for Program Securities linked to a single security, index, futures contract, ETF or other fund or a basket of securities, indices, futures contracts, ETFs or other funds or, Credit-Linked Notes, or Program Securities linked to commodities or other underlying instruments, assets or obligations, Morgan Stanley & Co. International plc (unless otherwise specified) will determine the pay out to the investor at maturity. Morgan Stanley & Co. International plc and other affiliates may also carry out hedging activities related to any Program Securities linked to a single security, index, futures contract, ETF or other fund or a basket of securities, indices, futures contracts, ETFs, other funds, Credit-Linked Notes, or Program Securities linked to commodities or to other instruments, assets or obligations including trading in the underlying securities, indices, futures contracts, ETFs or commodities as well as in other instruments related to the underlying securities, indices, futures contracts, ETFs or commodities. Morgan Stanley & Co. International plc and some of Morgan Stanley's other subsidiaries may also trade the applicable underlying securities, indices, futures contracts or commodities and other financial instruments related to the underlying securities, indices, futures contracts, or commodities on a regular basis as part of their general broker dealer and other businesses. Any of these activities could influence the Determination Agent's potentially subjective determination of adjustments made to any Program Securities linked to a single security, index, futures contract, ETF or other fund or a basket of securities, indices, futures contracts, ETFs or other funds, Credit-Linked Notes, or Program Securities linked to commodities or other underlying instruments, assets or obligations and any such trading activity could potentially affect the price of the underlying securities, indices, futures contracts, ETFs, other funds, commodities or other underlying instruments, assets or obligations and, accordingly, could affect the investor's pay out on any Program Securities.

***Actions taken by the Determination Agent may affect the Relevant Underlying or Relevant Factor***

The Determination Agent may make such adjustments as it considers appropriate as a consequence of certain corporate actions affecting the Relevant Underlying or Relevant Factor. In making these adjustments the Determination Agent is entitled to exercise substantial discretion and may be subject to conflicts of interest, including the conflicts of interest highlighted above, in exercising this discretion. The Determination Agent is not required but has the discretion to make adjustments with respect to each and every corporate action. These potentially subjective determinations may adversely affect the amount payable to the investor.

***Program Securities in Global Form***

Because the Global Registered Securities (as defined below) may be held by or on behalf of Euroclear Bank S.A./N.V. ("**Euroclear**") and Clearstream Banking, société anonyme ("**Clearstream, Luxembourg**") and/or any other clearing system as may be specified in the applicable Pricing Supplement (such system or systems hereinafter referred to as the "**Relevant Clearing System**"), investors will have to rely on their procedures for transfer, payment and communication with the relevant Issuer.

Program Securities issued in registered form will be represented by interests in a permanent global registered instrument (each a "**Registered Global Instrument**"). Such Registered Global Instruments will be registered in the

name of a nominee for, and deposited with a common depositary on behalf of, Euroclear and Clearstream, Luxembourg.

Interests in the Registered Global Instruments will be shown on, and transfers thereof will be effected only through, records maintained by Euroclear and Clearstream, Luxembourg and its direct and indirect participants, including depositaries for Euroclear and Clearstream, Luxembourg, as the case may be.

While the Program Securities are represented by one or more Global Instruments, the Issuer will discharge its payment obligations under the Program Securities by making payments through the Relevant Clearing System for distribution to their account holders. A holder of an interest in a Global Instrument must rely on the procedures of the Relevant Clearing System to receive payments under the relevant Program Securities. Neither the relevant Issuer nor the Guarantor has responsibility or liability for the records relating to, or payments made in respect of, beneficial interests in the Global Instruments.

Holders of beneficial interests in the Global Instruments will not have a direct right to vote in respect of the relevant Program Securities. Instead, such holders will be permitted to act only to the extent that they are enabled by the Relevant Clearing System to appoint appropriate proxies.

#### ***Modification and waiver***

The Conditions of the Notes and the Conditions of the Warrants and Certificates contain provisions for calling meetings of Noteholders and Securityholders (as applicable) to consider matters affecting their interests generally. These provisions permit defined majorities to bind all holders of the relevant Program Securities, including holders who did not attend and vote at the relevant meeting and holders who voted in a manner contrary to the majority.

#### ***Change of law***

The Conditions of the Program Securities are based on English law in effect as at the date of this Offering Circular. No assurance can be given as to the impact of any possible judicial decision or change to English law or administrative practice in England after the date of this Offering Circular.

#### ***Restricted secondary trading if the electronic trading system is unavailable***

Trading in the Program Securities may be conducted via one or more electronic trading systems so that "buy" and "sell" prices can be quoted for exchange and off exchange trading. If an electronic trading system used by the Issuer and/or its Affiliates were to become partially or completely unavailable, such a development would have a corresponding effect on the ability of investors to trade the Program Securities.

#### ***Risk associated with estimating the price of the Relevant Underlying or Relevant Factor if its domestic market is closed while secondary trading in the Program Securities is open***

If the Relevant Underlying or Relevant Factor is traded on its domestic market during the opening hours for secondary trading in the Program Securities by the Issuers or their Affiliates or any stock exchange on which the Program Securities are listed, the price of the Relevant Underlying or Relevant Factor is incorporated into the price calculation for the Program Securities. In certain cases, however, the price of the Relevant Underlying or Relevant Factor may need to be estimated if the Program Securities are traded at a time when the market for the Relevant Underlying or Relevant Factor is closed. In general, this problem could apply to the Program Securities irrespective of the time at which they are traded because the Issuers and/or their Affiliates currently offer off exchange trading in the Program Securities at times when the Relevant Underlying or Relevant Factor is not traded on the local markets or stock exchanges. This problem applies in particular to a Relevant Underlying or Relevant Factor that is traded in time zones different from European time zones. The same problem arises if the Program Securities are traded on days on which the domestic market for the Relevant Underlying or Relevant Factor is closed because of a public holiday. If the Issuers and/or any of their Affiliates estimates the price of the Relevant Underlying or Relevant Factor when the domestic market is closed, its estimate may prove to be accurate, too high or too low within just a few hours of the domestic market re-opening for trade in the Relevant Underlying or Relevant Factor. Correspondingly, the prices used by the Issuers and/or any of their Affiliates for the Program Securities prior to the opening of business on the domestic market may subsequently prove to be too high or too low.

#### ***Provision of information***



None of the Issuers or any of their Affiliates makes any representation as to the issuer for any single security or basket security, fund or Fund Service Provider, the publisher of an underlying index, the sponsor of any futures contract or any specified entity with respect to Credit-Linked Notes. Any of such persons may have acquired, or during the term of the Program Securities may acquire, non-public information with respect to any such issuer, publisher, sponsor or specified entity, their respective affiliates or any guarantors that is or may be material in the context of the Program Securities. The issue of Program Securities will not create any obligation on the part of any such persons to disclose to the Noteholders and Securityholders or any other party such information (whether or not confidential).

### ***Independent review and advice***

Each prospective investor must determine, based on its own independent review and such professional advice as it deems appropriate under the circumstances, that its acquisition of the Program Securities is (i) fully consistent with its (or if it is acquiring the Program Securities in a fiduciary capacity, the beneficiary's) financial needs, objectives and condition, (ii) complies and is fully consistent with all investment policies, guidelines and restrictions applicable to it (whether acquiring the Program Securities as principal or in a fiduciary capacity) and (iii) is a fit, proper and suitable investment for it (or if it is acquiring the Program Securities in a fiduciary capacity, for the beneficiary), notwithstanding the clear and substantial risks inherent in investing in or holding the Program Securities. Each Issuer disclaims any responsibility to advise prospective investors of any matters arising under the law of the country in which they reside that may affect the purchase of, or holding of, or the receipt of payments or deliveries on the Program Securities.

### ***Selling Agent remuneration***

Each Issuer may enter into distribution agreements with various financial institutions and other intermediaries as determined by the applicable Issuer (each a "**Selling Agent**"). Each Selling Agent will agree, subject to the satisfaction of certain conditions, to subscribe for the Program Securities at a price equivalent to or below the Issue Price. Any difference between the price at which the Selling Agent subscribes the Program Securities and the price at which the Selling Agent sells the Program Securities to investors will be a remuneration of the Selling Agent. In addition, a periodic fee may also be payable to the Selling Agents in respect of all outstanding Program Securities up to and including the maturity date at a rate determined by the applicable Issuer and which may vary from time to time. Any remuneration received by the Selling Agent including any periodic payments may influence the Selling Agent's recommendation of the Program Securities to potential investors and may also increase the purchase price to be paid by the investor. Each Selling Agent will agree to comply with the selling restrictions set out in the document as amended and supplemented by the additional selling restrictions set out in the relevant distribution agreements.

### ***Subscription periods***

The relevant Issuer has the right to close the offering of the Program Securities prior to the end of the subscription period in its sole discretion.

### ***Settlement risk***

If (with respect to any Program Securities that are physically settled) prior to the delivery of any specified asset(s), the Determination Agent for the Notes determines that a settlement disruption event (as defined in Condition 23.3 (*Settlement Disruption of Physical Settlement*) and Condition 23.4 (*Delivery Disruption of Physical Settlement*) (in respect of the Notes) and in Condition 11.1(c) (*Settlement Disruption*) (in respect of the Warrants and Certificates), a "**Settlement Disruption Event**") is subsisting, then the obligation to deliver such asset(s) shall be postponed to the first following business day on which no Settlement Disruption Event is subsisting. Prospective investors should note that any such determination may affect the value of the Program Securities and/or may delay settlement in respect of the Program Securities.

Prospective investors should note that for so long as any delivery of any part of the specified asset(s) is not practicable by reason of a Settlement Disruption Event, then the relevant Issuer may, in its sole and absolute discretion, satisfy its obligations to deliver such part of the specified asset(s) by payment of a disrupted cash settlement price. Prospective investors should note that the disrupted cash settlement price will reflect the fair market value of the Program Securities less the cost to the relevant Issuer and/or any of its Affiliates of unwinding any Relevant Underlying or Relevant Factor related hedging arrangements and that any such determination may affect the value of the Program Securities.

### ***Market Disruption Event, Disrupted Day, Adjustments and Early Redemption or termination of Program Securities***

The Determination Agent may determine that a Market Disruption Event or a failure to open of an Exchange or Related Exchange has occurred or exists on a relevant date of valuation, and any consequential postponement of such date of valuation may have an adverse effect on the value of the Program Securities.

In addition the Determination Agent may make adjustments to the Program Securities to account for relevant adjustments or events in relation to the Relevant Underlying or Relevant Factor including, but not limited to, determining a successor to the Relevant Underlying or Relevant Factor or its sponsor (in the case of an Index), or determining a successor or substitute futures contract (in the case of a Futures Contract). In addition, in certain circumstances, the relevant Issuer may redeem or terminate the Program Securities early following any such event. In this case, in relation to each Note, the relevant Issuer will pay an amount, if any, determined as provided in the Conditions.

Prospective investors should review the Conditions to ascertain whether and how such provisions apply to the Program Securities and what constitutes a Market Disruption Event or relevant adjustment event.

***Issuers' credit ratings may not reflect all risks***

One or more independent credit rating agencies may assign credit ratings to the Issuers. The ratings may not reflect the potential impact of all risks related to structure, market, additional factors discussed above, and other factors that may affect the value of the Program Securities. A credit rating is not a recommendation to buy, sell or hold Program Securities and may be revised or withdrawn by the rating agency at any time.

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

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

***Representations and acknowledgments by Noteholders and Securityholders***

Representations and acknowledgments by Noteholders and Securityholders. Each Noteholder and Securityholder shall be deemed to represent and acknowledge to the relevant Issuer on acquiring any Program Security that:

- (a) neither the Issuers and/or any of their Affiliates nor any of their agents is acting as a fiduciary for it or provides investment, tax, accounting, legal or other advice in respect of the Program Securities and that such holder and its advisors are not relying on any communication (written or oral and including, without limitation, opinions of third party advisors) of the Issuers or any Affiliate as (a) legal, regulatory, tax, business, investment, financial, accounting or other advice, (b) a recommendation to invest in any Program Securities or (c) an assurance or guarantee as to the expected results of an investment in the Program Securities (it being understood that information and explanations related to the terms and conditions of the Program Securities shall not be considered to be any such advice, recommendation, assurance or guarantee and should be independently confirmed by the recipient and its advisors prior to making any such investment);
- (b) such Program Security holder (a) has consulted with its own legal, regulatory, tax, business, investments, financial and accounting advisors to the extent that it has deemed necessary, and has made its own investment, hedging, and trading decisions based upon its own judgement and upon any advice from such advisors as it has deemed necessary and not upon any view expressed by the Issuers or any Affiliate or any of their agents and (b) is acquiring Program Securities with a full understanding of the terms, conditions and risks thereof and it is capable of and willing to assume those risks; and
- (c) the Issuers and/or any Affiliates may have banking or other commercial relationships with issuers of any securities to which the Program Securities relate and may engage in proprietary trading in any equity securities, indices, futures contracts or other property to which the Program Securities relate or options, futures, derivatives or other instruments relating thereto (including such trading as the Issuers and/or any Affiliate deem appropriate in their sole discretion to hedge the market risk on the Program Securities and other transactions between the Issuers and/or any Affiliates and any third parties), and that such trading (a)

may affect the price or level thereof and consequently the amounts payable under the Program Securities and (b) may be effected at any time.

### ***Disclosure***

Neither the issuer of any single security or basket security, an ETF, other fund or underlying asset, any Fund Service Provider, the publisher of an underlying index, the sponsor of any futures contract nor any specified entity with respect to Credit-Linked Notes has participated in the preparation of this document or in establishing the Conditions of the Program Securities and neither the Issuers nor any of their Affiliates will make any investigation or enquiry in connection with such offering with respect to any information concerning any such issuer, ETF, other fund, underlying asset, Fund Service Provider, publisher, sponsor or specified entity contained in this document or in the documents from which such information was extracted. Consequently, there can be no assurance that all events occurring prior to the issue date (including events that would affect the accuracy or completeness of any publicly available information described in this document) that would affect the trading price and/or level of the Relevant Underlying or Relevant Factor will have been publicly disclosed. Subsequent disclosure of any such events or the disclosure of or failure to disclose material future events concerning such an issuer, ETF, other fund, underlying asset, Fund Service Provider, publisher, sponsor or specified entity could affect the trading price and/or level of the Relevant Underlying or Relevant Factor and therefore the trading price of the Program Securities.

### ***Program Securities linked to the performance of funds***

The Issuers may issue Program Securities where the redemption amount or, if applicable, the interest amount in relation to Fund-Linked Notes or the return, in relation to Fund Securities (together with the Fund-Linked Notes, "**Fund-Linked Program Securities**") is linked to the performance of a unit, share or other interest in a fund (each a "Fund Interest Unit") or a basket of Fund Interest Units. Such funds may include mutual funds or any other types of fund in any jurisdiction, or any combination of the foregoing. Investments offering direct or indirect exposure to the performance of funds are generally considered to be particularly risky and may bear similar risks, including but not limited to, market risks to a direct investment in funds.

Prospective investors should note that payments on redemption or termination of Fund-Linked Program Securities at maturity, expiration, early redemption or early termination may be postponed, in accordance with the Conditions, up to a specified long stop date and if the specified long stop date is reached, for the purposes of determining the Redemption Amount or any other such redemption amounts, as applicable, the affected fund interest units or shares may be deemed to have a zero value. Prospective investors should also be aware that if one or more events occurs in relation to the Fund or any Fund Service Provider, including insolvency of the Fund or Fund Service Provider, then the Issuer, may in its sole and absolute discretion, determine whether the Fund-Linked Program Securities will continue or whether they will be redeemed or terminated early. If the Issuer determines that the Fund-Linked Program Securities will continue, this may result in the substitution of the affected Fund Interest Unit with other Fund Interest Units with similar characteristics or adjustments to the Conditions of the Program Securities to account for the occurrence of the relevant event. These actions may have an adverse effect on the return and risk profile of the relevant Fund-Linked Program Securities, and consequently, the value of such Fund-Linked Program Securities and if the Fund-Linked Program Securities are redeemed or terminated early the amount investors receive may be considerably less than their original investment and may even be zero.

The risks associated with investing in Fund-Linked Program Securities are similar to the risks attached to a direct investment in the underlying fund or funds. There are substantial risks in directly or indirectly investing in funds including, without limitation, the risks set out below. Prospective investors should note that references to funds below can refer both to the funds referenced in any Fund-Linked Program Securities and also to any funds in which any of those funds invests its assets from time to time:

Investments risks that prospective investors should be aware of include the following:

- (a) different types of funds are subject to differing levels of regulatory supervision;
- (b) funds may have varying restrictions on leverage. Leverage presents the potential for a higher rate of return but also increases the volatility of the fund and increases the risk of a total loss of the amount invested;
- (c) funds may have differing investment restrictions and some funds may invest in assets which are illiquid or difficult to transfer. This may have an effect on the realisation of such assets and in turn, the value and performance of the fund. In addition, a fund's assets or investments may be concentrated in a few markets,

countries, industries, commodities, sectors of an economy or issuers. If so, adverse movements in a particular market, country, industry, commodity, economy or industry or in the value of the securities of a particular issuer could have a severely negative effect on the value of such a fund. In addition, a fund may use a single advisor or employ a single strategy, which could mean a lack of diversification and higher risk;

- (d) substantial redemptions by holders of Fund Interest Units in a fund within a short period of time could require the fund's investment manager(s) and/or adviser(s) to liquidate positions more rapidly than would otherwise be desirable, which could adversely affect the value of the fund's assets; and
- (e) the performance of a fund will be heavily dependent on the performance of investments selected by its advisers or investment managers and the skill and expertise of such fund service providers in making successful and profitable investment decisions. Such skill and expertise may be concentrated in a number of the adviser's or investment manager's key personnel. Should these key personnel leave or become no longer associated with the fund's adviser or investment manager, the value or profitability of the fund's investments may be adversely affected as a result.

#### ***Program Securities linked to property indices***

The Issuers may issue Notes with principal and/or interest, or Warrants and Certificates whose return is, determined by reference to a residential or commercial property index or indices ("**Property Indices**"). Property Indices may only be a reference guide to a certain property market and may not be representative of the relevant property market as a whole. The relevant Property Index may only measure the capital growth component of property only and may not include any income return component. A Property Index may be based on valuation data only; as such, a Property Index may not necessarily reflect actual market prices and may rely on the ability of the index provider to gather property valuations and conduct continuous, close monitoring of such property valuations.

Property markets are illiquid and complex. The impact of price fluctuations in the property market may not immediately be reflected in the relevant Property Index (if at all). Properties may only be valued on an annual basis for the purposes of calculating the relevant Property Index and, as such, the level at which the Property Index stands may not be representative of actual market prices or transactions in the relevant property market. The provider of a Property Index may reserve the right to change the constituents of the relevant Property Index and the methodology used in its calculation. The publication of the Property Index may be delayed and/or subject to correction. Any of the foregoing may affect the return of the Notes.

#### ***Program Securities linked to the performance of futures contracts***

The Issuers may issue Notes, Warrants or Certificates, where the redemption amount or, if applicable, the interest amount ("**Futures Contract-Linked Notes**", "**Futures Contract Securities**" and "**Futures Contract Basket Securities**", as applicable) is linked to the performance of a futures contract (a "**Futures Contract**") or a basket of Futures Contracts. The underlying of such Futures Contracts may include equity indices (including equity indices giving exposure to dividends paid by the constituent companies or the volatility of those constituent companies), single stocks, foreign exchange rates, bonds, or other types of underlying asset(s), contracts or property. It is important that an investor in Program Securities linked to the performance of futures contracts understands the contract specification of the relevant Futures Contract(s), including the applicable underlying(s) and term for which exposure is given.

The risks associated with investing in Futures Contract-Linked Notes, Futures Contract Securities or Futures Contract Basket Securities are similar to the risks attached to a direct investment in the relevant futures contract(s). There are substantial risks in directly or indirectly investing in futures contracts including, without limitation, the risks set out below.

Investment risks that prospective investors should be aware of include the following:

- (a) The value of the futures contract(s) underlying the Program Securities may vary over time and may increase or decrease by reference to a variety of factors which include the factors affecting any underlying of the futures contract(s) such as:
  - the expectations of performance in relation to the underlying of the futures contract or the constituent assets of any index or indices underlying the Futures Contract from time to time;

- in the case of an index underlying the Futures Contract, any changes in the constituents of that index;
- market interest and yield rates;
- economic, political, structural supply and demand and macro-economic factors;
- changes in applicable law and regulation; and
- in the case of Program Securities linked to dividend futures contracts (the value of which typically tracks dividends paid by the constituent companies of the underlying equity index during a specified time period), the dividend policy of the relevant constituent companies of the related underlying index and the terms as to which dividends are relevant realised dividends (which often exclude special or extraordinary dividends). Investors should be aware that such constituent companies may pay reduced relevant dividends or no such dividends in respect of the relevant contract period or dividends that may bear no relation to dividends paid during a prior contract period.

In addition, the value of future contract(s) also depends on factors relating to the relevant futures contract itself, such as the time remaining to the final settlement date, and the liquidity of such futures contract(s), the contract specification and the terms of the relevant underlying(s).

Prior to purchasing Futures Contract-Linked Notes, Futures Contract Securities or Futures Contract Basket Securities, prospective investors should ensure they are familiar with investments in global capital markets and with derivatives generally, and carefully consider such factors, as the value of the Futures Contract(s) will affect the return on the Program Securities.

- (b) The Program Securities give rise to obligations of the Issuer and will not give rise to any obligations or rights in respect of the Futures Contract(s) or any underlying(s) of the Futures Contract(s). The return on investment may have been higher if made in the Futures Contract(s) or underlying(s) of the Futures Contract(s) rather than by purchasing the Program Securities.
- (c) The performance of a similar futures contract or its underlying(s) over a prior contract period will not necessarily be indicative of the performance of the relevant Futures Contract(s) to which the Program Securities relate.

#### ***Potential U.S. Withholding Tax under FATCA and on U.S. Dividend Equivalent Amounts***

As discussed in "United States Federal Taxation" below, sections 1471 through 1474 of the U.S. Internal Revenue Code (the "**Code**") and any regulations thereunder or official guidance in connection therewith, an agreement entered into with the IRS pursuant to such sections of the Code, an intergovernmental agreement (an "**IGA**") between the United States and another jurisdiction in furtherance of such sections of the Code, or any non-U.S. laws or rules implementing an IGA (collectively referred to as "**FATCA**") may impose a withholding tax of 30 per cent. on payments made on the Program Securities (including payments made by financial intermediaries), unless various U.S. information reporting and due diligence requirements have been satisfied.

Furthermore, Section 871(m) of the Code and the regulations thereunder require withholding (up to 30 per cent. depending on whether an income tax treaty applies) on payments or deemed payments made to non-U.S. persons on certain financial instruments to the extent that such payments are treated, for U.S. federal income tax purposes, as being U.S.-source dividend equivalent amounts.

If withholding is so required, none of Morgan Stanley, MSFL or any intermediary will be required to pay any additional amounts with respect to the amounts so withheld. Either of the foregoing rules may affect the amounts paid to an investor on the Program Securities.

#### **Risk factors specific to the Notes**

##### ***Potential U.S. Federal Withholding Tax on Coupons***

Due to the uncertain treatment of the Notes for U.S. federal income tax purposes, a non-U.S. investor should expect that a withholding agent will treat all or a portion of the coupon payments, if any, on the Notes as subject to U.S.

federal withholding tax at a rate of 30 per cent., unless a non-U.S. investor qualifies for an exemption. In the case of Notes that pay coupons no portion of which is treated as interest income, a non-U.S. investor generally will need to establish an exemption under the "other income" provision of a Qualifying Treaty (as defined below). An income tax treaty between a non-U.S. jurisdiction and the United States is a "**Qualifying Treaty**" if it provides for a 0 per cent. rate of tax on "other income" earned by a resident of the non-U.S. jurisdiction from sources within the United States. Accordingly, if a non-U.S. investor is a resident of a non-U.S. jurisdiction that qualifies for benefits under such a Qualifying Treaty, it should generally be eligible for an exemption under the "other income" provision referred to above if the non-U.S. investor complies with the certification requirement described in "*United States Federal Taxation*". However, because most income tax treaties contain complex eligibility rules and limitations, a non-U.S. investor should consult its tax advisor about its eligibility for this exemption. To demonstrate eligibility for the "other income" exemption to the Issuer or an applicable withholding agent, non-U.S. investors generally will be required to provide a properly completed IRS Form W-8BEN or W-8BEN-E certifying that it is not a U.S. person and that it is eligible for the benefits of a Qualifying Treaty (or, if the non-U.S. investor holds its Notes through certain qualified intermediaries, it may be permitted to provide alternative documentation in lieu of the appropriate Form W-8BEN or W-8BEN-E to establish that it is not a U.S. person and that it is eligible for the benefits of a Qualifying Treaty) as discussed in "*United States Federal Taxation*" below. Notwithstanding the discussion above, because the U.S. federal income tax treatment of such Notes is unclear, the coupon payments, if any, on the Notes could alternatively be treated in whole or part as payments of interest. In addition, in the case of certain Notes that pay unconditional fixed-rate coupons, a portion of the coupons on such Notes may be treated as interest, as described under "*United States Federal Taxation*" below. Nonetheless, even if the coupon payments are treated in whole or in part as interest, under current law and administrative practice a non-U.S. investor generally will qualify for the "portfolio interest exemption" with respect to coupon payments on the Notes so long as the non-U.S. investor has provided certifications to establish that it is not a U.S. person as described above and certain other requirements are met, as discussed in "*United States Federal Taxation*" below. Non-U.S. investors should consult their tax advisors regarding their eligibility for the "portfolio interest exemption" in light of their particular circumstances.

If withholding is so required, none of Morgan Stanley, MSFL or any intermediary will be required to pay any additional amounts with respect to the amounts so withheld.

#### ***The Notes may be redeemed prior to maturity***

Unless in the case of any particular Tranche of Notes the applicable Pricing Supplement specifies otherwise, in the event that the relevant Issuer or Guarantor (if applicable) would be obliged to increase the amounts payable in respect of any Notes due to any withholding or deduction for or on account of, any present or future taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or on behalf of any relevant jurisdiction, or in certain circumstances following the occurrence of an Administrator/Benchmark Event or relevant adjustment events applicable to the Notes, the relevant Issuer may redeem all outstanding Notes in accordance with the Conditions at the redemption price specified in the applicable Pricing Supplement.

In addition, if in the case of any particular Tranche of Notes the applicable Pricing Supplement specifies that the Notes are redeemable at the relevant Issuer's option in certain other circumstances, the relevant Issuer may choose to redeem the Notes at times when prevailing interest rates may be relatively low. In such circumstances an investor may not be able to reinvest the redemption proceeds in a comparable security at an effective interest rate as high as that of the relevant Notes.

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

In the case of certain Notes, if such Notes are redeemed early for any reason, the amount payable by the Issuer may be less than the amount that would have been paid had the Notes been redeemed at maturity.

In addition, in the circumstance of an event of default by the Issuer, the investor would have an unsecured claim against the relevant Issuer or, if applicable, the Guarantor for the amount due on the early redemption of the Notes.

#### ***Fixed/Floating Rate Notes***

Fixed/Floating Rate Notes may bear interest at a rate that the relevant Issuer may elect to convert from a fixed rate to a floating rate, or from a floating rate to a fixed rate. The relevant Issuer's ability to convert the interest rate will affect the secondary market and the market value of the Notes since the Issuer may be expected to convert the rate when it is

likely to produce a lower overall cost of borrowing. If the relevant Issuer converts from a fixed rate to a floating rate, the spread on the Fixed/Floating Rate Notes may be less favourable than then prevailing spreads on comparable Floating Rate Notes tied to the same reference rate. In addition, the new floating rate at any time may be lower than the rates on other Notes. If the relevant Issuer converts from a floating rate to a fixed rate, the fixed rate may be lower than then prevailing rates on its Notes.

#### ***Notes issued at a substantial discount or premium***

The market values of securities issued at a substantial discount or premium from their principal amount tend to fluctuate more in relation to general changes in interest rates than do prices for conventional interest bearing securities. Generally, the longer the remaining term of the securities, the greater the price volatility as compared to conventional interest bearing securities with comparable maturities.

Notes linked to the credit of one or more specified entities entail significant risks not associated with similar investments in conventional debt securities.

Because the payment of principal and interest on Credit-Linked Notes is contingent on the credit of one or more specified entities and such specified entities' satisfaction of their present and future financial obligations, investors will take credit risk with respect to such specified entities in addition to credit risk with respect to the relevant Issuer and/or the Guarantor, if applicable. If one or more of such specified entities becomes bankrupt or subject to other insolvency procedures or fails to make payments on, repudiates or restructures any of the debt or other obligations described in the applicable Pricing Supplement, a credit event may occur.

If a credit event occurs, the maturity of the Credit-Linked Notes will be accelerated. Upon acceleration of the Credit-Linked Notes, the investor will receive the deliverable obligations, or a cash amount calculated by reference to the value of certain obligations, each as described in the applicable Pricing Supplement instead of the principal amount of the Credit-Linked Notes and, if so provided in the applicable Pricing Supplement, interest payments on the Credit-Linked Notes will cease. The market value of those deliverable obligations following a credit event will probably be significantly less than the principal amount of the Credit-Linked Notes. Such obligations may even be worthless. Thus, if a credit event occurs, the investor may lose all of its investment in the Credit-Linked Notes.

Several factors, many of which are beyond the relevant Issuer's and, where applicable, the Guarantor's control will influence the value of the Credit-Linked Notes and the possibility of early acceleration, including: (i) the creditworthiness of the specified entity or entities underlying the Credit-Linked Notes, (ii) the creditworthiness of the relevant Issuer and/or the Guarantor, if applicable, and (iii) economic, financial and political events that affect the markets in which such specified entity or entities and the relevant Issuer and, where applicable, the Guarantor do business and the markets for the debt or other obligations of such specified entity or entities and of the relevant Issuer and, where applicable, the Guarantor.

The relevant Issuer may amend the terms and condition of the Notes, the Guarantee and (i) the deed of covenant entered into by Morgan Stanley dated 29 June 2018 (as supplemented and/or amended and/or restated and/or replaced from time to time, the "**Morgan Stanley Deed of Covenant**") and (ii) the deed of covenant entered into by MSFL dated 29 June 2018 (as supplemented and/or amended and/or restated from time to time, the "**MSFL Deed of Covenant**") together with the Morgan Stanley Deed of Covenant, the "**Deeds of Covenant**") without Noteholder consent if, in its opinion, such amendments are not materially prejudicial to Noteholders.

Condition 30.2 (*Modification*) of the Terms and Conditions of the Notes allows an Issuer to amend the terms and conditions of the Notes, the Guarantee and the Deeds of Covenant without the consent of the Noteholders if, in the relevant Issuer's opinion, the amendment is to correct a manifest error, where the effect of the amendment is of a formal, minor or technical nature or the amendment is not materially prejudicial to Noteholders. Prospective investors should be aware that an Issuer is not required to consult with any other party, including the Noteholders, prior to amending the terms and conditions of the Notes, the Guarantee and/or the Deeds of Covenant pursuant to Condition 30.2 (*Modification*). An Issuer is entitled to exercise its discretion in making these determinations and Noteholders will be bound by any such amendments made pursuant to Condition 30.2 (*Modification*).

#### **Risk factors specific to the Warrants and Certificates**

##### ***United Kingdom stamp duty and stamp duty reserve tax***

Potential purchasers of Warrants or Certificates should note that each Warrant or Certificate may constitute an instrument which is subject to United Kingdom stamp duty on issue by reference to the amount of the consideration given for the Warrants or Certificates so represented. If stamp duty is payable on the Warrants or Certificates, interest will be payable (in addition to the stamp duty) in respect of the period from 30 days after the date of execution of the Warrants or Certificates to the date of payment. Penalties may also be payable if the Warrants or Certificates are not stamped within 30 days of the date of execution of the Warrants or Certificates. If a Warrant or Certificate is subject to United Kingdom stamp duty, it would be inadmissible in evidence in an English court unless duly stamped. Potential purchasers should note that UK stamp duty reserve tax may become payable upon the issue of the Warrants or Certificates depending on the nature of the underlying securities and the precise terms of the Warrants or Certificates. Furthermore, potential purchasers should also note that UK stamp duty or stamp duty reserve tax may be payable on the transfer and/or exercise of the Warrants or Certificates depending on the nature of the Relevant Factor and the precise terms of the Warrants or Certificates.

***Holders must exercise Warrants and Certificates or risk loss of investment***

Where the terms and conditions of the Warrants and Certificates provide that the Warrants and Certificates must be exercised in order for the purchasers of the Warrants and Certificates to receive their settlement amount in respect of such Warrants and Certificates, and the applicable Pricing Supplement specifies "Deemed Exercise" to be not applicable, you must exercise your rights to receive payment in accordance with the terms and conditions of the Warrants and Certificates and the requirements of relevant clearing system or the relevant Agent, as applicable; otherwise you may lose your initial investment.

***U.S. Special Resolution Regime***

In the event that MSFL or Morgan Stanley becomes subject to any proceedings under the Federal Deposit Insurance Act or Title II of the Dodd Frank Wall Street Reform and Consumer Protection Act (together the "**U.S. Special Resolution Regime**"), the relevant regulators have various tools to deal with the entity. The U.S. requirements for the orderly resolution of MSFL or Morgan Stanley could require MSFL or Morgan Stanley to reorganise its business. This may involve transfer of Program Securities issued or guaranteed by MSFL or Morgan Stanley to another entity or vary the default provisions of such Program Securities. Prospective investors should therefore consider the relevant Risk Factors contained in the Registration Document dated 7 June 2019 (as supplemented) for further information on the resolution regime.

In particular and in respect of any Program Securities which are Warrants (and the Securities Agency Agreement under which such Warrants are to be issued), such Warrants may be subject to specific provisions of the U.S. Special Resolution Regime which may involve the transfer of the obligations of the issuer and guarantor in respect of Warrants, the Securities Agency Agreement and the Guarantee under the terms of such U.S. Special Resolution Regime. Notwithstanding that such Warrants and the Securities Agency Agreement are governed by English law, Warrantholders in purchasing the Warrants should be aware that such transfer pursuant to the U.S. Special Resolution Regime may take effect as if the Warrants of the Securities Agency Agreement were governed by the laws of the United States or a state of the United States.

Furthermore, in the event that MSFL or Morgan Stanley or any of their respective affiliates becomes subject to a U.S. Special Resolution Regime, Warrantholders should be aware that the rights of the Warrantholders under the terms and conditions of the Warrants and under the Securities Agency Agreement (including in respect of an event of default) may be overridden by and only be exercised to the extent that such rights could be exercised under the U.S. Special Resolution Regime as if the Warrants and Securities Agency Agreement were governed by the laws of the United States or any state of the United States.



**WHERE THE INVESTOR CAN FIND MORE INFORMATION ABOUT MORGAN STANLEY**

Morgan Stanley files annual, quarterly and current reports, proxy statements and other information with the United States Securities and Exchange Commission (the "SEC"). Investors may read and copy any document that Morgan Stanley files with the SEC at the SEC's public reference room at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at +1-800-SEC-0330 for information on the public reference room. The SEC maintains an internet site that contains annual, quarterly and current reports, proxy and information statements and other information that issuers (including Morgan Stanley) file electronically with the SEC. Morgan Stanley's electronic SEC filings are available to the public at the SEC's internet site [www.sec.gov](http://www.sec.gov). Morgan Stanley also makes available, through its Investor Relations webpage, a link to the SEC's internet site. You can access Morgan Stanley's Investor Relations webpage at [www.morganstanley.com/about-us-ir](http://www.morganstanley.com/about-us-ir). The information contained on Morgan Stanley's website shall not form part of this Offering Circular, unless such information has been expressly incorporated herein.

## INCORPORATION BY REFERENCE

The following documents and/or information shall be deemed to be incorporated in, and to form part of, this Offering Circular:

Document filed	Information incorporated by reference	Page(s)
<b>Morgan Stanley</b>		
1. Morgan Stanley March 2019 10-Q	(1) Management's Discussion and Analysis of Financial Condition and Results of Operations	1-23
	(2) Quantitative and Qualitative Disclosures about Risk	24-32
	(3) Report of Independent Registered Public Accounting Firm	33
	(4) Consolidated Financial Statements and Notes	34-71
	(5) Consolidated Income Statements (Unaudited)	34
	(6) Consolidated Comprehensive Income Statements (Unaudited)	35
	(7) Consolidated Balance Sheets (Unaudited at March 31, 2019)	36
	(8) Consolidated Statements of Changes in Total Equity (Unaudited)	37
	(9) Consolidated Cash Flow Statements (Unaudited)	38
	(10) Notes to Consolidated Financial Statements (Unaudited)	39-71
	(11) Financial Data Supplement (Unaudited)	72
	(12) Glossary of Common Acronyms	73-74
	(13) Other Information	75
	(14) Legal Proceedings	75
	(15) Unregistered Sales of Equity Securities and Use of Proceeds	76
	(16) Controls and Procedures	77
	(17) Signatures	S-1

Incorporation by Reference

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2. Morgan Stanley Annual Report on Form 10-K for the year ended 31 December 2018	(1)	Business	1-10
	(2)	Risk Factors	11-23
	(3)	Selected Financial Data	24
	(4)	Management's Discussion and Analysis of Financial Condition and Results of Operations	25-63
	(5)	Quantitative and Qualitative Disclosures about Risk	64-82
	(6)	Financial Statements and Supplementary Data	83-163
	(7)	Report of Independent Registered Public Accounting Firm	83
	(8)	Consolidated Income Statements	84
	(9)	Consolidated Comprehensive Income Statements	85
	(10)	Consolidated Balance Sheets	86
	(11)	Consolidated Statements of Changes in Total Equity	87
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	(13)	Notes to Consolidated Financial Statements	89-159
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	(15)	Glossary of Common Acronyms	164-165
	(16)	Changes in and Disagreements with Accountants on Accounting and Financial Disclosure	166
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	(20)	Properties	168
	(21)	Legal Proceedings	169-173
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	(23)	Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities	174-175
	(24)	Directors, Executive Officers and Corporate Governance	176
	(25)	Executive Compensation	176

	(26)	Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters	176
	(27)	Certain Relationships and Related Transactions, and Director Independence	177
	(28)	Principal Accountant Fees and Services	177
	(29)	Exhibits and Financial Statement Schedules	177
	(30)	Form 10-K Summary	177
	(31)	Signatures	S-1-S-2
3. Morgan Stanley 2019 Proxy Statement	(1)	Notice of 2019 Annual Meeting of Shareholders	4
	(2)	Overview of Voting Items	5-10
	(3)	Corporate Governance Matters	11-39
	(4)	Audit Matters	40-42
	(5)	Compensation Matters	43-73
	(6)	Ownership of Our Stock	74-76
	(7)	Shareholder Proposal	77-79
	(8)	Information About the Annual Meeting	80-83
<b>Morgan Stanley</b>	(1)	Risk Factors, excluding the paragraphs headed " <i>All material assets of MSBV are obligations of one or more companies in the Morgan Stanley Group and MSBV's ability to perform its obligations is dependent upon such companies fulfilling their obligations to MSBV</i> ", " <i>Risks relating to insolvency proceedings in the Netherlands</i> ", " <i>There are substantial inter-relationships between MSI plc and other Morgan Stanley Group companies</i> " and " <i>No guarantee</i> " on pages 16-17 and the section headed " <i>Applicable Resolution Powers</i> " on pages 17-19	2-19
4. Registration Document of Morgan Stanley, Morgan Stanley & Co. International plc, Morgan Stanley B.V. and Morgan Stanley Finance LLC dated 7 June 2019	(2)	Description of Morgan Stanley	29-59
	(3)	Selected Financial Information of Morgan Stanley	60
	(4)	Description of Morgan Stanley Finance LLC	73-74
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	(6)	Subsidiaries of Morgan Stanley as of 31 December 2018	76
	(7)	Index of Defined Terms	77
<b>Document filed</b>		<b>Information incorporated by reference</b>	<b>Page(s)</b>

**Morgan Stanley Finance LLC**

5. Financial Statements as of and for the year ended December 31 2018 and Independent Auditors' Report	(1) Director's Report	3-7
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	(3) Independent Auditors' Report	10
	(4) Statement of Financial Condition	11
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	(8) Notes to the Financial Statements	15-30
6. Report and Financial Statements as of and for the year ended 31 December 2017	(1) Director's Report	3-9
	(2) Director's Responsibility Statement	10
	(3) Independent Auditors' Report	12-13
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	(5) Statement of Comprehensive Income	15
	(6) Statement of Cash Flows	16
	(7) Statement of Changes in Member's Equity (Deficit)	17
	(8) Notes to the Financial Statements	18-35
7.	The terms and conditions set out on pages 74 -159 of the offering circular for notes, warrants and certificates dated 30 May 2014 relating to the Program under the heading " <i>Terms and Conditions of the English Law Notes</i> " (the " <b>2014 English Law Note Conditions</b> ").	
8.	The terms and conditions set out on pages 71-155 of the offering circular for notes, warrants and certificates dated 3 July 2015 relating to the Program under the heading " <i>Terms and Conditions of the English Law Notes</i> " (the " <b>2015 English Law Note Conditions</b> ").	
9.	The terms and conditions set out on pages 70-157 of the offering circular for notes, warrants and certificates dated 10 May 2016 relating to the Program under the heading " <i>Terms and Conditions of the English Law Notes</i> " (the " <b>2016 English Law Note Conditions</b> ").	
10.	The terms and conditions set out on pages 39-127 of the offering circular for notes, warrants and certificates dated 10 April 2017 relating to the Program under the heading " <i>Terms and Conditions of the Notes</i> " (the " <b>2017 Terms and Conditions of the Notes</b> ").	

11. The terms and conditions set out on pages 39-124 of the offering circular for notes, warrants and certificates dated 6 April 2018 relating to the Program under the heading "*Terms and Conditions of the Notes*" (the "**2018 Terms and Conditions of the Notes**").

For the avoidance of doubt, all information in respect of MSFL contained in the Registration Document dated 7 June 2019 is incorporated by reference in to the Offering Circular.

Any statement contained in this Offering Circular or any documents incorporated by reference herein, shall be deemed to be modified or superseded for the purpose of this Offering Circular to the extent that a statement contained in any document subsequently incorporated by reference and in respect of which a supplement to this Offering Circular is prepared modifies or supersedes such statement.

The information about Morgan Stanley and MSFL incorporated by reference in this Offering Circular (the "**Incorporated Information**") is considered to be part of this Offering Circular. Following the publication of this Offering Circular a supplement may be prepared by the Issuers. Statements contained in any such supplement (or contained in any document incorporated by reference therein) shall, to the extent applicable (whether expressly, by implication or otherwise), be deemed to modify or supersede statements contained in this Offering Circular or in a document which is incorporated by reference in this Offering Circular. Any statement so modified or superseded shall not, except as so modified or superseded, constitute a part of this Offering Circular.

Any information or documents incorporated by reference into the documents listed above do not form part of this Offering Circular. Where only certain portions of the documents listed above have been incorporated by reference in this Offering Circular, such portions of these documents which are not so incorporated are either not relevant to the investor or are covered elsewhere in this Offering Circular or in the Registration Document dated 7 June 2019 (item 4 above).

The Issuers will, at their principal executive office and at the specified offices of the Paying Agents, make available during normal business hours and free of charge (including at the offices of the Paying Agents), upon oral or written request, a copy of this Offering Circular (or any document incorporated by reference in this Offering Circular and any future filings or financial statements published by such Issuer). Written or oral requests for inspection of such documents should be directed to the specified office of any Paying Agent.

Copies of all documents incorporated by reference into this Offering Circular will be made available on the Luxembourg Stock Exchange website ([www.bourse.lu](http://www.bourse.lu)).

## KEY FEATURES OF THE NOTES

The following summary describes the key features of the Notes that each Issuer is offering under the Program in general terms only. Investors should read the summary together with the more detailed information that is contained in this Offering Circular and in the applicable Pricing Supplement.

<b>Issuers:</b>	Morgan Stanley and MSFL.
<b>Guarantor:</b>	In the case of Notes issued by MSFL, unless specified otherwise in the applicable Pricing Supplement, Morgan Stanley.
<b>Distribution Agents:</b>	Morgan Stanley & Co. International plc, which may act in whole or in part through an affiliate thereof, and Morgan Stanley & Co. LLC.
<b>Fiscal Agent:</b>	The Bank of New York Mellon.
<b>Registrar and Transfer Agent:</b>	The Bank of New York Mellon S.A./N.V., Luxembourg
<b>Issuance in Series:</b>	Notes will be issued in series (each, a " <b>Series</b> "). Each Series may comprise one or more tranches (" <b>Tranches</b> " and each, a " <b>Tranche</b> ") issued on different issue dates. The Notes of each Series will all be subject to identical terms, except that the issue date and the amount of the first payment of interest may be different in respect of different Tranches and each Series may comprise Notes of different denominations. The Notes of each Tranche will all be subject to identical terms in all respects save that a Tranche may comprise Notes of different denominations.
<b>Form of Notes:</b>	Morgan Stanley and MSFL may issue Notes in registered form only.

Notes will be in the form of either individual note certificates or global registered notes, in each case as specified in the relevant Pricing Supplement. Each global note certificate will either be: (a) in the case of Notes which are not to be held under the New Safekeeping Structure (as defined below), registered in the name of a nominee of a common depositary for the Relevant Clearing System and the relevant global note certificate will be deposited on or about the issue date with the common depositary; or (b) in the case of Notes which are to be held under the new safekeeping structure ("**New Safekeeping Structure**" or "**NSS**"), registered in the name of a nominee of a common safekeeper for the Relevant Clearing System and the relevant global note certificate will be deposited on or about the issue date with the common safekeeper for the Relevant Clearing System.

Notes will be offered and sold to a person that is not a U.S. Person (within the meaning of Regulation S) in an "offshore transaction" in reliance on Regulation S and will be represented by interests in a permanent global unrestricted registered note registered in the name of a nominee for, and deposited with a common depositary on behalf of, Euroclear and/or Clearstream, Luxembourg and/or the Relevant Clearing System.

<b>Terms and Conditions:</b>	A Pricing Supplement will be prepared in respect of each Tranche of Notes (each, a " <b>Pricing Supplement</b> "). The terms and conditions applicable to each Tranche will be those set out herein under the heading " <i>Terms and Conditions of the Notes</i> ", as supplemented, modified or replaced, in each case, by the applicable Pricing Supplement.
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Any Issuer may issue Notes that are Equity-Linked Notes, Commodity-Linked Notes, Currency-Linked Notes, Inflation-Linked Notes, Credit-Linked Notes, Property-Linked Notes, Fund-Linked Notes and Futures Contract-Linked Notes and/ or any combination thereof (each as defined in Condition 9 (*Equity-Linked, Commodity-Linked, Currency-Linked, Inflation-Linked, Credit-Linked, Property-Linked, Fund-Linked and Futures Contract-Linked Notes*) of "*Terms and*

*Conditions of the Notes".*

<b>Specified Currency:</b>	Notes may be denominated or payable in any currency as set out in the applicable Pricing Supplement, subject to all applicable consents being obtained and compliance with all applicable legal and regulatory requirements.
<b>Status:</b>	Notes will be direct and general obligations of the relevant Issuer.
<b>Guarantee:</b>	The payment of all amounts due in respect of Notes issued by MSFL will, unless specified otherwise in the applicable Pricing Supplement, be unconditionally and irrevocably guaranteed by Morgan Stanley pursuant to a guarantee dated as of 29 June 2018 (as supplemented and/or amended and/or restated and/or replaced from time to time).
<b>Issue Price:</b>	Notes may be issued at any price, as specified in the applicable Pricing Supplement, subject to compliance with all applicable legal and regulatory requirements.
<b>Maturities:</b>	Notes will have maturities as specified in the applicable Pricing Supplement, subject to compliance with all applicable legal and regulatory requirements.  Where Notes have a maturity of less than one year and either (i) the issue proceeds are received by the relevant Issuer in the United Kingdom or (ii) the activity of issuing the Notes is carried on from an establishment maintained by the relevant Issuer in the United Kingdom, such Notes must: (a) have a minimum redemption value of £100,000 (or its equivalent in other currencies) and be issued only to persons whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of their businesses or who it is reasonable to expect will acquire, hold, manage or dispose of investments (as principal or agent) for the purposes of their businesses; or (b) be issued in other circumstances which do not constitute a contravention of section 19 of the Financial Markets and Services Act ("FSMA") by the relevant Issuer.
<b>Redemption:</b>	Notes may be redeemed at par or at such other redemption amount (detailed in a formula or otherwise) or by delivery of securities of an issuer that is not affiliated with Morgan Stanley, as may be specified in the applicable Pricing Supplement.
<b>Early Redemption:</b>	Early redemption will be permitted for taxation reasons as mentioned in Condition 21 ( <i>Redemption and Purchase</i> ), in certain circumstances if an Administrator/Benchmark Event or relevant adjustment events applicable to the Notes has occurred, or if an event of default has occurred in accordance with Condition 25 ( <i>Events of Default</i> ) in each case, of " <i>Terms and Conditions of the Notes</i> " but will otherwise be permitted only to the extent specified in the applicable Pricing Supplement.
<b>Interest:</b>	Notes may be interest bearing or non-interest bearing. Interest (if any) may accrue at a fixed rate, which may be zero, or floating rate, or at a rate which varies during the lifetime of the relevant Series.
<b>Denominations:</b>	Notes will be issued in such denominations as may be specified in the applicable Pricing Supplement, subject to compliance with all applicable legal and regulatory requirements.
<b>Taxation:</b>	Unless otherwise provided in the applicable Pricing Supplement, payments made by the relevant Issuer or, if applicable, the Guarantor in respect of any Notes will be made without withholding or deduction for, or on account of, any present or future tax, assessment or governmental charge (" <b>Taxes</b> ") imposed or levied by or on behalf of the United States or any representative political subdivision thereof or any authority or agency therein or thereof having power to tax, unless the



withholding or deduction of those Taxes is required by law. In the case of payments by Morgan Stanley or MSFL in respect of Notes, the beneficial owner of a Note that is not a U.S. person (or a financial institution holding a Note on behalf of the beneficial owner that is not a U.S. person) is required under current applicable law to furnish the appropriate IRS Form W-8BEN or W-8BEN-E on which the beneficial owner certifies under penalties of perjury that it is not a U.S. person and is eligible for exemption from withholding. In the event that any Issuer or the Guarantor determines that withholding or deduction of taxes is required by the United States, or any representative political subdivision thereof or any authority or agency therein having power to tax, on any payment on any Notes, such Issuer or Guarantor will (subject to customary exceptions) pay those Additional Amounts (as defined herein) as will result in those Noteholders who are U.S. Aliens (as defined herein) receiving such amounts as they would have received in respect of the Notes had no withholding or deduction been required, but only if so specified in the applicable Pricing Supplement. If the applicable Pricing Supplement does not specify that Additional Amounts are payable, none of Morgan Stanley, MSFL or any intermediary will be required to pay any additional amounts with respect to any amount withheld or deducted. For additional information on withholding requirements applicable to the Program Securities, see the discussion in "*United States Federal Taxation*".

**Benefit Plan Investors:**

The Notes may not be acquired or held by, or acquired with the assets of, any employee benefit plan subject to Title I of the United States Employee Retirement Income Security Act of 1974, as amended ("**ERISA**"), any individual retirement account or plan subject to Section 4975 of the United States Internal Revenue Code of 1986, as amended, or any entity whose underlying assets include "plan assets" within the meaning of Section 3(42) of ERISA by reason of any such employee benefit plan's, account's or plan's investment therein.

**Use of Proceeds:**

The net proceeds from the sale of Notes by Morgan Stanley will be used by Morgan Stanley for general corporate purposes, in connection with hedging Morgan Stanley's obligations under the Notes, or both.

Unless specified otherwise in the applicable Pricing Supplement, MSFL intends to lend the net proceeds from the sale of the Notes it offers to Morgan Stanley. Unless specified otherwise in the applicable Pricing Supplement, Morgan Stanley intends to use the proceeds from such loans for general corporate purposes.

**Listing:**

Applications have been made to admit the Series A Notes issued by Morgan Stanley and MSFL to:

- (a) be admitted to the Official List of Euronext Dublin and trading on its Global Exchange Market; and
- (b) be admitted to the Official List of the Luxembourg Stock Exchange and to trading on the Luxembourg Stock Exchange's Euro MTF Market.

The applicable Pricing Supplement will specify whether an issue of Series A Notes will be:

- (a) admitted to the Official List of Euronext Dublin and trading on its Global Exchange Market;
- (b) admitted to the Official List of the Luxembourg Stock Exchange and to trading on the Luxembourg Stock Exchange's Euro MTF Market;
- (c) admitted to listing, trading and/or quotation by any other listing authority, stock exchange and/or quotation system; or

(d) unlisted,

as Morgan Stanley or MSFL (as applicable) and any Distribution Agent may agree.

The Series B Notes will not be admitted to listing, trading, and/or quotation by any listing authority, stock exchange and/or quotation system.

**Clearing Systems:**

Euroclear, Clearstream, Luxembourg and/or any other clearing system as may be specified in the applicable Pricing Supplement.

**Governing Law:**

The Notes and any non-contractual obligations arising out of or in connection with them shall be governed by English law.

**Enforcement of Notes in Global Form:**

In the case of:

- (a) Notes issued by Morgan Stanley in global form, individual holders' rights will be governed by a deed of covenant entered into by Morgan Stanley dated 29 June 2018 (as supplemented and/or amended and/or restated and/or replaced from time to time the "**Morgan Stanley Deed of Covenant**"), copies of which will be available for inspection at the specified office of the Fiscal Agent; and
- (b) Notes issued by MSFL in global form, individual holders' rights will be governed by a deed of covenant entered into by MSFL dated 29 June 2018 (as supplemented and/or amended and/or restated and/or replaced from time to time, the "**MSFL Deed of Covenant**" and, together with the Morgan Stanley Deed of Covenant, the "**Deeds of Covenant**"), copies of which will be available for inspection at the specified office of the Fiscal Agent.

**Selling Restrictions:**

**The Notes may not be offered, sold or delivered at any time, directly or indirectly, within the United States or to, or for the account or benefit of, U.S. Persons (as defined in Regulation S under the Securities Act).** For a description of certain restrictions on offers, sales and deliveries of the Notes and on the distribution of offering material in the United States and in certain other countries, see "*Subscription and Sale*" and "*No Ownership by U.S. Persons*".

## KEY FEATURES OF THE WARRANTS AND CERTIFICATES

*The following summary describes the key features of the Warrants and Certificates that the Issuer is offering under the Program in general terms only. Investors should read the summary together with the more detailed information that is contained in this Offering Circular and in the applicable Pricing Supplement.*

<b>Issuer:</b>	Morgan Stanley and MSFL.
<b>Guarantor:</b>	In the case of Warrants and Certificates issued by MSFL, unless specified otherwise in the applicable Pricing Supplement, Morgan Stanley.
<b>Distribution Agents:</b>	Morgan Stanley & Co. International plc, which may act in whole or in part through an affiliate thereof, and Morgan Stanley & Co. LLC.
<b>Principal Securities Agent:</b>	The Bank of New York Mellon.
<b>Securities Registrar:</b>	The Bank of New York Mellon S.A./N.V., Luxembourg
<b>Securities Transfer Agent:</b>	The Bank of New York Mellon S.A./N.V., Luxembourg
<b>Issuance in Series:</b>	Warrants and Certificates will be issued in series (each, a " <b>Series</b> "). Each Series may comprise one or more tranches (" <b>Tranches</b> " and each, a " <b>Tranche</b> ") issued on different issue dates.
<b>Terms and Conditions:</b>	<p>A Pricing Supplement (a "<b>Pricing Supplement</b>") will be prepared in respect of each Tranche of Warrants and Certificates. The terms and conditions applicable to each Tranche issued by Morgan Stanley or MSFL will be those set out herein under the heading "<i>Terms and Conditions of the Warrants and Certificates</i>" as supplemented, modified or replaced by the applicable Pricing Supplement.</p> <p>The Issuer may issue Warrants and Certificates that are Share Securities, Share Basket Securities, Index Securities, Index Basket Securities, ETF Securities, ETF Basket Securities, Currency Securities, Commodity Securities, Bond Securities, Inflation Securities, Property Securities, Fund Securities, Fund Basket Securities, Futures Contract Securities and Futures Contract Basket Securities (each as defined in Condition 1 (<i>Definitions</i>) of "<i>Terms and Conditions of the Warrants and Certificates</i>").</p>
<b>Form of Warrants and Certificates:</b>	<p>Morgan Stanley may issue Warrants and Certificates and MSFL may issue Warrants in registered form ("<b>Registered Warrants</b>" and "<b>Registered Certificates</b>", together, the "<b>Registered Securities</b>").</p> <p>Registered Securities will be in global registered form ("<b>Global Registered Securities</b>") or individual registered form ("<b>Individual Registered Securities</b>"), in each case as specified in the applicable Pricing Supplement. Each Global Registered Security will be registered in the name of a common depositary (or its nominee) for the Relevant Clearing System and will be deposited on or about the issue date with a depositary or the common depositary for the Relevant Clearing System and registered in the name of a nominee for such depositary and will be exchangeable for Individual Registered Securities in accordance with its terms.</p> <p>Registered Securities will be offered and sold to a person that is not a U.S. Person (within the meaning of Regulation S) in an "offshore transaction" in reliance on Regulation S and will be represented by interests in a permanent global unrestricted registered security registered in the name of a nominee for, and deposited with a common depositary on behalf of, Euroclear and/or Clearstream, Luxembourg and/or the Relevant Clearing System.</p>

<b>Style of Warrants and Certificates:</b>	Warrants and Certificates may be exercisable (i) on any day during a specified exercise period (" <b>American Style Securities</b> "), (ii) on a specified expiration date (" <b>European Style Securities</b> ") or (iii) on specified dates during a specified exercise period (" <b>Bermudan Style Securities</b> "), as specified in the applicable Pricing Supplement. If so specified in the applicable Pricing Supplement, Warrants and Certificates may be deemed exercised on the expiration date thereof.
<b>Settlement of Warrants and Certificates:</b>	Upon exercise, Warrants and Certificates may entitle the Securityholder to receive from the Issuer a Cash Settlement amount (as specified or calculated in accordance with the applicable Pricing Supplement) (" <b>Cash Settlement Securities</b> "), or may entitle the Securityholder to receive delivery of or to deliver an amount of securities (as specified or calculated in accordance with the relevant Supplement) (" <b>Physical Settlement Securities</b> "), as specified in the applicable Pricing Supplement.
<b>Minimum Exercise Number:</b>	Warrants and Certificates are exercisable in the minimum number (or, if so specified, integral multiples thereof) specified in the applicable Pricing Supplement.
<b>Status:</b>	The Warrants and Certificates will be direct and general obligations of the Issuer.
<b>Guarantee:</b>	The payment of all amounts due in respect of Warrants and Certificates issued by MSFL will, unless specified otherwise in the applicable Pricing Supplement be unconditionally and irrevocably guaranteed by Morgan Stanley pursuant to a guarantee dated as of 29 June 2018 (as supplemented and/or amended and/or restated and/or replaced from time to time).
<b>Taxation:</b>	The Securityholders shall be liable for any applicable taxes, duties and other charges due in relation to, <i>inter alia</i> , the issue, transfer, transmission and/or settlement of the Warrants and Certificates. In the case of Cash Settlement Securities, the Issuer shall be entitled to withhold or deduct from any amounts otherwise payable to the Securityholders such amount as is necessary for the payment of such taxes, duties and other charges. In the case of Physical Settlement Securities, the Issuer's obligation to deliver an amount of securities shall be subject to payment by the relevant Securityholders, or shall be reduced by such amount to take account, of an amount in respect of such taxes, duties and other charges.
<b>Benefit Plan Investors:</b>	The Warrants and Certificates may not be acquired or held by, or acquired with the assets of, any employee benefit plan subject to Title I of the United States Employee Retirement Income Security Act of 1974, as amended (" <b>ERISA</b> "), any individual retirement account or plan subject to Section 4975 of the United States Internal Revenue Code of 1986, as amended, or any entity whose underlying assets include "plan assets" within the meaning of Section 3(42) of ERISA by reason of any such employee benefit plan's, account's or plan's investment therein.
<b>Listing:</b>	<p>Applications have been made for the Warrants and Certificates to:</p> <ul style="list-style-type: none"> <li>(a) be admitted to the Official List of Euronext Dublin and trading on its Global Exchange Market; and</li> <li>(b) be admitted to the Official List of the Luxembourg Stock Exchange and to trading on the Luxembourg Stock Exchange's Euro MTF Market.</li> </ul> <p>The applicable Pricing Supplement will specify whether an issue of Warrants or Certificates will be:</p> <ul style="list-style-type: none"> <li>(a) admitted to the Official List of Euronext Dublin and trading on its Global</li> </ul>

Exchange Market;

- (b) admitted to the Official List of the Luxembourg Stock Exchange and to trading on the Luxembourg Stock Exchange's Euro MTF Market.
- (c) admitted to listing, trading and/or quotation by any other listing authority, stock exchange and/or quotation system; or
- (d) unlisted,

as Morgan Stanley and any Distribution Agent may agree.

**Clearing Systems:**

Euroclear, Clearstream, Luxembourg and/or any other clearing systems as may be specified in the applicable Pricing Supplement.

**Governing Law:**

The Warrants and Certificates and any non-contractual obligations arising out of or in connection with them shall be governed by English law.

**Enforcement of Warrants and Certificates in Global Form:**

In the case of Warrants and Certificates issued by:

- (a) Morgan Stanley in global form, individual holders' rights will be governed by a deed of covenant entered into by Morgan Stanley dated 29 June 2018, as applicable (as supplemented and/or amended and/or restated and/or replaced from time to time, the "**Morgan Stanley Deed of Covenant**");
- (b) MSFL in global form, individual holders' rights will be governed by a deed of covenant entered into by MSFL dated 29 June 2018 (as supplemented and/or amended and/or restated and/or replaced from time to time, the "**MSFL Deed of Covenant**"),

**Selling Restrictions:**

**The Warrants and Certificates may not be offered, sold or delivered *at any time, directly or indirectly, within the United States or to, or for the account or benefit of, U.S. Persons (as defined in Regulation S under the Securities Act)*. For a description of certain restrictions on offers, sales and deliveries of the Warrants and Certificates and on the distribution of offering material in the United States and in certain other countries, see "*Subscription and Sale*" and "*No Ownership by U.S. Persons*".**

## TERMS AND CONDITIONS OF THE NOTES

*The following is the text of the terms and conditions which, as supplemented, modified and/or replaced by the applicable Pricing Supplement, will be endorsed on each Note issued in individual registered form issued under the Program. The terms and conditions applicable to any Note issued in the registered form will differ from those terms and conditions which would apply to the Note were it in individual registered form to the extent described under "Summary of Provisions relating to the Notes while in Global Form" below.*

### 1. INTRODUCTION

#### 1.1 *Program:*

Morgan Stanley ("**Morgan Stanley**") and Morgan Stanley Finance LLC ("**MSFL**") have established a Program (the "**Program**") for the issuance of up to U.S.\$55,000,000,000 in aggregate principal amount, *inter alia*, of notes which are expressed to be governed by English law (the "**Notes**").

References to the "**Issuer**" in these terms and conditions shall mean (i) if the Notes to which these terms and conditions apply are issued by Morgan Stanley, Morgan Stanley or (ii) if the Notes to which these terms and conditions apply are issued by MSFL, MSFL.

The payment obligations of MSFL in respect of Notes issued by MSFL under the Program and which are issued under the Issue and Paying Agency Agreement (as defined below) are (unless otherwise specified in the applicable Pricing Supplement) guaranteed by Morgan Stanley (in its capacity as guarantor (the "**Guarantor**")) under the terms of a guarantee dated as of 29 June 2018 (as supplemented and/or amended and/or restated and/or replaced from time to time the "**Guarantee**").

#### 1.2 *Pricing Supplement:*

Notes issued under the Program which are Relevant Securities are issued in series (each a "**Series**") and each Series may comprise one or more tranches (each a "**Tranche**") of Notes. Each Tranche is the subject of a Pricing Supplement (each, a "**Pricing Supplement**") which supplement, modify and/or replace these terms and conditions (the "**Conditions**"). The terms and conditions applicable to any particular Tranche of Notes are these Conditions as supplemented by the applicable Pricing Supplement. In the event of any inconsistency between these Conditions and the applicable Pricing Supplement, the applicable Pricing Supplement shall prevail.

#### 1.3 *Issue and Paying Agency Agreement:*

The Notes are the subject of an issue and paying agency agreement dated 30 November 2000 (such issue and paying agency agreement as modified and restated on 4 December 2001, 14 June 2005, 11 July 2006, 22 June 2007, 19 June 2008, 17 June 2009, 15 June 2010, 11 May 2011, 10 June 2011, 7 June 2012, 27 June 2013, 18 August 2014, 17 August 2015, 16 August 2016 and 29 June 2018 and as from time to time further modified and/or restated and/or replaced, the "**Issue and Paying Agency Agreement**") between Morgan Stanley, Morgan Stanley & Co. International plc, Morgan Stanley B.V., MSFL, The Bank of New York Mellon SA/NV, Luxembourg Branch, as registrar (the "**Registrar**", which expression includes any successor registrar appointed from time to time in connection with the Notes), the transfer agents named therein (together with the Registrar, the "**Transfer Agents**", which expression includes any successor or additional transfer agents appointed from time to time in connection with the Notes) and The Bank of New York Mellon (as successor to JPMorgan Chase Bank, N.A., London Branch) as fiscal agent (the "**Fiscal Agent**", which expression includes any successor fiscal agent appointed from time to time in connection with the Notes and together with any additional paying agents appointed pursuant thereto, the "**Paying Agents**", which expression includes any successor paying agents appointed from time to time in connection with the Notes. The Fiscal Agent is also appointed as the initial calculation agent. In these Conditions references to the "**Agents**" are to the Paying Agents and the Transfer Agents and any reference to an "**Agent**" is to any one of them. MSFL acceded to the Issue and Paying Agency Agreement by way of an Accession Agreement dated 29 April 2016.

1.4 *Deeds of Covenant:*

Notes issued by Morgan Stanley in global form are constituted by a deed of covenant entered into by Morgan Stanley dated 29 June 2018 (as supplemented and/or amended and/or restated and/or replaced from time to time the "**Morgan Stanley Deed of Covenant**").

Notes issued by MSFL in global form are constituted by a deed of covenant entered into by MSFL dated 29 June 2018 (as supplemented and/or amended and/or restated and/or replaced from time to time, the "**MSFL Deed of Covenant**" and together with the Morgan Stanley Deed of Covenant, the "**Deeds of Covenant**").

1.5 *The Notes:*

All subsequent references in these Conditions to "Notes" are to the Notes which are the subject of the applicable Pricing Supplement. Copies of the applicable Pricing Supplement are available for inspection by Noteholders during normal business hours at the Specified Office of the Fiscal Agent, the initial Specified Office of which is set out below.

1.6 *Summaries:*

Certain provisions of these Conditions are summaries of the Issue and Paying Agency Agreement and the Guarantee and are subject to their detailed provisions. The holders of the Notes (the "**Noteholders**") are bound by, and are deemed to have notice of, all the provisions of each of the Issue and Paying Agency Agreement and the Guarantee as are applicable to them. Copies of the Issue and Paying Agency Agreement and the Guarantee are available for inspection by Noteholders during normal business hours at the Specified Offices of each of the Paying Agents, the initial Specified Offices of which are set out below.

2. **INTERPRETATION**

2.1 *Definitions:*

"**Australian dollars**", "**A\$**" and "**AUD**" are to the lawful currency of the Commonwealth of Australia;

"**Accrual Yield**" has the meaning given in the applicable Pricing Supplement;

"**Additional Business Centre(s)**" means the city or cities specified as such in the applicable Pricing Supplement;

"**Additional Financial Centre(s)**" means the city or cities specified as such in the applicable Pricing Supplement;

"**Administrator/Benchmark Event**" means, in respect of any Notes, a determination made by the Determination Agent that any authorisation, registration, recognition, endorsement, equivalence decision, approval or inclusion in any official register in respect of the Relevant Benchmark or the administrator or sponsor of the Relevant Benchmark has not been, or will not be, obtained or has been, or will be, rejected, refused, suspended or withdrawn by the relevant competent authority or other relevant official body, in each case with the effect that any of the Issuer, the Determination Agent or the Calculation Agent is not, or will not be, permitted under any applicable law or regulation to use the Relevant Benchmark to perform its or their respective obligations in respect of the Notes. For the avoidance of doubt, Administrator/Benchmark Event shall not apply where the Notes are denominated in U.S. dollars and the Relevant Rates Benchmark is LIBOR; see Condition 6.12 (*Effect of Benchmark Transition Event*) below;

"**Administrator/Benchmark Event Date**" means, in respect of any Notes and an Administrator/Benchmark Event, the date on which the authorisation, registration, recognition, endorsement, equivalence decision, approval or inclusion in any official register is:

- (a) required under any applicable law or regulation; or
- (b) rejected, refused, suspended or withdrawn, if the applicable law or regulation provides that the Relevant Benchmark is not permitted to be used under the Notes following rejection, refusal, suspension or withdrawal,

or, in each case, if such date occurs before the Issue Date, the Issue Date;

**"Affiliate"** means any entity which is (a) an entity controlled, directly or indirectly, by the Issuer, (b) an entity that controls, directly or indirectly, the Issuer or (c) an entity directly or indirectly under common control with the Issuer;

**"Alternative Pre-nominated Index"** means, in respect of a Relevant Benchmark, the first of the indices, benchmarks or other price sources specified in the applicable Pricing Supplement as an "Alternative Pre-nominated Index" that is not subject to an Administrator/Benchmark Event or (in the case of Equity-Linked Notes) an Index Cancellation or an Index Modification or (in the case of Commodity-Linked Notes which reference a Commodity Index) a Commodity Index Cancellation or a Commodity Index Modification or (in the case of Property-Linked Notes) a Property Index Adjustment Event;

**"Benchmark"** means, initially, LIBOR (with the applicable period of maturity in the case of Screen Rate Determination or the applicable Designated Maturity in the case of ISDA Determination); provided that if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred with respect to LIBOR (with the applicable period of maturity in the case of Screen Rate Determination or the applicable Designated Maturity in the case of ISDA Determination) or the then-current Benchmark, then "Benchmark" means the applicable Benchmark Replacement;

**"Benchmark Replacement"** means the Interpolated Benchmark with respect to the then-current Benchmark, plus the Benchmark Replacement Adjustment for such Benchmark; provided that if the Issuer or its designee cannot determine the Interpolated Benchmark as of the Benchmark Replacement Date, then "Benchmark Replacement" means the first alternative set forth in the order below that can be determined by the Issuer or its designee as of the Benchmark Replacement Date:

- (a) the sum of: (i) Term SOFR and (ii) the Benchmark Replacement Adjustment;
- (b) the sum of: (i) Compounded SOFR and (ii) the Benchmark Replacement Adjustment;
- (c) the sum of: (i) the alternate rate of interest that has been selected or recommended by the Relevant Governmental Body as the replacement for the then-current Benchmark for the applicable Corresponding Tenor and (ii) the Benchmark Replacement Adjustment;
- (d) the sum of: (i) the ISDA Fallback Rate and (ii) the Benchmark Replacement Adjustment;
- (e) the sum of: (i) the alternate rate of interest that has been selected by the Issuer or its designee as the replacement for the then-current Benchmark for the applicable Corresponding Tenor giving due consideration to any industry-accepted rate of interest as a replacement for the then-current Benchmark for U.S. dollar-denominated floating rate notes at such time and (ii) the Benchmark Replacement Adjustment;

**"Benchmark Replacement Adjustment"** means the first alternative set forth in the order below that can be determined by the Issuer or its designee as of the Benchmark Replacement Date:

- (a) the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected or recommended by the Relevant Governmental Body for the applicable Unadjusted Benchmark Replacement;
- (b) if the applicable Unadjusted Benchmark Replacement is equivalent to the ISDA Fallback Rate, then the ISDA Fallback Adjustment;
- (c) the spread adjustment (which may be a positive or negative value or zero) that has been selected by the Issuer or its designee giving due consideration to any industry-accepted spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of the then-current Benchmark with the applicable Unadjusted Benchmark Replacement for U.S. dollar-denominated floating rate notes at such time;

**"Benchmark Replacement Conforming Changes"** means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of "Interest Period",



timing and frequency of determining rates and making payments of interest, changes to the definition of "Corresponding Tenor" solely when such tenor is longer than the Interest Period, and other administrative matters) that the Issuer or its designee decides may be appropriate to reflect the adoption of such Benchmark Replacement in a manner substantially consistent with market practice (or, if the Issuer or its designee decides that adoption of any portion of such market practice is not administratively feasible or if the Issuer or its designee determines that no market practice for use of the Benchmark Replacement exists, in such other manner as the Issuer or its designee determines is reasonably necessary);

**"Benchmark Replacement Date"** means the earliest to occur of the following events with respect to the then-current Benchmark:

- (a) in the case of limb (a) or (b) of the definition of "Benchmark Transition Event", the later of (i) the date of the public statement or publication of information referenced therein and (ii) the date on which the administrator of the Benchmark permanently or indefinitely ceases to provide the Benchmark; or
- (b) in the case of limb (c) of the definition of "Benchmark Transition Event", the date of the public statement or publication of information referenced therein;

For the avoidance of doubt, if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination;

**"Benchmark Transition Event"** means the occurrence of one or more of the following events with respect to the then-current Benchmark:

- (a) a public statement or publication of information by or on behalf of the administrator of the Benchmark announcing that such administrator has ceased or will cease to provide the Benchmark, permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide the Benchmark;
- (b) a public statement or publication of information by the regulatory supervisor for the administrator of the Benchmark, the central bank for the currency of the Benchmark, an insolvency official with jurisdiction over the administrator for the Benchmark, a resolution authority with jurisdiction over the administrator for the Benchmark or a court or an entity with similar insolvency or resolution authority over the administrator for the Benchmark, which states that the administrator of the Benchmark has ceased or will cease to provide the Benchmark permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide the Benchmark; or
- (c) a public statement or publication of information by the regulatory supervisor for the administrator of the Benchmark announcing that the Benchmark is no longer representative;

**"Broken Amount"** means each amount specified as such in the applicable Pricing Supplement;

**"Business Day"** means any day, other than a Saturday or Sunday, that, for Notes denominated in:

- (a) a Specified Currency other than euro or Australian dollars, is neither a legal holiday nor a day on which banking institutions are authorised or required by law or regulation to close in the principal financial centre of the country of the Specified Currency, and in each (if any) Additional Business Centre;
- (b) Australian dollars, is neither a legal holiday nor a day on which banking institutions are authorised or required by law or regulation to close in Sydney, and in each (if any) Additional Business Centre; and
- (c) euro, that is also a TARGET Settlement Day and a day that is neither a legal holiday nor a day on which banking institutions are authorised or required by law or regulation to close in each (if any) Additional Business Centre;

**"Business Day Convention"**, in relation to any particular date, has the meaning given in the applicable Pricing Supplement and, if so specified in the applicable Pricing Supplement, may have different meanings in relation to different dates and, in this context, the following expressions shall have the following meanings:

- (a) **"Following Business Day Convention"** means that the relevant date shall be postponed to the first following day that is a Business Day;
- (b) **"Modified Following Business Day Convention"** or **"Modified Business Day Convention"** means that the relevant date shall be postponed to the first following day that is a Business Day unless that day falls in the next calendar month in which case that date will be the first preceding day that is a Business Day;
- (c) **"Preceding Business Day Convention"** means that the relevant date shall be brought forward to the first preceding day that is a Business Day;
- (d) **"FRN Convention"**, **"Floating Rate Convention"** or **"Eurodollar Convention"** means that each relevant date shall be the date which numerically corresponds to the preceding such date in the calendar month which is the number of months specified in the applicable Pricing Supplement as the Specified Period after the calendar month in which the preceding such date occurred provided, however, that:
  - (i) if there is no such numerically corresponding day in the calendar month in which any such date should occur, then such date will be the last day which is a Business Day in that calendar month;
  - (ii) if any such date would otherwise fall on a day which is not a Business Day, then such date will be the first following day which is a Business Day unless that day falls in the next calendar month, in which case it will be the first preceding day which is a Business Day; and
  - (iii) if the preceding such date occurred on the last day in a calendar month which was a Business Day, then all subsequent such dates will be the last day which is a Business Day in the calendar month which is the specified number of months after the calendar month in which the preceding such date occurred; and
- (e) **"No Adjustment"** means that the relevant date shall not be adjusted in accordance with any Business Day Convention;

**"Calculation Agent"** means, in respect of any Notes, the Fiscal Agent or such other Person specified in the applicable Pricing Supplement as the party responsible for calculating the Rate(s) of Interest and Interest Amount(s) and/or such other amount(s) as may be specified as being calculated by the Calculation Agent in the Conditions or in the applicable Pricing Supplement;

**"Calculation Amount"** means the Specified Denomination unless otherwise specified in the applicable Pricing Supplement;

**"Cash Settlement Notes"** means Notes specified as being Notes to which Cash Settlement applies in the applicable Pricing Supplement or Notes specified as being Notes to which either Physical Settlement or Cash Settlement applies in the applicable Pricing Supplement and in respect of which the Noteholder or the Issuer, as the case may be, has not elected for Physical Settlement to apply;

**"CNY Notes"** means Notes denominated in CNY or Renminbi deliverable in Hong Kong, or such other CNY Centre as specified in the applicable Pricing Supplement;

**"Compounded SOFR"** means the compounded average of SOFRs for the applicable Corresponding Tenor, with the rate, or methodology for this rate, and conventions for this rate being established by the Issuer or its designee in accordance with:

- (a) the rate, or methodology for this rate, and conventions for this rate selected or recommended by the Relevant Governmental Body for determining compounded SOFR; provided that:

- (b) if, and to the extent that, the Issuer or its designee determines that Compounded SOFR cannot be determined in accordance with clause (a) above, then the rate, or methodology for this rate, and conventions for this rate that have been selected by the Issuer or its designee giving due consideration to any industry-accepted market practice for U.S. dollar-denominated floating rate notes at such time;

**"Corresponding Tenor"** with respect to a Benchmark Replacement means a tenor (including overnight) having approximately the same length (disregarding business day adjustment) as the applicable tenor for the then-current Benchmark;

**"Day Count Fraction"** means, in respect of the calculation of an amount for any period of time (the **"Calculation Period"**), such day count fraction as may be specified in these Conditions or the applicable Pricing Supplement and:

- (a) if **"1/1"** is so specified, means 1;
- (b) if **"30/360"** or **"30/360 (ICMA)"**, is so specified, means the number of days in the relevant period (calculated on the basis of a year of 360 days consisting of 12 months of 30 days each and, in the case of an incomplete month, the actual number of days elapsed) divided by 360;
- (c) if **"30/360 (ISDA)"**, **"360/360"** or **"Bond Basis"** is so specified, the number of days in the Calculation Period divided by 360, calculated on a formula basis as follows:

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

where:

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

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

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

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

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

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

- (d) if **"30E/360"** or **"Eurobond Basis"** is so specified, the number of days in the Calculation Period divided by 360, calculated on a formula basis as follows:

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

where:

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

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

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

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

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

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

- (e) if "**30E/360 (ISDA)**" is so specified, the number of days in the Calculation Period divided by 360, calculated on a formula basis as follows:

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

where:

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

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

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

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

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

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

- (f) if "**Actual/360**" is so specified, means the actual number of days in the Calculation Period divided by 360;
- (g) if "**Actual/365L**" is so specified, the actual number of days in the Calculation Period divided by 365 (or, if the last day of the Calculation Period falls in a leap year, 366);
- (h) if "**Actual/365 (Fixed)**" is so specified, means the actual number of days in the Calculation Period divided by 365;
- (i) if "**Actual/Actual**", "**Actual/Actual (ISDA)**" is so specified, means the actual number of days in the Calculation Period divided by 365 (or, if any portion of the Calculation Period falls in a leap year, the sum of (A) the actual number of days in that portion of the Calculation Period falling in a leap year divided by 366 and (B) the actual number of days in that portion of the Calculation Period falling in a non-leap year divided by 365);
- (j) if "**Actual/Actual (Bond)**" is so specified, the actual number of days in the relevant period divided by the product of (i) the number of days in the Regular Period in which the relevant period falls and (ii) the number of Regular Periods in any period of one year; and
- (k) if "**Actual/Actual (ICMA)**" is so specified, a fraction equal to "number of days accrued/number of days in year", as such terms are used in Rule 251 of the statutes, by-laws and recommendations of the International Capital Markets Association (the "**ICMA Rule Book**"), calculated in accordance with Rule 251 of the ICMA Rule Book as applied to non-U.S. dollar-denominated straight and convertible bonds issued after 31 December 1998, as though the interest coupon on a bond were being calculated

for a coupon period corresponding to the Calculation Period in respect of which payment is being made;

*provided, however, that* in each such case the number of days in the Calculation Period is calculated from and including the first day of the Calculation Period to but excluding the last day of the Calculation Period;

**"Determination Agent"** means Morgan Stanley & Co. International plc or such other entity specified as such in the applicable Pricing Supplement;

**"Early Redemption Amount"** means, in respect of any Notes:

- (a) in the case of Zero Coupon Notes, such amount as may be specified in the applicable Pricing Supplement or, if applicable, determined in accordance with Condition 21.7 (*Early Redemption of Zero Coupon Notes*); and
- (b) in the case of any other Notes, such amount as may be specified in the applicable Pricing Supplement or, if no other amount is specified,
  - (i) if **"Accrued Value"** is specified as being applicable in respect of such Note in the applicable Pricing Supplement, an amount equal to the sum of:
    - (A) the product of (a) the Calculation Amount of such Note and (b) the percentage produced by the following formula:

$$\text{Reference Price} \times (1 + \text{Accrual Yield})^n$$

where "n" means the number of years from (and including) the Issue Date to (but excluding) the date fixed for redemption or (as the case may be) the date upon which the Note becomes due and payable and the calculation shall be made on the basis of such Day Count Fraction as may be specified in the applicable Pricing Supplement or, if none is so specified, a Day Count Fraction of 30/360; and

- (B) accrued interest (if any).
- (ii) if **"Par Redemption"** is specified as being applicable in respect of such Note in the applicable Pricing Supplement, the principal amount of such Note, together with accrued interest (if any); or
- (iii) if **"Qualified Financial Institution Determination"** is specified as being applicable in respect of such Note in the applicable Pricing Supplement, an amount determined by the Determination Agent, acting in good faith and in a commercially reasonable manner, as at such date as is selected by the Determination Agent in its sole and absolute discretion (provided that such day is not more than 15 Business Days prior to the date fixed for redemption of the Note) to be the amount that a Qualified Financial Institution would charge to assume all of the Issuer's payment and other obligations with respect to such Note as if no such Event of Default had occurred or to undertake obligations that would have the effect of preserving the economic equivalent of any payment by the Issuer to the Noteholder with respect to such Note; or
- (iv) if **"Theoretical Value"** is specified as being applicable in respect of such Note in the applicable Pricing Supplement, an amount equal to the fair value of such Note on the day that is two Business Days prior to the date of redemption of the Note, as determined by the Determination Agent, acting in good faith and in a commercially reasonable manner, by reference to factors that the Determination Agent considers relevant, including without limitation, the then (a) interest rates and, (b) the value of each embedded derivative but (c) if the relevant Early Redemption Event is an Event of Default, disregarding any change in the creditworthiness of the Issuer since the initial Trade Date;

**"Euro", "euro", "€" and "EUR"** each means the lawful single currency of the member states of the European Union that have adopted and continue to retain a common single currency through monetary union in accordance with European Union treaty law (as amended from time to time).

**"Extraordinary Resolution"** has the meaning given in the Issue and Paying Agency Agreement;

**"Fallback FX Spot Rate"** has the meaning given in the applicable Pricing Supplement;

**"Federal Reserve Bank of New York's Website"** means the website of the Federal Reserve Bank of New York at <http://www.newyorkfed.org>, or any successor source;

**"Final Redemption Amount"** means, in respect of any Note, its principal amount or such other amount as may be specified in, or determined in accordance with, the applicable Pricing Supplement;

**"Fixed Coupon Amount"** has the meaning given in the applicable Pricing Supplement;

**"Implementation of Financial Transaction Tax"** means that, on or after the Trade Date of any Notes, due to the adoption of or any change in any applicable law or regulation (including without limitation any law or regulation implementing a system of financial transaction taxes in any jurisdiction, including the European Union relating to any tax, payable in respect of the transfer of, or issue or modification or redemption of, any financial instruments), the Issuer determines (acting in good faith and in a commercially reasonable manner) that either it or any of its Affiliates would incur or has incurred a materially increased amount of tax, transfer tax, duty, stamp duty, stamp duty reserve tax, expense or fee (other than brokerage commissions) to (A) enter into, modify or unwind the Notes or any part thereof, or perform its obligations under such Notes, including for the avoidance of doubt any obligation or exercise of any right to deliver Shares or any other asset or (B) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the risk of entering into and performing its obligations with respect to the relevant Notes or (C) realise, recover or remit the proceeds of any such transaction(s) or asset(s), provided that the Issuer has determined that the nature of the adoption of or any change in law or regulation is such that it is applicable to investors generally when carrying out similar trading or hedging activities in the relevant jurisdiction;

**"Index Notes"** means Notes relating to a single Index;

**"Individual Note Certificate"** has the meaning set forth in Condition 3.2 (*Title*);

**"Interest Amount"** means, in relation to a Note and an Interest Period, the amount of interest payable in respect of each Calculation Amount of that Note for that Interest Period;

**"Interest Commencement Date"** means the Issue Date of the Notes or such other date as may be specified as the Interest Commencement Date in the applicable Pricing Supplement;

**"Interest Determination Date"** has the meaning given in the applicable Pricing Supplement, provided that, in the case of Equity-Linked Notes, Fund-Linked Notes and Futures Contract-Linked Notes where the interest basis is Equity-Linked Interest, Fund-Linked Interest or Futures Contract-Linked Interest (as applicable) as specified in the applicable Pricing Supplement, (i) if any such date is not a Scheduled Trading Day or a Fund Business Day (as applicable), the relevant Interest Determination Date shall (A) in the case of Equity-Linked Notes, be the next succeeding Scheduled Trading Day or, if either "Common Scheduled Trading Days and Common Disrupted Days" or "Common Scheduled Trading Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement, the next succeeding Common Scheduled Trading Day; or (B) in the case of Fund-Linked Notes, be the next succeeding Fund Business Day or, if either "Common Fund Business Days and Common Disrupted Days" or "Common Fund Business Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement, the next succeeding Common Fund Business Day, and (ii) if any Interest Determination Date is a Disrupted Day, the provisions of, as applicable, Condition 10.1 (*Reference Dates, Averaging Dates and Market Disruption*), Condition 16.1 (*Reference Dates, Averaging Dates and Market Disruption*) or Condition 17.1 (*Reference Dates, Averaging Dates and Market Disruption*) shall apply, and otherwise subject to adjustment in accordance with the Conditions;

**"Interest Payment Date"** means the date or dates specified as such in, or determined in accordance with the provisions of, the applicable Pricing Supplement and, if a Business Day Convention is specified in the applicable Pricing Supplement:

- (a) as the same may be adjusted in accordance with the relevant Business Day Convention; or

- (b) if the Business Day Convention is the FRN Convention, Floating Rate Convention or Eurodollar Convention and an interval of a number of calendar months is specified in the applicable Pricing Supplement as being the Specified Period, each of such dates as may occur in accordance with the FRN Convention, Floating Rate Convention or Eurodollar Convention at such Specified Period of calendar months following the Interest Commencement Date (in the case of the first Interest Payment Date) or the previous Interest Payment Date (in any other case);

**"Interest Period"** means, subject as otherwise provided in these Conditions or the applicable Pricing Supplement, each period beginning on (and including) the Interest Commencement Date or any Interest Payment Date and ending on (but excluding) the next Interest Payment Date, provided that if "Unadjusted" is specified in the applicable Pricing Supplement, no adjustment will be made to the Interest Period, notwithstanding the adjustment to the relevant Interest Payment Date following the application of the relevant Business Day Convention and any other adjustment under the terms of the Notes;

**"Interpolated Benchmark"** with respect to the Benchmark means the rate determined for the Corresponding Tenor by interpolating on a linear basis between: (a) the Benchmark for the longest period (for which the Benchmark is available) that is shorter than the Corresponding Tenor and (b) the Benchmark for the shortest period (for which the Benchmark is available) that is longer than the Corresponding Tenor;

**"ISDA Definitions"** means the 2006 ISDA Definitions, as amended and updated as at the date of issue of the first Tranche of the Notes of the relevant Series (as specified in the applicable Pricing Supplement) as published by the International Swaps and Derivatives Association, Inc.;

**"ISDA Fallback Adjustment"** means the spread adjustment, (which may be a positive or negative value or zero) that would apply for derivatives transactions referencing the ISDA Definitions to be determined upon the occurrence of an index cessation event with respect to the Benchmark for the applicable tenor;

**"ISDA Fallback Rate"** means the rate that would apply for derivatives transactions referencing the ISDA Definitions to be effective upon the occurrence of an index cessation date with respect to the Benchmark for the applicable tenor excluding the applicable ISDA Fallback Adjustment;

**"Issue Date"** has the meaning given in the applicable Pricing Supplement;

**"Japanese Yen"** and "¥" are to the lawful currency of Japan;

**"Margin"** has the meaning given in the applicable Pricing Supplement;

**"Maturity Date"** has the meaning given in the applicable Pricing Supplement;

**"Maximum Call Notice Number of Day(s)"** means the number of calendar days or Business Days specified as such in the applicable Pricing Supplement;

**"Maximum Put Notice Number of Day(s)"** means the number of calendar days or Business Days specified as such in the applicable Pricing Supplement;

**"Minimum Call Notice Number of Day(s)"** means the number of calendar days or Business Days specified as such in the applicable Pricing Supplement;

**"Minimum Put Notice Number of Day(s)"** means the number of calendar days or Business Days specified as such in the applicable Pricing Supplement;

**"Morgan Stanley Notes"** means Notes issued by Morgan Stanley;

**"MSFL Notes"** means Notes issued by MSFL;

**"New Zealand dollars"** and "NZD" are to the lawful currency of New Zealand;

**"Optional Redemption Amount (Call)"** means, in respect of any Cash Settlement Note, its principal amount or such other amount as may be specified in, or determined in accordance with, the applicable Pricing

Supplement and, in respect of any Physical Settlement Note, the Physical Delivery Amount as may be specified in, or determined in accordance with, the applicable Pricing Supplement;

**"Optional Redemption Amount (Put)"** means, in respect of any Cash Settlement Note, its principal amount or such other amount as may be specified in, or determined in accordance with, the applicable Pricing Supplement and, in respect of any Physical Settlement Note, the Physical Delivery Amount as may be specified in, or determined in accordance with, the applicable Pricing Supplement;

**"Optional Redemption Date (Call)"** has the meaning given in the applicable Pricing Supplement;

**"Optional Redemption Date (Put)"** has the meaning given in the applicable Pricing Supplement;

**"Participating Member State"** means a Member State of the European Union which adopts the euro as its lawful currency in accordance with the Treaty;

**"Payment Business Day"** means;

- (a) if the currency of payment is euro, any day which is:
  - (i) a day on which banks in the relevant place of presentation are open for presentation and payment of bearer debt securities and for dealings in foreign currencies; and
  - (ii) in the case of payment by transfer to an account, a TARGET Settlement Day and a day on which dealings in foreign currencies may be carried on in each (if any) Additional Financial Centre; or
- (b) if the currency of payment is CNY, any day on which banks and foreign exchange markets are open for business and settlement of CNY payments in the Relevant Financial Centre, the place of payment and each (if any) Additional Financial Centre;
- (c) if the currency of payment is neither euro nor CNY, any day which is a day on which banks in the relevant place of presentation are open for presentation and payment of bearer debt securities and for dealings in foreign currencies; and
- (d) in the case of payment by transfer to an account, a day on which dealings in foreign currencies may be carried on in the Principal Financial Centre of the currency of payment and in each (if any) Additional Financial Centre.

**"Person"** means any individual, company, corporation, firm, partnership, joint venture, association, organisation, state or agency of a state or other entity, whether or not having separate legal personality;

**"Physical Settlement Notes"** means Notes specified as being Notes to which Physical Settlement applies, or Notes specified as being Notes to which either Physical Settlement or Cash Settlement applies in the applicable Pricing Supplement and in respect of which the Noteholder or the Issuer, as the case may be, has not elected for Cash Settlement to apply;

**"Principal Financial Centre"** means, in relation to any currency, the principal financial centre for that currency provided, however, that:

- (a) in relation to euro, it means the principal financial centre of such Member State of the European Communities as is selected (in the case of a payment) by the payee or (in the case of a calculation) by the Calculation Agent; and
- (b) in relation to Australian dollars, it means Sydney and Melbourne and, in relation to New Zealand dollars, it means Wellington and Auckland;

**"Put Option Notice"** means a notice which must be delivered to a Paying Agent by any Noteholder wanting to exercise a right to redeem a Note at the option of the Noteholder;



**"Put Option Receipt"** means a receipt issued by a Paying Agent to a depositing Noteholder upon deposit of a Note with such Paying Agent by any Noteholder wanting to exercise a right to redeem a Note at the option of the Noteholder;

**"Qualified Financial Institution"** means a financial institution organised under the laws of any jurisdiction in the United States of America, the European Union or Japan, which, as at the date the Determination Agent selects to determine the Early Redemption Amount, has outstanding debt obligations with a stated maturity of one year or less from the date of issue of such outstanding debt obligations, and such financial institution is rated either:

- (a) A2 or higher by S&P Global Ratings or any successor, or any other comparable rating then used by that rating agency; or
- (b) P-2 or higher by Moody's Investors Service, Inc. or any successor, or any other comparable rating then used by that rating agency,

**provided that**, if no Qualified Financial Institution is reasonably available, then the Determination Agent shall, in good faith and acting in a commercially reasonable manner, select a financial institution of reputable standing organised under the laws of any jurisdiction in the United States of America, the European Union or Japan as a Qualified Financial Institution;

**"Qualifying Treaty"** means an income tax treaty between a non-U.S. jurisdiction and the United States of America that provides for a 0 per cent. rate of tax on "other income" earned by a resident of the non-U.S. jurisdiction from sources within the United States of America;

**"Rate of Interest"** means the rate or rates (expressed as a percentage per annum) of interest payable in respect of the Notes specified in applicable Pricing Supplement or calculated or determined in accordance with the provisions of these Conditions and/or the applicable Pricing Supplement;

**"Redemption Amount"** means, as appropriate, the Final Redemption Amount, the Optional Redemption Amount (Call), the Optional Redemption Amount (Put), the Early Redemption Amount, Physical Delivery Amount or such other amount in the nature of a redemption amount as may be specified in, or determined in accordance with the provisions of, the applicable Pricing Supplement;

**"Redemption Expenses"** means, in respect of any Note or Notes, any expenses (other than in relation to Taxes) payable on or in respect of or in connection with the redemption of such Note or Notes;

**"Reference Banks"** has the meaning given in the applicable Pricing Supplement or, if none, four major banks selected by the Calculation Agent in the market that is most closely connected with the Reference Rate;

**"Reference Price"** has the meaning given in the applicable Pricing Supplement;

**"Reference Rate"** has the meaning given in the applicable Pricing Supplement;

**"Reference Time"** with respect to any determination of the Benchmark means (a) if the Benchmark is LIBOR, 11:00 a.m. (London time) on the day that is two London banking days preceding the date of such determination, and (b) if the Benchmark is not LIBOR, the time determined by the Issuer or its designee in accordance with the Benchmark Replacement Conforming Changes;

**"Register"** has the meaning given to it in the Issue and Paying Agency Agreement;

**"Registered Note"** means a Note issued in registered form, as described in Condition 3 (*Form, Denomination and Title*);

**"Regulation S"** means Regulation S under the Securities Act;

**"Relevant Benchmark"** means a Relevant Commodity Benchmark, a Relevant Equity Index Benchmark, a Relevant FX Benchmark, a Relevant Property Index Benchmark, a Relevant Rates Benchmark or a Relevant Futures Contract Benchmark;

**"Relevant Clearing System"** means, as appropriate, Euroclear S.A./N.V. ("**Euroclear**"), Clearstream, Luxembourg, société anonyme ("**Clearstream, Luxembourg**"), and/or such other relevant clearing system, as the case may be, through which interests in Notes are to be held and through an account at which the Notes are to be cleared, as specified in the applicable Pricing Supplement;

**"Relevant Date"** means, in relation to any payment, whichever is the later of (a) the date on which the payment in question first becomes due and (b) if the full amount payable has not been received in the Principal Financial Centre of the currency of payment by the Fiscal Agent on or prior to such due date, the date on which (the full amount having been so received) notice to that effect has been given to the Noteholders;

**"Relevant Financial Centre"** has the meaning given in the applicable Pricing Supplement;

**"Relevant Governmental Body"** means the Federal Reserve Board and/or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board and/or the Federal Reserve Bank of New York or any successor thereto;

**"Relevant Rates Benchmark"** means, in respect of any Notes:

- (a) each Reference Rate (or, if applicable, the index, benchmark or other price source that is referred to in the Reference Rate);
- (b) each Floating Rate Option (or, if applicable, the index, benchmark or other price source that is referred to in the Floating Rate Option); or
- (c) any other index, benchmark or other price source specified as a "Relevant Rates Benchmark" in the applicable Pricing Supplement;

**"Relevant Screen Page"** means the page, section or other part of a particular information service (including, without limitation, Reuters) specified as the Relevant Screen Page in the applicable Pricing Supplement, or such other page, section or other part as may replace it on that information service or such other information service, in each case, as may be nominated by the Person providing or sponsoring the information appearing there for the purpose of displaying rates or prices comparable to the Reference Rate;

**"Relevant Securities"**, in relation to Notes, means Notes issued (or to be issued) under the Issue and Paying Agency Agreement;

**"Relevant Time"** has the meaning given in the applicable Pricing Supplement;

**"Renminbi"**, **"RMB"** and **"CNY"** are to the lawful currency of the People's Republic of China ("**PRC**") which, for the purpose of these Conditions, shall exclude the Hong Kong Special Administrative Region of the People's Republic of China, the Macau Special Administrative Region of the People's Republic of China and Taiwan;

**"Reserved Matter"** means any proposal to change any date fixed for payment of principal or interest in respect of the Notes, to reduce the amount of principal or interest payable on any date in respect of the Notes, to alter the method of calculating the amount of any payment in respect of the Notes or the date for any such payment, to change the currency of any payment under the Notes or to change the quorum requirements relating to meetings or the majority required to pass an Extraordinary Resolution;

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

**"SOFR"** with respect to any day means the secured overnight financing rate published for such day by the Federal Reserve Bank of New York, as the administrator of the benchmark, (or a successor administrator) on the Federal Reserve Bank of New York's Website;

**"Specified Currency"** has the meaning given in the applicable Pricing Supplement;

**"Specified Denomination(s)"** has the meaning given in the applicable Pricing Supplement;

"**Specified Office**" has the meaning given in the Issue and Paying Agency Agreement;

"**Specified Period**" has the meaning given in the applicable Pricing Supplement;

"**Sterling**", "**GBP**" and "**£**" are to the lawful currency of the United Kingdom;

"**subsidiary**" means, in relation to any Person (the "**first Person**") at any particular time, any other Person (the "**second Person**"):

- (a) whose affairs and policies the first Person controls or has the power to control, whether by ownership of share capital, contract, the power to appoint or remove members of the governing body of the second Person or otherwise; or
- (b) whose financial statements are, in accordance with applicable law and generally accepted accounting principles, consolidated with those of the first Person;

"**TARGET2**" means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilises a single shared platform and which was launched on 19 November 2007;

"**TARGET Settlement Day**" means any day on which TARGET2 is open for the settlement of payments in euro;

"**Taxes**" means any tax, duty, impost, levy, charge or contribution in the nature of taxation or any withholding or deduction for or on account thereof, including (but not limited to) any applicable stock exchange tax, turnover tax, stamp duty, stamp duty reserve tax and/or other taxes chargeable or payable in connection with any redemption of a Note and/or payment of the Redemption Amount and/or delivery of the Physical Delivery Amount and/or the transfer or delivery of securities and/or the relevant Transfer Documentation;

"**Term SOFR**" means the forward-looking term rate for the applicable Corresponding Tenor based on SOFR that has been selected or recommended by the Relevant Governmental Body;

"**Trade Date**" means in relation to any series of Notes, the date specified as such in the applicable Pricing Supplement;

"**Transfer Documentation**" means, for each Series of Notes, such documentation as is generally acceptable for settlement of transfer of Underlying Shares on the relevant Exchange or through the Relevant Clearing System;

"**Treaty**" means the Treaty establishing the European Union, as amended;

"**Unadjusted Benchmark Replacement**" means the Benchmark Replacement excluding the Benchmark Replacement Adjustment;

"**Underlying Securities**" means shares, bonds, other debt securities, other securities or other property specified as such in the applicable Pricing Supplement, and "**Underlying Security**" shall be construed accordingly;

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

"**Zero Coupon Note**" means a Note specified as such in the applicable Pricing Supplement.

## 2.2 *Interpretation:*

In these Conditions:

- (a) any reference to principal shall be deemed to include the Redemption Amount, any additional amounts in respect of principal which may be payable under Condition 24 (*Taxation*), any premium

payable in respect of a Note and any other amount in the nature of principal payable pursuant to these Conditions;

- (b) any reference to interest shall be deemed to include any additional amounts in respect of interest which may be payable under Condition 24 (*Taxation*) and any other amount in the nature of interest payable pursuant to these Conditions;
- (c) references to Notes being "outstanding" shall be construed in accordance with the Issue and Paying Agency Agreement; and
- (d) if an expression is stated in Condition 2.1 (*Definitions*) to have the meaning given in the applicable Pricing Supplement, but the applicable Pricing Supplement gives no such meaning or specifies that such expression is "not applicable" then such expression is not applicable to the Notes.

### 3. FORM, DENOMINATION AND TITLE

#### 3.1 *Form:*

Morgan Stanley and MSFL may issue Notes in registered form. Notes may be in either global registered form or in individual registered form. Notes are in the Specified Denomination(s), which may include a minimum denomination specified in the applicable Pricing Supplement and higher integral multiples of a smaller amount specified in the applicable Pricing Supplement.

#### 3.2 *Title:*

Title to the Notes passes by registration in the Register which is kept by the Registrar in accordance with the provisions of the Issue and Paying Agency Agreement. A certificate (each, an "**Individual Note Certificate**") will be issued to each holder of Notes in respect of its registered holding. Each Individual Note Certificate will be numbered serially with an identifying number which will be recorded in the Register. A "**holder**" means the person in whose name such Note is for the time being registered in the Register (or, in the case of a joint holding, the first named thereof) and "**Noteholder**" shall be construed accordingly.

#### 3.3 *Ownership:*

The holder of any Registered Note shall (except as otherwise required by law) be treated as its absolute owner for all purposes (whether or not it is overdue and regardless of any notice of ownership, trust or any other interest therein, any writing thereon or on the Individual Note Certificate relating thereto (other than the endorsed form of transfer) or any notice of any previous loss or theft thereof) and no Person shall be liable for so treating such holder.

- (a) *Transfers:* Subject to Conditions 3.3(d) (*Closed Periods*) and 3.3(e) (*Regulations concerning transfers and registration*) below, a Registered Note may be transferred upon surrender of the relevant Individual Note Certificate, with the endorsed form of transfer duly completed, at the Specified Office of the Registrar or any Transfer Agent, together with such evidence as the Registrar or (as the case may be) such Transfer Agent may reasonably require to prove the title of the transferor and the authority of the individuals who have executed the form of transfer; provided, however, that a Registered Note may not be transferred unless the principal amount of Registered Note transferred and (where not all of the Notes held by a holder are being transferred) the principal amount of the balance of Notes not transferred are Specified Denominations. Where not all the Notes represented by the surrendered Individual Note Certificate are the subject of the transfer, a new Individual Note Certificate in respect of the balance of the Notes will be issued to the transferor.
- (b) *Registration and Delivery:* Within five business days of the surrender of an Individual Note Certificate in accordance with Condition 3.3(a) (*Transfers*) above, the Registrar will register the transfer in question and deliver a new Individual Note Certificate of a like principal amount to the Notes transferred to each relevant holder at its Specified Office or (as the case may be) the Specified Office of any Transfer Agent or (at the request and risk of any such relevant holder) by uninsured first class mail (airmail if overseas) to the address specified for the purpose by such relevant holder. In this Condition 3.3(b) (*Registration and Delivery*), "**business day**" means a day on which

commercial banks are open for general business (including dealings in foreign currencies) in the city where the Registrar or (as the case may be) the relevant Transfer Agent has its Specified Office.

- (c) *No charge:* The transfer of a Registered Note will be effected without charge by or on behalf of the Issuer or the Registrar or any Transfer Agent but against such indemnity as the Registrar or (as the case may be) such Transfer Agent may require in respect of any tax or other duty of whatsoever nature which may be levied or imposed in connection with such transfer.
- (d) *Closed Periods:* Holders of Notes may not require transfers to be registered during the period of 15 days ending on the due date for any payment of principal or interest in respect of the Notes.
- (e) *Regulations concerning transfers and registration:* All transfers of Notes and entries on the Register are subject to the detailed regulations concerning the transfer of Notes scheduled to the Issue and Paying Agency Agreement. The regulations may be changed by the Issuer with the prior written approval of the Registrar. A copy of the current regulations will be mailed (free of charge) by the Registrar to any holder of Notes who requests in writing a copy of such regulations. The relevant Issuer shall have the right to refuse to honor the transfer of any Notes to a person who is a U.S. Person (as defined in Regulation S) or is in the United States.

#### 4. STATUS

##### 4.1 *Status of the Notes:*

The Notes constitute direct and general obligations of the Issuer which rank *pari passu* among themselves.

##### 4.2 *Status of Guarantee:*

The Guarantor's obligations in respect of the Notes issued by MSFL (other than Notes the Pricing Supplement relating to which specifies that such Notes are not guaranteed by Morgan Stanley) constitute direct, unconditional and unsecured obligations of the Guarantor which rank without preference among themselves and *pari passu* with all other outstanding unsecured and unsubordinated obligations of the Guarantor, present and future, but, in the event of insolvency, only to the extent permitted by laws affecting creditors' rights.

#### 5. FIXED RATE NOTE PROVISIONS

##### 5.1 *Application:*

This Condition 5 (*Fixed Rate Note Provisions*) is applicable to the Notes only if the Fixed Rate Note Provisions are specified in the applicable Pricing Supplement as being applicable.

##### 5.2 *Accrual of interest:*

The Notes bear interest from the Interest Commencement Date at the Rate of Interest payable in arrear on each Interest Payment Date, subject as provided in Condition 22 (*Payments*). Each Note will cease to bear interest from the due date for final redemption unless, upon such due date, payment of the Redemption Amount is improperly withheld or refused, in which case it will continue to bear interest in accordance with this Condition 5 (*Fixed Rate Note Provisions*) (as well after as before judgment) until whichever is the earlier of (i) the day on which all sums due in respect of such Note up to that day are received by or on behalf of the relevant Noteholder and (ii) the day which is seven days after the Fiscal Agent has notified the Noteholders that it has received all sums due in respect of the Notes up to such seventh day (except to the extent that there is any subsequent default in payment).

##### 5.3 *Fixed Coupon Amount:*

The amount of interest payable in respect of each Note for any Interest Period which is a Regular Period shall be the relevant Fixed Coupon Amount and, if the Notes are in more than one Specified Denomination, shall be the relevant Fixed Coupon Amount in respect of the relevant Specified Denomination, provided that if a Broken Amount is specified in the applicable Pricing Supplement in respect of an Interest Payment Date in respect of each Calculation Amount, the Interest Amount payable on such Interest Payment Date in respect of such Note per Calculation Amount shall be the Broken Amount.

5.4 *Regular Interest Periods:*

If all of the Interest Payment Dates fall at regular intervals between the Issue Date and the Maturity Date, then:

- (a) the Notes shall for the purposes of this Condition 5 (*Fixed Rate Note Provisions*) be "**Regular Interest Period Notes**";
- (b) the day and month (but not the year) on which any Interest Payment Date falls shall, for the purposes of this Condition 5 (*Fixed Rate Note Provisions*), be a "**Regular Date**"; and
- (c) each period from and including a Regular Date falling in any year to but excluding the next succeeding Regular Date shall, for the purposes of this Condition 5 (*Fixed Rate Note Provisions*), be a "**Regular Period**".

5.5 *Irregular first or last Interest Periods:*

If the Notes would be Regular Interest Period Notes but for the fact that either or both of:

- (a) the interval between the Issue Date and the first Interest Payment Date; and
- (b) the interval between the Maturity Date and the immediately preceding Interest Payment Date

is longer or shorter than a Regular Period, then the Notes shall nevertheless be deemed to be Regular Interest Period Notes, provided, however, that if the interval between the Maturity Date and the immediately preceding Interest Payment Date is longer or shorter than a Regular Period, the day and month on which the Maturity Date falls shall not be a "**Regular Date**".

5.6 *Irregular Interest Amount:*

If the Notes are Regular Interest Period Notes, the amount of interest payable in respect of each Note for any period which is not a Regular Period shall be an amount per Calculation Amount calculated by applying the Rate of Interest to the Calculation Amount, multiplying the product by the relevant Day Count Fraction and rounding the resulting figure to the nearest sub unit of the Specified Currency (half a sub unit being rounded upwards). For this purpose a "**sub unit**" means, in the case of any currency other than euro, the lowest amount of such currency that is available as legal tender in the country of such currency and, in the case of euro, means one cent.

5.7 *Irregular Interest Periods:*

If the Notes are not Regular Interest Period Notes and interest is required to be calculated for any period other than an Interest Period, interest shall be calculated on such basis as is described in the applicable Pricing Supplement.

6. **FLOATING RATE NOTE, EQUITY-LINKED, COMMODITY-LINKED, CURRENCY-LINKED, INFLATION-LINKED, PROPERTY-LINKED, FUND-LINKED AND FUTURES CONTRACT-LINKED INTEREST NOTE PROVISIONS**

6.1 *Application:*

This Condition 6 (*Floating Rate Note, Equity-Linked, Commodity-Linked, Currency-Linked, Inflation-Linked, Property-Linked, Fund-Linked and Futures Contract-Linked Interest Note Provisions*) is applicable to the Notes only if one or more of the Floating Rate Note Provisions, the Equity-Linked, Commodity-Linked, Currency-Linked, Inflation-Linked, Property-Linked, Fund-Linked or Futures Contract-Linked Interest Provisions are specified in the applicable Pricing Supplement as being applicable.

6.2 *Accrual of interest:*

The Floating Rate Notes bear interest from the Interest Commencement Date at the Rate of Interest payable in arrear on each Interest Payment Date, subject as provided in Condition 22 (*Payments*). Each Note will cease to bear interest from the due date for final redemption unless, upon such due date, payment of the Redemption Amount is improperly withheld or refused, in which case it will continue to bear interest in accordance with this Condition 6 (*Floating Rate Note, Equity-Linked, Commodity-Linked, Currency-Linked, Inflation-Linked, Property-Linked, Fund-Linked and Futures Contract-Linked Interest Note Provisions*) (as well after as before judgment) until whichever is the earlier of (i) the day on which all sums due in respect of such Note up to that day are received by or on behalf of the relevant Noteholder and (ii) the day which is seven days after the Fiscal Agent has notified the Noteholders that it has received all sums due in respect of the Notes up to such seventh day (except to the extent that there is any subsequent default in payment). The Rate of Interest in respect of all or any Interest Periods shall, if so specified in the applicable Pricing Supplement, be zero.

### 6.3 *Screen Rate Determination:*

Subject to the provisions of Condition 6.11 (*Relevant Rates Benchmark Discontinuance or Prohibition on Use*), where such provisions are specified to apply in the applicable Pricing Supplement, Condition 6.12 (*Effect of Benchmark Transition Event*) or Condition 6.13 (*General Fallback Arrangements*), if Screen Rate Determination is specified in the applicable Pricing Supplement as the manner in which the Rate(s) of Interest is/are to be determined, the Rate of Interest applicable to the Notes for each Interest Period will be determined by the Determination Agent on the following basis:

- (a) if the Reference Rate is a composite quotation or customarily supplied by one entity, the Calculation Agent will determine the Reference Rate which appears on the Relevant Screen Page as of the Relevant Time on the relevant Interest Determination Date;
- (b) in any other case, the Determination Agent will determine the arithmetic mean of the Reference Rates which appear on the Relevant Screen Page as of the Relevant Time on the relevant Interest Determination Date;
- (c) if, in the case of Condition 6.3(a) above, such rate does not appear on that page or, in the case of Condition 6.3(b) above, fewer than two such rates appear on that page or if, in either case, the Relevant Screen Page is unavailable, the Determination Agent will:
  - (i) request the principal Relevant Financial Centre office of each of the Reference Banks to provide a quotation of the Reference Rate at approximately the Relevant Time on the Interest Determination Date to prime banks in the Relevant Financial Centre interbank market in an amount that is representative for a single transaction in that market at that time; and
  - (ii) determine the arithmetic mean of such quotations; and
- (d) if fewer than two such quotations are provided as requested, the Determination Agent will determine the arithmetic mean of the rates (being the nearest to the Reference Rate, as determined by the Determination Agent) quoted by major banks in the Principal Financial Centre of the Specified Currency, selected by the Determination Agent, at approximately 11.00 a.m. (local time in the Principal Financial Centre of the Specified Currency) on the first day of the relevant Interest Period for loans in the Specified Currency to leading European banks for a period equal to the relevant Interest Period and in an amount that is representative for a single transaction in that market at that time,

and the Rate of Interest for such Interest Period shall be the sum of the Margin and the rate or (as the case may be) the arithmetic mean so determined, provided, however, that if the Determination Agent is unable to determine a rate or (as the case may be) an arithmetic mean in accordance with the above provisions in relation to any Interest Period, the Rate of Interest applicable to the Notes during such Interest Period will be the sum of the Margin and the rate (or as the case may be) the arithmetic mean last determined in relation to the Notes in respect of a preceding Interest Period.

6.4 *ISDA Determination:*

Subject to the provisions of Condition 6.11 (*Relevant Rates Benchmark Discontinuance or Prohibition on Use*), where such provisions are specified to apply in the applicable Pricing Supplement, Condition 6.12 (*Effect of Benchmark Transition Event*) or Condition 6.13 (*General Fallback Arrangements*), if ISDA Determination is specified in the applicable Pricing Supplement as the manner in which the Rate(s) of Interest is/are to be determined, the Rate of Interest applicable to the Notes for each Interest Period will be the sum of the Margin and the relevant ISDA Rate where "ISDA Rate" in relation to any Interest Period means a rate equal to the Floating Rate (as defined in the ISDA Definitions) that would be determined by the Determination Agent under an interest rate swap transaction if the Determination Agent were acting as Determination Agent for that interest rate swap transaction under the terms of an agreement incorporating the ISDA Definitions and under which:

- (a) the Floating Rate Option (as defined in the ISDA Definitions) is as specified in the applicable Pricing Supplement;
- (b) the Designated Maturity (as defined in the ISDA Definitions) is a period specified in the applicable Pricing Supplement; and
- (c) the relevant Reset Date (as defined in the ISDA Definitions) is either (A) if the relevant Floating Rate Option is based on LIBOR for a currency, the first day of that Interest Period or (B) in any other case, as specified in the applicable Pricing Supplement.

6.5 *Equity-Linked, Commodity-Linked, Currency-Linked, Inflation-Linked, Property-Linked, Fund-Linked and Futures Contract-Linked Interest Note Provisions:*

If one or more of the Equity-Linked, Commodity-Linked, Currency-Linked, Inflation-Linked, Property-Linked, Fund-Linked or Futures Contract-Linked Interest Provisions are specified in the applicable Pricing Supplement as being applicable, the interest payable in respect of the Notes for each Interest Period will be determined in the manner specified in the applicable Pricing Supplement.

6.6 *Maximum or Minimum Rate of Interest:*

If any Maximum Rate of Interest or Minimum Rate of Interest is specified in the applicable Pricing Supplement, then the Rate of Interest shall in no event be greater than the maximum or be less than the minimum so specified.

6.7 *Calculation of Interest Amount:*

In respect of Floating Rate Notes, the Calculation Agent will, as soon as practicable after the time at which the Rate of Interest is to be determined in relation to each Interest Period, calculate the Interest Amount payable in respect of each Floating Rate Note for such Interest Period. The Interest Amount will be calculated by applying the Rate of Interest for such Interest Period to the Calculation Amount, multiplying the product by the relevant Day Count Fraction, rounding the resulting figure to the nearest sub-unit of the Specified Currency (half a sub-unit being rounded upwards) and multiplying such rounded figure by a fraction equal to the Specified Denomination of the relevant Note divided by the Calculation Amount. For this purpose a "sub-unit" means, in the case of any currency other than euro, the lowest amount of such currency that is available as legal tender in the country of such currency and, in the case of euro, means one cent.

6.8 *Calculation of other amounts:*

If the applicable Pricing Supplement specifies that any other amount is to be calculated by the Determination Agent, the Determination Agent will, as soon as practicable after the time or times at which any such amount is to be determined, calculate the relevant amount. The relevant amount will be calculated by the Determination Agent in the manner specified in the applicable Pricing Supplement.



6.9 *Publication:*

The Determination Agent will cause each Rate of Interest and Interest Amount determined by it, together with the relevant Interest Payment Date, and any other amount(s) required to be determined by it together with any relevant payment date(s) to be notified to the Paying Agents and each listing authority, stock exchange and/or quotation system (if any) by which the Notes have been admitted to listing, trading and/or quotation as soon as practicable after such determination but (in the case of each Rate of Interest, Interest Amount and Interest Payment Date) in any event not later than the first day of the relevant Interest Period. Notice thereof shall also promptly be given to the Noteholders. The Determination Agent will be entitled to recalculate any Interest Amount (on the basis of the foregoing provisions) without notice in the event of an extension or shortening of the relevant Interest Period. If the Calculation Amount is less than the minimum Specified Denomination the Determination Agent shall not be obliged to publish each Interest Amount but instead may publish only the Calculation Amount and the Interest Amount in respect of a Note having the minimum Specified Denomination.

6.10 *Notifications etc.:*

All notifications, opinions, determinations, certificates, calculations, quotations and decisions given, expressed, made or obtained for the purposes of this Condition 6 (*Floating Rate Note, Equity-Linked, Commodity-Linked, Currency-Linked, Inflation-Linked, Property-Linked, Fund-Linked and Futures Contract-Linked Interest Note Provisions*) by the Determination Agent will (in the absence of manifest error) be binding on the Issuer, the Paying Agents, the Noteholders (subject as aforesaid) no liability to any such Person will attach to the Determination Agent in connection with the exercise or non-exercise by it of its powers, duties and discretions for such purposes.

6.11 *Relevant Rates Benchmark Discontinuance or Prohibition on Use:*

If (i) Condition 6.12 (*Effect of Benchmark Transition Event*) does not apply and (ii) the applicable Pricing Supplement specifies that the provisions of this Condition 6.11 (*Relevant Rates Benchmark Discontinuance or Prohibition on Use*) are applicable, then, notwithstanding the terms set forth elsewhere in these Conditions, if the Determination Agent determines that any of the following events has occurred:

- (a) a public statement or publication of information by or on behalf of the administrator of the Relevant Rates Benchmark announcing that it has ceased or will cease to provide the Relevant Rates Benchmark permanently or indefinitely, provided that, at the time of statement or publication, there is no successor administrator that will continue to provide the Relevant Rates Benchmark; or
- (b) a public statement or publication of information by the regulatory supervisor for the administrator of the Relevant Rates Benchmark, the central bank for the currency of the Relevant Rates Benchmark, an insolvency official with jurisdiction over the administrator of the Relevant Rates Benchmark, a resolution authority with jurisdiction over the administrator of the Relevant Rates Benchmark or a court or an entity with similar insolvency or resolution authority over the administrator of the Relevant Rates Benchmark, which states that the administrator of the Relevant Rates Benchmark has ceased or will cease to provide the Relevant Rates Benchmark permanently or indefinitely, provided that, at the time of the statement or publication, there is no successor administrator that will continue to provide the Relevant Rates Benchmark; or
- (c) unless otherwise specified in the Pricing Supplement, an Administrator/Benchmark Event occurs in relation to a Relevant Rates Benchmark,

the Determination Agent may use, as a substitute for the Relevant Rates Benchmark, and for each future Interest Determination Date (or other rate fixing date), the alternative rates benchmark determined in accordance with the following provisions:

- (i) if an alternative reference rate, index or benchmark is specified in the Pricing Supplement for this purpose (an “**Alternative Pre-nominated Reference Rate**”), such Alternative Pre-nominated Reference Rate; or
- (ii) if an Alternative Pre-nominated Reference Rate is not specified in the Pricing Supplement, the alternative reference rate, index or benchmark selected by the central bank, reserve bank, monetary authority or any similar institution (including any committee or working group thereof) in the

jurisdiction of the applicable index currency that is consistent with accepted market practice (the rate determined under Condition 6.11(i) above or this Condition 6.11(ii), the “**Alternative Rate**”).

The Determination Agent may, after consultation with the Issuer, determine any adjustments to the Alternative Rate or the Margin (which may include the addition of an adjustment spread, which may be positive or negative, in order to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value to or from the Issuer as a result of the replacement of the Relevant Rates Benchmark with the Alternative Rate), as well as the applicable Business Day Convention, Interest Determination Dates (or any other rate fixing dates) and related provisions and definitions of the Notes, in each case that are consistent with accepted market practice for the use of such Alternative Rate for debt obligations such as the Notes.

If the Determination Agent determines, after consultation with the Issuer, that no such Alternative Rate exists on the relevant date, it may, after consultation with the Issuer, determine an alternative rate to be used as a substitute for the Relevant Rates Benchmark (which shall be the “Alternative Rate” for the purposes of these provisions), as well as any adjustments to the Margin (including any adjustment spread), the Business Day Convention, the Interest Determination Dates (or any other rate fixing dates) and related provisions and definitions in respect of the Notes, in each case, that are consistent with accepted market practice for the use of such Alternative Rate for debt obligations such as the Notes.

The Issuer will then provide a notice, in accordance with Condition 32 (*Notices*), to Noteholders to inform them of the occurrence of any of the events listed in Conditions 6.11(a) to 6.11(c) above, the Alternative Rate and any adjustment determinations which will apply to the Notes. The notice shall also confirm the effective date of the Alternative Rate and any adjustments.

Notwithstanding anything else in this Condition 6.11 (*Relevant Rates Benchmark Discontinuance or Prohibition on Use*), if the Determination Agent determines that the selection of a particular index, benchmark or other price as an “Alternative Rate” (taking into account any necessary adjustments that would need to be made in accordance with this Condition 6.11 (*Relevant Rates Benchmark Discontinuance or Prohibition on Use*)) (1) is or would be unlawful under any applicable law or regulation; or (2) would contravene any applicable licensing requirements; or (3) would result in the Determination Agent, the Issuer or the Calculation Agent being considered to be administering a benchmark, index or other price source whose production, publication, methodology or governance would subject the Determination Agent, the Issuer or the Calculation Agent to material additional regulatory obligations which it is unwilling to undertake, then the Determination Agent shall not select such index, benchmark or price source as the Alternative Rate).

If the Determination Agent is unable to identify an Alternative Rate and determine the necessary adjustments to the terms of the Notes, then the Issuer may, in its sole and absolute discretion, determine that the Notes shall be redeemed as of any later date. If the Issuer so determines that the Notes shall be redeemed, then the Issuer shall give not less than five Business Days' notice to the Noteholders to redeem the Notes and upon redemption the Issuer will pay in respect of each Note an amount equal to the Early Redemption Amount.

The Issuer's obligations under the Notes shall be satisfied in full upon payment of such amount.

#### 6.12 *Effect of Benchmark Transition Event:*

This Condition 6.12 (*Effect of Benchmark Transition Event*) applies where the Relevant Rates Benchmark is U.S. Dollar LIBOR.

- (a) *Benchmark Replacement.* If the Issuer or its designee determines that a Benchmark Transition Event and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any determination of the Benchmark on any date, the Benchmark Replacement will replace the then-current Benchmark for all purposes relating to the Notes in respect of such determination on such date and all determinations on all subsequent dates.
- (b) *Benchmark Replacement Conforming Changes.* In connection with the implementation of a Benchmark Replacement, the Issuer or its designee will have the right to make Benchmark Replacement Conforming Changes from time to time.
- (c) *Decisions and Determinations.* Any determination, decision or election that may be made by the Issuer or its designee pursuant to this Condition 6.12 (*Effect of Benchmark Transition Event*), including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any

action or any selection, will be conclusive and binding absent manifest error, will be made in the Issuer's or its designee's sole discretion, and, notwithstanding anything to the contrary in the documentation relating to the Notes, shall become effective without consent from the holders of the Notes or any other party.

6.13 *General Fallback Arrangements:*

Notwithstanding the terms set forth elsewhere in these Conditions, and unless the applicable Pricing Supplement specifies that the provisions of Condition 6.11 (*Relevant Rates Benchmark Discontinuance or Prohibition on Use*) apply or unless Condition 6.12 (*Effect of Benchmark Transition Event*) applies, if either of LIBOR or EURIBOR have been permanently discontinued, the Determination Agent will use, as a substitute for LIBOR or EURIBOR, and for each future Interest Determination Date, the alternative reference rate selected by the central bank, reserve bank, monetary authority or any similar institution (including any committee or working group thereof) in the jurisdiction of the applicable index currency that is consistent with accepted market practice (the "**Alternative Rate**"). The Determination Agent will, after consultation with the Issuer, make such adjustments to the Alternative Rate or the Margin, as well as the applicable Business Day Convention, Interest Determination Dates and related provisions and definitions of the Notes, in each case that are consistent with accepted market practice for the use of such Alternative Rate for debt obligations such as the Notes. However, in the case of EURIBOR only, if the Determination Agent determines, after consultation with the Issuer, that no such Alternative Rate exists on the relevant date, it shall make a determination, after consultation with the Issuer, of an alternative rate as a substitute for EURIBOR, for debt obligations such as the Notes, as well as the Margin, the Business Day Convention and the Interest Determination Dates in respect of the Notes, that is consistent with accepted market practice.

7. **ZERO COUPON NOTE PROVISIONS**

7.1 *Application:*

This Condition 7 (*Zero Coupon Note Provisions*) is applicable to the Notes only if the "Zero Coupon Note Provisions" are specified in the applicable Pricing Supplement as being applicable.

7.2 *Late payment on Zero Coupon Notes:*

If the Redemption Amount payable in respect of any Zero Coupon Note is improperly withheld or refused, the Redemption Amount in respect of each Note shall thereafter be an amount equal to the product of (a) the Calculation Amount of such Note and (b) the percentage produced by the following formula:

$$\text{Reference Price} \times (1 + \text{Accrual Yield})^n$$

where "**n**" means the number of years from (and including) the Issue Date to (but excluding) whichever is the earlier of (i) the day on which all sums due in respect of such Note up to that day are received by or on behalf of the relevant Noteholder and (ii) the day which is seven days after the Fiscal Agent has notified the Noteholders that it has received all sums due in respect of the Notes up to such seventh day (except to the extent that there is any subsequent default in payment) and the calculation shall be made on the basis of such Day Count Fraction as may be specified in the applicable Pricing Supplement or, if none is so specified, a Day Count Fraction of 30/360.

8. **DUAL CURRENCY-LINKED NOTE PROVISIONS**

8.1 *Application:*

This Condition 8 (*Dual Currency-Linked Note Provisions*) is applicable to the Notes only if the "Dual Currency Redemption Provisions" and/or "Dual Currency-Linked Note Interest Provisions" are specified in the applicable Pricing Supplement as being applicable.

8.2 *Rate of Interest:*

If the rate or amount of interest fails to be determined by reference to an exchange rate, the rate or amount of interest payable shall be determined in the manner specified in the applicable Pricing Supplement.

9. **EQUITY-LINKED, COMMODITY-LINKED, CURRENCY-LINKED, INFLATION-LINKED, CREDIT-LINKED, PROPERTY-LINKED, FUND-LINKED AND FUTURES CONTRACT-LINKED NOTES**

Morgan Stanley and MSFL may issue Notes:

- (a) the payment of principal of which and/or interest on which are linked to the shares of an entity or a basket of shares of entities not affiliated with the Issuer and/or to a single index or indices of shares and/or interests in a single exchange traded fund or basket of exchange traded funds (respectively, **"Single Share Notes"**, **"Share Basket Notes"**, **"Single Index Notes"**, **"Index Basket Notes"**, **"Single ETF Notes"** and **"ETF Basket Notes"**, and together, **"Equity-Linked Notes"**);
- (b) the payment of principal of which and/or interest on which are to be determined by reference to one or more commodity prices (**"Commodity-Linked Notes"**);
- (c) the payment of principal of which and/or interest on which are to be determined by reference to one or more currencies as compared to the value of one or more other currencies (**"Currency-Linked Notes"**);
- (d) the payment of principal of which and/or interest on which are linked to one or more inflation indices (**"Inflation-Linked Notes"**);
- (e) the payment of principal of which and/or interest on which are linked to the credit of one or more specified entities (**"Credit-Linked Notes"**);
- (f) the payment of principal of which and/or interest on which are linked to one or more property indices (**"Property-Linked Notes"**);
- (g) the payment of principal of which or/interest on which are linked to interests in a fund or basket of funds (respectively **"Single Fund Notes"** and **"Fund Basket Notes"**, and together **"Fund-Linked Notes"**);
- (h) the payment of principal of which or/interest on which are linked to a single futures contract or a basket of futures contracts (respectively **"Single Futures Contract-Linked Notes"** and **"Futures Contract Basket-Linked Notes"** and together, **"Futures Contract-Linked Notes"**); or
- (i) on any other terms and conditions,

in each case, in accordance with the Conditions herein which are specified as applicable to Equity-Linked Notes, Commodity-Linked Notes, Currency-Linked Notes, Inflation-Linked Notes, Credit-Linked Notes, Property-Linked Notes, Fund-Linked Notes or Futures Contract-Linked Notes, as the case may be, and the detailed terms and conditions set out in the applicable Pricing Supplement.

10. **PROVISIONS RELATING TO EQUITY-LINKED NOTES**

This Condition 10 (*Provisions relating to Equity-Linked Notes*) is applicable only in relation to Notes specified in the applicable Pricing Supplement as being Single Share Notes, Share Basket Notes, Single Index Notes, Index Basket Notes, Single ETF Notes or ETF Basket Notes.

10.1 *Reference Dates, Averaging Dates and Market Disruption:*

- (a) If a Reference Date is not a Scheduled Trading Day, the relevant Reference Date shall be the next succeeding Scheduled Trading Day or, if either "Common Scheduled Trading Days and Common Disrupted Days" or "Common Scheduled Trading Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement, the next succeeding Common Scheduled Trading Day.
- (b) If any Scheduled Reference Date is a Disrupted Day, then:

- (i) in the case of a Single Index Note, Single Share Note or Single ETF Note, the relevant Reference Date shall be the earlier of (i) the first succeeding Scheduled Trading Day that is not in the determination of the Determination Agent a Disrupted Day and (ii) the Reference Cut-Off Date (notwithstanding that such Scheduled Trading Day is a Disrupted Day).
- (ii) in the case of an Index Basket Note, a Share Basket Note or an ETF Basket Note (as the case may be):
  - (A) where "Individual Scheduled Trading Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement, if the Determination Agent determines that any Scheduled Reference Date is a Disrupted Day in respect of any Basket Component, then:
    - (1) the Reference Date for each Basket Component in respect of which the Scheduled Reference Date is not a Disrupted Day shall be the Scheduled Reference Date for such Basket Component; and
    - (2) the Reference Date for any Basket Component in respect of which the Scheduled Reference Date is a Disrupted Day (each an "**Affected Basket Component**") shall be the earlier of (A) the first Scheduled Trading Day following the relevant Scheduled Reference Date that is not a Disrupted Day in respect of such Affected Basket Component; and (B) the Reference Cut-Off Date for such Affected Basket Component (notwithstanding that such day may not be a Scheduled Trading Day).
  - (B) where "Common Scheduled Trading Days and Common Disrupted Days" is specified to be applicable in the applicable Pricing Supplement, if the Determination Agent determines that any Scheduled Reference Date is a Disrupted Day in respect of any Basket Component, then the Reference Date for each Basket Component shall be the earlier of (i) the first Common Scheduled Trading Day following the relevant Scheduled Reference Date that is not a Disrupted Day with respect to any Basket Component; and (ii) the Reference Cut-Off Date (notwithstanding that such day may not be a Common Scheduled Trading Day).
  - (C) where "Common Scheduled Trading Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement, if the Determination Agent determines that any Scheduled Reference Date is a Disrupted Day in respect of any Basket Component, then:
    - (1) the Reference Date for each Basket Component in respect of which the Scheduled Reference Date is not a Disrupted Day shall be the Scheduled Reference Date for such Basket Component; and
    - (2) the Reference Date for each Basket Component in respect of which the Scheduled Reference Date is a Disrupted Day (each an "**Affected Basket Component**") shall be the earlier of (A) the first Scheduled Trading Day following the relevant Scheduled Reference Date that is not a Disrupted Day in respect of such Affected Basket Component; and (B) the Reference Cut-Off Date for such Affected Basket Component (notwithstanding that such day may not be a Common Scheduled Trading Day or a Scheduled Trading Day).
- (iii) in the case of any Single Index Note, Single Share Note, Single ETF Note, Index Basket Note, Share Basket Note or ETF Basket Note (as the case may be), where a Reference Date falls on the relevant Reference Cut-Off Date pursuant to Condition 10.1(b)(ii), then:
  - (A) if such Reference Cut-Off Date is not a Disrupted Day for such Single Index Note, Single Share Note, Single ETF Note, Index Basket Note, Share Basket Note or ETF Basket Note (as the case may be), the Determination Agent shall determine

the level of such Index or the value of such Underlying Share or ETF Interest (as the case may be) as at the Determination Time on such Reference Cut-Off Date; or

(B) if such Reference Cut-Off Date is a Disrupted Day:

- (1) in respect of Single Index Notes and Index Basket Notes, the Determination Agent shall determine, in its sole and absolute discretion, the level of such Index as of the Determination Time on the Reference Cut-Off Date in accordance with the formula for and method of calculating such Index last in effect prior to the occurrence of the first Disrupted Day using the Exchange traded or quoted price as of the Determination Time on such Reference Cut-Off Date of each security (or other property) comprised in that Index (or, if an event giving rise to a Disrupted Day has occurred in respect of the relevant security on such Reference Cut-Off Date, its good faith estimate of the value for the relevant security as of the Determination Time on such Reference Cut-Off Date); and
- (2) in respect of Single Share Notes, Single ETF Notes, Share Basket Notes and ETF Basket Notes (as the case may be), the Determination Agent shall determine, in its sole and absolute discretion, its good faith estimate of the value for such Underlying Share or ETF Interest (as the case may be) as of the Determination Time on such Reference Cut-Off Date.

(c) If Averaging Dates are specified in the applicable Pricing Supplement as being applicable, then, notwithstanding any other provisions of these Conditions, the following provisions will apply to the valuation of the relevant Index, Underlying Share, ETF Interest, Basket of Indices, Basket of Shares or Basket of ETF Interests in relation to the relevant Reference Date:

(i) For purposes of determining the Settlement Price in relation to a Reference Date, the Settlement Price will be:

- (A) in respect of a Single Index Note, a Single Share Note, a Single ETF Note, the arithmetic mean of the Relevant Prices of the Index, the Underlying Shares or the ETF Interest (as the case may be) on each Averaging Date;
- (B) in respect of an Index Basket Note, the arithmetic mean of the amounts for the Basket of Indices determined by the Determination Agent in its sole and absolute discretion as provided in the applicable Pricing Supplement as of the relevant Determination Time(s) on each Averaging Date or, if no means for determining the Settlement Price are so provided, the arithmetic mean of the amounts for the Basket calculated on each Averaging Date as the sum of the Relevant Prices of each Index comprised in the Basket (weighted or adjusted in relation to each Index as provided in the applicable Pricing Supplement);
- (C) in respect of a Share Basket Note, the arithmetic mean of the amounts for the Basket of Shares determined by the Determination Agent in its sole and absolute discretion as provided in the applicable Pricing Supplement as of the relevant Determination Time(s) on each Averaging Date or, if no means for determining the Settlement Price is so provided, the arithmetic mean of the amounts for the Basket calculated on each Averaging Date as the sum of the values calculated for the Underlying Shares of each Underlying Share Issuer as the product of (1) the Relevant Price of such Underlying Share and (2) the number of such Underlying Shares comprised in the Basket; and
- (D) in respect of an ETF Basket Note, the arithmetic mean of the amounts for the Basket of ETF Interests determined by the Determination Agent in its sole and absolute discretion as provided in the applicable Pricing Supplement as of the relevant Determination Times(s) on each Averaging Date or, if no means for determining the Settlement Price is provided, the arithmetic mean of the amounts for the Basket calculated on each Averaging Date as the sum of the values

calculated for the ETF Interests as the product of (1) the Relevant Price of such ETF Interest and (2) the number of such ETF Interests comprised in the Basket.

- (ii) If, in respect of a Single Index Note, a Single Share Note or a Single ETF Note, a Scheduled Averaging Date is determined by the Determination Agent to be a Disrupted Day, then if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is:
  - (A) "**Omission**", then such date will be deemed not to be a relevant Averaging Date in respect of such Reference Date for the purposes of determining the relevant Settlement Price provided that, if through the operation of this provision no Averaging Date would occur with respect to the relevant Reference Date, then Condition 10.1(b) will apply for purposes of determining the relevant level, price or amount on the final Averaging Date in respect of that Reference Date as if such final Averaging Date were a Reference Date that was a Disrupted Day;
  - (B) "**Postponement**", then Condition 10.1(b) above will apply for the purposes of determining the relevant level, price or amount on that date as if such date were a Reference Date that was a Disrupted Day irrespective of whether, pursuant to such determination, that deferred Averaging Date would fall on a day that already is or is deemed to be an Averaging Date for the relevant Notes; or
  - (C) "**Modified Postponement**", then the Averaging Date shall be the earlier of (I) the first Valid Date following the Scheduled Averaging Date and (II) the Averaging Cut-Off Date, irrespective of whether it falls on a day that already is or is deemed to be an Averaging Date.
- (iii) If, in respect of an Index Basket Note, a Share Basket Note or an ETF Basket Note, a Scheduled Averaging Date in respect of a Reference Date is determined by the Determination Agent to be a Disrupted Day in respect of any Basket Component, then:
  - (A) where "Individual Scheduled Trading Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement:
    - (1) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Omission":
      - (a) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is not a Disrupted Day shall be the Scheduled Averaging Date; and
      - (b) such date shall not be an Averaging Date in respect of such Reference Date for any Basket Component in respect of which the Scheduled Averaging Date is a Disrupted Day (each such Basket Component, an "**Affected Basket Component**"), provided that if through the operation of this provision there would not be any Averaging Date in respect of such Reference Date for the Affected Basket Component, then the sole Averaging Date for such Affected Basket Component shall be the earlier of (I) the first Scheduled Trading Day following the final Scheduled Averaging Date that is not a Disrupted Day in respect of such Affected Basket Component and (II) the Averaging Cut-Off Date for such Affected Basket Component;
    - (2) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Postponement":
      - (a) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is not a Disrupted Day shall be the Scheduled Averaging Date; and

- (b) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is a Disrupted Day (each such Basket Component, an "**Affected Basket Component**") shall be the earlier of (I) the first Scheduled Trading Day following the Scheduled Averaging Date that is not a Disrupted Day in respect of such Affected Basket Component and (II) the Averaging Cut-Off Date for such Affected Basket Component. Any day (including, for the avoidance of doubt, the Averaging Cut-Off Date) determined to be an Averaging Date as a result of the operation of this Condition 10.1(c)(iii)(A)(2)(b) shall be an Averaging Date, irrespective of whether it falls on a day that already is or is deemed to be an Averaging Date; or
- (3) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Modified Postponement":
  - (a) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is not a Disrupted Day shall be the Scheduled Averaging Date; and
  - (b) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is a Disrupted Day (each such Basket Component, an "**Affected Basket Component**") shall be the earlier of (I) the first Valid Date following the Scheduled Averaging Date in respect of such Affected Basket Component and (II) the Averaging Cut-Off Date for such Affected Basket Component, irrespective of whether it falls on a day that already is or is deemed to be an Averaging Date;
- (B) where "Common Scheduled Trading Days and Common Disrupted Days" is specified to be applicable in the applicable Pricing Supplement:
  - (1) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Omission", such date will be deemed not to be a relevant Averaging Date in respect of any Basket Component for the purposes of determining the relevant Settlement Price provided that, if through the operation of this provision there would be no Averaging Date in respect of such Reference Date, then the sole Averaging Date for each Basket Component shall be the earlier of (A) the first Common Scheduled Trading Day following the Scheduled Averaging Date that is not a Disrupted Day for any Basket Component and (B) the Averaging Cut-Off Date (notwithstanding the fact that such Averaging Cut-Off Date may not be a Common Scheduled Trading Day);
  - (2) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Postponement", then the Averaging Date for each Basket Component shall be the earlier of (A) the first Common Scheduled Trading Day following the Scheduled Averaging Date that is not a Disrupted Day in respect of any Basket Component and (B) the Averaging Cut-Off Date (notwithstanding the fact that such Averaging Cut-Off Date may not be a Common Scheduled Trading Day). Any day (including, for the avoidance of doubt, the Averaging Cut-Off Date) determined to be an Averaging Date as a result of the operation of this Condition 10.1(c)(iii)(B)(2) shall be an Averaging Date, irrespective of whether it falls on a day that already is or is deemed to be an Averaging Date; or
  - (3) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Modified Postponement", then the Averaging Date for each Basket Component shall be the earlier of (I) the first Common Valid Date following the Scheduled Averaging Date and (II) the Averaging Cut-Off Date (notwithstanding the fact that such



Averaging Cut-Off Date may not be a Common Scheduled Trading Day), irrespective of whether it falls on a day that already is or is deemed to be an Averaging Date;

- (C) where "Common Scheduled Trading Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement:
- (1) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Omission":
    - (a) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is not a Disrupted Day shall be the Scheduled Averaging Date; and
    - (b) such date shall not be an Averaging Date in respect of such Reference Date for any Basket Component in respect of which the Scheduled Averaging Date is a Disrupted Day (each such Basket Component, an "**Affected Basket Component**"), provided that if through the operation of this provision there would not be any Averaging Date in respect of such Reference Date for the Affected Basket Component, then the sole Averaging Date for such Affected Basket Component shall be the earlier of (I) the first Scheduled Trading Day following the final Scheduled Averaging Date that is not a Disrupted Day in respect of such Affected Basket Component and (II) the Averaging Cut-Off Date for such Affected Basket Component (notwithstanding the fact that such day may not be a Common Scheduled Trading Day);
  - (2) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Postponement":
    - (a) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is not a Disrupted Day shall be the Scheduled Averaging Date; and
    - (b) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is a Disrupted Day (each such Basket Component, an "**Affected Basket Component**") shall be the earlier of (I) the first Scheduled Trading Day following the Scheduled Averaging Date that is not a Disrupted Day in respect of such Affected Basket Component and (II) the Averaging Cut-Off Date for such Affected Basket Component (notwithstanding the fact that such day not be a Common Scheduled Trading Day). Any day (including, for the avoidance of doubt, the Averaging Cut-Off Date) determined to be an Averaging Date as a result of the operation of this Condition 10.1(c)(iii)(C)(2)(b) shall be an Averaging Date, irrespective of whether it falls on a day that already is or is deemed to be an Averaging Date; or
  - (3) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Modified Postponement":
    - (a) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is not a Disrupted Day shall be the Scheduled Averaging Date; and
    - (b) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is a Disrupted Day (each such Basket Component, an "**Affected Basket Component**") shall be the earlier of (I) the first Valid Date (that is a Scheduled Trading Day) following the Scheduled Averaging Date in

respect of such Affected Basket Component and (II) the Averaging Cut-Off Date for such Affected Basket Component, irrespective of whether it falls on a day that already is or is deemed to be an Averaging Date;

- (iv) If, in respect of any Single Index Note, Single Share Note, Single ETF Note, Index Basket Note, Share Basket Note or ETF Basket Note (as the case may be), an Averaging Date falls on the relevant Averaging Cut-Off Date pursuant to Condition 10.1(c)(iii):
  - (A) if such Averaging Cut-Off Date is not a Disrupted Day for such Single Index Note, Single Share Note, Single ETF Note, Index Basket Note, Share Basket Note or ETF Basket Note (as the case may be), the Determination Agent shall determine the level of such Index or the value of such Underlying Share or ETF Interest (as the case may be) as at the Determination Time on such Averaging Cut-Off Date; or
  - (B) if such Averaging Cut-Off Date is a Disrupted Day:
    - (1) in respect of Single Index Notes and Index Basket Notes, the Determination Agent shall determine, in its sole and absolute discretion, the level of such Index as of the Determination Time on such date in accordance with the formula for and method of calculating such Index last in effect prior to the occurrence of the first Disrupted Day using the Exchange traded or quoted price as of the Determination Time on such Averaging Cut-Off Date of each security comprised in that Index (or, if an event giving rise to a Disrupted Day has occurred in respect of the relevant security on such Averaging Cut-Off Date, its good faith estimate of the value for the relevant security as of the Determination Time on such Averaging Cut-Off Date); and
    - (2) in respect of Single Share Notes, Single ETF Notes, Share Basket Notes and ETF Basket Notes (as the case may be), the Determination Agent shall determine, in its sole and absolute discretion, its good faith estimate of the value for such Share or ETF Interest (as the case may be) as of the Determination Time on such Averaging Cut-Off Date.
- (v) If any Averaging Dates in relation to a Reference Date occur after that Reference Date as a result of the occurrence of a Disrupted Day, then (i) the relevant Maturity Date or, as the case may be, the relevant Physical Settlement Date or (ii) the occurrence of an Extraordinary Event, an Extraordinary ETF Event, an Index Adjustment Event, a Potential Adjustment Event or an Additional Disruption Event shall be determined by reference to the last such Averaging Date as though it were that Reference Date.

## 10.2 *Adjustments to Indices and Additional Disruption Events:*

This Condition 10.2 (*Adjustments to Indices and Additional Disruption Events*) is applicable only in relation to Notes specified in the applicable Pricing Supplement as being Single Index Notes or Index Basket Notes.

### (a) *Successor Index:*

If a relevant Index is (a) not calculated and announced by the Index Sponsor, but is calculated and announced by a successor sponsor acceptable to the Determination Agent in its sole and absolute discretion or (b) replaced by a Successor Index using, in the determination of the Determination Agent (such determination to be at the Determination Agent's sole and absolute discretion), the same or a substantially similar formula for and method of calculation as used in the calculation of that Index, then in each case that index (the "**Successor Index**") will be deemed to be the Index.

### (b) *Index Cancellation or Administrator/Benchmark Event Date:*

If on or prior to any Reference Date or Averaging Date either (1) the Index Sponsor permanently cancels the Index and no Successor Index exists (an "**Index Cancellation**") or (2) the applicable

Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and an Administrator/Benchmark Event and an Administrator/Benchmark Event Date occur in respect of such Index, then:

- (i) If the applicable Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and if an Alternative Pre-nominated Index has been specified in relation to such Index in the applicable Pricing Supplement, then:
  - (A) the Determination Agent shall attempt to determine an Adjustment Payment;
  - (B) if the Determination Agent determines an Adjustment Payment,
    - (1) it shall notify the Issuer of the Adjustment Payment and if the Adjustment Payment is an amount that the Noteholder would (but for Condition 10.2(b)(i)(B)(3)(b)) be required to pay to the Issuer in respect of each Note, request the Issuer to notify the Determination Agent whether it intends to redeem the Notes pursuant to Condition 10.2(d) (*Redemption for Index Adjustment Event*). If the Issuer does not intend to redeem the Notes pursuant to Condition 10.2(d) (*Redemption for Index Adjustment Event*) then the following provisions of this Condition 10.2(b)(i) shall apply;
    - (2) the terms of the Notes shall be amended so that references to the Index are replaced by references to the Alternative Pre-nominated Index;
    - (3) the Conditions shall be adjusted to implement the Adjustment Payment as follows:
      - (a) if the Adjustment Payment is an amount that the Issuer is required to pay in respect of each Note, the Determination Agent shall adjust the Conditions to provide for the payment of the Adjustment Payment on the immediately succeeding Interest Payment Date or if there is no such immediately succeeding Interest Payment Date, on the Maturity Date or other date when the Notes are redeemed in full; or
      - (b) if the Adjustment Payment is an amount that the Noteholder would (but for this Condition 10.2(b)(i)(B)(3)(b)) be required to pay to the Issuer in respect of each Note, the Determination Agent shall adjust the Conditions to provide for the reduction of the amounts due by the Issuer until the aggregate amount of such reductions is equal to the Adjustment Payment, (subject, in the determination of the Determination Agent, to any minimum redemption amount of the Notes which the Determination Agent determines is required pursuant to any applicable law or regulation (including, without limitation, any tax law) and the rules of each listing authority, stock exchange and/or quotation system by which the Notes have then been admitted to listing, trading and/or quotation);
    - (4) the Determination Agent shall make such other adjustments to the Conditions as it determines necessary or appropriate in order to account for the effect of the replacement of the Index with the Alternative Pre-nominated Index and/or to preserve as nearly as practicable the economic equivalence of the Notes before and after the replacement of the Index with the Alternative Pre-nominated Index; and
    - (5) the Determination Agent shall notify the Issuer, the Fiscal Agent and the Noteholders of any replacement of the Index by the Alternative Pre-nominated Index, the Adjustment Payment and any other adjustments to the Conditions, giving summary details of the adjustment(s), provided that

any failure to give such notice shall not affect the validity of the foregoing.

(C) If the Determination Agent is unable to determine an Adjustment Payment, then Condition 10.2(d) (*Redemption for Index Adjustment Event*) shall apply.

(ii) If the applicable Pricing Supplement does not specify that the Benchmark Trigger Provisions are applicable or, if the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable but does not specify an Alternative Pre-nominated Index in relation to the Relevant Equity Index Benchmark, then Condition 10.2(d) (*Redemption for Index Adjustment Event*) shall apply.

(c) *Index Modification and Index Disruption:*

If (i) on or prior to any Reference Date or Averaging Date, a relevant Index Sponsor announces that it will make a material change in the formula for or the method of calculating that Index or in any other way materially modifies that Index (other than a modification prescribed in that formula or method to maintain that Index in the event of changes in constituent securities and capitalisation and other routine events) (an "**Index Modification**") or (ii) on any Reference Date or Averaging Date, the Index Sponsor fails to calculate and announce a relevant Index (provided that the Determination Agent may, in its sole and absolute discretion, determine that, in respect of a Multi-Exchange Index, such failure to calculate and announce such Index shall instead be a Disrupted Day in respect of such Index) (an "**Index Disruption**") then the Determination Agent shall determine if such Index Modification or Index Disruption has a material effect on the Notes and, if so, subject to Condition 10.2(d) (*Redemption for Index Adjustment Event*), shall calculate in its sole and absolute discretion the relevant Settlement Price using, in lieu of a published level for that Index, the level for that Index as at that Reference Date or, as the case may be, that Averaging Date as determined by the Determination Agent in its sole and absolute discretion in accordance with the formula for and method of calculating that Index last in effect prior to that change, failure or cancellation, but using only those securities that comprised that Index immediately prior to that Index Adjustment Event.

(d) *Redemption for Index Adjustment Event:*

If:

- (i) an Index Cancellation occurs and the Pricing Supplement does not specify that the Benchmark Trigger Provisions are applicable;
- (ii) an Index Cancellation or an Administrator/Benchmark Event Date occurs, the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable but does not specify an Alternative Pre-nominated Index;
- (iii) an Index Cancellation or an Administrator/Benchmark Event Date occurs, the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and specifies an Alternative Pre-nominated Index but the Determination Agent is unable to determine the Adjustment Payment;
- (iv) an Index Cancellation or an Administrator/Benchmark Event Date occurs, the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and specifies an Alternative Pre-nominated Index and the Determination Agent determines that the Adjustment Payment would be an amount that the Noteholder would (but for Condition 10.2(b)(i)(B)(3)(b)) be required to pay to the Issuer in respect of each Note; or
- (v) an Index Modification or an Index Disruption occurs and it (a) would be unlawful at any time under any applicable law or regulation or (b) would contravene any applicable licensing requirements, in each case for the Determination Agent to calculate the relevant Settlement Price in accordance with Condition 10.2(c) (*Index Modification and Index Disruption*),

then the Issuer may, at any time thereafter and in its sole and absolute discretion, determine that the Notes shall be redeemed as of any later date. If the Issuer so determines that the Notes shall be redeemed, then the Issuer shall give not less than five Business Days' notice to the Noteholders to redeem the Notes and upon redemption the Issuer will pay an amount in respect of each Note equal to the fair market value of such Note, on such day as is selected by the Determination Agent in its sole and absolute discretion (provided that such day is not more than 15 days before the date fixed for redemption of the Note), less the proportion attributable to that Note of the reasonable cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related hedging arrangements, all as calculated by the Determination Agent in its sole and absolute discretion.

The Issuer's obligations under the Notes shall be satisfied in full upon payment of such amount.

If the Issuer determines that the relevant Notes shall continue, the Determination Agent may make such adjustment as the Determination Agent, in its sole and absolute discretion, considers appropriate, if any, to the formula for determining the Final Redemption Amount or the Settlement Price set out in the applicable Pricing Supplement and any other variable relevant to the settlement or payment terms of the Notes, which change or adjustment shall be effective on such date as the Determination Agent shall determine. The Determination Agent shall provide notice to the Noteholders of any such change or adjustment, giving summary details of the relevant change or adjustment, as soon as reasonably practicable provided that any failure to give such notice shall not affect the validity of any such change or adjustment.

(e) *Correction of Index Levels:*

If the level of an Index published by the Index Sponsor and which is utilised by the Determination Agent for any calculation or determination (the "Original Determination") under the Notes is subsequently corrected and the correction (the "**Corrected Value**") is published by the Index Sponsor by such time as may be specified in the applicable Pricing Supplement (or, if none is so specified, within one Settlement Cycle after the original publication and prior to the Maturity Date), then the Determination Agent will notify the Issuer and the Fiscal Agent of the Corrected Value as soon as reasonably practicable and shall determine the relevant value (the "**Replacement Determination**") using the Corrected Value. If the result of the Replacement Determination is different from the result of the Original Determination, to the extent that it determines to be necessary and practicable, the Determination Agent may adjust any relevant terms of the Notes accordingly.

(f) *Additional Disruption Events:*

If Additional Disruption Events are specified as applicable in the applicable Pricing Supplement, then, if an Additional Disruption Event occurs in respect of an Index or Indices:

- (i) the Determination Agent will determine, in its sole and absolute discretion the appropriate adjustment, if any, to be made to any one or more of the Conditions relating to the calculation of Interest, Final Redemption Amount and/or any other amounts applicable to the Notes set out in the applicable Pricing Supplement and/or remove and/or substitute the affected Index, to account for the Additional Disruption Event and determine the effective date of that adjustment; or
- (ii) by giving notice to Noteholders in accordance with Condition 32 (*Notices*), the Issuer, in its sole and absolute discretion, may redeem all, but not some only, of the Notes, each Note being redeemed at the Early Redemption Amount.

Upon the occurrence of an Additional Disruption Event, the Issuer shall give notice, as soon as practicable, to the Noteholders in accordance with Condition 32 (*Notices*) stating the occurrence of the Additional Disruption Event, as the case may be, giving details thereof and the action to be taken.

(g) *Notice:*

Upon the occurrence of an Index Adjustment Event, the Determination Agent shall give notice as soon as practicable to the Noteholders in accordance with Condition 32 (*Notices*) giving details of the action proposed to be taken in relation thereto.

### 10.3 *Adjustments affecting Underlying Shares and ETF Interests:*

This Condition 10.3 (*Adjustments affecting Underlying Shares and ETF Interests*) is applicable only in relation to Single Share Notes, Single ETF Notes, Share Basket Notes and ETF Basket Notes.

#### (a) *Adjustments for Potential Adjustment Events:*

Following the declaration by the Underlying Share Issuer, the relevant ETF or an ETF Service Provider of the terms of a Potential Adjustment Event, the Determination Agent will determine whether such Potential Adjustment Event has a diluting or concentrative effect on the theoretical value of the relevant Underlying Shares or ETF Interests and, if so, will (i) make such adjustment as it in its sole and absolute discretion considers appropriate, if any, to the formula for the Final Redemption Amount and/or the Settlement Price set out in the applicable Pricing Supplement, the number of Underlying Shares or ETF Interests to which each Note relates, the number of Underlying Shares or ETF Interests comprised in a Basket of Shares or Basket of ETF Interests, the amount, the number of or type of shares, fund interests or other securities which may be delivered in respect of such Notes and/or any other adjustment and, in any case, any other variable relevant to the exercise, settlement, payment or other terms of the relevant Notes as the Determination Agent determines, in its sole and absolute discretion, to be appropriate to account for that diluting or concentrative effect and (ii) determine, in its sole and absolute discretion, the effective date(s) of such adjustment(s).

#### (b) *Correction of Underlying Share and ETF Interest Prices:*

If any price published on the Exchange and which is utilised by the Determination Agent for any calculation or determination (the "**Original Determination**") under the Notes is subsequently corrected and the correction (the "**Corrected Value**") is published by the Exchange by such time as may be specified in the applicable Pricing Supplement (or, if none is so specified, within one Settlement Cycle after the original publication and prior to the Expiration Date), then the Determination Agent will notify the Issuer and the Fiscal Agent of the Corrected Value as soon as reasonably practicable and shall determine the relevant value (the "**Replacement Determination**") using the Corrected Value. If the result of the Replacement Determination is different from the result of the Original Determination, to the extent that it determines to be necessary and practicable, the Determination Agent may adjust any relevant terms accordingly.

### 10.4 *Extraordinary Events:*

This Condition 10.4 (*Extraordinary Events*) is applicable only in relation to Notes specified in the applicable Pricing Supplement as being Single Share Notes, Single ETF Notes, Share Basket Notes or ETF Basket Notes.

#### (a) *Merger Event or Tender Offer:*

- (i) Following the occurrence of any Merger Event or Tender Offer, the Issuer will, in its sole and absolute discretion, determine whether the relevant Notes shall continue or shall be redeemed early.
- (ii) If the Issuer determines that the relevant Notes shall continue, the Determination Agent may make such adjustment as the Determination Agent, in its sole and absolute discretion, considers appropriate, if any, to the formula for the Final Redemption Amount and/or the Settlement Price set out in the applicable Pricing Supplement, the number of Underlying Shares or ETF Interests to which each Note relates, the number of Underlying Shares or ETF Interests comprised in a Basket of Shares or Basket of ETF Interests (as the case may be), the amount, the number of or type of shares or other securities which may be delivered under such Notes and, in any case, any other variable relevant to the exercise, settlement, or payment terms of the relevant Notes and/or any other adjustment (including, without limitation, in relation to Share Basket Notes or ETF Basket Notes, the cancellation of terms

applicable in respect of the Underlying Shares or ETF Interests affected by the relevant Merger Event or Tender Offer) which adjustment shall be effective on such date as the Determination Agent shall determine.

- (iii) If the Issuer determines that the relevant Notes shall be redeemed early, then the Issuer shall give not less than five Business Days' notice to the Noteholders to redeem the Notes and the Issuer's obligations under the Notes shall be satisfied in full upon payment of the Merger Event Settlement Amount (as defined below) (in the case of a Merger Event) or Tender Offer Settlement Amount (in the case of a Tender Offer).
- (iv) For the purposes hereof:

**"Merger Date"** means the closing date of a Merger Event or, where a closing date cannot be determined under the local law applicable to such Merger Event, such other date as determined by the Determination Agent, in its sole discretion;

**"Merger Event"** means, in respect of any relevant Underlying Shares or ETF Interests, as determined by the Determination Agent, acting in a commercially reasonable manner, any (i) reclassification or change of such Underlying Shares or ETF Interests that results in a transfer of or an irrevocable commitment to transfer all of such Underlying Shares or ETF Interests outstanding to another entity or person, (ii) consolidation, amalgamation, merger or binding share exchange of the Underlying Share Issuer or ETF with or into another entity or person (other than a consolidation, amalgamation, merger or binding share exchange in which such Underlying Share Issuer or ETF is the continuing entity and which does not result in a reclassification or change of all such Underlying Shares or ETF Interests outstanding), (iii) takeover offer, tender offer, exchange offer, solicitation, proposal or other event by any entity or person to purchase or otherwise obtain 100 per cent. of the outstanding Underlying Shares or ETF Interests of the Underlying Share Issuer or ETF that results in a transfer of or an irrevocable commitment to transfer all such Underlying Shares or ETF Interests (other than such Underlying Shares or ETF owned or controlled by such other entity or person), or (iv) consolidation, amalgamation, merger or binding share exchange of the Underlying Share Issuer or its subsidiaries or ETF or its sub-funds with or into another entity in which the Underlying Share Issuer or ETF is the continuing entity and which does not result in a reclassification or change of all such Underlying Shares or ETF Interests outstanding but results in the outstanding Underlying Shares or ETF Interests (other than Underlying Shares or ETF Interests owned or controlled by such other entity) immediately prior to such event collectively representing less than 50 per cent. of the outstanding Underlying Shares or ETF Interests immediately following such event (a **"Reverse Merger"**), in each case if the Merger Date is on or before, (A) in respect of Physical Settlement Notes, the later to occur of the Maturity Date and the Physical Settlement Date or, (B) in any other case, the final Reference Date.

**"Merger Event Settlement Amount"** means in respect of each Note, an amount equal to the fair market value of such Note, on such day as is selected by the Determination Agent in its sole and absolute discretion (provided that such day is not more than 15 days before the date fixed for redemption of the Note), less the proportion attributable to that Note of the reasonable cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related hedging arrangements, all as calculated by the Determination Agent in its sole and absolute discretion.

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

**"Tender Offer Date"** means, in respect of a Tender Offer, the date on which voting shares in the amount of the applicable percentage threshold are actually purchased or otherwise obtained, as determined by the Determination Agent in its sole and absolute discretion.

**"Tender Offer Settlement Amount"** means, in respect of each Note, an amount equal to the fair market value of such Note, on such day as is selected by the Determination Agent in its sole and absolute discretion (provided that such day is not more than 15 days before the date fixed for redemption of the Note), less the proportion attributable to that Note of the reasonable cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related hedging arrangements, all as calculated by the Determination Agent in its sole and absolute discretion.

(b) *Nationalisation, Insolvency and Delisting:*

(i) If in the determination of the Determination Agent, acting in a commercially reasonable manner:

(A) all the Underlying Shares or ETF Interests or all or substantially all the assets of an Underlying Share Issuer, ETF or ETF Service Provider are nationalised, expropriated or are otherwise required to be transferred to any governmental agency, authority, entity or instrumentality thereof ("**Nationalisation**"); or

(B) by reason of the voluntary or involuntary liquidation, bankruptcy, insolvency, dissolution or winding up of, or any analogous proceeding affecting, an Underlying Share Issuer, ETF or ETF Service Provider, (1) all the Underlying Shares or ETF Interests of that Underlying Share Issuer, ETF or ETF Service Provider are required to be transferred to a trustee, liquidator or other similar official or (2) holders of the Underlying Shares or ETF Interests of that Underlying Share Issuer, ETF or ETF Service provider become legally prohibited from transferring them ("**Insolvency**"); or

(C) the Exchange announces that pursuant to the rules of such Exchange, the Underlying Shares or ETF Interests cease (or will cease) to be listed, traded or publicly quoted on the Exchange for any reason (other than a Merger Event or Tender Offer) and are not immediately re listed, re traded or re quoted on an exchange or quotation system located in the same country as the Exchange (or, where the Exchange is within the European Union, in any Member State of the European Union) ("**Delisting**"),

then the Issuer will, in its sole and absolute discretion, determine whether or not the Notes shall continue.

(ii) If the Issuer determines that the relevant Notes shall continue, the Determination Agent may make such adjustment as the Determination Agent, in its sole and absolute discretion, considers appropriate, if any, to the formula for the Final Redemption Amount and/or the Settlement Price set out in the applicable Pricing Supplement, the number of Underlying Shares or ETF Interests to which each Note relates, the number of Underlying Shares or ETF Interests comprised in a Basket of Shares or a Basket of ETF Interests (as the case may be), the amount, the number of or type of shares or other securities which may be delivered under such Notes and, in any case, any other variable relevant to the settlement or payment terms of the relevant Notes and/or any other adjustment (including, without limitation, in relation to Share Basket Notes or ETF Basket Notes, the removal from the Basket of Shares or Basket of ETF Interests of the Underlying Shares or ETF Interests affected by the relevant Nationalisation, Insolvency or Delisting with effect from the day selected by the Determination Agent, and the adjustment of the such terms of the Notes as the Determination Agent considers to be appropriate as a result of such removal) which change or adjustment shall be effective on such date as the Determination Agent shall determine.

(iii) If the Issuer determines that the relevant Notes shall be redeemed early, then the Issuer shall give not less than five Business Days' notice to redeem the Notes. The Issuer's



obligations under the Notes shall be satisfied in full upon payment of, in respect of each Note, an amount equal to the fair market value of such Note, on such day as is selected by the Determination Agent in its sole and absolute discretion (provided that such day is not more than 15 days before the date fixed for redemption of the Note), less the proportion attributable to that Note of the reasonable cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related hedging arrangements, all as calculated by the Determination Agent in its sole and absolute discretion.

#### 10.5 *Extraordinary ETF Events:*

This Condition 10.5 (*Extraordinary ETF Events*) is applicable only in relation to Single ETF Notes or ETF Basket Notes.

- (a) Following the occurrence of any Extraordinary ETF Event, the Issuer will, in its sole and absolute discretion, determine whether the relevant Notes shall continue or shall be redeemed early. The Determination Agent shall not have any obligation to monitor the occurrence of an Extraordinary ETF Event nor shall it have any obligation to make a determination that an Extraordinary ETF Event has occurred and is continuing.
- (b) If the Issuer determines that the relevant Notes shall continue, the Determination Agent may:
  - (i) substitute any Affected ETF Interest with the Successor ETF Interest relating to such Affected ETF interest, provided that if no Successor ETF Interest has been identified in the manner set forth below within 10 Business Days of the Extraordinary ETF Event Notice Date (as defined below), then Condition 10.5(b)(ii) below shall apply; and/or
  - (ii) make such adjustment as the Determination Agent, in its sole and absolute discretion, considers appropriate, if any, to the formula for the Final Redemption Amount and/or the Settlement Price set out in the applicable Pricing Supplement, the number of ETF Interests to which each Note relates, the number of ETF Interests comprised in a Basket of ETF Interests, the amount, the number of or type of shares or other securities which may be delivered under such Notes and, in any case, any other variable relevant to the exercise, settlement, or payment terms of the relevant Notes and/or any other adjustment (including, without limitation, in relation to ETF Basket Notes, the cancellation of terms applicable in respect of ETF Interests affected by the relevant Extraordinary Fund Event) (including, without limitation, in relation to ETF Basket Notes, the removal from the Basket of ETF Interests of ETF Interests affected by the relevant Extraordinary Fund Event with effect from the day selected by the Determination Agent) which adjustment shall be effective on such date as the Determination Agent shall determine.
- (c) If the Issuer determines that the relevant Notes shall be redeemed early, then the Issuer shall give not less than five Business Days' notice to the Noteholders to redeem the Notes and the Issuer's obligations under the Notes shall be satisfied in full upon payment of an amount equal to the fair market value of such Note, on such day as is selected by the Determination Agent in its sole and absolute discretion (provided that such day is not more than 15 days before the date fixed for redemption of the Note), less the proportion attributable to that Note of the reasonable cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related hedging arrangements, all as calculated by the Determination Agent in its sole and absolute discretion.
- (d) The Issuer shall as soon as reasonably practicable under the circumstances notify the Fiscal Agent of the Determination Agent's determination of the occurrence of an Extraordinary ETF Event (the date of such notice, the "**Extraordinary ETF Event Notice Date**").
- (e) For the purposes hereof:
 

**"Extraordinary ETF Event"** shall mean, with respect to an ETF or ETF Service Provider (as the case may be), the occurrence of any of the following events, as determined by the Determination Agent, in its sole and absolute discretion:

- (i) there exists any litigation against the ETF or an ETF Service Provider which in the sole and absolute discretion of the Determination Agent could materially affect the value of the ETF Interests or on the rights or remedies of any investor therein;
- (ii) (A) an allegation of criminal or fraudulent activity is made in respect of the ETF, or any ETF Service Provider, or any employee of any such entity, or the Determination Agent reasonably determines that any such criminal or fraudulent activity has occurred, or (B) any investigative, judicial, administrative or other civil or criminal proceedings is commenced or is threatened against the ETF, any ETF Service Provider or any key personnel of such entities if such allegation, determination, suspicion or proceedings could, in the sole and absolute discretion of the Determination Agent, materially affect the value of the ETF Interests or the rights or remedies of any investor in such ETF Interests;
- (iii) (A) an ETF Service Provider ceases to act in such capacity in relation to the ETF (including by way of Merger Event or Tender Offer) and is not immediately replaced in such capacity by a successor acceptable to the Determination Agent; and/or (B) any event occurs which causes, or will with the passage of time (in the opinion of the Determination Agent) cause, the failure of the ETF and/or any ETF Service Provider to meet or maintain any obligation or undertaking under the ETF Documents which failure is reasonably likely to have an adverse impact on the value of the ETF Interests or on the rights or remedies of any investor therein;
- (iv) a material modification of or deviation from any of the investment objectives, investment restrictions, investment process or investment guidelines of the ETF (howsoever described, including the underlying type of assets in which the ETF invests), from those set out in the ETF Documents, or any announcement regarding a potential modification or deviation, except where such modification or deviation is of a formal, minor or technical nature;
- (v) a material modification, cancellation or disappearance (howsoever described), or any announcement regarding a potential future material modification, cancellation or disappearance (howsoever described), of the type of assets (A) in which the ETF invests, (B) the ETF purports to track, or (C) the ETF accepts/provides for purposes of creation/redemption baskets;
- (vi) a material modification occurs, or any announcement regarding a potential future material modification is made, in respect of the ETF (including but not limited to a material modification of the ETF Documents or to the ETF's liquidity terms) other than a modification or event which does not affect the ETF Interests or the ETF or any portfolio of assets to which the ETF Interest relates (either alone or in common with other ETF Interests issued by the ETF);
- (vii) the ETF ceases to be an undertaking for collective investment under the legislation of its relevant jurisdiction, provided that on the relevant Issue Date, the ETF was such an undertaking and any such cessation would, in the sole and absolute discretion of the Determination Agent, have a material adverse effect on any investor in such ETF Interests;
- (viii) (A) any relevant activities of or in relation to the ETF or any ETF Service Provider are or become unlawful, illegal or otherwise prohibited in whole or in part as a result of compliance with any present or future law, regulation, judgment, order or directive of any governmental, administrative, legislative or judicial authority or power, or in the interpretation thereof, in any applicable jurisdiction (including, but not limited to, any cancellation, suspension or revocation of the registration or approval of the ETF by any governmental, legal or regulatory entity with authority over the ETF), (B) a relevant authorisation or licence is revoked, lapses or is under review by a competent authority in respect of the ETF or the ETF Service Provider or new conditions are imposed, or existing conditions varied, with respect to any such authorisation or licence, (C) the ETF is required by a competent authority to redeem any ETF Interests, (D) any hedge provider is required by a competent authority or any other relevant entity to dispose of or compulsorily redeem any ETF Interests held in connection with any hedging arrangements relating to the Notes and/or (v) any change in the legal, tax, accounting or regulatory treatment of the ETF or any ETF Service Provider that is reasonably likely to have an adverse impact on the value

of the ETF Interests or other activities or undertakings of the ETF or on the rights or remedies of any investor therein;

- (ix) the value of any ETF Interest held by the Issuer and its Affiliates is greater than 10 per cent. of the aggregate net asset value of the relevant ETF (whether or not all of such holding results from hedging transactions entered into in connection with the Notes) and including, where the excess holding results from a reduction in the aggregate net asset value of the relevant ETF; or
- (x) any event specified as an Additional Extraordinary ETF Event in respect of the Notes in the applicable Pricing Supplement occurs; and

**"Successor ETF Interest"** means, in respect of an Affected ETF Interest, (1) if specified in the applicable Pricing Supplement, any Eligible ETF Interest; (2) if no Eligible ETF Interest is specified, the successor ETF Interest as determined by the Determination Agent, using commercially reasonable efforts, taking into account any factors which the Determination Agent determines to be relevant, including (but not limited to) the existence of other ETFs that are linked to the same underlying index or asset as the Affected ETF Interest, liquidity of the proposed successor ETF Interest, the prevailing market conditions at the time the Determination Agent makes its determination and the Issuer's hedging arrangements in respect of the relevant Notes; or (3) if the Determination Agent determines that it is unable to determine a suitable successor ETF Interest, the Determination Agent may determine that the relevant Notes, where the Affected ETF Interest will be linked to the relevant underlying index (the **"Related Underlying Index"**) and such Related Underlying Index shall be the Successor ETF Interest and the provisions applicable to Index-Linked Notes will apply to the relevant Notes with such adjustments as the Determination Agent determines to be appropriate.

#### 10.6 *Additional Disruption Events:*

- (a) Following the occurrence of an Additional Disruption Event, the Issuer will, in its sole and absolute discretion, determine whether or not the relevant Notes shall continue or be redeemed early.
- (b) If the Issuer determines that the relevant Notes shall continue, the Determination Agent may make such adjustment as the Determination Agent, in its sole and absolute discretion, considers appropriate, if any, to the formula for the Final Redemption Amount and/or the Settlement Price set out in the applicable Pricing Supplement, the number of Underlying Shares or ETF Interests to which each Note relates, the number of Underlying Shares or ETF Interest comprised in a Basket, the amount, the number of or type of shares, fund interests or other securities or assets which may be delivered under such Notes and, in any case, any other variable relevant to the redemption, settlement, or payment terms of the relevant Notes and/or any other adjustment (including without limitation, in relation to Share Basket Notes, Index Basket Notes or ETF Basket Notes, the removal of any Underlying Shares, Index or ETF Interest, as the case may be, affected by the relevant Additional Disruption Event, and the adjustment of such terms of the Notes as the Determination Agent considers to be appropriate as a result of such removal) which change or adjustment shall be effective on such date as the Determination Agent shall determine.
- (c) If the Issuer determines that the relevant Notes shall be redeemed early, then the Issuer shall give not less than five Business Days' notice to redeem the Notes and the Issuer's obligations under the Notes shall be satisfied in full upon payment in respect of each Note of an amount equal to the fair market value of such Note, on such day as is selected by the Determination Agent in its sole and absolute discretion (provided that such day is not more than 15 days before the date fixed for redemption of the Note), less the proportion attributable to that Note of the reasonable cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related hedging arrangements, all as calculated by the Determination Agent in its sole and absolute discretion.
- (d) The Issuer shall as soon as reasonably practicable under the circumstances notify the Fiscal Agent and the Determination Agent of the occurrence of an Additional Disruption Event.
- (e) For the purposes hereof:

**"Additional Disruption Event"** means with respect to any Series of Notes (unless otherwise specified in the applicable Pricing Supplement) a Change in Law, Hedging Disruption, Increased Cost of Hedging and Loss of Stock Borrow, and any further event or events as may be specified in the applicable Pricing Supplement as an Additional Disruption Event with respect to such Notes.

10.7 *Partial Lookthrough Depositary Receipt Provisions:*

(a) Where the applicable Pricing Supplement specifies that the "Partial Lookthrough Depositary Receipt Provisions" shall apply to a Share, then the provisions set out in this Condition 10.7 (*Partial Lookthrough Depositary Receipt Provisions*) shall apply, and, in relation to such Share, the other provisions of this Condition 10.7 (*Partial Lookthrough Depositary Receipt Provisions*) shall be deemed to be amended and modified as set out in this Condition 10.7 (*Partial Lookthrough Depositary Receipt Provisions*).

(b) The definition of "Potential Adjustment Event" shall be amended so that it reads as follows:

**"Potential Adjustment Event"** means any of the following:

- (i) a subdivision, consolidation or reclassification of relevant Shares and/or Underlying Shares (unless resulting in a Merger Event), or a free distribution or dividend of any such Shares and/or Underlying Shares to existing holders by way of bonus, capitalisation or similar issue;
- (ii) a distribution, issue or dividend to existing holders of the relevant Shares and/or Underlying Shares specified in the applicable Pricing Supplement of (A) such Shares and/or Underlying Shares, (B) other share capital or securities granting the right to payment of dividends and/or the proceeds of liquidation of a Share Issuer or Underlying Share Issuer, as appropriate, equally or proportionately with such payments to holders of such Shares and/or Underlying Shares, (C) share capital or other securities of another issuer acquired or owned (directly or indirectly) by the Share Issuer or Underlying Share Issuer, as appropriate, as a result of a spin-off or other similar transaction or (D) any other type of securities, rights or warrants or other assets, in any case for payment (cash or other consideration) at less than the prevailing market price as determined by the Determination Agent;
- (iii) an Extraordinary Dividend;
- (iv) a call by a Share Issuer or Underlying Share Issuer, as appropriate, in respect of relevant Shares and/or Underlying Shares that are not fully paid;
- (v) a repurchase by a Share Issuer or Underlying Share Issuer, as appropriate, or any of its subsidiaries of relevant Shares and/or Underlying Shares whether out of profits or capital and whether the consideration for such repurchase is cash, securities or otherwise;
- (vi) in respect of a Share Issuer or Underlying Share Issuer, as appropriate, an event that results in any shareholder rights being distributed or becoming separated from shares of common stock or other shares of the capital stock of such Share Issuer or Underlying Share Issuer, as appropriate, pursuant to a shareholder rights plan or arrangement directed against hostile takeovers that provides upon the occurrence of certain events for a distribution of preferred stock, warrants, debt instruments or stock rights at a price below their market value as determined by the Determination Agent, provided that any adjustment effected as a result of such an event shall be readjusted upon any redemption of such rights;
- (vii) any other event having, in the opinion of the Determination Agent, a diluting, concentrative or other effect on the theoretical value of the relevant Shares and/or Underlying Shares; and
- (viii) the making of any amendment or supplement to the terms of the Deposit Agreement,

provided that an event under paragraphs (i) to (vii) (inclusive) above in respect of Underlying Shares shall not constitute a Potential Adjustment Event unless, in the opinion of the Determination Agent, such event has a diluting or concentrative effect on the theoretical value of the Shares.

- (c) If the Determination Agent determines that:
  - (i) an event under paragraphs (i) to (vii) (inclusive) of the definition of "Potential Adjustment Event" has occurred in respect of any Underlying Shares; or
  - (ii) an event under paragraph (viii) of the definition of "Potential Adjustment Event" has occurred, the Determination Agent will determine whether such Potential Adjustment Event has an economic effect on the Notes,

and, in each case, the Determination Agent will make the corresponding adjustment(s), if any, to one or more of any variable relevant to the exercise, settlement, payment or other terms of these Conditions and/or the applicable Pricing Supplement as the Determination Agent determines appropriate to account for (A) in respect of an event under paragraphs (i) to (vii) (inclusive) of the definition of "Potential Adjustment Event", the diluting or concentrative effect on the theoretical value of the Shares, and (B) in respect of an event under paragraph (viii) of the definition of "Potential Adjustment Event", such economic effect on the Notes, as the case may be (provided that no adjustments will be made to account solely for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Share), following the Potential Adjustment Event. The Determination Agent may (among other factors) have reference to any adjustment made by the Depositary under the Deposit Agreement.

If the Determination Agent determines that no adjustment that it could make will produce a commercially reasonable result, it shall notify the Issuer and the Noteholders that the relevant consequence shall be the early redemption of the Notes, in which case, on such date as selected by the Determination Agent in its sole and absolute discretion, the Issuer shall redeem the Notes upon prior notice made to the Noteholders, and the Issuer will cause to be paid to each Noteholder in respect of each Note held by it an amount equal to the Early Redemption Amount of such Notes.

- (d) The definitions of "Merger Event" and "Tender Offer" shall be amended in accordance with the DR Amendment.
- (e) If the Determination Agent determines that a Merger Event or Tender Offer has occurred in respect of any Underlying Share, then, where the Determination Agent makes an adjustment to these Conditions and/or the applicable Pricing Supplement in connection with a Merger Event or Tender Offer, the Determination Agent may (among other factors) have reference to any adjustment made by the Depositary under the Deposit Agreement.
- (f) The definitions of "Nationalisation", "Insolvency" and "Delisting" shall be amended in accordance with the DR Amendment.
- (g) Notwithstanding anything to the contrary in the definition of "Delisting", a Delisting shall not occur in respect of any Underlying Share if such Underlying Shares are immediately relisted, re-traded or re-quoted on an exchange or quotation system regardless of the location of such exchange or quotation system.
- (h) If the Determination Agent determines that a Nationalisation or Insolvency has occurred in respect of a Share or the Depositary, then, notwithstanding anything to the contrary herein, the Determination Agent may determine that the affected Share be substituted with Replacement DRs and may make any appropriate adjustments to the terms of these Conditions and/or the applicable Pricing Supplement. In such case, the Issuer shall not redeem the Notes early and, following such replacement, references to Shares herein shall be replaced by references to such Replacement DRs, and the Determination Agent will determine the effective date of any adjustments.
- (i) If the Determination Agent determines that a Delisting of Shares has occurred or if the Depositary announces that the Deposit Agreement is (or will be) terminated, then, notwithstanding anything to the contrary herein, the Determination Agent may determine that the affected Share be substituted with Replacement DRs or the Underlying Shares and may make any appropriate adjustments to the

terms of these Conditions and/or the applicable Pricing Supplement. In such case, the Issuer shall not redeem the Notes early and, following such replacement, references to Shares herein shall be replaced by references to such Replacement DRs or the Underlying Shares, as applicable, and the Determination Agent will determine the effective date of any adjustments.

- (j) The definition of "Insolvency Filing" shall be amended in accordance with the DR Amendment.
- (k) The definition of "Change in Law" shall be amended in accordance with the DR Amendment.

For the avoidance of doubt, where a provision is amended pursuant to this Condition 10.7 (*Partial Lookthrough Depositary Receipt Provisions*) in accordance with the DR Amendment, if the event described in such provision occurs in respect of the Underlying Share or the Underlying Share Issuer, then the consequence of such event shall be interpreted consistently with the DR Amendment and such event.

#### 10.8 *Full Lookthrough Depositary Receipt Provisions:*

- (a) Where the applicable Pricing Supplement specifies that the "Full Lookthrough Depositary Receipt Provisions" shall apply to a Share, then the provisions set out in this Condition 10.8 (*Full Lookthrough Depositary Receipt Provisions*) shall apply, and, in relation to such Share, the other provisions of this Condition 10 (*Provisions relating to Equity-Linked Notes*) shall be deemed to be amended and modified as set out in this Condition 10.8 (*Full Lookthrough Depositary Receipt Provisions*).

- (b) The definition of "Potential Adjustment Event" shall be amended so that it reads as follows:

**"Potential Adjustment Event"** means any of the following:

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

(viii) the making of any amendment or supplement to the terms of the Deposit Agreement,

provided that an event under paragraphs (i) to (vii) (inclusive) above in respect of Underlying Shares shall not constitute a Potential Adjustment Event unless, in the opinion of the Determination Agent, such event has a diluting or concentrative effect on the theoretical value of the Shares.

(c) If the Determination Agent determines that:

- (i) an event under paragraphs (i) to (vii) (inclusive) of the definition of "Potential Adjustment Event" has occurred in respect of any Underlying Shares; or
- (ii) an event under paragraph (viii) of the definition of "Potential Adjustment Event" has occurred, the Determination Agent will determine whether such Potential Adjustment Event has an economic effect on the Notes,

and, in each case, the Determination Agent will make the corresponding adjustment(s), if any, to one or more of any variable relevant to the exercise, settlement, payment or other terms of these Conditions and/or the applicable Pricing Supplement as the Determination Agent determines appropriate to account for (A) in respect of an event under paragraphs (i) to (vii) (inclusive) of the definition of "Potential Adjustment Event", the diluting or concentrative effect on the theoretical value of the Shares, and (B) in respect of an event under paragraph (viii) of the definition of "Potential Adjustment Event", such economic effect on the Notes, as the case may be (provided that no adjustments will be made to account solely for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Share), following the Potential Adjustment Event. The Determination Agent may (among other factors) have reference to any adjustment made by the Depositary under the Deposit Agreement.

If the Determination Agent determines that no adjustment that it could make will produce a commercially reasonable result, it shall notify the Issuer and the Noteholders that the relevant consequence shall be the early redemption of the Notes, in which case, on such date as selected by the Determination Agent in its sole and absolute discretion, the Issuer shall redeem the Notes upon prior notice made to the Noteholders, and the Issuer will cause to be paid to each Noteholder in respect of each Note held by it an amount equal to the Early Redemption Amount of such Notes.

- (d) The definitions of "Merger Event" and "Tender Offer" shall be amended in accordance with the DR Amendment.
- (e) If the Determination Agent determines that a Merger Event or Tender Offer has occurred in respect of an Underlying Share, then, where the Determination Agent makes an adjustment to these Conditions and/or the applicable Pricing Supplement in connection with a Merger Event or Tender Offer, the Determination Agent may (among other factors) have reference to any adjustment made by the Depositary under the Deposit Agreement.
- (f) The definitions of "Nationalisation", "Insolvency" and "Delisting" shall be amended in accordance with the DR Amendment.
- (g) If the Determination Agent determines that a Nationalisation or Insolvency has occurred in respect of a Share or the Depositary, then, notwithstanding anything to the contrary herein, the Determination Agent may determine that the affected Share be substituted with Replacement DRs and may make any appropriate adjustments to the terms of these Conditions and/or the applicable Pricing Supplement. In such case, the Issuer shall not redeem the Notes early and, following such replacement, references to Shares herein shall be replaced by references to such Replacement DRs, and the Determination Agent will determine the effective date of any adjustments.
- (h) If the Determination Agent determines that a Delisting of Shares has occurred or if the Depositary announces that the Deposit Agreement is (or will be) terminated, then, notwithstanding anything to the contrary herein, the Determination Agent may determine that the affected Share be substituted with Replacement DRs or the Underlying Shares and may make any appropriate adjustments to the terms of these Conditions and/or the applicable Pricing Supplement. In such case, the Issuer shall not redeem the Notes early and, following such replacement, references to Shares herein shall be replaced by references to such Replacement DRs or the Underlying Shares, as applicable, and the Determination Agent will determine the effective date of any adjustments.

- (i) The definition of any Additional Disruption Event specified as applicable in the applicable Pricing Supplement shall be amended in accordance with the DR Amendment.
- (j) The definitions of "Exchange Business Day", "Scheduled Closing Time", "Scheduled Trading Day", "Trading Disruption", "Exchange Disruption", "Early Closure" and "Disrupted Day" which relate to the Exchange shall be deemed to include a reference to the primary exchange on which the Underlying Shares are traded, as determined by the Determination Agent.
- (k) The definitions of "Exchange Disruption", "Market Disruption Event" and "Trading Disruption" shall be amended in accordance with the DR Amendment.

For the avoidance of doubt, where a provision is amended pursuant to this Condition 10.8 (*Full Lookthrough Depositary Receipt Provisions*) in accordance with the DR Amendment, if the event described in such provision occurs in respect of the Underlying Share or the Underlying Share Issuer, then the consequence of such event shall be interpreted consistently with the DR Amendment and such event.

#### 10.9 Definitions applicable to Equity-Linked Notes:

In relation to Equity-Linked Notes, the following expressions have the meanings set out below:

**"Adjustment Payment"** means, in respect of any Note, the payment (if any) determined by the Determination Agent as is required in order to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value to or from the Issuer as a result of the replacement of the Index by the Alternative Pre-nominated Index. The Determination Agent may determine that the Adjustment Payment is zero;

**"Affected ETF Interest"** means, at any time, any ETF Interest in respect of which the Determination Agent has determined that an Extraordinary ETF Event has occurred;

**"Averaging Cut-Off Date"** means, in the case where Notes relate to an Index, Underlying Share or ETF Interest or a Basket of Indices, Basket of Shares or Basket of ETF Interests and in respect of a Scheduled Averaging Date for the purposes of Condition 10.1(c) (*Reference Dates, Averaging Dates and Market Disruption*):

- (a) if "Common Scheduled Trading Days and Common Disrupted Days" in respect of a Basket of Indices, Basket of Shares or Basket of ETF Interests is specified to be applicable in the Pricing Supplement, the eighth Common Scheduled Trading Day following such Scheduled Averaging Date; or
- (b) in any other case, the eighth Scheduled Trading Day following such Scheduled Averaging Date;

**"Averaging Date"** means, in respect of each Reference Date, either:

- (a) in the case of (i) a Single Index Note, a Single Share Note or a Single ETF Note (as the case may be); or (ii) an Index Basket Note, a Share Basket Note or an ETF Basket Note (as the case may be) where the applicable Pricing Supplement provides that "Individual Scheduled Trading Days and Individual Disrupted Days" shall be applicable, each date specified as such in the applicable Pricing Supplement, or, if such date is not a Scheduled Trading Day, the next following Scheduled Trading Day for such (or the relevant) Index, Underlying Share or ETF Interest or Basket Component (as the case may be); or
- (b) in the case of an Index Basket Note, a Share Basket Note or an ETF Basket Note, where the applicable Pricing Supplement provides that either "Common Scheduled Trading Days and Common Disrupted Days" or "Common Scheduled Trading Days and Individual Disrupted Days" shall be applicable, each date specified as such in the applicable Pricing Supplement, or if any such date is not a Common Scheduled Trading Day, the next following Common Scheduled Trading Day for such Basket of Indices, Basket of Shares or Basket of ETF Interests (as the case may be),

provided that if any such day is a Disrupted Day, the Averaging Date shall be determined in accordance with the provisions of Condition 10.1 (*Market Disruption, Reference Dates and Averaging Dates*);



**"Basket"** means in relation to any Share Basket Notes, the Underlying Shares specified in the applicable Pricing Supplement as comprising the Basket, in relation to Index Basket Notes, the Indices specified in the applicable Pricing Supplement as comprising the Basket and in relation to any ETF Basket Notes, the ETF Interests specified in the applicable Pricing Supplement as comprising the Basket, in each case in the relative proportions specified in such Pricing Supplement;

**"Basket Component"** means, in relation to a particular Series of Index Basket Notes, Share Basket Notes or ETF Basket Notes (as applicable), each Index, Underlying Share or ETF Interest (as applicable) comprised in the relevant Basket of Indices, Basket of Shares or Basket of ETF Interests (as applicable);

**"Basket of ETF Interests"** means, in relation to a particular Series, a basket comprising the ETF Interests specified in the applicable Pricing Supplement in the relative proportions or number of ETF Interests specified in the such Pricing Supplement;

**"Basket of Indices"** means, in relation to a particular Series, a basket comprising the Indices specified in the applicable Pricing Supplement in the relative proportions specified in such Pricing Supplement;

**"Basket of Shares"** means, in relation to a particular Series, a basket comprising Underlying Shares of each Underlying Share Issuer specified in the applicable Pricing Supplement in the relative proportions or number of Underlying Shares of each Underlying Share Issuer specified in such Pricing Supplement;

**"Change in Law"** means that, on or after the Trade Date (A) due to the adoption of or any change in any applicable law or regulation (including, without limitation, any tax law), or (B) due to the promulgation of or any change in the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law or regulation (including any action taken by a taxing authority), the Issuer determines that (x), in the case of Single Share Notes, Single Index Notes, Single ETF Notes, Share Basket Notes, Index Basket Notes or ETF Basket Notes, it has become illegal to hold, acquire or dispose of any relevant Underlying Shares or ETF Interests or of any financial instrument or contract providing exposure to the Underlying Shares or ETF Interests or Index or Indices (as the case may be), or (y) it will incur a materially increased cost in performing its obligations with respect to the Notes (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on its tax position);

**"Common Scheduled Trading Day"** means, in respect of an Index Basket Note, a Share Basket Note or an ETF Basket Note (as the case may be), each day which is a Scheduled Trading Day for all the Basket Components;

**"Common Valid Date"** means, in respect of an Index Basket Note, a Share Basket Note or an ETF Basket Note (as the case may be), a Common Scheduled Trading Day that is not a Disrupted Day for any Basket Component and on which another Averaging Date does not or is deemed not to occur;

**"Components"** means in relation to an Index, the securities which comprise such Index (each a "Component" for such Index);

**"Depository"** means, where the applicable Pricing Supplement specifies that either the "Partial Lookthrough Depository Receipt Provisions" or the "Full Lookthrough Depository Receipt Provisions" shall apply to a Share, the issuer of the Shares or any successor issuer of the Shares from time to time;

**"Determination Date"** means, in relation to any determination, each date specified as such in the applicable Pricing Supplement, provided that if any such date is (i) not a Scheduled Trading Day and/or (ii) a Disrupted Day, the relevant Determination Date shall be determined in accordance with the provisions of Condition 10.1 (*Reference Dates, Averaging Dates and Market Disruption*);

**"Determination Time"** means the time specified as such in the applicable Pricing Supplement, or if no such time is specified, (a) save with respect to a Multi-Exchange Index, the Scheduled Closing Time on the relevant Exchange in relation to each Index, Underlying Share or ETF Interest to be valued. If the relevant Exchange closes prior to its Scheduled Closing Time and the specified Determination Time is after the actual closing time for its regular trading session, then the Determination Time shall be such actual closing time; and (b) with respect to any Multi-Exchange Index, (i) for the purposes of determining whether a Market Disruption Event has occurred: (x) in respect of any Component, the Scheduled Closing Time on the Exchange in respect of such Component and (y) in respect of any option contracts or futures contracts on the

Index, the close of trading on the Related Exchange; and (ii) in all other circumstances, the time at which the official closing level of the Index is calculated and published by the Index Sponsor;

**"Disrupted Day"** means (a) except with respect to a Multi-Exchange Index, any Scheduled Trading Day on which a relevant Exchange or any Related Exchange fails to open for trading during its regular trading session or on which a Market Disruption Event has occurred, and (b) with respect to any Multi-Exchange Index, any Scheduled Trading Day on which (i) the Index Sponsor fails to publish the level of the Index (provided that the Determination Agent may, in its sole and absolute discretion, determine that such failure to publish shall instead be an Index Disruption for such Index); (ii) the Related Exchange fails to open for trading during its regular trading session or (iii) a Market Disruption Event has occurred;

**"DR Amendment"** means, in respect of the definitions of Merger Event, Tender Offer, Nationalisation, Insolvency, Delisting, Insolvency Filing, Change in Law, any other Additional Disruption Event specified as applicable in the applicable Pricing Supplement, Exchange Disruption, Market Disruption Event and Trading Disruption, that the following changes shall be made to such definition or provision where provided for in this Condition 10 (*Provisions relating to Equity-Linked Notes*):

- (a) all references to "Shares" shall be deleted and replaced with the words "Shares and/or the Underlying Shares"; and
- (b) all references to "Share Issuer" shall be deleted and replaced with the words "Share Issuer or Underlying Share Issuer, as appropriate;

**"Early Closure"** means (a) except with respect to a Multi-Exchange Index, the closure on any Exchange Business Day of the relevant Exchange (or in the case of a Single Index Note or Index Basket Note, any relevant Exchange(s) relating to securities that comprise 20 per cent. or more of the level of the relevant Index) or any Related Exchange(s) prior to its Scheduled Closing Time unless such earlier closing time is announced by such Exchange(s) or Related Exchange(s) at least one hour prior to the earlier of (i) the actual closing time for the regular trading session on such Exchange(s) or Related Exchange(s) on such Exchange Business Day and (ii) the submission deadline for orders to be entered into the Exchange or Related Exchange system for execution at the Determination Time on such Exchange Business Day and (b) with respect to any Multi-Exchange Index, the closure on any Exchange Business Day of the Exchange in respect of any Component or the Related Exchange prior to its Scheduled Closing Time unless such earlier closing is announced by such Exchange or Related Exchange (as the case may be) at least one hour prior to the earlier of: (i) the actual closing time for the regular trading session on such Exchange or Related Exchange (as the case may be) on such Exchange Business Day; and (ii) the submission deadline for orders to be entered into such Exchange or Related Exchange system for execution at the relevant Determination Time on such Exchange Business Day;

**"Eligible ETF Interest"** means, in respect of any Affected ETF Interest, the interest specified as such in the applicable Pricing Supplement;

**"ETF"** means (in respect of an ETF Interest) any fund specified in the applicable Pricing Supplement as an ETF;

**"ETF Documents"** means, unless otherwise specified in the applicable Pricing Supplement, with respect to any ETF Interest, the offering document of the relevant ETF, the constitutive and governing documents, subscription agreements and any other agreement or document specifying the terms and conditions of such ETF Interest and any additional documents specified in the applicable Pricing Supplement, each as amended from time to time.;

**"ETF Interest"** means the share or other interest or unit of holding (including, without limitation, any debt security) issued to or held by an investor in an ETF, as identified in the applicable Pricing Supplement;

**"ETF Service Provider"** means, in respect of any ETF, any person who is appointed to provide services, directly or indirectly, in respect of such ETF, whether or not specified in the ETF Documents, including any advisor, manager, administrator, operator, management company, depository, custodian, sub-custodian, prime broker, administrator, trustee, registrar, transfer agent, domiciliary agent, sponsor or general partner or any other person specified in the applicable Pricing Supplement;

**"Exchange"** means:

- (a) (i) in respect of an Index relating to Single Index Notes or Index Basket Notes other than a Multi-Exchange Index, each exchange or quotation system specified as such for such Index in the applicable Pricing Supplement or, if none is specified, the principal exchange or quotation system for trading in such Index, as determined by the Determination Agent, any successor to such exchange or quotation system or any substitute exchange or quotation system to which trading in the shares underlying such Index has temporarily relocated, provided that the Determination Agent has determined that there is comparable liquidity relative to the shares underlying such Index on such temporary substitute exchange or quotation system as on the original Exchange, and (ii) with respect to any Multi-Exchange Index, and in respect of each Component, the principal stock exchange on which such Component is principally traded, as determined by the Determination Agent;
- (b) in respect of an Underlying Share relating to Single Share Notes or Share Basket Notes, each exchange or quotation system specified as such for such Underlying Share in the applicable Pricing Supplement or, if none is specified, the principal exchange or quotation system for trading in such Underlying Share, as determined by the Determination Agent, any successor to such Exchange or quotation system or any substitute exchange or quotation system to which trading in the Underlying Share has temporarily relocated, provided that the Determination Agent has determined that there is comparable liquidity relative to such Underlying Share on such temporary substitute exchange or quotation system as on the original Exchange; and
- (c) in respect of an ETF Interest relating to Single ETF Notes or ETF Basket Notes, each exchange or quotation system specified as such for such ETF Interest in the applicable Pricing Supplement or, if none is specified, the principal exchange or quotation system for trading in such ETF Interest, as determined by the Determination Agent, any successor to such Exchange or quotation system or any substitute exchange or quotation system to which trading in the ETF Interest has temporarily relocated, provided that the Determination Agent has determined that there is comparable liquidity relative to such ETF Interest on such temporary substitute exchange or quotation system as on the original Exchange.

**"Exchange Business Day"** means (a) except with respect to a Multi-Exchange Index, any Scheduled Trading Day on which each Exchange and Related Exchange are open for trading during their respective regular trading sessions, notwithstanding any such Exchange or Related Exchange closing prior to its Scheduled Closing Time and (b) with respect to any Multi-Exchange Index, any Scheduled Trading Day on which (i) the Index Sponsor publishes the level of the Index and (ii) the Related Exchange is open for trading during its regular trading session, notwithstanding any Exchange or the Related Exchange closing prior to its Scheduled Closing Time;

**"Exchange Disruption"** means (a) except with respect to a Multi-Exchange Index, any event (other than an Early Closure) that disrupts or impairs (as determined by the Determination Agent) the ability of market participants in general (i) to effect transactions in, or obtain market values for, the Underlying Shares or ETF Interests on the Exchange (or in the case of Single Index Notes or Index Basket Notes, on any relevant Exchange(s) relating to securities that comprise 20 per cent. or more of the level of the relevant Index), or (ii) to effect transactions in, or obtain market values for, futures or options contracts relating to the Underlying Shares, the relevant Index or the ETF Interests (as the case may be) on any relevant Related Exchange and (b) with respect to any Multi-Exchange Index, any event (other than an Early Closure) that disrupts or impairs (as determined by the Determination Agent) the ability of market participants in general to effect transactions in, or obtain market values for, (i) any Component on the Exchange in respect of such Component, or (ii) futures or options contracts relating to the Index on the Related Exchange;

**"Extraordinary Dividend"** means the dividend per Underlying Share or ETF Interest, or portion thereof, to be characterised as an Extraordinary Dividend as determined by the Determination Agent;

**"Extraordinary ETF Event"** has the meaning given in Condition 10.5(e) (*Extraordinary ETF Events*);

**"Extraordinary Event"** means a Merger Event, Tender Offer, Nationalisation, Insolvency or Delisting;

**"Hedging Disruption"** means that the Issuer is unable, after using commercially reasonable efforts, to (A) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it

deems necessary to hedge the risk of entering into and performing its obligations under the Notes, or (B) realise, recover or remit the proceeds of any such transactions or asset(s);

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

**"Index"** means any index specified as such in the applicable Pricing Supplement, subject to Condition 10.2 (*Adjustments to Indices and Additional Disruption Events*);

**"Index Adjustment Event"** means, in respect of an Index, an Administrator/Benchmark Event, an Index Cancellation, an Index Disruption or an Index Modification;

**"Index Sponsor"** means, in respect of an Index, the corporation or other entity that (a) is responsible for setting and reviewing the rules and procedures and methods of calculation and adjustments, if any, related to the relevant Index and (b) announces (directly or through an agent) the level of the relevant Index on a regular basis during each Scheduled Trading Day;

**"Loss of Stock Borrow"** means that the Issuer is unable, after using commercially reasonable efforts, to borrow (or maintain a borrowing of) the Underlying Shares or the ETF Interests with respect to the Notes in an amount which the Issuer deems necessary to hedge the risk of entering into and performing its obligations with respect to the Notes (not to exceed the number of shares underlying the Notes) at a rate determined by the Issuer;

**"Market Disruption Event"** means (a) in respect of an Underlying Share, an Index other than a Multi-Exchange Index or an ETF Interest, the occurrence or existence of (i) a Trading Disruption, (ii) an Exchange Disruption, which in either case the Determination Agent determines is material, at any time during the one hour period that ends at the relevant Determination Time, or (iii) an Early Closure. For the purpose of determining whether a Market Disruption Event exists in respect of an Index at any time, if a Market Disruption Event occurs in respect of a security included in the Index at any time, then the relevant percentage contribution of that security to the level of the Index shall be based on a comparison of (x) the portion of the level of the Index attributable to that security and (y) the overall level of the Index, in each case immediately before the Market Disruption Event occurred; and (b) with respect to any Multi-Exchange Index either (i)(A) the occurrence or existence, in respect of any Component, of (1) a Trading Disruption, (2) an Exchange Disruption, which in either case the Determination Agent determines is material, at any time during the one hour period that ends at the relevant Determination Time in respect of the Exchange on which such Component is principally traded, OR (3) an Early Closure; AND (B) the aggregate of all Components in respect of which a Trading Disruption, an Exchange Disruption or an Early Closure occurs or exists comprises 20 per cent. or more of the level of the Index; OR (ii) the occurrence or existence, in respect of futures or options contracts relating to the Index, of: (A) a Trading Disruption, (B) an Exchange Disruption, which in either case the Determination Agent determines is material, at any time during the one hour period that ends at the relevant Determination Time in respect of the Related Exchange; or (C) an Early Closure.

For the purposes of determining whether a Market Disruption Event exists in respect of a Component at any time, if a Market Disruption Event occurs in respect of such Component at that time, then the relevant percentage contribution of that Component to the level of the Index shall be based on a comparison of (x) the portion of the level of the Index attributable to that Component to (y) the overall level of the Index, in each case using the official opening weightings as published by the Index Sponsor as part of the market "opening data";

**"Multi-Exchange Index"** means any Index specified as such in the applicable Pricing Supplement;

**"Observation Date"** means each date specified as such in the applicable Pricing Supplement, provided that if any such date is (i) not a Scheduled Trading Day and/or (ii) a Disrupted Day, the relevant Observation Date shall be determined in accordance with the provisions of Condition 10.1 (*Reference Dates, Averaging Dates and Market Disruption*);

**"Observation Period"** has the meaning given in the applicable Pricing Supplement;

**"Potential Adjustment Event"** means, in respect of Single Share Notes, Single ETF Note, Share Basket Notes or ETF Basket Notes:

- (a) a subdivision, consolidation or reclassification of an Underlying Share or ETF Interest (unless resulting in a Merger Event), or a free distribution or dividend of Underlying Shares or ETF Interests to existing holders by way of bonus, capitalisation or similar issue;
- (b) a distribution, issue or dividend to existing holders of relevant Underlying Shares or ETF Interests of (A) such Underlying Shares or ETF Interests, or (B) other share capital or securities granting the right to payment of dividends and/or the proceeds of liquidation of the Underlying Share Issuer or ETF equally or proportionately with such payments to holders of such an Underlying Shares or ETF Interests, or (C) share capital or other securities of another issuer acquired or owned (directly or indirectly) by the Underlying Share Issuer or ETF as a result of a spin off or other similar transaction, or (D) any other type of securities, rights or warrants or other assets, in any case for payment (cash or other consideration) at less than the prevailing market price as determined by the Determination Agent;
- (c) an Extraordinary Dividend;
- (d) a call by the Underlying Share Issuer in respect of relevant Underlying Shares that are not fully paid;
- (e) a repurchase by an Underlying Share Issuer or ETF (as the case may be) or any of its subsidiaries of Underlying Shares or ETF Interests, whether out of profits or capital and whether the consideration for such repurchase is cash, securities or otherwise;
- (f) in respect of an Underlying Share Issuer, an event that results in any shareholder rights being distributed or becoming separated from shares of common stock or other shares of the capital stock of the Underlying Share Issuer pursuant to a shareholder rights plan or arrangement directed against hostile takeovers that provides, upon the occurrence of certain events, for a distribution of preferred stock, warrants, debt instruments or stock rights at a price below their market value, as determined by the Determination Agent, provided that any adjustment effected as a result of such an event shall be readjusted upon any redemption of such rights; or
- (g) any other event that may have a diluting or concentrative effect on the theoretical value of the relevant Underlying Shares or ETF Interests.

**"Reference Cut-Off Date"** means, in the case where Notes relate to an Index, Underlying Share or ETF Interest or a Basket of Indices, Basket of Shares or Basket of ETF Interests and in respect of a Scheduled Reference Date for the purposes of Condition 10.1(b) (*Reference Dates, Averaging Dates and Market Disruption*):

- (a) if "Common Scheduled Trading Days and Common Disrupted Days" in respect of a Basket of Indices, Basket of Shares or Basket of ETF Interests is specified to be applicable in the Pricing Supplement, the eighth Common Scheduled Trading Day following such Scheduled Reference Date; or
- (b) in any other case, the eighth Scheduled Trading Day, or, in respect of a Basket of Indices, Basket of Shares or Basket of ETF Interests, the eighth Scheduled Trading Day for the Affected Basket Component, following such Scheduled Reference Date;

**"Reference Date"** means, for the purposes of Condition 10.1 (*Reference Dates, Averaging Dates and Market Disruption*), each Valuation Date, Observation Date, Strike Date or Determination Date (as applicable) specified in the applicable Pricing Supplement, or otherwise, any date construed to be a Reference Date in accordance with the Conditions;

**"Related Exchange"**, in respect of an Index relating to Single Index Notes or Index Basket Notes, an Underlying Share relating to Single Share Notes or Share Basket Notes or an ETF Interest relating to Single ETF Notes or ETF Basket Notes, means the exchange specified as the Related Exchange in the applicable Pricing Supplement, any successor to such exchange or quotation system or any substitute exchange or

quotation system to which trading in futures and options contracts relating to such Index, Underlying Share or ETF Interest has temporarily relocated (provided that the Determination Agent has determined that there is comparable liquidity relative to the futures or options contracts relating to such Index, Underlying Share or ETF Interests on such temporary substitute exchange or quotation system as on the original Related Exchange) or, if none is specified, each exchange or quotation system where trading has a material effect (as determined by the Determination Agent) on the overall market for futures or options contracts relating to such Index, Underlying Share or ETF Interests, as the case may be;

**"Relevant Equity Index Benchmark"** means the Index;

**"Relevant Price"** on any day means:

- (a) in respect of an Underlying Share to which a Single Share Note or a Share Basket Note relates, the price per Underlying Share determined by the Determination Agent in the manner provided in the applicable Pricing Supplement as of the Determination Time on the relevant day, or, if no means for determining the Relevant Price are so provided: (a) in respect of any Underlying Share for which the Exchange is an auction or "open outcry" exchange that has a price as of the Determination Time at which any trade can be submitted for execution, the Relevant Price shall be the price per Underlying Share as of the Determination Time on the relevant day, as reported in the official real time price dissemination mechanism for such Exchange; and (b) in respect of any Underlying Share for which the Exchange is a dealer exchange or dealer quotation system, the Relevant Price shall be the mid point of the highest bid and lowest ask prices quoted as of the Determination Time on the relevant day (or the last such prices quoted immediately before the Determination Time) without regard to quotations that "lock" or "cross" the dealer exchange or dealer quotation system;
- (b) in respect of an Index to which a Single Index Note or an Index Basket Note relates, the level of such Index determined by the Determination Agent as provided in the applicable Pricing Supplement as of the Determination Time on the relevant day or, if no method for determining the Relevant Price is so provided, the level of the Index as of the Determination Time on the relevant day; and
- (c) in respect of an ETF Interest to which a Single ETF Note or a ETF Basket Note relates, the price per ETF Interest determined by the Determination Agent in the manner provided in the applicable Pricing Supplement as of the Determination Time on the relevant day, or, if no means for determining the Relevant Price are so provided: (a) in respect of any ETF Interest for which the Exchange is an auction or "open outcry" exchange that has a price as of the Determination Time at which any trade can be submitted for execution, the Relevant Price shall be the price per ETF Interest as of the Determination Time on the relevant day, as reported in the official real time price dissemination mechanism for such Exchange; and (b) in respect of any ETF Interest for which the Exchange is a dealer exchange or dealer quotation system, the Relevant Price shall be the mid point of the highest bid and lowest ask prices quoted as of the Determination Time on the relevant day (or the last such prices quoted immediately before the Determination Time) without regard to quotations that "lock" or "cross" the dealer exchange or dealer quotation system;

**"Replacement DRs"** means depositary receipts other than the Shares over the same Underlying Shares;

**"Scheduled Averaging Date"** means an original date (following any adjustment (if applicable) pursuant to paragraph (a) or (b) in the definition of "Averaging Date") that, but for such day being a Disrupted Day, would have been an Averaging Date;

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

**"Scheduled Reference Date"** means, for the purposes of Condition 10.1(b) (*Reference Dates, Averaging Dates and Market Disruption*), any original date that, but for the occurrence of an event causing a Disrupted Day, would have been a Reference Date;

**"Scheduled Trading Day"** means (a) except with respect to a Multi-Exchange Index, any day on which each Exchange and each Related Exchange are scheduled to be open for trading for their respective regular trading session, and (b) with respect to any Multi-Exchange Index, any day on which (i) the Index Sponsor is

scheduled to publish the level of the Index and (ii) the Related Exchange is scheduled to be open for trading for its regular trading session;

**"Settlement Cycle"** means, in respect of an Underlying Share, Index or ETF Interest, the period of Settlement Cycle Days following a trade in such Underlying Share, the securities underlying such Index or ETF Interest, as the case may be, on the Exchange in which settlement will customarily occur according to the rules of such exchange (or, in respect of any Multi-Exchange Index, the longest such period) and for this purpose

**"Settlement Cycle Day"** means, in relation to a clearing system any day on which such clearing system is (or but for the occurrence of a Settlement Disruption Event would have been) open for acceptance and executions of settlement instructions;

**"Settlement Price"** means, in respect of a Single Share Note, a Share Basket Note, an Index Note, an Index Basket Note, a Single ETF Note or an ETF Basket Note, the price, level or amount as determined by the Determination Agent, in its sole and absolute discretion, in accordance with the applicable Pricing Supplement;

**"Strike Date"** means each date specified as such in the applicable Pricing Supplement, provided that if any such date is (i) not a Scheduled Trading Day and/or (ii) a Disrupted Day, the relevant Strike Date shall be determined in accordance with the provisions of Condition 10.1 (*Reference Dates, Averaging Dates and Market Disruption*);

**"Trading Disruption"** means (a) except with respect to a Multi-Exchange Index, any suspension of or limitation imposed on trading by the Exchange or Related Exchange or otherwise and whether by reason of movements in price exceeding limits permitted by the Exchange, Related Exchange or otherwise (i) relating to the Underlying Share or ETF Interest on the Exchange, or, in the case of a Single Index Note or Index Basket Note, on any relevant Exchange(s) relating to securities that comprise 20 per cent. or more of the level of the relevant Index or (ii) in futures or options contracts relating to the Underlying Share, the relevant Index or Indices or the ETF Interest on any relevant Related Exchange, and (b) with respect to any Multi-Exchange Index, any suspension of or limitation imposed on trading by the Exchange or Related Exchange or otherwise and whether by reason of movements in price exceeding limits permitted by the Exchange or Related Exchange or otherwise (i) relating to any Component on the Exchange in respect of such Component; or (ii) in futures or options contracts relating to the Index on the Related Exchange;

**"Underlying Share Issuer"** means the entity that is the issuer of the Underlying Share specified in the applicable Pricing Supplement;

**"Underlying Share"** means, in relation to a particular Series of Notes, a share specified as such in the applicable Pricing Supplement, or, in the case of a Share Basket Note, a share forming part of a basket of shares to which such Note relates;

**"Valid Date"** means a Scheduled Trading Day that is not a Disrupted Day and on which another Averaging Date in respect of the Reference Date does not, or is not deemed to, occur; and

**"Valuation Date"** means each date specified as such in the applicable Pricing Supplement, provided that if any such date is (i) not a Scheduled Trading Day and/or (ii) a Disrupted Day, the relevant Valuation Date shall be determined in accordance with the provisions of Condition 10.1 (*Reference Dates, Averaging Dates and Market Disruption*).

## 11. PROVISIONS RELATING TO COMMODITY-LINKED NOTES

This Condition 11 (*Provisions relating to Commodity-Linked Notes*) is applicable in respect of any Series of Notes ("**Commodity-Linked Notes**") where "**Commodity-Linked Interest Note Provisions**" and/or "**Commodity-Linked Redemption Provisions**" are specified in the applicable Pricing Supplement as being applicable.

### 11.1 Corrections to Published Prices:

For the purposes of determining the Relevant Price for any Pricing Date, if applicable, as specified in the applicable Pricing Supplement for the purposes of calculating the Final Redemption Amount or any other amount in respect of a Commodity-Linked Note, if the price published or announced on a given day and used

or to be used by the Determination Agent to determine such Relevant Price is subsequently corrected and the correction is published or announced by the person responsible for that publication or announcement by such time as may be specified in the applicable Pricing Supplement (or, if none is so specified, within thirty calendar days after the original publication or announcement) and in any event prior to the Maturity Date for the relevant Notes the Determination Agent shall determine (in its sole and absolute discretion) the adjustment to the Relevant Price so calculated and will adjust the terms of the relevant Notes to account for such correction to the extent that it determines to be necessary and practicable.

## 11.2 *Commodity Disruption Events:*

- (a) If so specified in the Pricing Supplement relating to any Series of Commodity-Linked Notes, the following shall constitute "**Commodity Disruption Events**" for the purposes of such Series:
  - (i) "**Price Source Disruption**", which means (i) the failure of the Price Source to announce or publish the Specified Price (or the information necessary for determining the Specified Price) for the relevant Commodity Reference Price, (ii) the temporary or permanent discontinuance or unavailability of the Price Source, (iii) if the Commodity Reference Price is "Commodity Reference Dealers", the failure to obtain at least three quotations from the relevant Reference Dealers or (iv) if Price Materiality Percentage is specified in the applicable Pricing Supplement, the Specified Price for the relevant Commodity Reference Price differs from the Specified Price determined in accordance with the Commodity Reference Price "Commodity Reference Dealers" by such Price Materiality Percentage;
  - (ii) "**Trading Disruption**", which means the material suspension of, or the material limitation imposed on, trading in the Futures Contract or the Commodity on the Exchange or in any additional futures contract, options contract or commodity on any Exchange as specified in the applicable Pricing Supplement. The determination of whether a suspension of or limitation on trading is material shall be made by the Determination Agent in its sole and absolute discretion;
  - (iii) "**Disappearance of Commodity Reference Price**", which means (i) the permanent discontinuation of trading in the relevant Futures Contract on the relevant Exchange, (ii) the disappearance of, or of trading in, the relevant Commodity, or (iii) the disappearance or permanent discontinuance or unavailability of a Commodity Reference Price, notwithstanding the availability of the related Price Source or the status of trading in the relevant Futures Contract or the relevant Commodity;
  - (iv) "**Material Change in Formula**", which means the occurrence since the Trade Date of a material change in the formula for or method of calculating the relevant Commodity Reference Price;
  - (v) "**Material Change in Content**", which means the occurrence since the Trade Date of a material change in the content, composition or constitution of the relevant Commodity or relevant Futures Contract;
  - (vi) "**Tax Disruption**", which means the imposition of, change in or removal of an excise, severance, sales, use, value added, transfer, stamp, documentary, recording or similar tax on, or measured by reference to, the relevant Commodity (other than a tax on, or measured by reference to, overall gross or net income) by any government or taxation authority after the Trade Date, if the direct effect of such imposition, change or removal is to raise or lower the Relevant Price on the day that would otherwise be a Pricing Date from what it would have been without that imposition, change or removal;
  - (vii) "**Trading Limitation**", which means the material limitation imposed on trading in the Futures Contract or the Commodity on the Exchange or in any additional futures contract, options contract or commodity on any exchange or principal trading market as specified in the applicable Pricing Supplement; and
  - (viii) any other (if any) Commodity Disruption Event specified in the applicable Pricing Supplement.



- (b) If the applicable Pricing Supplement for a Series of Commodity-Linked Notes specifies that any Commodity Disruption Event shall be applicable to such Series, then, where the Determination Agent determines, acting in a commercially reasonable manner, that such Commodity Disruption Event has occurred and is continuing in respect of such Series on the Pricing Date in respect of such Series (or, if different, the day on which prices for that Pricing Date would, in the ordinary course, be published or announced by the Price Source), or on any other day as may be specified for this purpose in the applicable Pricing Supplement, then the Relevant Price will be determined in accordance with the terms of the Commodity Disruption Fallback applicable pursuant to Condition 11.3 (*Commodity Disruption Fallbacks*).

### 11.3 *Commodity Disruption Fallbacks:*

Where one or more Commodity Disruption Event occurs or exists, then, unless the applicable Pricing Supplement specifies that any other Commodity Disruption Fallback shall apply in respect of any such Commodity Disruption Event, "Determination Agent Determination" shall apply.

**"Determination Agent Determination"** means that the Determination Agent will determine, in its sole and absolute discretion, the Relevant Price (or a method for determining the Relevant Price), taking into consideration the latest available quotation for the relevant Commodity Reference Price and any other information that it deems relevant.

### 11.4 *Administrator/Benchmark Events:*

If the Benchmark Trigger Provisions are specified in the applicable Pricing Supplement as being applicable and an Administrator/Benchmark Event and an Administrator/Benchmark Event Date occurs in respect of any Relevant Commodity Benchmark (other than a Commodity Index):

- (a) the Commodity Disruption Fallbacks specified in the applicable Pricing Supplement to apply with respect to an Administrator/Benchmark Event will apply, or if none is so specified, Determination Agent Determination (as such term is defined in Condition 11.3 (*Commodity Disruption Fallbacks*)) shall be deemed to apply;
- (b) if it (i) is or would be unlawful at any time under any applicable law or regulation or (ii) would contravene any applicable licensing requirements, in each case for the Issuer, the Determination Agent or the Calculation Agent to perform the actions prescribed in an applicable Commodity Disruption Fallback (or it would be unlawful or would contravene those licensing requirements were a determination to be made at such time), the next applicable Commodity Disruption Fallback will apply;
- (c) if the Determination Agent determines that the last applicable Commodity Disruption Fallback does not provide the relevant level, price, value or amount (including due to the applicability of Condition 11.4(b) above in relation to the last applicable Commodity Disruption Fallback), then the Issuer shall give not less than five Business Days' notice to redeem the Notes and the Issuer's obligations under the Notes shall be satisfied in full upon payment in respect of each Note of an amount equal to the fair market value of such Note, on such day as is selected by the Determination Agent in its sole and absolute discretion (provided that such day is not more than 15 days before the date fixed for redemption of the Note), less the proportion attributable to that Note of the reasonable cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related hedging arrangements, all as calculated by the Determination Agent in its sole and absolute discretion; and
- (d) the Determination Agent shall as soon as reasonably practicable under the circumstances notify the Issuer, the Fiscal Agent and the Noteholders of the occurrence of an Administrator/Benchmark Event and an Administrator/Benchmark Event Date and of any action taken as a consequence, provided that any failure to give such notice shall not affect the validity of the foregoing.

### 11.5 *Common Pricing:*

With respect to Notes relating to a Basket, if "Common Pricing" has been selected in the applicable Pricing Supplement as:

- (a) "**Applicable**", then no date will be a Pricing Date unless such date is a day on which all referenced Commodity Reference Prices (for which such date would otherwise be a Pricing Date) are scheduled to be published or announced, as determined as of the time of issue of the Notes.
- (b) "**Inapplicable**", then if the Determination Agent determines that a Commodity Disruption Event has occurred or exists on the Pricing Date in respect of any Commodity in the Basket (the "**Affected Commodity**"), the Relevant Price of each Commodity within the basket which is not affected by the occurrence of a Commodity Disruption Event shall be determined on its scheduled Pricing Date and the Relevant Price for the Affected Commodity shall be determined in accordance with the first applicable Commodity Disruption Fallback that provides a Commodity Reference Price.

#### 11.6 *Commodity Index Disruption Events:*

- (a) The following shall constitute "**Commodity Index Disruption Events**" for the purposes of any Series of Notes with respect to a Commodity Index:
  - (i) a temporary or permanent failure by the applicable exchange or other price source to announce or publish the final settlement price for the relevant Commodity Index; or
  - (ii) the occurrence in respect of any Component of the relevant Commodity Index of a Commodity Disruption Event (as defined in Condition 11.2(a) (*Commodity Disruption Events*)).
- (b) Where the Determination Agent determines, acting in a commercially reasonable manner, that a Commodity Index Disruption Event has occurred and is continuing in respect of a Series on the Pricing Date in respect of such Series (or, if different, the day on which prices for that Pricing Date would, in the ordinary course, be published or announced by the Price Source), or on any other day as may be specified for this purpose in the applicable Pricing Supplement, then (unless Condition 11.6(c) (*Physical Hedging Fallback*) applies) the following provisions shall apply (the "**Commodity Index Disruption Fallback**"):
  - (i) with respect to each Component which is not affected by the Commodity Index Disruption Event, the Relevant Price will be determined by the Determination Agent based on the closing prices of each such Component on the applicable Pricing Date;
  - (ii) with respect to each Component which is affected by the Commodity Index Disruption Event, the Relevant Price will be determined by the Determination Agent (in the case of any Dow Jones UBS Commodity Index) as set out in the DJ UBSCI Manual or (in the case of any S&P Commodity Index) as set out in the Index Methodology, and in respect of any other Commodity Index as set out in the applicable Pricing Supplement, in each case based on the closing prices of each such Component on the first day following the applicable Pricing Date on which no Commodity Index Disruption Event occurs with respect to such Component;
  - (iii) subject to Condition 11.6(b)(iv) below, the Determination Agent shall determine the Relevant Price by reference to the closing prices determined in Conditions 11.6(b)(i) and (ii) above using the then-current method for calculating the relevant Commodity Index; and
  - (iv) where a Commodity Index Disruption Event with respect to one or more Components continues to exist (measured from and including the first day following the applicable determination date) for five consecutive Trading Days, the Determination Agent shall determine the Relevant Price acting in good faith and in a commercially reasonable manner. In calculating the Relevant Price as set out in this Condition 11.6(b)(iv), the Determination Agent shall use the formula for calculating the relevant Commodity Index last in effect prior to the Commodity Index Disruption Event. For the purposes of this Condition 11.6(b)(iv), "**Trading Day**" shall mean a day when the exchanges for all Components included in the relevant Commodity Index are scheduled to be open for trading.
- (c) *Physical Hedging Fallback.* Where the Determination Agent determines that a Commodity Index Disruption Event has occurred and is continuing in respect of a Series on the Pricing Date in respect

of such Series and "**Physical Hedging Fallback**" is specified as applicable in the applicable Pricing Supplement, then the following provisions shall apply;

- (d) with respect to each Component included in the Commodity Index which is not affected by the Commodity Index Disruption Event, the Relevant Price will be based on the closing prices of each such Component on the applicable determination date;
- (e) with respect to each Component included in the Commodity Index which is affected by the Commodity Index Disruption Event, the Relevant Price will be based on the closing price of each such Component on the first day following the applicable determination date on which no Commodity Index Disruption Event occurs with respect to such Component;
- (f) subject to Condition 11.6(g) below, the Determination Agent shall determine the Relevant Price by reference to the closing prices determined in Conditions 11.6(a) and (b) above using the then-current method for calculating the Relevant Price;
- (g) where a Commodity Index Disruption Event with respect to one or more Components included in the Commodity Index continues to exist (measured from and including the first day following the applicable determination date) for five consecutive Trading Days, the Determination Agent shall determine the Relevant Price in good faith and in a commercially reasonable manner. For the purposes of this Condition 11.6(g), "**Trading Day**" shall mean a day when the exchanges for all Components included in the relevant Commodity Index are scheduled to be open for trading with respect to each Component included in the Commodity Index which is not affected by the Commodity Index Disruption Event, the Relevant Price will be based on the closing prices of each such Component on the applicable determination date;
- (h) if it (i) is or would be unlawful at any time under any applicable law or regulation or (ii) would contravene any applicable licensing requirements, for the Determination Agent to perform the actions prescribed in either Conditions 11.6(b) or (c) to (g) (as applicable) then the Issuer shall give not less than five Business Days' notice to redeem the Notes and the Issuer's obligations under the Notes shall be satisfied in full upon payment in respect of each Note of an amount equal to the fair market value of such Note, on such day as is selected by the Determination Agent in its sole and absolute discretion (provided that such day is not more than 15 days before the date fixed for redemption of the Note), less the proportion attributable to that Note of the reasonable cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related hedging arrangements, all as calculated by the Determination Agent in its sole and absolute discretion; and
- (i) the Determination Agent shall as soon as reasonably practicable under the circumstances notify the Issuer, the Fiscal Agent and the Noteholders of the occurrence of a Commodity Index Disruption Event and of any action taken as a consequence, provided that any failure to give such notice shall not affect the validity of the foregoing.

#### 11.7 *Adjustments to Commodity Index:*

- (a) If a Commodity Index with respect to a Commodity Reference Price is permanently cancelled or is not calculated and announced by the sponsor of such Commodity Index or any of its affiliates (together the "**Sponsor**") but (i) is calculated and announced by a successor sponsor (the "**Successor Sponsor**") acceptable to the Determination Agent, or (ii) replaced by a Successor Index (the "**Successor Index**") using, in the determination of the Determination Agent, the same or a substantially similar formula for and method of calculation as used in the calculation of such Commodity Index, then the Commodity Reference Price will be determined by reference to the Index so calculated and announced by that Successor Sponsor or that Successor Index, as the case may be.
- (b) *Commodity Index Cancellation or Administrator/Benchmark Event Date.*

If, for a Commodity Index with respect to a Commodity Reference Price, on or prior to the Maturity Date or any early redemption date of the Commodity-Linked Notes, either (i) the Sponsor permanently cancels the Commodity Index and no Successor Index exists (a "**Commodity Index**

**Cancellation**") or (ii) the applicable Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and an Administrator/Benchmark Event and an Administrator/Benchmark Event Date occurs in respect of such Commodity Index, then:

- (i) If the applicable Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and if an Alternative Pre-nominated Index has been specified in relation to such Commodity Index in the applicable Pricing Supplement, then:
  - (A) the Determination Agent shall attempt to determine an Adjustment Payment;
  - (B) if the Determination Agent determines an Adjustment Payment,
    - (1) it shall notify the Issuer of the Adjustment Payment and if the Adjustment Payment is an amount that the Noteholder would (but for Condition 11.7(b)(i)(B)(3)(b)) be required to pay to the Issuer in respect of each Note, request the Issuer to notify the Determination Agent whether it intends to redeem the Notes pursuant to Condition 11.7(d) (*Redemption for Commodity Index Adjustment Event*). If the Issuer does not intend to redeem the Notes pursuant to Condition 11.7(d) (*Redemption for Commodity Index Adjustment Event*) then the following provisions of this Condition 11.7(b)(i) shall apply;
    - (2) the terms of the Notes shall be amended so that references to the Commodity Index are replaced by references to the Alternative Pre-nominated Index;
    - (3) the Conditions shall be adjusted to implement the Adjustment Payment as follows:
      - (a) if the Adjustment Payment is an amount that the Issuer is required to pay in respect of each Note, the Determination Agent shall adjust the Conditions to provide for the payment of the Adjustment Payment on the immediately succeeding Interest Payment Date or if there is no such immediately succeeding Interest Payment Date, on the Maturity Date or other date when the Notes are redeemed in full; or
      - (b) if the Adjustment Payment is an amount that the Noteholder would (but for this Condition 11.7(b)(i)(B)(3)(b)) be required to pay to the Issuer in respect of each Note, the Determination Agent shall adjust the Conditions to provide for the reduction of the amounts due by the Issuer until the aggregate amount of such reductions is equal to the Adjustment Payment, (subject, in the determination of the Determination Agent, to any minimum redemption amount of the Notes which the Determination Agent determines is required pursuant to any applicable law or regulation (including, without limitation, any tax law) and the rules of each listing authority, stock exchange and/or quotation system by which the Notes have then been admitted to listing, trading and/or quotation);
    - (4) the Determination Agent shall make such other adjustments to the Conditions as it determines necessary or appropriate in order to account for the effect of the replacement of the Commodity Index with the Alternative Pre-nominated Index and/or to preserve as nearly as practicable the economic equivalence of the Notes before and after the replacement of the Commodity Index with the Alternative Pre-nominated Index; and

- (5) the Determination Agent shall notify the Issuer, the Fiscal Agent and the Noteholders of any replacement of the Commodity Index by the Alternative Pre-nominated Index, the Adjustment Payment and any other adjustments to the Conditions, giving summary details of the adjustment(s), provided that any failure to give such notice shall not affect the validity of the foregoing.
- (C) If the Determination Agent is unable to determine an Adjustment Payment, then Condition 11.7(d) (*Redemption for Commodity Index Adjustment Event*) shall apply.
- (ii) If the applicable Pricing Supplement does not specify that the Benchmark Trigger Provisions are applicable or, if the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable but does not specify an Alternative Pre-nominated Index in relation to the Relevant Commodity Benchmark, then Condition 11.7(d) (*Redemption for Commodity Index Adjustment Event*) shall apply.
- (c) *Commodity Index Modification and Commodity Index Disruption:*

If, for a Commodity Index with respect to a Commodity Reference Price, on or prior to the Maturity Date or any early redemption date, (i) the Sponsor makes a material change in the formula for or the method of calculating such Commodity Index or in any other way materially modifies such Commodity Index (other than a modification prescribed in that formula or method to maintain the Commodity Index in the event of changes in constituent commodities and weightings and other routine events) (a "**Commodity Index Modification**") or, (ii) the Sponsor fails to calculate and announce the Commodity Index for a continuous period of three Trading Days and the Determination Agent determines that there is no Successor Sponsor or Successor Index (a "**Commodity Index Disruption**"), then the Determination Agent may at its option (in the case of (i)) and shall (in the case of (ii)) calculate the Relevant Price using in lieu of the published level for that Commodity Index (if any), the level for that Commodity Index as at the relevant determination date as determined by the Determination Agent in accordance with the formula for and method of calculating that Commodity Index last in effect prior to the relevant Commodity Index Adjustment Event, but using only those Components that comprised that Commodity Index immediately prior to the relevant Commodity Index Adjustment Event (other than those futures contracts that have ceased to be listed on any relevant exchange).
- (d) *Redemption for Commodity Index Adjustment Event:*

If:

  - (i) a Commodity Index Cancellation occurs and the Pricing Supplement does not specify that the Benchmark Trigger Provisions are applicable;
  - (ii) a Commodity Index Cancellation or an Administrator/Benchmark Event Date occurs in respect of a Commodity Index, the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable but does not specify an Alternative Pre-nominated Index;
  - (iii) a Commodity Index Cancellation or an Administrator/Benchmark Event Date occurs in respect of a Commodity Index, the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and specifies an Alternative Pre-nominated Index but the Determination Agent is unable to determine the Adjustment Payment;
  - (iv) a Commodity Index Cancellation or an Administrator/Benchmark Event Date occurs in respect of a Commodity Index, the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and specifies an Alternative Pre-nominated Index and the Determination Agent determines that the Adjustment Payment would be an amount that the Noteholder would (but for Condition 11.7(b)(i)(B)(3)(b)) be required to pay to the Issuer in respect of each Note; or

- (v) a Commodity Index Modification or a Commodity Index Disruption occurs and it (a) would be unlawful at any time under any applicable law or regulation or (b) would contravene any applicable licensing requirements, in each case for the Determination Agent to calculate the Relevant Price in accordance with Condition 11.7(c) (*Commodity Index Modification and Commodity Index Disruption*),

then the Issuer may, at any time thereafter and in its sole and absolute discretion, determine that the Notes shall be redeemed as of any later date. If the Issuer so determines that the Notes shall be redeemed, then the Issuer shall give not less than five Business Days' notice to the Noteholders to redeem the Notes and upon redemption the Issuer will pay an amount in respect of each Note equal to the fair market value of such Note, on such day as is selected by the Determination Agent in its sole and absolute discretion (provided that such day is not more than 15 days before the date fixed for redemption of the Note), less the proportion attributable to that Note of the reasonable cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related hedging arrangements, all as calculated by the Determination Agent in its sole and absolute discretion.

The Issuer's obligations under the Notes shall be satisfied in full upon payment of such amount.

If the Issuer determines that the relevant Notes shall continue, the Determination Agent may make such adjustment as the Determination Agent, in its sole and absolute discretion, considers appropriate, if any, to any variable relevant to the redemption, settlement or payment terms of the relevant Notes and/or any other adjustment, which change or adjustment shall be effective on such date as the Determination Agent shall determine. The Determination Agent shall provide notice to the Noteholders of any such change or adjustment, giving summary details of the relevant change or adjustment, as soon as reasonably practicable provided that any failure to give such notice shall not affect the validity of any such change or adjustment.

- (e) *Notification of Commodity Index Adjustment Event:*

The Determination Agent shall as soon as reasonably practicable under the circumstances notify the Issuer, the Fiscal Agent and the Noteholders of the occurrence of a Commodity Index Adjustment Event and of any action taken as a consequence, provided that any failure to give such notice shall not affect the validity of the foregoing.

#### 11.8 *Additional Disruption Events:*

Following the occurrence of an Additional Disruption Event, the Issuer will, in its sole and absolute discretion, determine whether or not the relevant Notes shall continue or be redeemed early.

- (a) If the Issuer determines that the relevant Notes shall continue, the Determination Agent may make such adjustment as the Determination Agent, in its sole and absolute discretion, considers appropriate, if any, to any variable relevant to the redemption, settlement, or payment terms of the relevant Notes and/or any other adjustment which change or adjustment shall be effective on such date as the Determination Agent shall determine.
- (b) If the Issuer determines that the relevant Notes shall be redeemed early, then the Issuer shall give not less than five Business Days' notice to redeem the Notes and the Issuer's obligations under the Notes shall be satisfied in full upon payment in respect of each Note of an amount equal to the fair market value of such Note, on such day as is selected by the Determination Agent in its sole and absolute discretion (provided that such day is not more than 15 days before the date fixed for redemption of the Note), less the proportion attributable to that Note of the reasonable cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related hedging arrangements, all as calculated by the Determination Agent in its sole and absolute discretion.
- (c) The Issuer shall as soon as reasonably practicable under the circumstances notify the Fiscal Agent and the Determination Agent of the occurrence of an Additional Disruption Event.

For the purposes hereof:

**"Additional Disruption Event"** means, with respect to any Series of Notes, a Change in Law, Hedging Disruption, Increased Cost of Hedging, and any further event or events as may be specified in the applicable Pricing Supplement.

11.9 *Definitions applicable to Commodity-Linked Notes:*

In relation to Commodity-Linked Notes, the following expressions have the meanings set out below:

**"Adjustment Payment"** means, in respect of any Note, the payment (if any) determined by the Determination Agent as is required in order to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value to or from the Issuer as a result of the replacement of the Commodity Index by the Alternative Pre-nominated Index;

**"Basket"** means a basket composed of each Commodity specified in the applicable Pricing Supplement;

**"Change in Law"** means that, on or after the Trade Date (A) due to the adoption of or any change in any applicable law or regulation (including, without limitation, any tax law), or (B) due to the promulgation of or any change in the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law or regulation (including any action taken by a taxing authority), the Issuer determines that (x) it has become illegal to hold, acquire or dispose of Hedge Positions or (y) it will incur a materially increased cost in performing its obligations with respect to the Notes (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on its tax position);

**"Commodity"** means each commodity specified as such in the applicable Pricing Supplement;

**"Commodity Business Day"** means:

- (a) in the case where the Commodity Reference Price is a price announced or published by an Exchange, a day that is (or, but for the occurrence of a Commodity Disruption Event, would have been) a day on that Exchange is open for trading during its regular trading session, notwithstanding any such Exchange closing prior to its scheduled closing time; and
- (b) in the case where the Commodity Reference Price is not a price announced or published by an Exchange, a day in respect of which the relevant Price Source published (or, but for the occurrence of a Commodity Disruption Event, would have published) a price;

**"Commodity Index"** means an index comprising commodities specified as such in the applicable Pricing Supplement;

**"Commodity Index Adjustment Event"** means, in respect of a Commodity Index, a Commodity Index Cancellation, a Commodity Index Disruption or a Commodity Index Modification;

**"Commodity Reference Price"** means the commodity reference price(s) specified as such in the applicable Pricing Supplement;

**"Component"** means in relation to a Commodity Index, any commodity or Futures Contract the price of which is included in such Commodity Index;

**"Delivery Date"** means the relevant date or month for delivery of the underlying Commodity (which must be a date or month reported or capable of being determined from information reported in or by the relevant Price Source) specified as such in, or determined in accordance with the provisions in, the applicable Pricing Supplement. In relation to any underlying Commodity which is specified in the applicable Pricing Supplement to be a **"Non Metal"** and each Pricing Date, the relevant Delivery Date shall be the month of expiration of the first Futures Contract to expire following such Pricing Date. In relation to any underlying Commodity which is specified in the applicable Pricing Supplement to be a **"Base Metal"** or a **"Precious Metal"** and each Pricing Date, the Delivery Date shall be such Pricing Date;

**"DJ UBS Commodity Index"** means the Dow Jones UBS Commodity Index and any other Commodity Index, in each case which is calculated and sponsored by Dow Jones Inc, or any successor to such sponsor;

**"DJ UBSCI Manual"** means the manual or handbook in respect of a DJ UBS Commodity Index published by the sponsor of the relevant Commodity Index and in effect from time to time;

**"Exchange"** means each exchange or principal trading market specified as such in relation to a Commodity in the applicable Pricing Supplement or in the applicable Commodity Reference Price;

**"Futures Contract"** means either (a) the contract for future delivery in respect of the relevant Delivery Date relating to the relevant Commodity referred to in the relevant Commodity Reference Price or (b) each futures contract underlying or included in a Commodity Index;

**"Hedge Positions"** means any purchase, sale, entry into or maintenance of one or more (i) positions or contracts in securities, commodities, options, futures, derivatives or foreign exchange, (ii) stock loan transactions or (iii) other instruments or arrangements (howsoever described) by a party in order to hedge, individually or on a portfolio basis, the Notes;

**"Hedging Disruption"** means that the Issuer is unable, after using commercially reasonable efforts, to (A) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the risk of entering into and performing its obligations under the Notes, or (B) realise, recover or remit the proceeds of any such transactions or asset(s);

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

**"Index Methodology"** means the manual or handbook in respect of an S&P Commodity Index published by the sponsor of the relevant Commodity Index and in effect from time to time;

**"Price Source"** means the publication (or such other origin of reference, including an Exchange) containing (or reporting) the Specified Price (or prices from which the Specified Price is calculated) specified as such in the applicable Pricing Supplement;

**"Pricing Date"** means, subject as provided in this Condition 11 (*Provisions relating to Commodity-Linked Notes*) each date specified as such (or determined pursuant to a method specified for such purpose) in the applicable Pricing Supplement;

**"Relevant Commodity Benchmark"** means:

- (a) the Commodity Reference Price (or, if applicable, the index, benchmark or other price source that is referred to in the Commodity Reference Price);
- (b) the Commodity Index; and
- (c) any other index, benchmark or price source specified as such in the applicable Pricing Supplement.

To the extent that a Fallback Reference Price is used, such Fallback Reference Price shall be a "Relevant Benchmark" from the day on which it is used;

**"Relevant Price"** on any day means in respect of a unit of measure of the Commodity to which a Commodity-Linked Note relates, the price, expressed as a price per unit, determined by the Determination Agent as provided in the applicable Pricing Supplement with respect to such day for the applicable Commodity Reference Price;

**"S&P Commodity Index"** means the S&P GSCI Commodity Index and any other Commodity Index, in each case which is calculated and sponsored by Standard & Poor's, or any successor to such sponsor; and



**"Specified Price"** means any of the following prices of a Commodity or Commodities or levels of a Commodity Index (which must be a price reported or capable of being determined from information reported in or by the relevant Price Source), as specified in the applicable Pricing Supplement (and, if applicable, as of the time so specified) (a) the high price (b) the low price (c) the average of the high price and the low price (d) the closing price (e) the opening price (f) the bid price (g) the asked price (h) the average of the bid price and the asked price (i) the settlement price (j) the official settlement price (which shall be the Specified Price for any Commodity Index, and for any Commodity specified in the applicable Pricing Supplement as a **"Non Metal"**) (k) the official price (l) the morning fixing (m) the afternoon fixing (which shall be the Specified Price in respect of any Commodity specified in the applicable Pricing Supplement as a **"Precious Metal"**) (n) the spot price or (o) any other price specified in the applicable Pricing Supplement. The Specified Price for any Commodity specified in the applicable Pricing Supplement as a "Precious Metal" shall be the official cash bid price.

## 12. PROVISIONS RELATING TO CURRENCY-LINKED NOTES

This Condition 12 (*Provisions relating to Currency-Linked Notes*) is applicable in respect of any Series of Notes (**"Currency-Linked Notes"**) where **"Currency-Linked Interest Note Provisions"** and/or **"Currency-Linked Redemption Provisions"** are specified in the applicable Pricing Supplement as being applicable.

### 12.1 *Valuation Date:*

**"Valuation Date"** means, in respect of any Series of Currency-Linked Notes, the date(s) specified as such or otherwise determined as provided in the applicable Pricing Supplement provided that where the Valuation Date is not a Currency Business Day then the Valuation Date shall be the first preceding day that is a Currency Business Day, unless otherwise specified in the applicable Pricing Supplement. Unless otherwise specified in the applicable Pricing Supplement and subject to Condition 12.2 (*Averaging*), the Valuation Date will be the date falling two Currency Business Days prior to the Maturity Date.

### 12.2 *Averaging:*

If Averaging Dates are specified in the applicable Pricing Supplement, then notwithstanding any other provisions of these Conditions, the following provisions will apply to the determination of the Settlement Rate in relation to a Valuation Date:

- (a) **"Averaging Date"** means, in respect of a Valuation Date, each date specified as such or otherwise determined as provided in the applicable Pricing Supplement, provided that if any such date is not a Currency Business Day, such date shall be the first preceding day that is a Currency Business Day, unless otherwise specified in the applicable Pricing Supplement.
- (b) For purposes of determining the Settlement Rate in relation to a Valuation Date, the Settlement Rate will be the arithmetic mean of the Spot Rates on each Averaging Date (or, if different, the day on which rates for each Averaging Date would, in the ordinary course, be published or announced by the relevant price source).
- (c) Unless otherwise specified in the applicable Pricing Supplement, in the case where it becomes impossible to obtain the Spot Rate on an Averaging Date (or, if different, the day on which rates for that Averaging Date would, in the ordinary course, be published or announced by the relevant price source), such Averaging Date will be deemed not to be a relevant Averaging Date for purposes of determining the relevant Settlement Rate. If through the operation of this Condition 12.2(c), there would not be an Averaging Date with respect to the relevant Valuation Date, the provisions of Condition 12.4 (*Currency Disruption Fallbacks*) shall apply for purposes of determining the relevant Spot Rate on the final Averaging Date with respect to that Valuation Date as if such Averaging Date were a Valuation Date on which a Price Source Disruption had occurred.

### 12.3 *Currency Disruption Events:*

- (a) If so specified in the Pricing Supplement relating to any Series of Notes, the following shall constitute **"Currency Disruption Events"** for the purposes of such Series:

- (i) **"Price Source Disruption"**, which means it becomes impossible, as determined by the Determination Agent, acting in a commercially reasonable manner, to determine the Settlement Rate on the Valuation Date (or, if different, the day on which rates for that Valuation Date would, in the ordinary course, be published or announced by the relevant price source);
  - (ii) **"Additional Price Source Disruption"**, which means in relation to the calculation of the Settlement Rate on the Valuation Date:
    - (A) the relevant exchange rate is not displayed on the Reference Source or any successor page for such Valuation Date;
    - (B) such Valuation Date is an Unscheduled Holiday; or
    - (C) the Determination Agent determines in good faith that the exchange rate so displayed on the Reference Source is manifestly incorrect;
  - (iii) **"Price Materiality Event"**, which means the Primary Rate differs from the Secondary Rate by at least the Price Materiality Percentage; and
  - (iv) any other (if any) currency disruption event specified in the applicable Pricing Supplement.
- (b) If the applicable Pricing Supplement specifies that any Currency Disruption Event shall be applicable to such Series, then, where the Determination Agent determines, acting in a commercially reasonable manner, that such Currency Disruption Event occurs or has occurred and is continuing in respect of such Series:
- (i) in the case of Price Source Disruption, on the day that is the Valuation Date in respect of such Series (or, if different, the day on which rates for that Valuation Date would, in the ordinary course, be published or announced by the relevant price source); and
  - (ii) in the case of any other Currency Disruption Event, on such day as may be specified for this purpose in the applicable Pricing Supplement,
- then the Settlement Rate for such Series will be determined in accordance with the terms of the Currency Disruption Fallback first applicable pursuant to Condition 12.4 (*Currency Disruption Fallbacks*), which shall be subject to Condition 12.3(c) below.
- (c) (i) If the Series of Notes is a single Currency-Linked Note, the provisions of Conditions 12.3(a) and (b) shall apply.
  - (ii) If the Series of Notes is a Currency Basket-Linked Note, and the Determination Agent determines that a Currency Disruption Event has occurred on any Valuation Date or Relevant Date in respect of any Settlement Rate (which for the purposes of this Condition 12.3 (*Currency Disruption Events*) and Condition 12.4 (*Currency Disruption Fallbacks*) shall mean the Settlement Rate in respect of each Currency Pair), then:
    - (A) for each Settlement Rate for which the Determination Agent determines that a Currency Disruption Event has not occurred, the Settlement Rate shall be determined in accordance with the Conditions; and
    - (B) for each Settlement Rate for which the Determination Agent determines that a Currency Disruption Event has occurred, the Determination Agent shall determine the Settlement Rate in accordance with the applicable Currency Disruption Fallback in accordance with Condition 12.4 (*Currency Disruption Fallbacks*) and the applicable Pricing Supplement.

12.4 *Currency Disruption Fallbacks:*

- (a) If so specified in the Pricing Supplement relating to any Series of Notes, the following shall constitute "**Currency Disruption Fallbacks**" for the purposes of such Series, and the applicable Pricing Supplement shall specify which Currency Disruption Fallback(s) shall apply to such Series, to which Currency Disruption Event each such Currency Disruption Fallback shall apply and, where more than one Currency Disruption Fallback may apply to a Currency Disruption Event, the order in which such Currency Disruption Fallback(s) shall apply to such Currency Disruption Event.
  - (i) "**Determination Agent Determination of Settlement Rate**" means that the Determination Agent will determine, in its sole and absolute discretion, the Settlement Rate (or a method for determining the Settlement Rate), taking into consideration all available information that it deems relevant including (but not limited to), in the case of Currency Basket-Linked Notes, the relevant rate for each unaffected Currency Pair which was determined on the relevant Valuation Date;
  - (ii) "**Fallback Reference Price**" means that the Determination Agent will determine, in its sole and absolute discretion, the Settlement Rate for such Series on the relevant Valuation Date (or, if different, the day on which rates for that Valuation Date would, in the ordinary course, be published or announced) pursuant to Currency Reference Dealers, or pursuant to such other methodology or price sources as may be specified as the Fallback Reference Price in the applicable Pricing Supplement; and
  - (iii) any other provisions specified as Currency Disruption Fallbacks in the applicable Pricing Supplement.
- (b) Where more than one Currency Disruption Event occurs or exists or is deemed to occur or exist, then, unless the applicable Pricing Supplement has specified which Currency Disruption Fallback shall apply in such circumstances, the Determination Agent shall determine, in its sole and absolute discretion, which Currency Disruption Fallback shall apply.

12.5 *Administrator/Benchmark Events:*

- (a) If the Benchmark Trigger Provisions are specified in the applicable Pricing Supplement as being applicable and an Administrator/Benchmark Event and an Administrator/Benchmark Event Date occur:
  - (i) the Currency Disruption Fallbacks specified in the applicable Pricing Supplement to apply with respect to Administrator/Benchmark Event will apply, or if none are specified, the Currency Disruption Fallbacks specified in the applicable Pricing Supplement to apply shall be deemed to apply in accordance with Condition 12.4 (*Currency Disruption Fallbacks*) provided that if the Relevant FX Benchmark is not the Settlement Rate then references to the "Settlement Rate" in the applicable Currency Disruption Fallbacks and related definitions and provisions of these Conditions shall be deemed to be references to the Relevant FX Benchmark;
  - (ii) if it (A) is or would be unlawful at any time under any applicable law or regulation or (B) would contravene any applicable licensing requirements, for the Issuer or the Determination Agent to perform the actions prescribed in an applicable Currency Disruption Fallback (or it would be unlawful or would contravene those licensing requirements were a determination to be made at such time), the next applicable Currency Disruption Fallback will apply; and
  - (iii) if the Issuer determines that the last applicable Currency Disruption Fallback does not provide a Settlement Rate (including due to the applicability of Condition 12.5(a)(ii) above in relation to the last applicable Currency Disruption Fallback), then the Issuer shall give not less than five Business Days' notice to redeem the Notes and the Issuer's obligations under the Notes shall be satisfied in full upon payment in respect of each Note of an amount equal to the fair market value of such Note, on such day as is selected by the Determination Agent in its sole and absolute discretion (provided that such day is not more

than 15 days before the date fixed for redemption of the Note), less the proportion attributable to that Note of the reasonable cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related hedging arrangements, all as calculated by the Determination Agent in its sole and absolute discretion.

- (b) The Determination Agent shall as soon as reasonably practicable under the circumstances notify the Issuer, the Fiscal Agent and the Noteholders of the occurrence of an Administrator/Benchmark Event Date and of any action taken as a consequence, provided that any failure to give such notice shall not affect the validity of the foregoing.

#### 12.6 *Change to a Relevant FX Benchmark:*

If the definition, methodology or formula for a Relevant FX Benchmark, or other means of calculating the Relevant FX Benchmark, is changed (irrespective of the materiality of any such change or changes), then, unless otherwise specified in the applicable Pricing Supplement, references to that Relevant FX Benchmark shall be to the Relevant FX Benchmark as changed.

#### 12.7 *Additional Disruption Events:*

- (a) Following the occurrence of an Additional Disruption Event, the Issuer will, in its sole and absolute discretion, determine whether or not the relevant Notes shall continue or be redeemed early.
- (b) If the Issuer determines that the relevant Notes shall continue, the Determination Agent may make such adjustment as the Determination Agent, in its sole and absolute discretion, considers appropriate, if any, to any variable relevant to the redemption, settlement, or payment terms of the relevant Notes and/or any other adjustment which change or adjustment shall be effective on such date as the Determination Agent shall determine.
- (c) If the Issuer determines that the relevant Notes shall be redeemed early, then the Issuer shall give not less than five Business Days' notice to redeem the Notes and the Issuer's obligations under the Notes shall be satisfied in full upon payment in respect of each Note of an amount equal to the fair market value of such Note, on such day as is selected by the Determination Agent in its sole and absolute discretion (provided that such day is not more than 15 days before the date fixed for redemption of the Note), less the proportion attributable to that Note of the reasonable cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related hedging arrangements, all as calculated by the Determination Agent in its sole and absolute discretion.
- (d) The Issuer shall as soon as reasonably practicable under the circumstances notify the Fiscal Agent and the Determination Agent of the occurrence of an Additional Disruption Event.
- (e) For the purposes hereof:

**"Additional Disruption Event"** means, if specified as applicable in the applicable Pricing Supplement, with respect to any Series of Notes, a Change in Law, Hedging Disruption, Increased Cost of Hedging, and any further event or events as may be specified in the applicable Pricing Supplement.

#### 12.8 *Definitions applicable to Currency-Linked Notes:*

In relation to Currency-Linked Notes, the following expressions have the meanings set out below:

**"Change in Law"** means that, on or after the Trade Date (A) due to the adoption of or any change in any applicable law or regulation (including, without limitation, any tax law), or (B) due to the promulgation of or any change in the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law or regulation (including any action taken by a taxing authority), the Issuer determines that (x) it has become illegal to hold, acquire or dispose of Hedge Positions or (y) it will incur a materially increased cost in performing its obligations with respect to the Notes (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on its tax position);

**"Currency Business Day"** means, unless otherwise specified in the applicable Pricing Supplement, for the purposes of:

- (a) the definition of Valuation Date in Condition 12.1 (*Valuation Date*), in respect of any Series of Currency-Linked Notes: (1) a day on which commercial banks are (or but for the occurrence of a Currency Disruption Event, would have been) open for business (including dealings in foreign exchange in accordance with the market practice of the foreign exchange market) in the Principal Financial Centre(s) of the Reference Currency or (2) where the currency to be valued is euro, a day that is a TARGET Settlement Day and a Business Day; and
- (b) for any other purpose, in respect of any Series of Currency-Linked Notes: (1) a day on which commercial banks are open for general business (including dealings in foreign exchange in accordance with the market practice of the foreign exchange market) in the Principal Financial Centre(s) of the Reference Currency and (2) where one of the Currency Pair is euro, a day that is a TARGET Settlement Day;

**"Currency Pair"** means the Reference Currency and the Settlement Currency;

**"Currency Reference Dealers"** means that the Settlement Rate or the Spot Rate for a Rate Calculation Date will be determined on the basis of quotations provided by Reference Dealers on that Rate Calculation Date of that day's Specified Rate, expressed as the amount of Reference Currency per one unit of Settlement Currency for settlement on the Maturity Date (or other relevant date for payment under the Notes). The Determination Agent will request each of the Reference Dealers to provide a firm quotation of its Specified Rate for a transaction where the amount of Reference Currency equals the Specified Amount. If four quotations are provided, the rate for a Rate Calculation Date will be the arithmetic mean of the Specified Rates, without regard to the Specified Rates having the highest and lowest value. If exactly three quotations are provided, the rate for a Rate Calculation Date will be the Specified Rate provided by the Reference Dealer that remains after disregarding the Specified Rates having the highest and lowest values. For this purpose, if more than one quotation has the same highest value or lowest value, then the Specified Rate of one of such quotations shall be disregarded. If exactly two quotations are provided, the rate for a Rate Calculation Date will be the arithmetic mean of the Specified Rates. If only one quotation is provided, the rate for a Rate Calculation Date will be the Specified Rate quoted by that Reference Dealer. The quotations used to determine the Spot Rate for a Rate Calculation Date will be determined in each case at the Specified Time on that Rate Calculation Date or, if no such time is specified, the time chosen by the Determination Agent;

**"Hedge Positions"** means any purchase, sale, entry into or maintenance of one or more (i) positions or contracts in securities, commodities, options, futures, derivatives or foreign exchange, (ii) stock loan transactions or (iii) other instruments or arrangements (howsoever described) by a party in order to hedge, individually or on a portfolio basis, the Notes;

**"Hedging Disruption"** means that the Issuer is unable, after using commercially reasonable efforts, to (A) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the risk of entering into and performing its obligations under the Notes, or (B) realise, recover or remit the proceeds of any such transactions or asset(s);

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

**"Price Materiality Percentage"** means the percentage specified as such in the applicable Pricing Supplement;

**"Primary Rate"** means the rate specified as such in the applicable Pricing Supplement;

**"Rate Calculation Date"** means any Valuation Date or Averaging Date (as defined in Conditions 12.1 (*Valuation Date*) and 12.2 (*Averaging*), respectively);

**"Reference Currency"** means the currency or currencies specified as such in the applicable Pricing Supplement;

**"Reference Dealers"** means the reference dealers specified as such in the applicable Pricing Supplement;

**"Reference Source"** has the meaning specified as such in the applicable Pricing Supplement;

**"Relevant FX Benchmark"** means, in respect of any Notes:

- (a) the Settlement Rate;
- (b) the Primary Rate and the Secondary Rate; and
- (c) any other index, benchmark, rate or price source which is referenced in the Notes and which is a measure constituting an index (or combination of indices) under any law or regulation applicable to the Notes and identified as a "Relevant FX Benchmark" in the applicable Pricing Supplement.

To the extent that a Fallback Reference Price is used, it shall be a "Relevant FX Benchmark" from the day on which it is used.

**"Secondary Rate"** means the rate specified as such in the applicable Pricing Supplement;

**"Settlement Currency"** means the currency specified as such in the applicable Pricing Supplement;

**"Settlement Rate"** means the rate as determined by the Determination Agent, in its sole and absolute discretion, in accordance with the applicable Pricing Supplement and, where applicable shall be determined in accordance with Condition 12.2 (*Averaging*);

**"Specified Amount"** means the amount of Reference Currency specified as such in the applicable Pricing Supplement;

**"Specified Rate"** means any of the following rates, as specified in the applicable Pricing Supplement: (i) the Reference Currency bid exchange rate, (ii) the Reference Currency offer exchange rate, (iii) the average of the Reference Currency bid and offer exchange rates, (iv) the Settlement Currency bid exchange rate, (v) the Settlement Currency offer exchange rate, (vi) the average of the Settlement Currency bid and offer exchange rates, (vii) the official fixing rate or (viii) any other exchange rate specified in the applicable Pricing Supplement. If no such rate is specified, the Specified Rate will be deemed to be the average of the Reference Currency bid and offer rate;

**"Specified Time"** means, in respect of any series of Notes and the determination of the Spot Rate, the time specified as such in the applicable Pricing Supplement or if no such time is specified the time chosen by the Determination Agent;

**"Spot Rate"** means for any Valuation Date, the relevant currency exchange rate, expressed as the amount of Reference Currency per one unit of Settlement Currency, determined as the currency exchange rate at the time at which such rate is to be determined for foreign exchange transactions in the Currency Pair for value on the Maturity Date (or other relevant date for payment under the Notes), as determined in good faith and in a commercially reasonable manner by the Determination Agent; and

**"Unscheduled Holiday"** means that a day is not a Currency Business Day and that the market was not aware of such fact (by means of a public announcement or by reference to other publicly available information) until a time later than 9:00 a.m. local time in the Principal Financial Centre(s) of the Reference Currency two Currency Business Days prior to such day.

### 13. PROVISIONS RELATING TO INFLATION-LINKED NOTES

This Condition 13 (*Provisions relating to Inflation-Linked Notes*) is applicable in respect of any Series of Notes ("**Inflation-Linked Notes**") where "Inflation-Linked Interest Note Provisions" and/or "Inflation-Linked Redemption Provisions" are specified in the applicable Pricing Supplement as being applicable.

13.1 *Delay of Publication:*

If any level of an Index for a Reference Month which is relevant to the calculation of a payment under the Notes (a "**Relevant Level**") has not been published or announced by the day that is five Business Days prior to the next Specified Interest Payment Date under the Notes or other relevant payment date as may be specified in the applicable Pricing Supplement in relation to the Notes, the Determination Agent shall determine a Substitute Index Level (in place of such Relevant Level) in a commercially reasonable manner in its sole discretion. If a Relevant Level is published or announced at any time after the day that is five Business Days prior to the next Specified Interest Payment Date or other relevant payment date as may be specified in the applicable Pricing Supplement, such Relevant Level will not be used in any calculations. The Substitute Index Level so determined pursuant to this Condition 13.1 (*Delay of Publication*), will be the definitive level for that Reference Month.

13.2 *Cessation of Publication:*

If a level for the Index has not been published or announced for two consecutive months or the Index Sponsor announces that it will no longer continue to publish or announce the Index then the Determination Agent shall determine a Successor Index (in lieu of any previously applicable Index) for the purposes of the Notes by using the following methodology:

- (a) If at any time a Successor Index has been designated by the calculation agent of the Related Bond pursuant to the terms and conditions of the Related Bond, such Successor Index shall be designated a "Successor Index" for the purposes of all subsequent Specified Interest Payment Dates or other relevant payment date as may be specified in the applicable Pricing Supplement in relation to the Notes, notwithstanding that any other Successor Index may previously have been determined under Conditions 13.2(b), 13.2(c) or 13.2(d) below; or
- (b) If a Successor Index has not been determined under Condition 13.2(a) above and a notice has been given or an announcement has been made by the Index Sponsor, specifying that the Index will be superseded by a replacement index specified by the Index Sponsor, and the Determination Agent determines that such replacement index is calculated using the same or substantially similar formula or method of calculation as used in the calculation of the previously applicable Index, such replacement index shall be the Index for purposes of the Notes from the date that such replacement index comes into effect; or
- (c) If a Successor Index has not been determined under Condition 13.2(a) or 13.2(b) above, the Determination Agent shall ask five leading independent dealers to state what the replacement Index for the Index should be. If between four and five responses are received, and of those four or five responses, three or more leading independent dealers state the same Index, this Index will be deemed the "**Successor Index**". If three responses are received, and two or more leading independent dealers state the same Index, this Index will be deemed the "Successor Index". If fewer than three responses are received, the Determination Agent will proceed to Condition 13.2(d) below;
- (d) If no Successor Inflation Index has been determined under Condition 13.2(a), 13.2(b) or 13.2(c) (*Cessation of Publication*) by the fifth Business Day prior to the next Affected Payment Date, the Determination Agent will determine an appropriate alternative index for such Affected Payment Date, and such index will be deemed a "Successor Inflation Index"; or
- (e) If the Determination Agent determines that there is no appropriate alternative index, the Issuer shall give not less than five Business Days' notice to redeem the Notes and the Issuer's obligations under the Notes shall be satisfied in full upon payment in respect of each Note of an amount equal to the fair market value of such Note, on such day as is selected by the Determination Agent in its sole and absolute discretion (provided that such day is not more than 15 days before the date fixed for redemption of the Note), less the proportion attributable to that Note of the reasonable cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related hedging arrangements, all as calculated by the Determination Agent in its sole and absolute discretion.

The Issuer's obligations under the relevant Notes shall be satisfied in full upon payment of such amount.

13.3 *Rebasing of the Index:*

If the Determination Agent determines that an Index has been or will be rebased at any time, the Index as so rebased (the "**Rebased Index**") will be used for purposes of determining the level of such Index from the date of such rebasing; provided, however, that the Determination Agent shall make such adjustments as are made by the calculation agent of the Related Bond pursuant to the terms and conditions of the Related Bond, if any, to the levels of the Rebased Index so that the Rebased Index levels reflect the same rate of inflation as the Index before it was rebased. If there is no Related Bond, the Determination Agent shall make adjustments to the levels of the Rebased Index so that the Rebased Index levels reflect the same rate of inflation as the Index before it was rebased. Any such rebasing shall not affect any prior payments made under the Notes.

13.4 *Material Modification Prior to Payment Date:*

If, on or prior to the day that is five Business Days before a Specified Interest Payment Date under the Notes or other relevant payment date as may be specified in the applicable Pricing Supplement in relation to the Notes, an Index Sponsor announces that it will make a material change to an Index then the Determination Agent shall make any such adjustments to the Index consistent with adjustments made to the Related Bond, or, if there is no Related Bond, only those adjustments necessary for the modified Index to continue as the Index.

13.5 *Manifest Error in Publication:*

If, within thirty days of publication and prior to the redemption of the Notes or payments in respect of any relevant Specified Interest Payment Date or other relevant payment date as may be specified in the applicable Pricing Supplement in relation to the Notes, the Determination Agent determines that the Index Sponsor has corrected the level of the Index to remedy a manifest error in its original publication, the Determination Agent will notify the holders of the Notes in accordance with Condition 32 (*Notices*) of (i) that correction, (ii) the adjusted amount that is then payable under the Notes as a result of that correction and (iii) take such other action as it may deem necessary to give effect to such correction, provided that any amount payable pursuant to (ii) above shall be paid (with no interest accruing thereon) (a) in connection with an Index Sponsor's correction to remedy a manifest error in the level of an Index for a Reference Month for which the Specified Interest Payment Date or other relevant payment date as may be specified in the applicable Pricing Supplement in relation to the Notes has occurred, within five Business Days after notice of such amount payable by the Determination Agent, (b) in connection with an Index Sponsor's correction to remedy a manifest error in the level of an Index for a Reference Month for which the Specified Interest Payment Date or other relevant payment date as may be specified in the applicable Pricing Supplement in relation to the Notes has not occurred, as an adjustment to the payment obligation on the next Specified Interest Payment Date or (c) if there is no further Specified Interest Payment Date or other relevant payment date as may be specified in the applicable Pricing Supplement in relation to the Notes, within five Business Days after notice of such amount payable by the Determination Agent.

13.6 *Additional Disruption Events:*

- (a) Following the occurrence of an Additional Disruption Event, the Issuer will, in its sole and absolute discretion, determine whether or not the relevant Notes shall continue or be redeemed early.
- (b) If the Issuer determines that the relevant Notes shall continue, the Determination Agent may make such adjustment as the Determination Agent, in its sole and absolute discretion, considers appropriate, if any, to any variable relevant to the redemption, settlement, or payment terms of the relevant Notes and/or any other adjustment which change or adjustment shall be effective on such date as the Determination Agent shall determine.
- (c) If the Issuer determines that the relevant Notes shall be redeemed early, then the Issuer shall give not less than five Business Days' notice to redeem the Notes and the Issuer's obligations under the Notes shall be satisfied in full upon payment in respect of each Note of an amount equal to the fair market value of such Note, on such day as is selected by the Determination Agent in its sole and absolute discretion (provided that such day is not more than 15 days before the date fixed for redemption of the Note), less the proportion attributable to that Note of the reasonable cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related hedging arrangements, all as calculated by the Determination Agent in its sole and absolute discretion.



(d) The Issuer shall as soon as reasonably practicable under the circumstances notify the Fiscal Agent and the Determination Agent of the occurrence of an Additional Disruption Event.

(e) For the purposes hereof:

**"Additional Disruption Event"** means, if specified as applicable in the applicable Pricing Supplement, with respect to any Series of Notes, a Change in Law, Hedging Disruption, Increased Cost of Hedging, and any further event or events as may be specified in the applicable Pricing Supplement.

### 13.7 *Definitions Applicable to Inflation-Linked Notes:*

In relation to Inflation-Linked Notes, the following expressions have the meanings set out below:

**"Affected Payment Date"** means each Specified Interest Payment Date or other relevant payment date as may be specified in the applicable Pricing Supplement in relation to the Notes in respect of which an Index has not been published or announced;

**"Change in Law"** means that, on or after the Trade Date (A) due to the adoption of or any change in any applicable law or regulation (including, without limitation, any tax law), or (B) due to the promulgation of or any change in the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law or regulation (including any action taken by a taxing authority), the Issuer determines that (x) it has become illegal to hold, acquire or dispose of Hedge Positions or (y) it will incur a materially increased cost in performing its obligations with respect to the Notes (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on its tax position);

**"Fallback Bond"** means a bond selected by the Determination Agent and issued by the government of the country to whose level of inflation the Index relates and which pays a coupon or redemption amount which is calculated by reference to the Index, with a maturity date which falls on (a) the same date as the Maturity Date, (b) the next longest maturity after the Maturity Date, or (c) the next shortest maturity before the Maturity Date if no bond defined in (a) and (b) is selected by the Determination Agent. If the Index relates to the level of inflation across the European Monetary Union, the Determination Agent will select an inflation-linked bond that is a debt obligation of one of the governments (but not any government agency) of France, Italy, Germany or Spain and which pays a coupon or redemption amount which is calculated by reference to the level of inflation in the European Monetary Union. In each case, the Determination Agent will select the Fallback Bond from those inflation-linked bonds issued on or before the Settlement Date and, if there is more than one inflation-linked bond maturing on the same date, the Fallback Bond shall be selected by the Determination Agent from those bonds. If the Fallback Bond redeems the Determination Agent will select a new Fallback Bond on the same basis, but selected from all eligible bonds in issue at the time the original Fallback Bond redeems (including any bond for which the redeemed bond is exchanged);

**"Hedge Positions"** means any purchase, sale, entry into or maintenance of one or more (i) positions or contracts in securities, commodities, options, futures, derivatives or foreign exchange, (ii) stock loan transactions or (iii) other instruments or arrangements (howsoever described) by a party in order to hedge, individually or on a portfolio basis, the Notes;

**"Hedging Disruption"** means that the Issuer is unable, after using commercially reasonable efforts, to (A) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the risk of entering into and performing its obligations under the Notes, or (B) realise, recover or remit the proceeds of any such transactions or asset(s);

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

**"Index"** means any index specified as such in the applicable Pricing Supplement;

**"Index Sponsor"** means, in respect of an Index, the entity specified as such in the applicable Pricing Supplement or, if no entity is specified, the entity that publishes or announces (directly or through an agent) the level of the relevant Index;

**"Reference Month"** means the calendar month for which the level of the relevant Index was reported, regardless of when this information is published or announced. If the period for which the Index level was reported is a period other than a month, the Reference Month will be the period for which the Index level was reported;

**"Related Bond"** means the bond specified in the applicable Pricing Supplement, or if no bond is so specified, the Fallback Bond. If the Related Bond is "Fallback Bond", then for any Related Bond determination under these Conditions, the Determination Agent shall use the Fallback Bond (as that is defined in this Condition 13.7 (*Definitions applicable to Inflation-Linked Notes*)). If no bond is specified in the applicable Pricing Supplement as the Related Bond and "Fallback Bond: Not Applicable" is specified in the applicable Pricing Supplement there will be no Related Bond. If a bond is selected as the Related Bond in the applicable Pricing Supplement, and that bond redeems or matures before the relevant Maturity Date, unless "Fallback Bond: Not Applicable" is specified in the applicable Pricing Supplement, the Determination Agent shall use the Fallback Bond for any Related Bond determination;

**"Substitute Index Level"** means an Index level, determined by the Determination Agent pursuant to the provisions of Condition 13.1 (*Delay of Publication*), in respect of an Affected Payment Date; and

**"Successor Index"** has the meaning specified in Condition 13.2 (*Cessation of Publication*).

#### 14. CREDIT-LINKED NOTES

In respect of any Notes for which the Credit-Linked Interest Note Provisions and/or Credit-Linked Redemption Provisions are specified as applicable in the applicable Pricing Supplement, the Conditions shall be supplemented and modified by the terms and conditions set out in the applicable Pricing Supplement.

#### 15. PROVISIONS RELATING TO PROPERTY-LINKED NOTES

This Condition 15 (*Provisions relating to Property-Linked Notes*) is applicable in respect of any Series of Notes ("**Property-Linked Notes**") where "Property-Linked Interest Note Provisions" and/or "Property-Linked Redemption Provisions" are specified in the applicable Pricing Supplement as being applicable.

##### 15.1 *Rebasing of the Property Index:*

If the Determination Agent determines that an Index has been or will be Rebased at any time (the Property Index as so Rebased, the "**Rebased Property Index**"), the Rebased Property Index will be used for the purposes of determining the level of the Property Index from the date of such Rebasing, provided however, that the Determination Agent shall adjust the terms of the Notes so that the use of the Rebased Property Index reflects what would have been the performance of the Index had the Rebasing not occurred save that any such Rebasing shall not affect any prior payments under the Notes.

##### 15.2 *Error in Publication:*

If the Determination Agent determines that an Error in Publication has occurred with respect to the Property Index, the Determination Agent may (a) use the corrected level of the Property Index to make any relevant calculations and/or (b) make any necessary adjustments to the relevant Property Index Level and such other terms of the Notes as it in its sole and absolute discretion determines to be appropriate to account for such Error in Publication.

For these purposes:

An "**Error in Publication**" will occur if the Property Index Sponsor announces that an error has occurred with respect to the Property Index Level as published on any Publication Date; the Property Index Level for such Publication Date is corrected to remedy such error; and the correction is published by the Index Sponsor at any time prior to the next following Scheduled Publication Date or if earlier any relevant determination

date. An Error in Publication will not include a routine revision in the level of the Index in a regularly scheduled republication of the Index.

15.3 *Determination Agent Unable to Perform Actions:*

If it (a) is or would be unlawful at any time under any applicable law or regulation or (b) would contravene any applicable licensing requirements, for the Determination Agent to perform the actions prescribed in Condition 15.2 (*Error in Publication*), then the Issuer shall give not less than five Business Days' notice to redeem the Notes and the Issuer's obligations under the Notes shall be satisfied in full upon payment in respect of each Note of an amount equal to the fair market value of such Note, on such day as is selected by the Determination Agent in its sole and absolute discretion (provided that such day is not more than 15 days before the date fixed for redemption of the Note), less the proportion attributable to that Note of the reasonable cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related hedging arrangements, all as calculated by the Determination Agent in its sole and absolute discretion.

15.4 *Notification of Inability to Perform Actions:*

The Determination Agent shall as soon as reasonably practicable under the circumstances notify the Issuer, the Fiscal Agent and the Noteholders of the occurrence of the event described in Condition 15.3 (*Determination Agent Unable to Perform Actions*) and of any action taken as a consequence, provided that any failure to give such notice shall not affect the validity of the foregoing.

15.5 *Property Index Cancellation or Administrator/Benchmark Event Date:*

If, for a Property Index and with respect to a Property Index Level, on or prior to the Maturity Date or any early redemption date of the Property-Linked Notes, either (a) the Property Index Sponsor permanently cancels the Property Index and no Replacement Property Index exists (a "**Property Index Cancellation**") or (b) the applicable Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and an Administrator/Benchmark Event and an Administrator/Benchmark Event Date occurs in respect of such Property Index, then:

- (i) If the applicable Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and if an Alternative Pre-nominated Index has been specified in relation to such Property Index in the applicable Pricing Supplement, then:
  - (A) the Determination Agent shall attempt to determine an Adjustment Payment;
  - (B) if the Determination Agent determines an Adjustment Payment,
    - (1) it shall notify the Issuer of the Adjustment Payment and if the Adjustment Payment is an amount that the Noteholder would (but for Condition 15.5(i)(B)(3)(b)) be required to pay to the Issuer in respect of each Note, request the Issuer to notify the Determination Agent whether it intends to redeem the Notes pursuant to Condition 15.8 (*Property Index Adjustment Event*). If the Issuer does not intend to redeem the Notes pursuant to Condition 15.8 (*Property Index Adjustment Event*) then the following provisions of this Condition 15.5(i) shall apply;
    - (2) the terms of the Notes shall be amended so that references to the Property Index are replaced by references to the Alternative Pre-nominated Index;
    - (3) the Conditions shall be adjusted to implement the Adjustment Payment as follows:
      - (a) if the Adjustment Payment is an amount that the Issuer is required to pay in respect of each Note, the Determination Agent shall adjust the Conditions to provide for the payment of the Adjustment Payment on the immediately succeeding Interest Payment Date or if there is no such immediately succeeding Interest Payment Date, on the Maturity Date or other date when the Notes are redeemed in full; or

- (b) if the Adjustment Payment is an amount that the Noteholder would (but for this Condition 15.5(i)(B)(3)(b)) be required to pay to the Issuer in respect of each Note, the Determination Agent shall adjust the Conditions to provide for the reduction of the amounts due by the Issuer until the aggregate amount of such reductions is equal to the Adjustment Payment, (subject, in the determination of the Determination Agent, to any minimum redemption amount of the Notes which the Determination Agent determines is required pursuant to any applicable law or regulation (including, without limitation, any tax law) and the rules of each listing authority, stock exchange and/or quotation system by which the Notes have then been admitted to listing, trading and/or quotation);
  - (4) the Determination Agent shall make such other adjustments to the Conditions as it determines necessary or appropriate in order to account for the effect of the replacement of the Property Index with the Alternative Pre-nominated Index and/or to preserve as nearly as practicable the economic equivalence of the Notes before and after the replacement of the Property Index with the Alternative Pre-nominated Index; and
  - (5) the Determination Agent shall notify the Issuer, the Fiscal Agent and the Noteholders of any replacement of the Property Index by the Alternative Pre-nominated Index, the Adjustment Payment and any other adjustments to the Conditions, giving summary details of the adjustment(s), provided that any failure to give such notice shall not affect the validity of the foregoing.
- (C) If the Determination Agent is unable to determine an Adjustment Payment, then a Property Index Disruption Event shall be deemed to have occurred and Condition 15.8 (*Property Index Adjustment Event*) shall apply.
- (ii) If the applicable Pricing Supplement does not specify that the Benchmark Trigger Provisions are applicable or, if the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable but does not specify an Alternative Pre-nominated Index in relation to the Relevant Property Index Benchmark, then a Property Index Disruption Event shall be deemed to have occurred and Condition 15.8 (*Property Index Adjustment Event*) shall apply.

#### 15.6 *Delay in Publication:*

If the Property Index Level has not been announced by the Scheduled Publication Date or if earlier any relevant determination date, the following will apply:

- (a) if the Property Index Sponsor publishes a provisional Property Index Level prior to the next Scheduled Publication Date or if earlier any relevant determination date, such provisional level of the Property Index for that Measurement Period shall apply for the purposes of the Notes; or
- (b) if the Property Index Sponsor fails to publish the Property Index Level prior to the next occurring Scheduled Publication Date or if earlier any relevant determination date, in circumstances other than those described in Condition 15.5 (*Property Index Cancellation or Administrator/Benchmark Event Date*), a Property Index Disruption Event shall be deemed to have occurred and Condition 15.8 (*Property Index Adjustment Event*) shall apply.

#### 15.7 *Methodology Adjustment:*

If the Property Index Sponsor announces that it has changed the methodology in calculating a Property Index and:

- (a) continues publication of a property index based on the original methodology (the "**Replacement Property Index**"), such Replacement Property Index shall apply in lieu of the original Property Index in relation to the Notes; or

- (b) discontinues publication of the Property Index based on the original Computational Methodology, a Property Index Disruption Event shall be deemed to have occurred and the procedure set out in Condition 15.8 (*Property Index Disruption Event*) shall apply.

15.8 *Property Index Adjustment Event:*

If:

- (a) a Property Index Cancellation occurs and the Pricing Supplement does not specify that the Benchmark Trigger Provisions are applicable;
- (b) a Property Index Cancellation or an Administrator/Benchmark Event Date occurs in respect of a Property Index, the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable but does not specify an Alternative Pre-nominated Index;
- (c) a Property Index Cancellation or an Administrator/Benchmark Event Date occurs in respect of a Property Index, the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and specifies an Alternative Pre-nominated Index but the Determination Agent is unable to determine the Adjustment Payment;
- (d) a Property Index Cancellation or an Administrator/Benchmark Event Date occurs in respect of a Property Index, the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and specifies an Alternative Pre-nominated Index and the Determination Agent determines that the Adjustment Payment would be an amount that the Noteholder would (but for Condition 15.5(i)(B)(3)(b)) be required to pay to the Issuer in respect of each Note; or
- (e) a Property Index Disruption Event occurs,

then the Issuer shall, in its sole and absolute discretion, determine whether or not the relevant Notes shall continue or be redeemed early. If the Issuer determines that the relevant Notes shall continue, the Determination Agent may make such adjustment as the Determination Agent, in its sole and absolute discretion, considers appropriate, to preserve the economic value of the Notes. If the Issuer determines that the Notes shall be redeemed early, then the Issuer shall give not less than five Business Days' notice to the holders (in accordance with Condition 32 (*Notices*)) to redeem each Note at an amount equal to the fair market value of such Note, on such day as is selected by the Determination Agent in its sole and absolute discretion (provided that such day is not more than 15 days before the date fixed for redemption of the Note), less the proportion attributable to that Note of the reasonable cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related hedging arrangements, all as calculated by the Determination Agent in its sole and absolute discretion.

The Issuer's obligations under the Notes shall be satisfied in full upon payment of such amount.

If the Issuer determines that the relevant Notes shall continue, the Determination Agent may make such adjustment as the Determination Agent, in its sole and absolute discretion, considers appropriate, if any, to any variable relevant to the redemption, settlement or payment terms of the relevant Notes and/or any other adjustment, which change or adjustment shall be effective on such date as the Determination Agent shall determine. The Determination Agent shall provide notice to the Noteholders of any such change or adjustment, giving summary details of the relevant change or adjustment, as soon as reasonably practicable provided that any failure to give such notice shall not affect the validity of any such change or adjustment.

15.9 *Notification of Property Index Adjustment Event:*

The Determination Agent shall as soon as reasonably practicable under the circumstances notify the Issuer, the Fiscal Agent and the Noteholders of the occurrence of a Property Index Adjustment Event and of any action taken as a consequence, provided that any failure to give such notice shall not affect the validity of the foregoing.

15.10 *Additional Disruption Events:*

- (a) Following the occurrence of an Additional Disruption Event, the Issuer will, in its sole and absolute discretion, determine whether or not the relevant Notes shall continue or be redeemed early.
- (b) If the Issuer determines that the relevant Notes shall continue, the Determination Agent may make such adjustment as the Determination Agent, in its sole and absolute discretion, considers appropriate, if any, to any variable relevant to the redemption, settlement, or payment terms of the relevant Notes and/or any other adjustment which change or adjustment shall be effective on such date as the Determination Agent shall determine.
- (c) If the Issuer determines that the relevant Notes shall be redeemed early, then the Issuer shall give not less than five Business Days' notice to redeem the Notes and the Issuer's obligations under the Notes shall be satisfied in full upon payment in respect of each Note of an amount equal to the fair market value of such Note, on such day as is selected by the Determination Agent in its sole and absolute discretion (provided that such day is not more than 15 days before the date fixed for redemption of the Note), less the proportion attributable to that Note of the reasonable cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related hedging arrangements, all as calculated by the Determination Agent in its sole and absolute discretion.
- (d) The Issuer shall as soon as reasonably practicable under the circumstances notify the Fiscal Agent and the Determination Agent of the occurrence of an Additional Disruption Event.
- (e) For the purposes hereof:  
  
**"Additional Disruption Event"** means, if specified as applicable in the applicable Pricing Supplement, with respect to any Series of Notes, a Change in Law, Hedging Disruption, Increased Cost of Hedging, and any further event or events as may be specified in the applicable Pricing Supplement.

#### 15.11 *Definitions Applicable to Property-Linked Notes:*

In relation to Property-Linked Notes, the following expressions have the meanings set out below:

**"Adjustment Payment"** means, in respect of any Note, the payment (if any) determined by the Determination Agent as is required in order to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value to or from the Issuer as a result of the replacement of the Property Index by the Alternative Pre-nominated Index;

**"Change in Law"** means that, on or after the Trade Date (A) due to the adoption of or any change in any applicable law or regulation (including, without limitation, any tax law), or (B) due to the promulgation of or any change in the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law or regulation (including any action taken by a taxing authority), the Issuer determines that (x) it has become illegal to hold, acquire or dispose of Hedge Positions or (y) it will incur a materially increased cost in performing its obligations with respect to the Notes (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on its tax position);

**"Data Pool"** means the pool of properties underlying a Property Index;

**"Hedge Positions"** means any purchase, sale, entry into or maintenance of one or more (i) positions or contracts in securities, commodities, options, futures, derivatives or foreign exchange, (ii) stock loan transactions or (iii) other instruments or arrangements (howsoever described) by a party in order to hedge, individually or on a portfolio basis, the Notes;

**"Hedging Disruption"** means that the Issuer is unable, after using commercially reasonable efforts, to (A) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the risk of entering into and performing its obligations under the Notes, or (B) realise, recover or remit the proceeds of any such transactions or asset(s);

**"Increased Cost of Hedging"** means that the Issuer would incur a materially increased (as compared with circumstances existing on the Trade Date) amount of tax, duty, expense or fee (other than brokerage commissions) to (A) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any

transaction(s) or asset(s) it deems necessary to hedge the risk of entering into and performing its obligations with respect to the Notes or (B) realise, recover or remit the proceeds of any such transaction(s) or asset(s) provided that any such materially increased amount that is incurred solely due to the deterioration of the creditworthiness of the Issuer shall not be deemed an Increased Cost of Hedging;

**"Property Index"** means any index specified as such in the applicable Pricing Supplement;

**"Property Index Adjustment Event"** means, in respect of a Property Index, any of the events listed in Condition 15.8 (*Property Index Adjustment Event*);

**"Property Index Disruption Event"** means, in respect of a Property Index, either of the events described in Condition 15.6(b) (*Delay in Publication*) or Condition 15.7(b) (*Methodology Adjustment*);

**"Property Index Level"** means the final level of the relevant Property Index for a specified period or a specified date (as set out in the Pricing Supplement), as published by the Property Index Sponsor (or otherwise determined as set out in the applicable Pricing Supplement);

**"Publication Date"** means, in respect of an Index, each date on which such Property Index is published by the Property Index Sponsor;

**"Rebasing"** means the revaluation of a Property Index by the Property Index Sponsor by the application of a new Reference Price, without amendment to the formula for or the method of calculating the Index, and **"Rebased"** will be construed accordingly;

**"Reference Price"** means the historic value of the Data Pool used by the Property Index Sponsor as the benchmark for a Property Index;

**"Relevant Property Index Benchmark"** means the Property Index; and

**"Scheduled Publication Date"** means the date on which the Property Index Level is scheduled to be published.

## 16. PROVISIONS RELATING TO FUND-LINKED NOTES

This Condition 16 (*Provisions relating to Fund-Linked Notes*) is applicable in respect of any Series of Notes (**"Fund-Linked Notes"**) where "Fund-Linked Interest Note Provisions" and/or "Fund-Linked Redemption Provisions" are specified in the applicable Pricing Supplement as being applicable.

### 16.1 *Reference Dates, Averaging Dates and Market Disruption:*

- (a) If a Reference Date is not a Fund Business Day, the relevant Reference Date shall be the next succeeding Fund Business Day or, if either "Common Fund Business Days and Common Disrupted Days" or "Common Fund Business Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement, the next succeeding Common Fund Business Day.
- (b) The Determination Agent shall as soon as reasonably practicable under the circumstances notify the Issuer of the occurrence of a Disrupted Day on any day that, but for the occurrence or continuance of a Disrupted Day, would have been a Reference Date.
- (c) If any Reference Date is a Disrupted Day, then:
  - (i) in the case of Single Fund Notes, the relevant Reference Date shall be the next succeeding Fund Business Day that is not in the determination of the Determination Agent a Disrupted Day, unless no Fund Business Day that is not a Disrupted Day has occurred prior to the last Fund Business Day of one Cut-off Period following the Scheduled Reference Date. In that case, (i) the last Fund Business Day of such Cut-off Period shall be deemed to be the Reference Date, notwithstanding the fact that such Fund Business Day is a Disrupted Day, and (ii) the Determination Agent shall determine its good faith estimate of the value for the Fund Interest as of the Valuation Time on that deemed Reference Date; or

(ii) in the case of Fund Basket Notes:

- (A) where "Individual Fund Business Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement, if the Determination Agent determines that any Scheduled Reference Date is a Disrupted Day in respect of any Basket Component, then:
  - (1) the Reference Date for each Basket Component in respect of which the Scheduled Reference Date is not a Disrupted Day shall be the Scheduled Reference Date for such Basket Component; and
  - (2) the Reference Date for any Basket Component in respect of which the Scheduled Reference Date is a Disrupted Day (each an "**Affected Basket Component**") shall be the first Fund Business Day following the relevant Scheduled Reference Date that is not a Disrupted Day in respect of such Affected Basket Component, unless no Fund Business Day that is not a Disrupted Day has occurred prior to the last Fund Business Day of one Cut-off Period following the Scheduled Reference Date. In that case, (i) the last Fund Business Day of such Cut-off Period shall be deemed to be the Reference Date, notwithstanding the fact that such Fund Business Day is a Disrupted Day, and (ii) the Determination Agent shall determine its good faith estimate of the value for that Affected Basket Component as of the Valuation Time on that deemed Reference Date;
- (B) where "Common Fund Business Days and Common Disrupted Days" is specified to be applicable in the applicable Pricing Supplement, then if the Determination Agent determines that any Scheduled Reference Date is a Disrupted Day in respect of any Basket Component, the Reference Date for each Basket Component shall be the first Common Fund Business Day following the relevant Scheduled Reference Date that is not a Disrupted Day in respect of any Basket Component, unless no Common Fund Business Day that is not a Disrupted Day has occurred prior to the last Fund Business Day of one Cut-off Period following the Scheduled Reference Date. In that case, (i) the last Fund Business Day of such Cut-off Period shall be deemed to be the Reference Date, notwithstanding the fact that such Fund Business Day is a Disrupted Day, and (ii) the Determination Agent shall determine its good faith estimate of the value for each Basket Component as of the Valuation Time on that deemed Reference Date;
- (C) where "Common Fund Business Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement, if the Determination Agent determines that any Scheduled Reference Date is a Disrupted Day in respect of any Basket Component, then:
  - (1) the Reference Date for each Basket Component in respect of which the Scheduled Reference Date is not a Disrupted Day shall be the Scheduled Reference Date for such Basket Component; and
  - (2) the Reference Date for each Basket Component in respect of which the Scheduled Reference Date is a Disrupted Day (each an "**Affected Basket Component**") shall be the first Fund Business Day following the relevant Scheduled Reference Date that is not a Disrupted Day in respect of such Affected Basket Component, unless no Fund Business Day for such Basket Component that is not a Disrupted Day has occurred prior to the last Fund Business Day of one Cut-off Period following the Scheduled Reference Date. In that case, (i) the last Fund Business Day of such Cut-off Period shall be deemed to be the Reference Date, notwithstanding the fact that such Fund Business Day is a Disrupted Day, and (ii) the Determination Agent shall determine its good faith estimate of the value for that Affected Basket Component as of the Valuation Time on that deemed Reference Date;

In addition, the Determination Agent will account for such occurrence or continuance of a Disrupted Day as it sees fit which may include but is not limited to delaying calculation and payment of the



Final Redemption Amount and/or any other amounts payable under the Notes, and no interest or other amount shall be payable to Noteholders in respect of any such delay, or making the appropriate adjustment to the calculation of the Final Redemption Amount and/or any such other amounts, all in the determination of the Determination Agent.

- (d) If Averaging Dates are specified in the applicable Pricing Supplement with respect to a Reference Date then, notwithstanding any other provisions of the Conditions, the following provisions will apply to the valuation of the relevant Fund Interest or Basket of Fund Interests in relation to the relevant Reference Date:
  - (i) If, in respect of Single Fund Notes, any Averaging Date in respect of a Reference Date is a Disrupted Day, then the Averaging Date shall be the first succeeding Valid Date. If the first succeeding Valid Date has not occurred prior to one Cut-off Period following the original date that, but for the occurrence of another Averaging Date or Disrupted Day, would have been the final Averaging Date in respect of the relevant Scheduled Reference Date, then (1) the last day of such Cut-off Period shall be deemed the Averaging Date (irrespective of whether such day is already an Averaging Date), and (2) the Determination Agent shall determine its good faith estimate of the value for the Fund Interest as of the Valuation Time on that deemed Averaging Date; and
  - (ii) If, in the case of Fund Basket Notes, a Scheduled Averaging Date in respect of a Reference Date is determined by the Determination Agent to be a Disrupted Day in respect of any Basket Component, then:
    - (A) where "Individual Fund Business Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement:
      - (1) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is not a Disrupted Day shall be the Scheduled Averaging Date; and
      - (2) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is a Disrupted Day (each such Basket Component, an "**Affected Basket Component**") shall be the first succeeding Valid Date in relation to such Affected Basket Component. If the first succeeding Valid Date has not occurred prior to one Cut-off Period following the original date that, but for the occurrence of another Averaging Date or Disrupted Day, would have been the final Averaging Date in respect of the relevant Scheduled Reference Date, then (1) the last day of such Cut-off Period shall be deemed the Averaging Date (irrespective of whether such day is already an Averaging Date notwithstanding the fact that such day may not be a Valid Date), and (2) the Determination Agent shall determine its good faith estimate of the value for that Affected Basket Component as of the Valuation Time on that deemed Averaging Date;
    - (B) where "Common Fund Business Days and Common Disrupted Days" is specified to be applicable in the applicable Pricing Supplement, then the Averaging Date for each Basket Component shall be the first succeeding Common Valid Date. If the first succeeding Common Valid Date has not occurred prior to one Cut-off Period following the original date that, but for the occurrence of another Averaging Date or Disrupted Day, would have been the final Averaging Date in respect of the relevant Scheduled Reference Date, then (1) the last day of such Cut-off Period shall be deemed the Averaging Date (irrespective of whether such day is already an Averaging Date and notwithstanding the fact that such day may not be a Common Valid Date), and (2) the Determination Agent shall determine its good faith estimate of the value for each Basket Component as of the Valuation Time on that deemed Averaging Date;
    - (C) where "Common Fund Business Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement:

- (1) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is not a Disrupted Day shall be the Scheduled Averaging Date; and
- (2) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is a Disrupted Day (each such Basket Component, an "**Affected Basket Component**") shall be the first succeeding Valid Date in relation to such Affected Basket Component. If the first succeeding Valid Date has not occurred prior to one Cut-off Period following the original date that, but for the occurrence of another Averaging Date or Disrupted Day, would have been the final Averaging Date in respect of the relevant Scheduled Reference Date, then (1) the last day of such Cut-off Period shall be deemed the Averaging Date (irrespective of whether such day is already an Averaging Date and notwithstanding the fact that such day may not be a Valid Date), and (2) the Determination Agent shall determine its good faith estimate of the value for that Affected Basket Component as of the Valuation Time on that deemed Averaging Date.

In addition, the Determination Agent will account for such occurrence or continuance of a Disrupted Day as it sees fit which may include but is not limited to delaying calculation and payment of the Final Redemption Amount and/or any other amounts payable under the Notes, and no interest or other amount shall be payable to Noteholders in respect of any such delay, or making the appropriate adjustment to the calculation of the Final Redemption Amount and/or any such other amounts, all in the determination of the Determination Agent.

#### 16.2 *Postponement of Settlement:*

- (a) Unless otherwise specified in the applicable Pricing Supplement, if the Determination Agent determines on the date which is not later than 3 Business Days prior to any date on which the Final Redemption Amount or any other amounts would otherwise be due to be paid (each a "**Scheduled Settlement Date**") that a Settlement Postponement Event has occurred, then the Determination Agent shall make such adjustment to account for such Settlement Postponement Event and such adjustment shall include the postponement of the obligation of the Issuer to pay the Final Redemption Amount or any such other amounts, as applicable, until the Postponed Settlement Date and no interest or other amount shall be payable to Noteholders in respect of such postponement.
- (b) If the Postponed Settlement Date is the Postponed Settlement Long Stop Date, for the purposes of determining the Final Redemption Amount or any other relevant amounts, as applicable, whether determined by reference to the Reference Price or otherwise, each Fund Interest Unit will be deemed to have a value equal to the redemption proceeds (if any) that a Hypothetical Investor which had submitted a Final Redemption Notice in respect of such Fund Interest Unit would have received in respect of such redemption on or before the Postponed Settlement Long Stop Date (in the case of Single Fund Notes) or each Long Stop Date Fund Interest Unit (if any) comprising the Basket of Funds will be deemed to have a value equal to the redemption proceeds (if any) that a Hypothetical Investor which had submitted a Final Redemption Notice in respect of such Long Stop Date Fund Interest Unit would have received in respect of such redemption on or before the Postponed Settlement Long Stop Date.
- (c) For the purposes hereof:
  - (i) a "**Settlement Postponement Event**" shall be deemed to occur if, as determined by the Determination Agent, a Hypothetical Investor which had submitted a Final Redemption Notice in respect of the Fund Interest Units (in the case of a Single Fund Note) or each Fund Interest Unit comprised in the Basket of Funds (in the case of a Fund Basket Note) would not have received in full the redemption proceeds in respect of such redemptions on or before the date which is 4 Business Days prior to the Scheduled Settlement Date;
  - (ii) the "**Postponed Settlement Date**" means, unless otherwise specified in the applicable Pricing Supplement, the earlier of (x) the date which is 3 Business Days after the date on which, as determined by the Determination Agent, such Hypothetical Investor would have

received such redemption proceeds in full and (y) the Postponed Settlement Long Stop Date;

- (iii) the "**Postponed Settlement Long Stop Date**" means, unless otherwise specified in the applicable Pricing Supplement, the date which is 3 months after the Scheduled Settlement Date;
- (iv) "**Long Stop Date Fund Interest Unit**" means, in relation to a Basket of Funds, any Fund Interest Unit in respect of which, if a Hypothetical Investor had submitted a Final Redemption Notice in respect of such Fund Interest Unit, such Hypothetical Investor would not have received in full the redemption proceeds in respect of such redemption on or before the Postponed Settlement Long Stop Date; and
- (v) a "**Final Redemption Notice**" means, in respect of a Fund Interest Unit, a valid redemption notice submitted on the last date permitted pursuant to the Fund Documents of the related Fund for a redemption notice that would be timely for redemption prior to the Scheduled Settlement Date.

#### 16.3 *Potential Adjustment Events:*

Following the declaration by any Fund or Fund Service Provider of the terms of any Potential Adjustment Event, the Determination Agent will determine whether such Potential Adjustment Event has a diluting or concentrative effect on the theoretical value of the relevant Fund Interest Units or amount of Fund Interest and, if so, will (i) make the corresponding adjustment(s), if any, to any one or more of the Redemption Amount and/or any such other amounts payable under the Notes, the Reference Price, any Relevant Fund Interest Unit Price and, in any case, any other variable relevant to the calculation, valuation, payment or other terms of Notes as the Determination Agent determines appropriate to account for that diluting or concentrative effect (provided that no adjustments will be made to account solely for changes in volatility, expected dividends or liquidity relative to the relevant Fund Interest) and (ii) determine the effective date(s) of the adjustment(s).

#### 16.4 *Corrections and Adjustment:*

With the exception of any Adjustments (as defined below) made after the day which is 5 Business Days (or such other period specified for this purpose in the applicable Pricing Supplement) prior to a due date for any payment under the Notes calculated by reference to the price or level of any Fund Interest Unit, if the Determination Agent determines that a Fund adjusts the Redemption Proceeds that would have been paid to a Hypothetical Investor redeeming the number of Fund Interest Units that are subject to valuation and such adjustment would be reflected in either an additional payment to such Hypothetical Investor or a claim for repayment of excess Redemption Proceeds made against such Hypothetical Investor (each an "**Adjustment**"), then the price or level to be used shall be the price or level of the relevant Fund Interest Units as so adjusted.

#### 16.5 *Fund Events:*

- (a) If at any time the Determination Agent determines that a Fund Event has occurred and/or is continuing then the Determination Agent shall provide written notice thereof to the Issuer (a "**Fund Event Notice**"). The Determination Agent shall not have any obligation to monitor the occurrence of a Fund Event nor shall it have any obligation to make a determination that a Fund Event has occurred or is continuing.
- (b) The Issuer will, in its sole and absolute discretion, determine whether the relevant Notes shall continue or shall be redeemed early and the mechanics for determining and calculating the valuation of any Affected Fund Interest and any payments under the Notes shall be suspended, subject to Condition 16.5(c) and Condition 16.5(d) below.
- (c) If the Issuer determines that the relevant Notes shall continue then, the Issuer may direct the Determination Agent:
  - (i) to substitute any Affected Fund Interest with the Successor Fund Interest relating to such Affected Fund Interest, provided that if no Successor Fund Interest has been identified in

the manner set forth below within 10 Business Days of the Fund Event Notice, then Condition 16.5(c)(ii) below shall apply; or

- (ii) to make such adjustment to account for such Fund Event as it considers appropriate which may include, without limitation, delaying the calculation and payment of the Redemption Amount and/or any such other amounts payable under the Notes, and no interest or other amount shall be payable to Noteholders in respect of any such delay, or making an adjustment to the calculation of the Redemption Amount and/or any such other amounts due under the Notes, all in the determination of the Determination Agent.
- (iii) For the purposes of this Condition 16.5(c):
  - (A) **"Successor Fund Interest"** means, in respect of any Affected Fund Interest, the related Eligible Fund Interest or, if the applicable Pricing Supplement do not specify any Eligible Fund Interest relating to such Affected Fund Interest, then the Determination Agent will use commercially reasonable efforts to identify a Successor Fund Interest based on the eligibility criteria specified in the applicable Pricing Supplement or, if the applicable Pricing Supplement do not specify any such eligibility criteria, with characteristics, investment objectives and policies similar to those in effect for the Affected Fund Interest immediately prior to the occurrence of the relevant Fund Event; and
  - (B) any substitution of the Successor Fund Interest for the Affected Fund Interest shall be effected at such time and in such manner as specified in the applicable Pricing Supplement or, if the time and manner for substitution of the Successor Fund Interest is not specified in the applicable Pricing Supplement, then the Affected Fund Interest shall be replaced by a number of Fund Interest Units of the Successor Fund Interest with a combined value (as determined by the Determination Agent) equal to the relevant Removal Value of the applicable number of Fund Interest Units of the Affected Fund Interest. Such replacement shall be effected, from time to time whenever the Removal Value changes, on the date, as determined by the Determination Agent, on which the Fund issuing the Successor Fund Interest would admit a Hypothetical Investor who, on the Fund Business Day next following the date on which any Removal Value not previously applied toward any Successor Fund Interest would be received by such Hypothetical Investor redeeming out of the relevant amount of Affected Fund Interest, had submitted a valid order to purchase such amount of the Successor Fund Interest; and
  - (C) if necessary, the Determination Agent will adjust any relevant terms, including, but not limited to adjustments to account for changes in volatility, investment strategy or liquidity relevant to such Fund Interests or the Notes.
- (d) If the Issuer determines that the relevant Notes shall be redeemed early, then the Issuer shall redeem each Note at its Fund-Linked Early Redemption Amount on such date as the Issuer may notify to Noteholders in accordance with Condition 32 (*Notices*).

#### 16.6 *Notice of Fund Event:*

Notice of the consequences of a Fund Event shall be given to the Noteholders in accordance with Condition 32 (*Notices*). Such notice shall (i) identify the Affected Fund Interest (if applicable) and the relevant Fund Event and contain a summary of the facts constituting such event, (ii) if applicable, identify the Successor Fund Interest and specify the effective date of such substitution, (iii) if applicable, specify adjustments made or expected to be made by the Determination Agent and (iv) if applicable, specify the date on which the Notes are to be redeemed.

#### 16.7 *Definitions applicable to Fund-Linked Notes:*

In relation to Fund-Linked Notes, the following expressions shall have the meanings set out below:

**"Additional Fund Service Provider"** means, in respect of any Fund, any person or entity (if any) specified as such in the applicable Pricing Supplement;

**"Affected Fund Interest"** means, at any time, any Fund Interest in respect of which the Determination Agent has determined that a Fund Event has occurred;

**"Affiliate"** means, in relation to any person, any entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person (for such purposes, "control" of any entity or person means ownership of a majority of the voting power of the entity or person);

**"Aggregate NAV Trigger Period"** means the period (if any) specified as such in the applicable Pricing Supplement;

**"Aggregate NAV Trigger Value"** means the value (if any) specified as such in the applicable Pricing Supplement;

**"Averaging Date"** means, in respect of each Reference Date, either:

- (a) in the case of a Single Fund Note; or (b) a Fund Basket Note, where the applicable Pricing Supplement provides that "Individual Fund Business Days and Individual Disrupted Days" shall be applicable, each date specified as such in the applicable Pricing Supplement, or, if such date is not a Fund Business Day, the next following Fund Business Day for such Fund or Basket Component (as the case may be); or
- (b) in the case of a Fund Basket Note, where the applicable Pricing Supplement provides that "Common Fund Business Days and Common Disrupted Days" or "Common Fund Business Days and Individual Disrupted Days" shall be applicable, each date specified as such in the applicable Pricing Supplement, or if any such date is not a Common Fund Business Day, the next following Common Fund Business Day for such Basket of Funds,

provided that if any such day is a Disrupted Day, the Averaging Date shall be determined in accordance with the provisions of Condition 16.1 (*Reference Dates, Averaging Dates and Market Disruption*);

**"Basket Component"** means, in relation to a particular Series of Fund Basket Notes, each Fund Interest comprised in the relevant Basket of Funds;

**"Basket of Funds"** means a basket composed of such Fund Interests in such Funds specified in the applicable Pricing Supplement in the relative proportions or number of Fund Interest Units of each Fund Interest specified in the applicable Pricing Supplement, subject to the provisions of Condition 16.5 (*Fund Events*);

**"Common Fund Business Day"** means, in respect of a Fund Basket Note, each day which is a Fund Business Day for all the Basket Components;

**"Common Valid Date"** means, in respect of a Fund Basket Note, a Fund Business Day that is not a Disrupted Day for any Basket Component and on which another Averaging Date in respect of the relevant Reference Date does not or is deemed not to occur;

**"Company"** means, in respect of a Fund Interest and the related Fund, the entity (if any) specified as such in the applicable Pricing Supplement (if any);

**"Cut-off Period"** means, in respect of any date, the period specified in the applicable Pricing Supplement, or if no such period is specified, a period of one calendar year; provided that if a **"Final Cut-off Date"** is specified in the applicable Pricing Supplement, then any Cut-off Period that would otherwise end after such Final Cut-off Date shall end on such Final Cut-off Date;

**"Determination Date"** means, in relation to any determination, each date specified as such in the applicable Pricing Supplement, provided that if any such date is (i) not a Fund Business Day and/or (ii) a Disrupted Day, the relevant Determination Date shall be determined in accordance with the provisions of Condition 16.1 (*Reference Dates, Averaging Dates and Market Disruption*);

**"Disrupted Day"** means any day on which a Market Disruption Event has occurred or is continuing;

**"Eligible Fund Interest"** means, in respect of any Affected Fund Interest, the interest issued to or held by an investor in a fund, pooled investment vehicle or any other interest (if any) specified as such in the applicable Pricing Supplement;

**"Extraordinary Dividend"** means an amount per relevant Fund Interest Unit or other amount of Fund Interest specified or otherwise determined as provided in the applicable Pricing Supplement provided that if no Extraordinary Dividend is specified in or otherwise determined as provided in the applicable Pricing Supplement, the characterisation of a dividend or portion thereof as an Extraordinary Dividend shall be determined by the Determination Agent;

**"Final Cut-off Date"** means the date specified as such in the applicable Pricing Supplement;

**"Final Valuation Date"** means, if there is more than one Valuation Date, the last Valuation Date or, if there is only one Valuation Date, the Valuation Date;

**"Final Valuation Time"** means, if there are more than one Valuation Date, the Valuation Time in relation to the last Valuation Date or, if there is only one Valuation Date, the Valuation Time;

**"Fund"** means, in respect of any Fund Interest, unless otherwise specified in the applicable Pricing Supplement, the issuer of, or other legal arrangement (including, if applicable, any relevant class or series) giving rise to, the relevant Fund Interest;

**"Fund Administrator"** means, in respect of any Fund, any person specified as such in the applicable Pricing Supplement or, if no person is so specified, the fund administrator, manager, trustee or similar person with the primary administrative responsibilities to such Fund according to the Fund Documents;

**"Fund Adviser"** means, in respect of any Fund, any person specified as such in the applicable Pricing Supplement, or if no person is so specified, any person appointed in the role of discretionary investment manager or non-discretionary investment adviser (including a non-discretionary investment adviser to a discretionary investment manager or to another non-discretionary investment adviser) for such Fund;

**"Fund Business Day"** means, in respect of any Fund Interest and the related Fund, any day specified as such in the applicable Pricing Supplement or, if no day is so specified, any day on which the Fund or the primary Fund Administrator acting on behalf of the Fund is open for business;

**"Fund Custodian"** means, in respect of any Fund, any person specified as such in the applicable Pricing Supplement or, if no person is so specified, the fund custodian or similar person with the primary custodial responsibilities in relation to such Fund according to the Fund Documents;

**"Fund Documents"** means, in respect of any Fund Interest, the constitutive and governing documents, subscription agreements and other agreements of the related Fund specifying the terms and conditions relating to such Fund Interest (including, without limitation, the Fund Prospectus) and any additional documents specified in the applicable Pricing Supplement (each an **"Additional Fund Document"**), in each case as amended from time to time;

**"Fund Event"** means, subject as otherwise provided in the applicable Pricing Supplement, the occurrence of any of the following events in the determination of the Determination Agent:

- (a) *Nationalisation*: in respect of a Fund Interest and the related Fund, all the Fund Interests or all or substantially all the assets of the Fund are nationalised, expropriated or are otherwise required to be transferred to any governmental agency, authority, entity or instrumentality thereof;
- (b) *Insolvency Event*: in respect of a Fund Interest and the related Fund (i) the Fund, the related Company and/or any Fund Service Provider (A) is dissolved or has a resolution passed for its dissolution, winding-up, official liquidation (other than pursuant to a consolidation, amalgamation or merger); (B) makes a general assignment or arrangement with or for the benefit of its creditors; (C)(1) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its

incorporation or organization or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official, or (2) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and such proceeding or petition is instituted or presented by a person or entity not described in (1) above and either (x) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (y) is not dismissed, discharged, stayed or restrained in each case within 15 days of the institution or presentation thereof; (D) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (E) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 15 days thereafter; or (F) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in (A) through (E) above; or (without prejudice to the foregoing) (ii) by reason of the voluntary or involuntary liquidation, bankruptcy, insolvency, dissolution or winding-up of or any analogous proceeding affecting a Fund, (A) all the Fund Interests of that Fund are required to be transferred to a trustee, liquidator or other similar official or (B) holders of the Fund Interests of that Fund become legally prohibited from transferring them;

- (c) *NAV Trigger/Restriction Event*: in respect of any Fund Interest, (A) the Reported Fund Interest Unit Value has decreased by a percentage equal to, or greater than, the NAV Trigger Percentage(s) during the related NAV Trigger Period, each as specified in the applicable Pricing Supplement; or (B) the related Fund has violated any leverage restriction that is applicable to, or affecting, such Fund or its assets by operation of any law, any order or judgment of any court or other agency of government applicable to it or any of its assets, the Fund Documents or any contractual restriction binding on or affecting the Fund or any of its assets;
- (d) *Aggregate NAV Trigger Event*: in the case of Fund Basket Notes, the aggregate of the Reported Fund Interest Unit Values for each Fund Interest comprising the Basket has decreased to an amount equal to, or less than, the Aggregate NAV Trigger Value during the related Aggregate NAV Trigger Period, each as specified in the applicable Pricing Supplement;
- (e) *Changes to Fund or Fund Service Providers*: in respect of any Fund Interest and the related Fund: (i) any change in the organisation of the Fund or of any Fund Service Provider without the prior written consent of the Determination Agent including, without limitation, a change of control of, or a change of the main shareholders, managing directors or Key Personnel (if any) of a Fund Service Provider, (ii) any Fund Service Provider ceasing to act in the relevant capacity in relation to the Fund unless immediately replaced in such capacity by a successor acceptable to the Determination Agent or (iii) any delegation or transfer by the Fund Adviser of any of its powers, duties or obligations under the Fund Documents to a third party without the prior written consent of the Determination Agent;
- (f) *Fund Modification*: in respect of any Fund Interest, any change or modification of the related Fund Documents or of any rights attaching to the related Fund Interest Units (including without limitation any change or modification affecting management policy, provisions as to redemption or the charging of expenses or increasing the existing level of, or introducing any new, fees, commissions or other expenses payable to any person, in each case as determined by the Determination Agent) from those prevailing on the Issue Date (in the case of Single Fund Notes) or the date on which any Fund Interest issued by such Fund was first included in the Basket of Funds (in the case of Fund Basket Notes) and which could reasonably be expected to affect the value of such Fund Interest;
- (g) *Strategy Breach*: in respect of any Fund Interest, as determined by the Determination Agent, any material breach of or non-compliance with any investment objective, investment restrictions or other strategy or investment guidelines, subscription and redemption provisions (including, without limitation, the days treated as Fund Business Days) or valuation provisions (including, without limitation, the method of determining the net asset value of the relevant Fund), in each case as set

out in the Fund Documents as in effect on the Issue Date or, if later, the date on which such Fund Interest was first included in the Basket of Funds (in the case of Fund Basket Notes);

- (h) *Breach by Fund Service Provider*: in respect of any Fund Interest, the breach by any relevant Fund Service Provider of any obligation (including, without limitation, non-compliance with any investment guidelines relating to such Fund Interest), representation or warranties concerning the relevant Fund (including, without limitation, pursuant to any agreement with the Fund), which breach, if capable of remedy, has not been remedied within ten (10) calendar days of its occurrence;
- (i) *General Regulatory Event*: (A) in respect of any Fund Interest, (1) any change in the legal, tax, accounting, or regulatory treatments of the relevant Fund or its Fund Adviser that is reasonably likely to have an adverse impact on the value of such Fund Interest or on any investor therein (as determined by the Determination Agent) or (2) the related Fund or any of its Fund Service Providers becoming subject to any investigation, proceeding or litigation by any relevant governmental, legal or regulatory authority involving the alleged violation of applicable law in relation to any activities relating to or resulting from the operation of such Fund or (B) any event which would have the effect of: (i) imposing on the Issuer and/or any Affiliate or adversely modifying any reserve, special deposit, or similar requirement that would be applicable to the Issuer and/or such Affiliate in relation to the Notes or any related hedging arrangement or (ii) changing the amount of regulatory capital that would have to be maintained by the Issuer and/or any Affiliate in relation to the Notes or any related hedging arrangement;
- (j) *Reporting Disruption*: in respect of any Fund Interest, (A) the occurrence of any event affecting such Fund Interest that, in the determination of the Determination Agent, would make it impossible or impracticable for the Determination Agent to determine the value of such Fund Interest, and such event continues for at least the time period specified in the applicable Pricing Supplement or, if no time period is so specified, the Determination Agent does not expect such event to cease in the foreseeable future; (B) any failure of the related Fund to deliver, or cause to be delivered, (1) information that such Fund has agreed to deliver, or cause to be delivered to the Determination Agent or the Issuer, as applicable, or (2) information that has been previously delivered to the Determination Agent or the Issuer, as applicable, in accordance with such Fund's, or its authorised representative's, normal practice and that the Determination Agent deems necessary for it or the Issuer, as applicable, to monitor such Fund's compliance with any investment guidelines, asset allocation methodologies or any other similar policies relating to such Fund Interest; or (C) the related Fund ceases, for any reason whatsoever (either directly or through any Fund Service Provider acting on its behalf for this purpose) to provide, publish or make available its net asset value on any Fund Reporting Date and this continues for 10 consecutive Business Days;
- (k) *Compulsory Redemption or Assignment*: in respect of any Fund Interest, (i) the repurchase or redemption by the Fund of all or some of the Fund Interest Units otherwise than at the request of a holder of Fund Interest Units and which the Determination Agent determines could affect a Hypothetical Investor; or (ii) any event or circumstance (whether or not in accordance with the constitutive documents and investment guidelines of the Fund) which would mandatorily oblige a holder of Fund Interest Units to redeem, sell, assign or otherwise dispose of any Fund Interest Units and which the Determination Agent determines could affect a Hypothetical Investor;
- (l) *Closure to Subscriptions: Dealing Restrictions*: in respect of any Fund Interest, (A) the closure of the related Fund to new subscriptions of Fund Interests, or (B) the imposition of any dealing restrictions (including, without limitation, material amendments to relevant documentation, delay (partial or otherwise), suspension or termination (partial or otherwise) of subscription, redemption or settlement) relating to the Fund or transactions in Fund Interests by any Fund Service Provider, any affiliate or agent of any Fund Service Provider, or any intermediary platform through which the Issuer or its affiliates may contract (via a trading agreement or otherwise) in order to carry out transactions in Fund Interests, which, in either case, remains in effect for five consecutive Business Days;
- (m) *Disposals: Material Change: Merger*: in respect of any Fund Interest, (A) a disposal to any person(s) of all, or a material part, of the assets of (x) the related Fund, or (y) any significant Fund Service Provider; or (B) a material change in the business of the Fund or any significant Fund Service Provider, or (C) the merger, amalgamation or consolidation of (1) the related Fund with (x) any other sub-fund or compartment of the Fund or (y) any other collective investment undertaking



(or sub-fund or compartment of such other collective investment undertaking, including another Fund), or (2) the relevant Company with any other collective investment undertaking (including, without limitation, another Fund or Company), which, in either case, may, in the determination of the Determination Agent, have an adverse effect on the Fund;

- (n) Hedging Disruption: any of the following:
- (i) the Determination Agent reasonably determines that the Issuer or any Affiliate (a "**Hedging Party**") is unable (including without limitation by reason of illegality), or that it is impracticable for a Hedging Party, after using commercially reasonable efforts, to (A) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) (each a "**Relevant Hedging Transaction**") such Hedging Party deems necessary or appropriate to hedge its exposure to price variations of the Fund Interest (in the case of Single Fund Notes) or the Basket of Funds (in the case of Fund Basket Notes) inherent in its obligations, in the case of the Issuer, under the Notes or, in the case of an Affiliate, under any transaction pursuant to which it hedges the Issuer's exposure to the Fund Interest (in the case of Single Fund Notes) or the Basket of Funds (in the case of Fund Basket Notes) under the Notes, or (B) realise, recover or remit to any person the proceeds of such transaction or asset; and/or
  - (ii) the Determination Agent reasonably determines that it has become illegal for any Hedging Party to hold, acquire or dispose of Fund Interests relating to the Notes; and/or
  - (iii) the Determination Agent reasonably determines that the Issuer would incur an increased cost in respect of the Relevant Hedging Transactions related to the performance of its obligation under the Notes (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on its tax position); and/or
  - (iv) the Determination Agent reasonably determines that any Hedging Party would incur a materially increased (as compared with circumstances existing on the Issue Date) amount of tax, duty, expense or fee (other than brokerage commissions) to (A) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any Relevant Hedging Transaction, or (B) realise, recover or remit the proceeds of any such Relevant Hedging Transaction; unless any such materially increased amount is incurred solely due to the deterioration of the creditworthiness of the Hedging Party,
- and such determinations by the Determination Agent may include, but are not limited to, the following: (A) any increased illiquidity in the market for the Fund Interest (in the case of Single Fund Notes) or the Basket of Funds (in the case of Fund Basket Notes) (as compared with circumstances existing on the Issue Date); or (B) a change in any applicable law (including, without limitation, any tax law) or the promulgation of, or change in, the interpretation of any court, tribunal or regulatory authority with competent jurisdiction of any applicable law (including any action taken by a taxing authority); or (C) the general unavailability of market participants who will so enter into a Relevant Hedging Transaction on commercially reasonable terms;
- (o) *Fraud*: in respect of any Fund Interest and the related Fund, the Fund is the object of a material fraud which may, in the determination of the Determination Agent, have an adverse effect on the Fund or the value of Fund Interest Units; or any act or omission of a Fund Service Provider constitutes fraud (including, but not limited to, theft, misappropriation, mispricing of holdings or concealment of trades), bad faith, wilful misconduct or negligence, as determined by the Determination Agent in its reasonable discretion;
- (p) *Special Regulatory Event*: in respect of any Fund Interest and the related Fund (i) the cancellation, suspension or revocation of the registration or approval of such Fund Interest or the related Fund by any governmental, legal or regulatory entity with authority over such Fund Interest or Fund or (ii) the withdrawal, suspension, cancellation or modification of any license, consent, permit, authorisation or clearance required for the Fund or any one or more of its significant Fund Service Providers to carry out their activities as they are or should be carried out in compliance with applicable law or regulation;

- (q) *Force Majeure Event*: in respect of any Fund Interest and the related Fund, any Fund Service Provider fails to perform any of its obligations pursuant to the Fund Documents to the extent that such performance is prevented, hindered or delayed by a Force Majeure Event, where "**Force Majeure Event**" means any event due to any cause beyond the reasonable control of the applicable Fund Service Provider, such as unavailability of communications system, failure of or interruptions in power supply or network computer systems, sabotage, fire, flood, explosion, acts of God, civil commotion, riots, insurrection or war;
- (r) *Value Limitation*: the value of any Fund Interest held by the Issuer and its Affiliates is greater than 10 per cent. of the aggregate net asset value of the relevant Fund (whether or not all of such holding results from hedging transactions entered into in connection with the Notes) and including, where the excess holding results from a reduction in the aggregate net asset value of the relevant Fund; or
- (s) Additional Fund Event: any other event(s) specified as Fund Events in the applicable Pricing Supplement;

"**Fund Event Notice**" has the meaning given to that term in Condition 16.5(a) (*Fund Events*);

"**Fund Interest**" means an interest issued to or held by an investor in a fund, pooled investment vehicle or any other interest identified as such in the applicable Pricing Supplement;

"**Fund Interest Performance**" means, in respect of any Fund Interest and any Reference Date or Averaging Date, a rate determined by the Determination Agent in accordance with the formula specified as such in the applicable Pricing Supplement;

"**Fund Interest Unit**" means, in respect of any Fund Interest and the related Fund, a share in such Fund or, if Fund Interests in such Fund are not denominated as shares, a notional unit of account of ownership in such Fund in the amount specified in the applicable Pricing Supplement;

"**Fund-Linked Early Redemption Amount**" means, in respect of any Note, an amount determined by the Determination Agent in the Specified Currency specified in the applicable Pricing Supplement, to be the fair market value of a Note based on the market conditions prevailing at the date of determination reduced to account fully for any reasonable expenses and costs of unwinding any underlying and/or related hedging and funding arrangements (including, without limitation, any Fund Interests, options, swaps or other instruments of any type whatsoever hedging the Issuer's obligations under the Notes);

"**Fund Prospectus**" means, in respect of any Fund Interest and the related Fund, the prospectus or other offering document issued by such Fund in connection with such Fund Interest, as amended or supplemented from time to time;

"**Fund Reporting Date**" means, in respect of any Fund Interest and any Fund Valuation Date, the date on which the Reported Fund Interest Unit Value of such Fund Interest as determined as of such Fund Valuation Date is reported or published;

"**Fund Service Provider**" means, in respect of any Fund, any person who is appointed to provide services, directly or indirectly, to that Fund, whether or not specified in the Fund Documents, including without limitation any Fund Adviser, Fund Administrator, Fund Custodian and Additional Fund Service Provider;

"**Fund Subscription Date**" means, in respect of any Fund Interest, the date specified as such in the applicable Pricing Supplement or, if no such date is specified, the day as of which a request by a Hypothetical Investor for subscription to such Fund Interest that has been submitted on the related Subscription Notice Date and in a form and substance acceptable to the related Fund would be considered effective by such Fund;

"**Fund Valuation Date**" means, in respect of any Fund Interest, the date as of which the related Fund (or its Fund Service Provider that generally determines such value) determines the value of such Fund Interest or, if the related Fund only reports its aggregate net asset value, the date as of which such Fund determines its aggregate net asset value;

"**Hedging Party**" has the meaning given in the definition of "Fund Event" above;

**"Hypothetical Investor"** means, unless otherwise specified in the applicable Pricing Supplement, in respect of any Fund Interest, a hypothetical investor in such Fund Interest located in the Hypothetical Investor Jurisdiction and deemed to have (a) the benefits and obligations, as provided under the Fund Documents, of an investor holding, as of the related Fund Subscription Date, an interest in the relevant Fund in an amount equal to the relevant number of relevant Fund Interest Units or amount of such Fund Interest; (b) in the case of any deemed redemption of such Fund Interest, to have submitted to the relevant Fund on the relevant Redemption Notice Date, a duly completed notice requesting redemption of the relevant number of Fund Interest Units; and (c) in the case of any deemed investment in such Fund Interest, to have submitted, on the Subscription Notice Date, a duly completed notice to the relevant Fund, requesting subscription to the relevant number of Fund Interest Units;

**"Hypothetical Investor Jurisdiction"** means the jurisdiction specified as such in the applicable Pricing Supplement or, if no jurisdiction is so specified, the jurisdiction of incorporation of the Issuer;

**"Market Disruption Event"** means any of the following events as determined by the Determination Agent:

- (a) in respect of any Fund Interest, the failure of a Scheduled Fund Valuation Date to be a Fund Valuation Date or any continued postponement of such Fund Valuation Date;
- (b) in respect of any Fund Interest, there is a failure by the Fund to pay the full amount (whether expressed as a percentage or otherwise) of the Redemption Proceeds with respect to the relevant number of Fund Interest Units or amount of such Fund Interest scheduled to have been paid on or by such day according to the Fund Documents (without giving effect to any gating, deferral, suspension or other provisions permitting the Reference Fund to delay or refuse redemption of such Fund Interests); or
- (c) the inability (including by reason of illegality) of, or the impracticability for, a Hedging Party to (i) unwind or dispose of any transaction it has entered into, or any asset it holds, in either case for the purpose of hedging its exposure to price variations of the Fund Interest (in the case of Single Fund Notes) or the Basket of Funds (in the case of Fund Basket Notes) inherent in its obligations, in the case of the Issuer, under the Notes or, in the case of an affiliate, under any transaction pursuant to which it hedges the Issuer's exposure to the Fund Interest (in the case of Single Fund Notes) or the Basket of Funds (in the case of the Fund Basket Notes) under the Notes, or (ii) realise, recover or remit to any person the proceeds of any such transaction or asset,

provided that if any event would otherwise be both a Market Disruption Event and Fund Event, such event shall be treated solely as a Fund Event;

**"NAV Trigger Percentage"** means the percentage (if any) specified as such in the applicable Pricing Supplement;

**"NAV Trigger Period"** means the period (if any) specified as such in the applicable Pricing Supplement;

**"Net Present Value"** means, in respect of an amount payable on a future date, the discounted value of such amount as calculated by the Determination Agent in its discretion taking into account the relevant interbank offered rate at the time of such calculation for one month deposits in the relevant currency or such other reference rate as the Determination Agent determines to be appropriate;

**"Number of Fund Interest Units"** means, in the case of Fund Basket Notes, at any time, in respect of the Fund Interest Units of each Fund comprised in the Basket of Funds at such time, the number of such Fund Interest Units per Basket of Funds specified or otherwise determined as provided in the applicable Pricing Supplement;

**"Observation Date"** means each date specified as such in the applicable Pricing Supplement, provided that if any such date is (i) not a Fund Business Day and/or (ii) a Disrupted Day, the relevant Observation Date shall be determined in accordance with the provisions of Condition 16.1 (*Reference Dates, Averaging Dates and Market Disruption*);

**"Potential Adjustment Event"** means, in respect of any Fund Interest, any of the following events in the determination of the Determination Agent:

- (a) a subdivision, consolidation or reclassification of the relevant amount of Fund Interest, or a free distribution or dividend of any such Fund Interest to existing holders by way of bonus, capitalisation or similar issue;
- (b) a distribution, issue or dividend to existing holders of the relevant Fund Interest of (A) an additional amount of such Fund Interest, or (B) other share capital or securities granting the right to payment of dividends and/or the proceeds of liquidation of the Fund equally or proportionately with such payments to holders of such Fund Interest, or (C) share capital or other securities of another issuer acquired or owned (directly or indirectly) by the Fund as a result of a spin-off or other similar transaction, or (D) any other type of securities, rights or warrants or other assets, in any case for payment (cash or other consideration) at less than the prevailing market price as determined by the Determination Agent;
- (c) an Extraordinary Dividend;
- (d) a repurchase by the Fund of relevant Fund Interests whether the consideration for such repurchase is cash, securities or otherwise, other than in respect of a redemption of Fund Interests initiated by an investor in such Fund Interests; or
- (e) any other event that may have a diluting or concentrative effect on the theoretical value of the relevant Fund Interests;

**"Redemption Notice Date"** means, in respect of any Fund Interest and any Reference Date or Averaging Date, the date specified as such in the applicable Pricing Supplement or, if no date is so specified, the last date on which a Hypothetical Investor in such Fund Interest would be permitted, pursuant to the Fund Documents of the related Fund, to submit a redemption notice that would be timely for a redemption as of the Scheduled Redemption Valuation Date for which the Scheduled Redemption Payment Date falls on or immediately prior to such Reference Date or Averaging Date;

**"Redemption Proceeds"** means, in respect of the relevant number of Fund Interest Units or amount of any Fund Interest, the redemption proceeds that in the determination of the Determination Agent would be paid by the related Fund to a Hypothetical Investor who, as of the relevant Redemption Valuation Date, redeems such number of Fund Interest Units or amount of Fund Interest (for the avoidance of doubt after deduction of any tax, levy, charge, assessment or fee of any nature that, in the determination of the Determination Agent, would (or would be very likely to) be withheld or deducted from such amount); provided that (a) any such proceeds that would be paid in property other than cash shall be deemed to have a value of zero and (b) if the Hypothetical Investor would be entitled to elect payment of such redemption proceeds to be made either in the form of cash or other property, then the Hypothetical Investor shall be deemed to have elected cash payment, except as otherwise specified in the applicable Pricing Supplement;

**"Redemption Valuation Date"** means, in respect of any Fund Interest and any Scheduled Redemption Valuation Date, the date as of which the related Fund (or its Fund Service Provider that generally determines such value) determines the net asset value of such Fund Interest for purposes of calculating the redemption proceeds to be paid to a Hypothetical Investor that has submitted a valid notice for redemption on or before the related Redemption Notice Date;

**"Reference Date"** means, for the purposes of Condition 16.1 (*Reference Dates, Averaging Dates and Market Disruption*), each Valuation Date, Observation Date, Strike Date or Determination Date (as applicable) specified in the applicable Pricing Supplement, or otherwise, any date construed to be a Reference Date in accordance with the Conditions;

**"Reference Price"** means:

- (a) in the case of Single Fund Notes, the price per Fund Interest Unit determined as provided in the applicable Pricing Supplement as of the Final Valuation Time on the final Reference Date or, if no means of determining such price are so provided, the Relevant Fund Interest Unit Price; and
- (b) in the case of Fund Basket Notes, the price per Basket of Funds determined as provided in the applicable Pricing Supplement as of the Final Valuation Time on the final Reference Date or, if no means of determining such price are so provided, the sum of the values calculated as of the Final

Valuation Time on the final Reference Date for each Fund Interest Unit comprising the Basket of Funds as the product of the Relevant Fund Interest Unit Price of such Fund Interest Unit and the relevant Number of Fund Interest Units comprised in the Basket of Funds,

provided that when calculating the Relevant Fund Interest Unit Price of any Fund Interest Unit for the purposes of determining the Reference Price, the Valuation Time and the Reference Date will be the Final Valuation Time and the final Reference Date, respectively;

**"Relevant Fund Interest Unit Price"** means, in respect of a Fund Interest and any Reference Date or Averaging Date, the price per related Fund Interest Unit determined by the Determination Agent as provided in the applicable Pricing Supplement as of the Valuation Time on the Reference Date or Averaging Date, as the case may be, or, if no means for determining the Relevant Fund Interest Unit Price are so provided, an amount equal to the Redemption Proceeds relating to such Fund Interest Unit that in the determination of the Determination Agent would be received by a Hypothetical Investor in such Fund Interest in respect of a redemption of Fund Interest Units targeted to be effected as of the Scheduled Redemption Valuation Date relating to such Reference Date or Averaging Date, as the case may be;

**"Removal Value"** means, in respect of any Affected Fund Interest, the value calculated by the Determination Agent in the same manner as would be used in determining the Relevant Fund Interest Unit Price of Fund Interest Units in the related Fund, but assuming a valid notice requesting redemption of Fund Interest Units in such Fund has been submitted to such Fund on the Fund Business Day next following delivery of the relevant Fund Event Notice;

**"Reported Fund Interest Unit Value"** means, in respect of any Fund Interest and a Fund Reporting Date relating to such Fund Interest, the value per Fund Interest Unit as of the related Fund Valuation Date or, if the related Fund reports only its aggregate net asset value, the portion of such Fund's aggregate net asset value relating to one Fund Interest Unit, in each case as reported on such Fund Reporting Date by the Fund Service Provider that generally reports such value on behalf of the Fund to its investors or a publishing service;

**"Scheduled Averaging Date"** means an original date (following any adjustment (if applicable) pursuant to paragraph (a) or (b) in the definition of "Averaging Date") that, but for such day being a Disrupted Day, would have been an Averaging Date;

**"Scheduled Fund Valuation Date"** means, in respect of any Fund Interest, the date as of which the related Fund (or its Fund Service Provider that generally determines such value) is scheduled, according to its Fund Documents (without giving effect to any gating, deferral, suspension or other provisions permitting the Reference Fund to delay or refuse redemption of Fund Interests), to determine the value of such Fund Interest or, if the related Fund only reports its aggregate net asset value, the date as of which such Fund determines its aggregate net asset value;

**"Scheduled Redemption Payment Date"** means, in respect of any Fund Interest and any Scheduled Redemption Valuation Date, the date specified as such in the applicable Pricing Supplement or, if not so specified, the date by which the related Fund is scheduled to have paid, according to its Fund Documents, all or a specified portion of the Redemption Proceeds to an investor that has submitted a timely and valid notice requesting redemption of such Fund Interest as of such Scheduled Redemption Valuation Date;

**"Scheduled Redemption Valuation Date"** means, in respect of any Fund Interest, the date as of which the related Fund (or its Fund Service Provider that generally determines such value) is scheduled, according to its Fund Documents (without giving effect to any gating, deferral, suspension or other provisions permitting the Fund to delay or refuse redemption of Fund Interests), to determine the net asset value of such Fund Interest for the purposes of calculating the redemption proceeds to be paid to an investor that has submitted a valid and timely notice for redemption of Fund Interests based on the value determined as of such date; the Scheduled Redemption Valuation Date relating to any Reference Date or Averaging Date, as the case may be, shall be the date specified as such in the applicable Pricing Supplement or, if no such date is specified, the Scheduled Redemption Valuation Date for which the Scheduled Redemption Payment Date falls on or immediately prior to such Reference Date or Averaging Date, as the case may be;

**"Scheduled Reference Date"** means, for the purposes of Condition 16.1 (*Reference Dates, Averaging Dates and Market Disruption*), any original date that, but for the occurrence of an event causing a Disrupted Day, would have been a Reference Date;

**"Strike Date"** means each date specified as such in the applicable Pricing Supplement, provided that if any such date is (i) not a Fund Business Day and/or (ii) a Disrupted Day, the relevant Strike Date shall be determined in accordance with the provisions of Condition 16.1 (*Reference Dates, Averaging Dates and Market Disruption*);

**"Subscription Notice Date"** means, in respect of any Fund Interest and any Fund Subscription Date, the date specified as such in the applicable Pricing Supplement or, if no date is so specified, the last date on which a notice to subscribe to such Fund Interest may be submitted pursuant to the Fund Documents of the related Fund and be considered effective as of such Fund Subscription Date; If the applicable Pricing Supplement do not specify a Subscription Notice Date or a Fund Subscription Date, the Subscription Notice Date shall be deemed to be the Issue Date;

**"Valid Date"** means a Fund Business Day that is not a Disrupted Day and on which another Averaging Date in respect of the relevant Reference Date does not or is not deemed to occur;

**"Valuation Date"** means each date specified as such in the applicable Pricing Supplement, provided that if any such date is (i) not a Fund Business Day and/or (ii) a Disrupted Day, the relevant Valuation Date shall be determined in accordance with the provisions of Condition 16.1 (*Reference Dates, Averaging Dates and Market Disruption*); and

**"Valuation Time"** means the time on the Reference Date specified as such in the applicable Pricing Supplement or, if no time is so specified, the close of business in the Hypothetical Investor Jurisdiction on the relevant Reference Date.

## 17. PROVISIONS RELATING TO FUTURES CONTRACT-LINKED NOTES

This Condition 17 (*Provisions relating to Futures Contract-Linked Notes*) is applicable only in relation to Notes specified in the applicable Pricing Supplement as being Single Futures Contract-Linked Notes or Futures Contract Basket-Linked Notes.

### 17.1 *Reference Dates, Averaging Dates and Market Disruption:*

- (a) If a Reference Date is not a Scheduled Trading Day, the relevant Reference Date shall be the next succeeding Scheduled Trading Day or, if either "Common Scheduled Trading Days and Common Disrupted Days" or "Common Scheduled Trading Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement, the next succeeding Common Scheduled Trading Day.
- (b) Subject to Condition 17.1(d) below, if any Scheduled Reference Date is a Disrupted Day, then:
  - (i) in the case of a Single Futures Contract-Linked Note, the relevant Reference Date shall be the earlier of (i) the first succeeding Scheduled Trading Day that is not in the determination of the Determination Agent a Disrupted Day and (ii) the Reference Cut-Off Date (notwithstanding that such Scheduled Trading Day is a Disrupted Day).
  - (ii) in the case of a Futures Contract Basket-Linked Note:
    - (A) where "Individual Scheduled Trading Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement, if the Determination Agent determines that any Scheduled Reference Date is a Disrupted Day in respect of any Basket Component, then:
      - (1) the Reference Date for each Basket Component in respect of which the Scheduled Reference Date is not a Disrupted Day shall be the Scheduled Reference Date for such Basket Component; and
      - (2) the Reference Date for any Basket Component in respect of which the Scheduled Reference Date is a Disrupted Day (each an "**Affected Basket Component**") shall be the earlier of (A) the first Scheduled Trading Day following the relevant Scheduled Reference Date that is not a Disrupted

Day in respect of such Affected Basket Component; and (B) the Reference Cut-Off Date for such Affected Basket Component (notwithstanding that such day may not be a Scheduled Trading Day).

(B) where "Common Scheduled Trading Days and Common Disrupted Days" is specified to be applicable in the applicable Pricing Supplement, if the Determination Agent determines that any Scheduled Reference Date is a Disrupted Day in respect of any Basket Component, then the Reference Date for each Basket Component shall be the earlier of (i) the first Common Scheduled Trading Day following the relevant Scheduled Reference Date that is not a Disrupted Day with respect to any Basket Component; and (ii) the Reference Cut-Off Date (notwithstanding that such day may not be a Common Scheduled Trading Day).

(C) where "Common Scheduled Trading Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement, if the Determination Agent determines that any Scheduled Reference Date is a Disrupted Day in respect of any Basket Component, then:

- (1) the Reference Date for each Basket Component in respect of which the Scheduled Reference Date is not a Disrupted Day shall be the Scheduled Reference Date for such Basket Component; and
- (2) the Reference Date for each Basket Component in respect of which the Scheduled Reference Date is a Disrupted Day (each an "**Affected Basket Component**") shall be the earlier of (A) the first Scheduled Trading Day following the relevant Scheduled Reference Date that is not a Disrupted Day in respect of such Affected Basket Component; and (B) the Reference Cut-Off Date for such Affected Basket Component (notwithstanding that such day may not be a Common Scheduled Trading Day or a Scheduled Trading Day).

(iii) in the case of any Single Futures Contract-Linked Note or Futures Contract Basket-Linked Note (as the case may be), where a Reference Date falls on the relevant Reference Cut-Off Date pursuant to Condition 17.1(b)(ii), then:

- (A) if such Reference Cut-Off Date is not a Disrupted Day for such Single Futures Contract-Linked Note or Futures Contract Basket-Linked Note (as the case may be), the Determination Agent shall determine the value of such Futures Contract as at the Determination Time on such Reference Cut-Off Date; or
- (B) if such Reference Cut-Off Date is a Disrupted Day, in respect of Single Futures Contract-Linked Notes and Futures Contract Basket-Linked Notes, the Determination Agent shall determine, in its sole and absolute discretion, its good faith estimate of the value for such Futures Contract as of the Determination Time on such Reference Cut-Off Date.

(c) Subject to Condition 17.1(d) below, if Averaging Dates are specified in the applicable Pricing Supplement as being applicable, then, notwithstanding any other provisions of these Conditions (other than Condition 17.1(d)), the following provisions will apply to the valuation of the relevant Futures Contract in relation to the relevant Reference Date:

(i) If, in respect of a Single Futures Contract-Linked Note, a Scheduled Averaging Date is determined by the Determination Agent to be a Disrupted Day, then if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is:

- (A) "**Omission**", then such date will be deemed not to be a relevant Averaging Date in respect of such Reference Date for the purposes of determining the relevant level, price, value or amount provided that, if through the operation of this provision no Averaging Date would occur with respect to the relevant Reference Date, then

Condition 17.1(b) will apply for purposes of determining the relevant level, price, value or amount on the final Averaging Date in respect of that Reference Date as if such final Averaging Date were a Reference Date that was a Disrupted Day;

- (B) **"Postponement"**, then Condition 17.1(b) above will apply for the purposes of determining the relevant level, price, value or amount on that date as if such date were a Reference Date that was a Disrupted Day irrespective of whether, pursuant to such determination, that deferred Averaging Date would fall on a day that already is or is deemed to be an Averaging Date for the relevant Notes; or
  - (C) **"Modified Postponement"**, then the Averaging Date shall be the earlier of (I) the first Valid Date following the Scheduled Averaging Date and (II) the Averaging Cut-Off Date, irrespective of whether it falls on a day that already is or is deemed to be an Averaging Date.
- (ii) If, in respect of a Futures Contract Basket-Linked Note, a Scheduled Averaging Date in respect of a Reference Date is determined by the Determination Agent to be a Disrupted Day in respect of any Basket Component, then:
- (A) where "Individual Scheduled Trading Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement:
    - (1) if, in relation to **"Averaging Date Disruption"**, the consequence specified in the applicable Pricing Supplement is "Omission":
      - (a) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is not a Disrupted Day shall be the Scheduled Averaging Date; and
      - (b) such date shall not be an Averaging Date in respect of such Reference Date for any Basket Component in respect of which the Scheduled Averaging Date is a Disrupted Day (each such Basket Component, an **"Affected Basket Component"**), provided that if through the operation of this provision there would not be any Averaging Date in respect of such Reference Date for the Affected Basket Component, then the sole Averaging Date for such Affected Basket Component shall be the earlier of (I) the first Scheduled Trading Day following the final Scheduled Averaging Date that is not a Disrupted Day in respect of such Affected Basket Component and (II) the Averaging Cut-Off Date for such Affected Basket Component;
    - (2) if, in relation to **"Averaging Date Disruption"**, the consequence specified in the applicable Pricing Supplement is "Postponement":
      - (a) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is not a Disrupted Day shall be the Scheduled Averaging Date; and
      - (b) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is a Disrupted Day (each such Basket Component, an **"Affected Basket Component"**) shall be the earlier of (I) the first Scheduled Trading Day following the Scheduled Averaging Date that is not a Disrupted Day in respect of such Affected Basket Component and (II) the Averaging Cut-Off Date for such Affected Basket Component. Any day (including, for the avoidance of doubt, the Averaging Cut-Off Date) determined to be an Averaging Date as a result of the operation of this Condition 17.1(c)(ii)(A)(2)(b) shall be an Averaging Date, irrespective of whether it falls on a day that already is or is deemed to be an Averaging Date; or



- (3) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Modified Postponement":
  - (a) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is not a Disrupted Day shall be the Scheduled Averaging Date; and
  - (b) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is a Disrupted Day (each such Basket Component, an "**Affected Basket Component**") shall be the earlier of (I) the first Valid Date following the Scheduled Averaging Date in respect of such Affected Basket Component and (II) the Averaging Cut-Off Date for such Affected Basket Component, irrespective of whether it falls on a day that already is or is deemed to be an Averaging Date;
- (B) where "Common Scheduled Trading Days and Common Disrupted Days" is specified to be applicable in the applicable Pricing Supplement:
  - (1) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Omission", such date will be deemed not to be a relevant Averaging Date in respect of any Basket Component for the purposes of determining the relevant level, price, value or amount provided that, if through the operation of this provision there would be no Averaging Date in respect of such Reference Date, then the sole Averaging Date for each Basket Component shall be the earlier of (A) the first Common Scheduled Trading Day following the Scheduled Averaging Date that is not a Disrupted Day for any Basket Component and (B) the Averaging Cut-Off Date (notwithstanding the fact that such Averaging Cut-Off Date may not be a Common Scheduled Trading Day);
  - (2) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Postponement", then the Averaging Date shall be the earlier of (A) the first Common Scheduled Trading Day following the Scheduled Averaging Date that is not a Disrupted Day in respect of any Basket Component and (B) the Averaging Cut-Off Date (notwithstanding the fact that such Averaging Cut-Off Date may not be a Common Scheduled Trading Day). Any day (including, for the avoidance of doubt, the Averaging Cut-Off Date) determined to be an Averaging Date as a result of the operation of this Condition 17.1(c)(ii)(B)(2) shall be an Averaging Date, irrespective of whether it falls on a day that already is or is deemed to be an Averaging Date; or
  - (3) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Modified Postponement", then the Averaging Date for each Basket Component shall be the earlier of (I) the first Common Valid Date following the Scheduled Averaging Date and (II) the Averaging Cut-Off Date (notwithstanding the fact that such Averaging Cut-Off Date may not be a Common Scheduled Trading Day), irrespective of whether it falls on a day that already is or is deemed to be an Averaging Date;
- (C) where "Common Scheduled Trading Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement:
  - (1) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Omission":
    - (a) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is not a Disrupted Day shall be the Scheduled Averaging Date; and

- (b) such date shall not be an Averaging Date in respect of such Reference Date for any Basket Component in respect of which the Scheduled Averaging Date is a Disrupted Day (each such Basket Component, an "**Affected Basket Component**"), provided that if through the operation of this provision there would not be any Averaging Date in respect of such Reference Date for the Affected Basket Component, then the sole Averaging Date for such Affected Basket Component shall be the earlier of (I) the first Scheduled Trading Day following the final Scheduled Averaging Date that is not a Disrupted Day in respect of such Affected Basket Component and (II) the Averaging Cut-Off Date for such Affected Basket Component (notwithstanding the fact that such day may not be a Common Scheduled Trading Day);
  - (2) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Postponement":
    - (a) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is not a Disrupted Day shall be the Scheduled Averaging Date; and
    - (b) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is a Disrupted Day (each such Basket Component, an "**Affected Basket Component**") shall be the earlier of (I) the first Scheduled Trading Day following the Scheduled Averaging Date that is not a Disrupted Day in respect of such Affected Basket Component and (II) the Averaging Cut-Off Date for such Affected Basket Component (notwithstanding the fact that such day not be a Common Scheduled Trading Day). Any day (including, for the avoidance of doubt, the Averaging Cut-Off Date) determined to be an Averaging Date as a result of the operation of this Condition 17.1(c)(ii)(C)(2)(b) shall be an Averaging Date, irrespective of whether it falls on a day that already is or is deemed to be an Averaging Date; or
  - (3) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Modified Postponement":
    - (a) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is not a Disrupted Day shall be the Scheduled Averaging Date; and
    - (b) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is a Disrupted Day (each such Basket Component, an "**Affected Basket Component**") shall be the earlier of (I) the first Valid Date (that is a Scheduled Trading Day) following the Scheduled Averaging Date in respect of such Affected Basket Component and (II) the Averaging Cut-Off Date for such Affected Basket Component, irrespective of whether it falls on a day that already is or is deemed to be an Averaging Date;
- (iii) If, in respect of any Single Futures Contract-Linked Note or Futures Contract Basket-Linked Note (as the case may be), an Averaging Date falls on the relevant Averaging Cut-Off Date pursuant to Condition 17.1(c)(ii):
  - (A) if such Averaging Cut-Off Date is not a Disrupted Day for such Single Futures Contract-Linked Note or Futures Contract Basket-Linked Note (as the case may be), the Determination Agent shall determine the value of such Futures Contract as at the Determination Time on such Averaging Cut-Off Date; or

- (B) if such Averaging Cut-Off Date is a Disrupted Day in respect of Single Futures Contract-Linked Note or Futures Contract Basket-Linked Note (as the case may be), the Determination Agent shall determine, in its sole and absolute discretion, its good faith estimate of the value for such Futures Contract as of the Determination Time on such Averaging Cut-Off Date.
- (iv) If any Averaging Dates in relation to a Reference Date occur after that Reference Date as a result of the occurrence of a Disrupted Day, then (i) the relevant Interest Payment Date, Maturity Date or (ii) the occurrence of a Futures Contract Adjustment Event or an Additional Disruption Event shall be determined by reference to the last such Averaging Date as though it were that Reference Date.
- (d) If in respect of a Futures Contract and a Reference Date, a Scheduled Reference Date or Scheduled Averaging Date is specified to be the "Expiry Date" in the applicable Pricing Supplement and due to the Scheduled Reference Date or Scheduled Averaging Date (as the case may be) being a Disrupted Day (or for any other reason), the final settlement price has been announced and published on or prior to the Scheduled Reference Date or Scheduled Averaging Date (as the case may be), then the Reference Date or Averaging Date (as the case may be) for such Futures Contract shall fall on the Expiry Date and the provisions of Conditions 17.1(b) and (c) above shall not apply to such Futures Contract and Scheduled Reference Date or Scheduled Averaging Date (as the case may be).
- (e) If an event or circumstance that would otherwise constitute or give rise to a Disrupted Day also constitutes a Futures Contract Adjustment Event, the Determination Agent shall determine whether such event or circumstance shall be treated as a Disrupted Day or a Futures Contract Adjustment Event.

#### 17.2 *Administrator/Benchmark Event or Disappearance of Futures Contract or Settlement Price:*

If the applicable Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and, on or prior to any Reference Date, (i) an Administrator/Benchmark Event and an Administrator/Benchmark Event Date occurs or (ii) a Disappearance of Futures Contract or Settlement Price occurs, in each case in respect of a relevant Futures Contract, then:

- (a) If the applicable Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and if an Alternative Pre-nominated Futures Contract has been specified in relation to such Futures Contract in the applicable Pricing Supplement, then:
  - (i) the Determination Agent shall attempt to determine an Adjustment Payment;
  - (ii) if the Determination Agent determines an Adjustment Payment,
    - (A) it shall notify the Issuer of the Adjustment Payment and if the Adjustment Payment is an amount that the Noteholder would (but for Condition 17.2(a)(ii)(C)(2)) be required to pay to the Issuer in respect of each Note, request the Issuer to notify the Determination Agent whether it intends to redeem the Notes pursuant to Condition 17.4(b) (*Redemption*). If the Issuer does not intend to redeem the Notes pursuant to Condition 17.4(b) (*Redemption*) then the following provisions of this Condition 17.2(a) (*Administrator/Benchmark Event or Disappearance of Futures Contract or Settlement Price*) shall apply;
    - (B) the terms of the Notes shall be amended so that references to the Futures Contract are replaced by references to the Alternative Pre-nominated Futures Contract;
    - (C) the Conditions shall be adjusted to implement the Adjustment Payment as follows:
      - (1) if the Adjustment Payment is an amount that the Issuer is required to pay in respect of each Note, the Determination Agent shall adjust the Conditions to provide for the payment of the Adjustment Payment on the immediately succeeding Interest Payment Date or if there is no such

immediately succeeding Interest Payment Date, on the Maturity Date or other date when the Notes are redeemed in full; or

- (2) if the Adjustment Payment is an amount that the Noteholder would (but for this Condition 17.2(a)(ii)(C)(2)) be required to pay to the Issuer in respect of each Note, the Determination Agent shall adjust the Conditions to provide for the reduction of the amounts due by the Issuer until the aggregate amount of such reductions is equal to the Adjustment Payment, (subject, in the determination of the Determination Agent, to any minimum redemption amount of the Notes which the Determination Agent determines is required pursuant to any applicable law or regulation (including, without limitation, any tax law) and the rules of each listing authority, stock exchange and/or quotation system by which the Notes have then been admitted to listing, trading and/or quotation);
  - (D) the Determination Agent shall make such other adjustments to the Conditions as it determines necessary or appropriate in order to account for the effect of the replacement of the Futures Contract with the Alternative Pre-nominated Futures Contract and/or to preserve as nearly as practicable the economic equivalence of the Notes before and after the replacement of the Futures Contract with the Alternative Pre-nominated Futures Contract; and
  - (E) the Determination Agent shall notify the Issuer, the Fiscal Agent and the Noteholders of any the replacement of the Futures Contract by the Alternative Pre-nominated Futures Contract, the Adjustment Payment and any other adjustments to the Conditions, giving summary details of the adjustment(s), provided that any failure to give such notice shall not affect the validity of the foregoing.
- (iii) If the Determination Agent is unable to determine an Adjustment Payment then Condition 17.4(b) (*Redemption*) shall apply.
- (b) If the applicable Pricing Supplement does not specify that the Benchmark Trigger Provisions are applicable or, if the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable but does not specify an Alternative Pre-nominated Futures Contract in relation to the relevant Futures Contract, then Condition 17.4(b) (*Redemption*) shall apply.
- (c) If it (i) is or would be unlawful at any time under any applicable law or regulation or (ii) would contravene any applicable licensing requirements, in each case for the Issuer, the Determination Agent or the Calculation Agent to perform the actions prescribed in this Condition 17.2 (*Administrator/Benchmark Event or Disappearance of Futures Contract or Settlement Price*) (or it would be unlawful or would contravene those licensing requirements were a determination to be made at such time), then Condition 17.4(b) (*Redemption*) shall apply.

### 17.3 *Futures Contract Adjustment Events:*

If so specified in the Pricing Supplement relating to any Series of Futures Contract-Linked Notes, the following shall constitute "**Futures Contract Adjustment Events**" for the purposes of such Series:

- (a) "**Price Source Disruption**", which means (i) the failure of the Futures Contract Sponsor to announce or publish the Settlement Price (or the information necessary for determining the Settlement Price) or (ii) the failure by the relevant Exchange to publish the Settlement Price;
- (b) "**Trading Restriction**", which means the material suspension of, or the material limitation imposed on, trading in (i) the Futures Contract on the Exchange or (ii) any relevant Futures Contract Underlier(s).
- (c) "**Disappearance or Non-commencement of Futures Contract or Settlement Price**", which means (i) the permanent discontinuation of the Futures Contract or of trading in the relevant Futures Contract on the relevant Exchange or (ii) the disappearance or permanent discontinuance or unavailability of a Settlement Price or (iii) trading in the relevant Futures Contract never

commenced and, in any such case, no Successor Futures Contract exists provided that the scheduled expiry of a Futures Contract in accordance with the relevant contract specifications shall not constitute the Disappearance or Non-commencement of Futures Contract or Settlement Price;

- (d) **"Material Change in Formula"**, which means the occurrence since the Trade Date of a material change or modification in the formula for or method of calculating the settlement price or other price of the relevant Futures Contract;
- (e) **"Material Change in Content"**, which means the occurrence since the Trade Date of a material change or modification in the content, composition or constitution of the relevant Futures Contract;
- (f) **"Tax Disruption"**, which means the imposition of, change in or removal of an excise, severance, sales, use, value added, transfer, stamp, documentary, recording or similar tax on, or measured by reference to, the relevant Futures Contract (other than a tax on, or measured by reference to, overall gross or net income) by any government or taxation authority after the Trade Date, if the direct effect of such imposition, change or removal is to raise or lower the relevant level, price, value or amount on the day that would otherwise be a Reference Date from what it would have been without that imposition, change or removal.
- (g) **"Change of Exchange"**, which means that the Futures Contract is no longer negotiated on the Exchange and/or under a market-standard format as of the Trade Date but is negotiated on an exchange and/or under a format that is not acceptable to the Determination Agent.
- (h) **"Illiquidity Event"**, which means that in the determination of the Determination Agent, the liquidity of the Futures Contract has decreased significantly since the Trade Date, such decrease of liquidity being likely to have a material impact on any hedging arrangements of the Issuer and/or any of its Affiliates in connection with the Notes.

#### 17.4 *Adjustments for Futures Contract Adjustment Events:*

##### (a) *Adjustment:*

If a Futures Contract Adjustment Event which is a Price Source Disruption, a Trading Disruption, a Material Change in Formula, a Material Change in Content, a Tax Disruption, a Change of Exchange or an Illiquidity Event occurs, the Determination Agent shall determine if such Futures Contract Adjustment Event has a material effect on the Notes and, if so, subject to Condition 17.4(b) (*Redemption*), shall:

- (i) make such adjustments to the Conditions and/or the applicable Pricing Supplement as the Determination Agent determines necessary or appropriate to account for the effect of such Futures Contract Adjustment Event and determine the effective date of each such adjustment; and/or
- (ii) substitute such Futures Contract with a new Futures Contract selected by the Determination Agent (which shall be a replacement futures contract using, in the determination of the Determination Agent, the same or a substantially similar formula and method of calculation as used in the calculation of the Futures Contract or a replacement futures contract selected by the Determination Agent in accordance with any other criteria specified in the applicable Pricing Supplement) and make such adjustments (if any) to the Conditions and/or the applicable Pricing Supplement as it deems necessary or appropriate in relation to such substitution. Such new futures contract shall be deemed to be a Futures Contract in place of the Futures Contract the subject of the Futures Contract Adjustment Event.

If the Determination Agent determines that no calculation, adjustment and/or substitution can reasonably be made pursuant to the above, Condition 17.4(b) (*Redemption*) shall apply.

##### (b) *Redemption:*

If either:

- (i) a Futures Contract Adjustment Event which is a Disappearance of Futures Contract or Settlement Price occurs or an Administrator/Benchmark Event and an Administrator/Benchmark Event Date occurs and:
  - (A) the Pricing Supplement does not specify that the Benchmark Trigger Provisions are applicable;
  - (B) the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable but does not specify an Alternative Pre-nominated Futures Contract;
  - (C) the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and specifies an Alternative Pre-nominated Futures Contract but the Determination Agent is unable to determine the Adjustment Payment;
  - (D) the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and specifies an Alternative Pre-nominated Futures Contract and the Determination Agent determines that the Adjustment Payment would be an amount that the Noteholder would (but for Condition 17.2(a)(ii)(C)(2)) be required to pay to the Issuer in respect of each Note; or
  - (E) it (a) would be unlawful at any time under any applicable law or regulation or (b) would contravene any applicable licensing requirements, in each case for the Determination Agent to calculate the relevant level, price, value or amount in accordance with Condition 17.4(a) (*Adjustments*); or
- (ii) any Futures Contract Adjustment Event (other than a Disappearance of Futures Contract or Settlement Price) occurs and the Determination Agent determines that no calculation, adjustment and/or substitution can reasonably be made pursuant to Condition 17.4(a),

then the Issuer may, at any time thereafter and in its sole and absolute discretion, determine that the Notes shall be redeemed as of any later date. If the Issuer so determines that the Notes shall be redeemed, then the Issuer shall give not less than five Business Days' notice to the Noteholders to redeem the Notes and upon redemption the Issuer will pay in respect of each Note an amount equal to the fair market value of such Note, on such day as is selected by the Determination Agent in its sole and absolute discretion (provided that such day is not more than 15 days before the date fixed for redemption of the Note), less the proportion attributable to that Note of the reasonable cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related hedging arrangements, all as calculated by the Determination Agent in its sole and absolute discretion.

The Issuer's obligations under the Notes shall be satisfied in full upon payment of such amount.

If the Issuer determines that the relevant Notes shall continue, the Determination Agent may make such adjustment as the Determination Agent, in its sole and absolute discretion, considers appropriate, if any, to any variable relevant to the redemption, settlement or payment terms of the relevant Notes and/or any other adjustment, which change or adjustment shall be effective on such date as the Determination Agent shall determine. The Determination Agent shall provide notice to the Noteholders of any such change or adjustment, giving summary details of the relevant change or adjustment, as soon as reasonably practicable provided that any failure to give such notice shall not affect the validity of any such change or adjustment.

#### 17.5 *Correction of Futures Contract Prices:*

If any settlement price announced by the Futures Contract Sponsor or published by the Exchange and which is utilised by the Determination Agent for any calculation or determination (the "**Original Determination**") under the Notes is subsequently corrected and the correction (the "**Corrected Value**") is published by the Futures Contract Sponsor by such time (the "**Correction Cut Off Time**") as may be specified in the applicable Pricing Supplement (or, if none is so specified, at least 3 Business Days prior to the relevant Interest Payment Date, Maturity Date or any early redemption date of the Futures Contract-Linked Notes), then the Determination Agent will notify the Issuer and the Fiscal Agent of the Corrected Value as soon as

reasonably practicable and shall determine the relevant value (the "**Replacement Determination**") using the Corrected Value. If the result of the Replacement Determination is different from the result of the Original Determination, to the extent that it determines to be necessary and practicable, the Determination Agent may adjust any relevant terms accordingly.

In the event there is any discrepancy between any settlement price published or announced by the Futures Contract Sponsor and the Exchange any which is used by the Determination Agent for any calculation or determination under the Notes and that is not otherwise corrected pursuant to this Condition 17.5, the settlement price selected by the Determination Agent acting in good faith and a commercially reasonable manner shall prevail for the relevant day.

17.6 *Additional Disruption Events:*

- (a) Following the occurrence of an Additional Disruption Event, the Issuer will, in its sole and absolute discretion, determine whether or not the relevant Notes shall continue or shall be redeemed early.
- (b) If the Issuer determines that the relevant Notes shall continue, the Determination Agent may make such adjustment as the Determination Agent, in its sole and absolute discretion, considers appropriate, if any, to the formula for the Final Redemption Amount, any Interest Amount and/or the relevant level, price, value or amount set out in the applicable Pricing Supplement, the number of Futures Contracts to which each Note relates, the number of Futures Contracts comprised in a Basket of Futures Contracts, the amount, the number of or type of shares, futures contracts or other securities which may be delivered under such Notes and, in any case, any other variable relevant to the redemption, settlement, or payment terms of the relevant Notes and/or any other adjustment (including without limitation, in relation to Futures Contract Basket-Linked Notes, the cancellation of terms applicable in respect of any Futures Contracts affected by the relevant Additional Disruption Event), to account for the economic effect on the Notes of such Additional Disruption Event, which change or adjustment shall be effective on such date as the Determination Agent shall determine.
- (c) If the Issuer determines that the relevant Notes shall be redeemed early, then the Issuer shall give not less than five Business Days' notice to redeem the Notes and the Issuer's obligations under the Notes shall be satisfied in full upon payment in respect of each Note of an amount equal to the fair market value of such Note, on such day as is selected by the Determination Agent in its sole and absolute discretion (provided that such day is not more than 15 days before the date fixed for redemption of the Note), less the proportion attributable to that Note of the reasonable cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related hedging arrangements, all as calculated by the Determination Agent in its sole and absolute discretion.
- (d) The Issuer shall as soon as reasonably practicable under the circumstances notify the Fiscal Agent and the Determination Agent of the occurrence of an Additional Disruption Event.
- (e) For the purposes hereof:

"**Additional Disruption Event**" means with respect to any Series of Futures Contract-Linked Notes any or all of a Change in Law, a Hedging Disruption and an Increased Cost of Hedging, as have been specified in the applicable Pricing Supplement as an applicable Additional Disruption Event with respect to such Notes.

17.7 *Definitions applicable to Futures Contract-Linked Notes:*

In relation to Futures Contract-Linked Notes, the following expressions have the meanings set out below:

"**Adjustment Payment**" means, in respect of any Note, the payment (if any) determined by the Determination Agent as is required in order to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value to or from the Issuer as a result of the replacement of a Futures Contract by the Alternative Pre-nominated Futures Contract. The Determination Agent may determine that the Adjustment Payment is zero;

**"Alternative Pre-nominated Futures Contract"** means, in respect of a Futures Contract, the first of the indices, benchmarks or other price sources specified in the applicable Pricing Supplement as an "Alternative Pre-nominated Futures Contract" that is not subject to an Administrator/Benchmark Event;

**"Averaging Cut-Off Date"** means, in the case where Notes relate to a Futures Contract or Basket of Futures Contracts and in respect of a Scheduled Averaging Date for the purposes of Condition 17.1 (*Reference Dates, Averaging Dates and Market Disruption*) the date falling the Specified Number of Scheduled Trading Days or the Specified Number of Common Scheduled Trading Days (as the case may be) following the Scheduled Averaging Date, or if no such number is specified:

- (a) if "Common Scheduled Trading Days and Common Disrupted Days" in respect of a Basket of Futures Contracts is specified to be applicable in the Pricing Supplement, the eighth Common Scheduled Trading Day following such Scheduled Averaging Date; or
- (b) in any other case, the eighth Scheduled Trading Day following such Scheduled Averaging Date;

**"Averaging Date"** means, in respect of each Reference Date, either:

- (a) in the case of (i) a Single Futures Contract-Linked Note or (ii) a Futures Contract Basket-Linked Note where the applicable Pricing Supplement provides that "Individual Scheduled Trading Days and Individual Disrupted Days" shall be applicable, each date specified as such in the applicable Pricing Supplement, or, if such date is not a Scheduled Trading Day, the next following Scheduled Trading Day for such (or the relevant) Futures Contract or Basket Component (as the case may be); or
- (b) in the case of a Futures Contract Basket-Linked Note, where the applicable Pricing Supplement provides that either "Common Scheduled Trading Days and Common Disrupted Days" or "Common Scheduled Trading Days and Individual Disrupted Days" shall be applicable, each date specified as such in the applicable Pricing Supplement, or if any such date is not a Common Scheduled Trading Day, the next following Common Scheduled Trading Day for such Basket of Futures Contracts,

provided that if any such day is a Disrupted Day, the Averaging Date shall be determined in accordance with the provisions of Condition 17.1 (*Reference Dates, Averaging Dates and Market Disruption*);

**"Basket"** means in relation to any Futures Contract Basket-Linked Notes, the Futures Contracts specified in the applicable Pricing Supplement as comprising the Basket, in each case in the relative proportions specified in such Pricing Supplement;

**"Basket Component"** means, in relation to a particular Series of Futures Contract Basket-Linked Notes, each Futures Contract comprised in the relevant Basket of Futures Contracts;

**"Basket of Futures Contracts"** means, in relation to a particular Series, a basket comprising the Futures Contracts specified in the applicable Pricing Supplement in the relative proportions specified in such Pricing Supplement;

**"Change in Law"** means that, on or after the Trade Date (A) due to the adoption of or any change in any applicable law or regulation (including, without limitation, any tax law), or (B) due to the promulgation of or any change in the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law or regulation (including any action taken by a taxing authority), the Issuer determines that (x) it has become illegal to hold, acquire or dispose of any relevant Futures Contracts, or (y) it will incur a materially increased cost in performing its obligations with respect to the Notes (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on its tax position);

**"Common Scheduled Trading Day"** means, in respect of a Futures Contract Basket-Linked Note, each day which is a Scheduled Trading Day for all the Basket Components;

**"Common Valid Date"** means, in respect of a Futures Contract Basket-Linked Note, a Common Scheduled Trading Day that is not a Disrupted Day for any Basket Component and on which another Averaging Date does not or is deemed not to occur;



**"Determination Date"** means, in relation to any determination, each date specified as such in the applicable Pricing Supplement, provided that if any such date is (i) not a Scheduled Trading Day and/or (ii) a Disrupted Day, the relevant Determination Date shall be determined in accordance with the provisions of Condition 17.1 (*Reference Dates, Averaging Dates and Market Disruption*);

**"Determination Time"** means, in respect of a Futures Contract, the time at which the Settlement Price is announced or published (or, in the case of a Disrupted Day, scheduled to be announced or published in accordance with the terms of such Futures Contract);

**"Disrupted Day"** means any Scheduled Trading Day on which a Market Disruption Event has occurred or is continuing;

**"Exchange"** means, in respect of a Futures Contract relating to Single Futures Contract-Linked Notes or Futures Contract Basket-Linked Notes, each exchange or quotation system specified as such for such Futures Contract in the applicable Pricing Supplement or, if none is specified, the principal exchange or quotation system for trading in such Futures Contract, as determined by the Determination Agent, and (without prejudice to a Futures Contract Adjustment Event that is a Change of Exchange) any successor to such exchange or quotation system or any substitute exchange or quotation system to which trading in the Futures Contract has temporarily relocated, provided that the Determination Agent has determined that there is comparable liquidity relative to such Futures Contract on such temporary substitute exchange or quotation system as on the original Exchange;

**"Exchange Disruption"** means the Exchange fails to open for trading during any regular trading session that the Determination Agent considers material to the determination of the applicable Settlement Price for the relevant Futures Contract or any other event occurs that disrupts or impairs (as determined by the Determination Agent) the ability of market participants in general (i) to effect transactions in, comply with clearing obligations or obtain market values for, the Futures Contract on the Exchange, or (ii) to effect transactions in, comply with clearing obligations or obtain market values for, the Futures Contract Underlier(s), and in each case the Determination Agent determines that such event is material in relation to the Notes;

**"Expiry Date"** means, in respect of a Futures Contract and each day that is a Reference Date or an Averaging Date, the expiry date of such Futures Contract on which the Futures Contract Sponsor announces, and the Exchange publishes, the "final settlement price" of such Futures Contract;

**"Failure to Announce or Publish"** means (a) the failure by the relevant Futures Contract Sponsor to announce or publish the Settlement Price; or (b) the failure by the relevant Exchange to publish the Settlement Price provided that, if either of (a) or (b) occurs and the Determination Agent determines that the failure of the other announcement or publication to occur is not material for the purposes of the Notes, then such circumstances shall not constitute a Failure to Announce or Publish;

**"Futures Contract"** means any futures contract specified in the applicable Pricing Supplement as a Futures Contract;

**"Futures Contract Sponsor"** means, in respect of a Futures Contract, the corporation or other entity which (a) is responsible for setting and reviewing the contract specifications, rules and procedures and methods of calculations and adjustments, if any, related to such Futures Contract; and (b) announces (directly or through an agent) the settlement price of such Futures Contract on a regular basis;

**"Futures Contract Underlier(s)"** means, in respect of a Futures Contract, the or each index, rate, asset or reference item underlying such Futures Contract as specified in the applicable Pricing Supplement;

**"Hedging Disruption"** means that the Issuer is unable, after using commercially reasonable efforts, to (A) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the risk of entering into and performing its obligations under the Notes, or (B) realise, recover or remit the proceeds of any such transactions or asset(s);

**"Increased Cost of Hedging"** means that the Issuer would incur a materially increased (as compared with circumstances existing on the Trade Date) amount of tax, duty, expense or fee (other than brokerage commissions) to (A) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any

transaction(s) or asset(s) it deems necessary to hedge the risk of entering into and performing its obligations with respect to the Notes or (B) realise, recover or remit the proceeds of any such transaction(s) or asset(s) provided that any such materially increased amount that is incurred solely due to the deterioration of the creditworthiness of the Issuer shall not be deemed an Increased Cost of Hedging;

**"Market Disruption Event"** means in respect of a Futures Contract, the occurrence or existence of (i) a Failure to Announce or Publish, (ii) a Trading Disruption, or (iii) an Exchange Disruption;

**"Observation Date"** means each date specified as such in the applicable Pricing Supplement, provided that if any such date is (i) not a Scheduled Trading Day and/or (ii) a Disrupted Day, the relevant Observation Date shall be determined in accordance with the provisions of Condition 17.1 (*Reference Dates, Averaging Dates and Market Disruption*);

**"Reference Cut-Off Date"** means, in the case where Notes relate to a Futures Contract or a Basket of Futures Contracts and in respect of a Scheduled Reference Date for the purposes of Condition 17.1(b) (*Reference Dates, Averaging Dates and Market Disruption*), the date falling the Specified Number of Scheduled Trading Days or the Specified Number of Common Scheduled Trading Days (as the case may be) following the Scheduled Reference Date, or if no such number is specified:

- (a) if "Common Scheduled Trading Days and Common Disrupted Days" in respect of a Basket of Futures Contracts is specified to be applicable in the Pricing Supplement, the eighth Common Scheduled Trading Day following such Scheduled Reference Date; or
- (b) in any other case, the eighth Scheduled Trading Day, or, in respect of a Basket of Futures Contract, the eighth Scheduled Trading Day for the Affected Basket Component, following such Scheduled Reference Date;

**"Reference Date"** means, for the purposes of Condition 17.1 (*Reference Dates, Averaging Dates and Market Disruption*), each Valuation Date, Observation Date, Strike Date or Determination Date (as applicable) specified in the applicable Pricing Supplement, or otherwise, any date construed to be a Reference Date in accordance with the Conditions;

**"Relevant Futures Contract Benchmark"** means the Futures Contract or the Futures Underlier;

**"Scheduled Averaging Date"** means an original date (following any adjustment (if applicable) pursuant to paragraph (a) or (b) of the definition of "Averaging Date") that, but for such day being a Disrupted Day, would have been a Reference Date;

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

**"Scheduled Reference Date"** means, for the purposes of Condition 17.1 (*Reference Dates, Averaging Dates and Market Disruption*), any original date that, but for the occurrence of an event causing a Disrupted Day, would have been a Reference Date;

**"Scheduled Trading Day"** means any day on which each Exchange is scheduled to be open for trading for their respective regular trading sessions notwithstanding that any such Exchange may close prior to its Scheduled Closing Time;

**"Settlement Price"** means, in respect of a Futures Contract and any day, the official "daily settlement price" or "final settlement price" on such day (in each case, however defined in the contract specifications of such Futures Contract or the relevant Exchange);

**"Specified Number of Scheduled Trading Days"** means the number specified as such in the applicable Pricing Supplement;

**"Specified Number of Common Scheduled Trading Days"** means the number specified as such in the applicable Pricing Supplement;

**"Strike Date"** means each date specified as such in the applicable Pricing Supplement, provided that if any such date is (i) not a Scheduled Trading Day and/or (ii) a Disrupted Day, the relevant Strike Date shall be determined in accordance with the provisions of Condition 17.1 (*Reference Dates, Averaging Dates and Market Disruption*);

**"Successor Futures Contract"** means, in respect of a Futures Contract, a successor futures contract using, in the determination of the Determination Agent, the same or a substantially similar formula for or method of calculation as used in the calculation of such Futures Contract;

**"Trading Disruption"** means any suspension of or limitation imposed on trading by the Exchange or otherwise and whether by reason of movements in price exceeding limits permitted by the Exchange or otherwise relating to the Futures Contract on the Exchange, which the Determination Agent determines to be material in relation to the Notes;

**"Valid Date"** means a Scheduled Trading Day that is not a Disrupted Day and on which another Averaging Date in respect of the Reference Date does not, or is not deemed to, occur; and

**"Valuation Date"** means each date specified as such in the applicable Pricing Supplement, provided that if any such date is (i) not a Scheduled Trading Day and/or (ii) a Disrupted Day, the relevant Valuation Date shall be determined in accordance with the provisions of Condition 17.1 (*Reference Dates, Averaging Dates and Market Disruption*).

## 18. PROVISIONS RELATING TO AUTOCALLABLE EARLY REDEMPTION NOTES

In respect of any Series of Notes for which the Autocallable Early Redemption provisions are specified as applicable in the applicable Pricing Supplement, the Conditions shall be supplemented and modified by the terms and conditions set out in the applicable Pricing Supplement.

## 19. INCONVERTIBILITY EVENTS

If, in respect of any Series of Notes, the applicable Pricing Supplement specifies that "Inconvertibility Event Provisions" are applicable, this Condition 19 (*Inconvertibility Events*) shall apply in respect of such Notes.

If, at any time during the term of such Series, the Determination Agent determines that an Inconvertibility Event has occurred, it will inform the Issuer of such event. Following the determination of an Inconvertibility Event, the Issuer may, at its sole and absolute discretion, provide a notice of inconvertibility to the holders of the Notes in accordance with this Condition 19 (*Inconvertibility Events*) or the appropriate means electing either:

- (a) If **"Converted Payment"** is specified in the applicable Pricing Supplement: to continue making any payments due under such Notes until the Maturity Date, in which case, any amount due under such Notes shall be converted from the Relevant Currency into the Inconvertibility Specified Currency at the Fallback FX Spot Rate determined by the Determination Agent in its sole and absolute discretion; or
- (b) If **"Early Redemption"** is specified in the applicable Pricing Supplement: to early terminate the Notes on a specified date (such date, the **"Inconvertibility Early Redemption Date"**), in which case the Notes shall early redeem at the Inconvertibility Early Redemption Amount on such Inconvertibility Early Redemption Date. The Issuer's obligations under the Notes shall be satisfied in full upon payment of such amount; or
- (c) If **"Suspended Payment"** is specified in the applicable Pricing Supplement: to suspend the payment until as many Business Days after the Inconvertibility Event has ceased as specified in the notice,

provided that the Issuer may, at any time from and including the Trade Date to and including the Maturity Date, subsequent to the despatch of a notice electing one of the selected options other than "Early Redemption", dispatch a second notice electing "Early Redemption", provided that such option was specified as applicable in the relevant Pricing Supplement, in which case the Notes will be redeemed in accordance with the terms of "Early Redemption" above and the date specified in such notice will be the Inconvertibility Early Redemption Date.

For the avoidance of doubt, failure to deliver such notice or the failure of the recipient to receive such notice will not affect the Issuer's ability to make payments according to the option it selected.

For the purpose of this Condition 19 (*Inconvertibility Events*):

**"Fallback FX Spot Rate"** has the meaning given in the applicable Pricing Supplement;

**"Inconvertibility Early Redemption Amount"** means, in respect of any Note either:

- (a) an amount as specified in the applicable Pricing Supplement;
- (b) if **"Early Redemption Amount"** is specified in the Pricing Supplement, an amount equal to (i), the Early Redemption Amount, (ii) converted from the Relevant Currency into the Inconvertibility Specified Currency at the exchange rate (expressed as a number of the Relevant Currency per one unit of the Inconvertibility Specified Currency) determined by the Determination Agent in its sole and absolute discretion for settlement on or about the relevant payment date and (iii) less the reasonable cost to and/or the loss realised by, the Issuer and/or any Affiliate in respect of break funding costs for the Issuer term financing associated with such early redemption of the Notes, in each case as calculated by the Determination Agent in its sole and absolute discretion; or
- (c) if **"Fair Market Value"** is specified in the Pricing Supplement, an amount, in the Inconvertibility Specified Currency, equal to the fair market value of such Notes, on such day as is selected by the Determination Agent in its sole and absolute discretion (provided that such day is not more than 15 days before the Inconvertibility Early Redemption Date), less the proportion attributable to that Note of the reasonable cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related hedging arrangements or in respect of break funding costs for the Issuer's term financing associated with such early redemption of the Notes, in each case as calculated by the Determination Agent in its sole and absolute discretion.

An **"Inconvertibility Event"** shall be deemed to have occurred if from (and including) the Trade Date to (and including) the Maturity Date, any event or circumstance occurs that generally makes it, in the sole and absolute discretion of the Determination Agent, impossible, unlawful or impracticable for the Issuer, the Determination Agent or any of its Affiliates for any reason beyond their reasonable control:

- (a) to convert the Relevant Currency into the Inconvertibility Specified Currency or the Inconvertibility Specified Currency into the Relevant Currency (whether directly or through a cross exchange rate) through customary legal channels; or
- (b) to determine the rate of conversion of the Inconvertibility Specified Currency into the Relevant Currency or the Relevant Currency into the Inconvertibility Specified Currency; or
- (c) to transfer, or make a payment in, or delivery of, the Relevant Currency from or to, outside, or inside, of the Relevant Jurisdiction, in each case under paragraph (a), (b) or (c), in an amount up to the Aggregate Nominal Amount or the relevant Interest Amount; or
- (d) to determine a rate at which any Relevant Currency can be lawfully exchanged for U.S. dollars; or
- (e) to convert any Relevant Currency into U.S. dollars; or
- (f) to exchange or repatriate any funds outside of any jurisdiction in which any of the Relevant Underlying or the Relevant Underlyings, or each of their components, is issued; or
- (g) for the Issuer or any of its Affiliates to hold, purchase, sell or otherwise deal in any Notes, or any other property in order for the Issuer or any of its Affiliates to perform any related hedging arrangement, or for the purposes of the Issuer or the Issuer's obligations in respect of any Notes;

**"Inconvertibility Specified Currency"** means the currency specified in the Pricing Supplement and, if none is indicated, the Specified Currency.

**"Relevant Currency"** means the currency as specified in the Pricing Supplement, and, if none is specified, the currency in which any of the securities which comprise the Relevant Underlying is denominated, or the currency of the Relevant Underlying, or any of the Relevant Underlyings, or the currency in which any of their underlying components is denominated, or any other currency or currencies as specified in the Pricing Supplement.

**"Relevant Jurisdiction"** means the jurisdiction as specified in the Pricing Supplement.

**"Relevant Underlying"** means, in relation to the Notes, any of the Share, Index, ETF Interest, Commodity, Commodity Index, Fund or other item underlying such Notes (and **"Relevant Underlyings"** means all of them).

## 20. CNY DISRUPTION EVENTS

20.1 In the event that a CNY Disruption Event, as determined by the Determination Agent in its sole discretion, occurs on or prior to any date on which a payment is scheduled to be made under a CNY Note (including, but not limited to, an Interest Payment Date or the Maturity Date) and such CNY Disruption Event is continuing on such date (any such CNY Note so affected, an **"Affected CNY Note"**), the following terms will apply:

- (a) first, payments under the Affected CNY Note shall be postponed to two Hong Kong Business Days after the date on which the CNY Disruption Event ceases to exist, unless that CNY Disruption Event continues to exist for 14 consecutive calendar days from the original date that, but for the occurrence of the CNY Disruption Event, would have been the date for such payments (which payment date may be, but is not limited to, an Interest Payment Date or the Maturity Date). In that case, the provisions of Condition 20.1(b) below will apply on the day immediately following the lapse of such 14 calendar day period; and
- (b) second, the relevant payment obligations under the Affected CNY Note shall be replaced by an obligation to pay an amount equal to the amount that would be due in CNY under the Affected CNY Note converted into an amount in USD as calculated by the Determination Agent in its sole discretion. All the payments hereunder shall be made in USD on the relevant Non-Deliverable Substitute Settlement Date. For the avoidance of doubt, this Condition 20.1(b) (*CNY Disruption Events*) shall only apply to any payment which is scheduled to occur on a date (which may be, but is not limited to, the Maturity Date or an Interest Payment Date) that is affected by the CNY Disruption Event and shall not affect any payments falling due on any other dates.

20.2 For the purpose of this Condition 20 (*CNY Disruption Events*):

**"CNY Disruption Event"** means any of CNY Illiquidity, CNY Inconvertibility or CNY Non-Transferability;

**"CNY Illiquidity"** means, as determined by the Determination Agent in its sole discretion, the occurrence of any event that makes it impossible (where it had previously been possible) for the Issuer to obtain a firm quote of an offer price in respect of an amount in CNY equal to the then aggregate outstanding principal amount of the relevant Affected CNY Notes, any interest or any other amount to be paid under such Notes (the **"Relevant Disrupted Amount"**), during the term of such Notes, either in one transaction or a commercially reasonable number of transactions that, when taken together, is no less than such Relevant Disrupted Amount, in the general CNY exchange market in each Offshore CNY Center in order to perform its obligations under the Affected CNY Notes;

**"CNY Inconvertibility"** means, as determined by the Determination Agent in its sole discretion, the occurrence of any event that makes it impossible (where it had previously been possible) for the Issuer to convert an amount of CNY no less than the Relevant Disrupted Amount into or from USD in the general CNY exchange market in each Offshore CNY Center;

**"CNY Non-Transferability"** means, as determined by the Determination Agent in its sole discretion, the occurrence in each Offshore CNY Center of any event that makes it impossible (where it had previously been possible) for the Issuer to transfer CNY (A) between accounts inside the Offshore CNY Center, (B) from an account inside the Offshore CNY Center to an account outside such Offshore CNY Center and outside mainland China, or (C) from an account outside an Offshore CNY Center and outside mainland China to an account inside the Offshore CNY Center. For the purpose of CNY Non-Transferability and Hong Kong as an

Offshore CNY Center only, a segregated Chinese Renminbi fiduciary cash account with the People's Bank of China and operated by Bank of China (Hong Kong) Limited shall be deemed to be an account inside Hong Kong;

**"Hong Kong Business Day"** means any day, other than a Saturday or Sunday, that is neither a legal holiday nor a day on which banking institutions are authorised or required by law or regulation to close in Hong Kong;

**"Non-Deliverable Substitute Settlement Date"** means subject to adjustment in accordance with the provisions of this Condition 20 (*CNY Disruption Events*) and/or any Business Day Convention applicable to the terms of an Affected CNY Note, the day determined by the Determination Agent which shall be as soon as practicable following the date on which the relevant payment was scheduled to be made in respect of such Affected CNY Note, and which shall in no event later than two (2) Hong Kong Business Days after the date on which the amount payable in USD in respect of such Affected CNY Notes is determined by the Determination Agent pursuant to Condition 20.1(b);

**"Offshore CNY Center"** means Hong Kong, or such other CNY Center as specified in the applicable Pricing Supplement; and

**"USD/CNY Spot Rate"** means the Chinese Renminbi/U.S. dollar official fixing rate, expressed as the amount of Chinese Renminbi per one U.S. dollar, for settlement in two Hong Kong Business Days reported by the Treasury Markets Association which appears on Reuters page <CNHFIX=> at approximately 11:15 a.m., Hong Kong time (the **"Spot USD/CNY(HK) Fixing"**). In the event that the Spot USD/CNY(HK) Fixing is not available, the Determination Agent may in its sole discretion: (a) delay the determination of the USD/CNY Spot Rate until such day that the Spot USD/CNY(HK) Fixing is available or (b) determine the USD/CNY spot rate in its sole discretion.

For the avoidance of doubt, references to "general CNY exchange market in each Offshore CNY Center" in the definitions of CNY Illiquidity and CNY Inconvertibility refers to purchase, sale, lending or borrowing of CNY for general purpose (including, but not limited to, funding), and therefore any purchase or sale of CNY where such CNY is required by relevant laws or regulations for settlement of any cross-border trade transaction with an entity in mainland China, or any purchase or sale of CNY for personal customers residing in each such Offshore CNY Center, would not be purchase or sale made in such general CNY exchange market.

## 21. REDEMPTION AND PURCHASE

### 21.1 *Scheduled Redemption:*

Save in the case of Notes that are Credit-Linked Notes, unless previously redeemed, or purchased and cancelled, and unless otherwise specified in the applicable Pricing Supplement, (i) Cash Settlement Notes will be redeemed at their Final Redemption Amount on the Maturity Date, subject as provided in Condition 22 (*Payments*) (ii) Physical Settlement Notes shall be redeemed by delivery of the Physical Delivery Amount on the Physical Settlement Date, subject as provided in Condition 23 (*Physical Settlement*). Notes that are Credit-Linked Notes shall be redeemed as set out in Condition 14 (*Credit-Linked Notes*), subject to any additional or alternative redemption/ payment provisions or modification contemplated in respect of such Notes specified in the applicable Pricing Supplement.

### 21.2 *Tax Redemption:*

The Notes may be redeemed in whole (but not in part), at the option of Morgan Stanley or MSFL (as applicable) at any time prior to maturity, upon the giving of a notice of redemption as described below, if Morgan Stanley or MSFL (as applicable) determines that, as a result of:

- (a) any change in or amendment to the laws, or any regulations or rulings promulgated under the laws, of the United States or of any political subdivision or taxing authority of or in the United States affecting taxation, or
- (b) any change in official position regarding the application or interpretation of the laws, regulations or rulings referred to above,

which change or amendment becomes effective on or after the date of the applicable Pricing Supplement in connection with the issuance of the Notes or any other date specified in the applicable Pricing Supplement, Morgan Stanley or MSFL (as applicable) is or will become obligated to pay Additional Amounts with respect to the Notes as described in Condition 24 (*Taxation*). The redemption price will be specified in the applicable Pricing Supplement. Morgan Stanley or MSFL (as applicable) will give notice of any tax redemption.

21.3 Prior to the relevant Issuer giving notice of redemption under Condition 21.2 (*Tax Redemption*), it will deliver to the Fiscal Agent:

- (a) a certificate stating that it is entitled to effect the redemption and setting forth a statement of facts showing that the conditions precedent to its right to so redeem have occurred (the date on which that certificate is delivered to the Fiscal Agent is the "**Redemption Determination Date**"); and
- (b) an opinion of independent legal counsel of recognised standing to that effect based on the statement of facts.

Notice of redemption will be given not less than 30 but no more than 60 days prior to the date fixed for redemption. The date and the applicable redemption price will be specified in the notice.

21.4 *Redemption at the Option of the Issuer:*

If the "**Call Option**" is specified in the applicable Pricing Supplement as being applicable, the Notes may be redeemed at the option of the Issuer in whole or, if so specified in the applicable Pricing Supplement, in part on any Optional Redemption Date (Call) at the relevant Optional Redemption Amount (Call) on the Issuer's giving not less than the Minimum Call Notice Number of Day(s) nor more than the Maximum Call Notice Number of Day(s) (or such other period as specified in the applicable Pricing Supplement) notice to the Noteholders (which notice shall be irrevocable and shall oblige the Issuer to redeem the Notes specified in such notice on the relevant Optional Redemption Date (Call) at the Optional Redemption Amount (Call) plus accrued interest (if any) to such date).

21.5 *Partial Redemption:*

If the Notes are to be redeemed in part only on any date in accordance with Condition 21.4 (*Redemption at the Option of the Issuer*), the Notes to be redeemed shall be selected by the drawing of lots in such place as the Fiscal Agent approves and in such manner as the Fiscal Agent considers appropriate, subject to compliance with applicable law and the rules of each listing authority, stock exchange and/or quotation system by which the Notes have then been admitted to listing, trading and/or quotation, and the notice to Noteholders referred to in Condition 21.4 (*Redemption at the Option of the Issuer*) shall specify the serial numbers of the Notes so to be redeemed.

21.6 *Redemption at the Option of Noteholders:*

If the Put Option is specified in the applicable Pricing Supplement as being applicable, the Issuer shall, at the option of the holder of any Note redeem such Note on the Optional Redemption Date (Put) specified in the relevant Put Option Notice at the relevant Optional Redemption Amount (Put), together with interest (if any) accrued to such date.

In order to exercise the option contained in this Condition 21.6 (*Redemption at the Option of Noteholders*) the holder of a Note must, not less than the Minimum Put Notice Number of Day(s) nor more than the Maximum Put Notice Number of Day(s) (or such other period as specified in the applicable Pricing Supplement) before the relevant Optional Redemption Date (Put), deposit such Note with the Registrar, and a duly completed Put Option Notice in the form obtainable from any Paying Agent. The Paying Agent with which a Note is so deposited shall deliver a duly completed Put Option Receipt to the depositing Noteholder. No Note, once deposited with a duly completed Put Option Notice in accordance with this Condition 21.6 (*Redemption at the Option of Noteholders*), may be withdrawn; provided, however, that if, prior to the relevant Optional Redemption Date (Put), any such Note becomes immediately due and payable or, upon due presentation of any such Note on the relevant Optional Redemption Date (Put), payment of the 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 hold such Note at its Specified Office for collection by the depositing Noteholder against surrender of

the relevant Put Option Receipt. For so long as any outstanding Note is held by a Paying Agent in accordance with this Condition 21.6 (*Redemption at the Option of Noteholders*), the depositor of such Note and not such Paying Agent shall be deemed to be the holder of such Note for all purposes.

21.7 *Early Redemption of Zero Coupon Notes:*

Unless otherwise specified in the applicable Pricing Supplement, the Redemption Amount payable on redemption of a Zero Coupon Note at any time before the Maturity Date shall be an amount equal to (a) the product of the Calculation Amount of such Note and (b) the percentage produced by the following formula:

$$\text{Reference Price} \times (1 + \text{Accrual Yield})^n$$

where "n" means the number of years from (and including) the Issue Date to (but excluding) the date fixed for redemption or (as the case may be) the date upon which the Note becomes due and payable and the calculation shall be made on the basis of such Day Count Fraction as may be specified in the applicable Pricing Supplement or, if none is so specified, a Day Count Fraction of 30/360.

21.8 *Purchase:*

Morgan Stanley, MSFL or any of their respective Subsidiaries may at any time purchase Notes in the open market or otherwise and at any price.

21.9 *Cancellation:*

All Notes so redeemed shall, and all Notes so purchased by Morgan Stanley, MSFL or any of their respective Subsidiaries may, at the discretion of the relevant purchaser, be cancelled. All Notes so redeemed, and all Notes so purchased and cancelled, may not be reissued or resold.

21.10 *Compliance with securities laws:*

If any holder of any Note is determined to be a U.S. Person (as defined in Regulation S), the Issuer shall have the right to (i) force such holder to sell its interest in such Note, or sell such interest on behalf of such holder, to a person who is not a U.S. Person (as defined in Regulation S) or (ii) terminate and cancel such Note. In the case of any termination and cancellation of a Note as described above no amount shall be payable to the relevant Noteholder and the Issuer shall have no further obligations in respect of the Note.

22. **PAYMENTS**

22.1 *Principal:*

Subject to Condition 22.3 (*Payments of Principal and Interest in CNY*), payments of principal shall be made by cheque drawn in the currency in which the payment is due drawn on, or, upon application by a holder of a Registered Note to the Specified Office of the Fiscal Agent not later than the fifteenth day before the due date for any such payment, by transfer to an account denominated in that currency (or, if that currency is euro, any other account to which euro may be credited or transferred) and maintained by the payee with, a bank in the Principal Financial Centre of that currency (in the case of a Sterling cheque, a town clearing branch of a bank in the City of London) and (in the case of redemption) upon surrender (or, in the case of part payment only, endorsement) of the relevant Individual Note Certificates at the Specified Office of any Paying Agent.

22.2 *Interest:*

Subject to Condition 22.3 (*Payments of Principal and Interest in CNY*), payments of interest shall be made by cheque drawn in the currency in which the payment is due drawn on, or, upon application by a holder of a Registered Note to the Specified Office of the Fiscal Agent not later than the fifteenth day before the due date for any such payment, by transfer to an account denominated in that currency (or, if that currency is euro, any other account to which euro may be credited or transferred) and maintained by the payee with, a bank in the Principal Financial Centre of that currency (in the case of a Sterling cheque, a town clearing branch of a bank in the City of London) and (in the case of interest payable on redemption) upon surrender (or, in the case of part payment only, endorsement) of the relevant Individual Note Certificates at the Specified Office of any Paying Agent.



22.3 *Payments of Principal and Interest in CNY:*

Notwithstanding Conditions 22.1 (*Principal*) and 22.2 (*Interest*), in respect of CNY Notes, no payment of principal or interest in CNY will be made by cheque and all payments to Noteholders will be made solely (i) for so long as the CNY Notes are represented by a Global Registered Note held with the common depositary for Clearstream Banking société anonyme and Euroclear Bank S.A./N.V. or any alternative clearing system, by transfer to a CNY bank account maintained outside the PRC, or (ii) for so long as the Notes are in definitive form, by transfer to a CNY bank account maintained outside the PRC, in each case in accordance with prevailing rules and regulations.

22.4 *Payments Subject to Fiscal Laws:*

All payments in respect of the Notes are subject in all cases to (i) any applicable fiscal or other law, regulations and directives and (ii) any withholding or deduction required pursuant to an agreement described in Section 1471(b) of the United States Internal Revenue Code of 1986 or otherwise imposed pursuant to Sections 1471 through 1474 of the United States Internal Revenue Code of 1986, any regulations or agreements thereunder, any official interpretations thereof or any law implementing an intergovernmental approach thereto. No commissions or expenses shall be charged to the Noteholders in respect of such payments.

22.5 *Payments on Payment Business Days:*

Where payment is to be made by transfer to an account, payment instructions (for value the due date, or, if the due date is not a Payment Business Day, for value the next succeeding Payment Business Day) will be initiated and, where payment is to be made by cheque, the cheque will be mailed (i) (in the case of payments of principal and interest payable on redemption) on the later of the due date for payment and the day on which the relevant Individual Note Certificate is surrendered (or, in the case of part payment only, endorsed) at the Specified Office of a Paying Agent and (ii) (in the case of payments of interest payable other than on redemption) on the due date for payment. A holder of a Registered Note shall not be entitled to any interest or other payment in respect of any delay in payment resulting from (A) the due date for a payment not being a Payment Business Day or (B) a cheque mailed in accordance with this Condition 22 (*Payments*) arriving after the due date for payment or being lost in the mail.

22.6 *Partial payments:*

If a Paying Agent makes a partial payment in respect of any Registered Note, the Issuer shall procure that the amount and date of such payment are noted on the Register and, in the case of partial payment upon presentation of an Individual Note Certificate, that a statement indicating the amount and the date of such payment is endorsed on the relevant Individual Note Certificate.

22.7 *Record date:*

Each payment in respect of a Registered Note will be made to the person shown as the holder in the Register at the opening of business in the place of the Registrar's Specified Office on such number of days before the due date for such payment as is specified in the applicable Pricing Supplement (the "**Record Date**"). Where payment in respect of a Registered Note is to be made by cheque, the cheque will be mailed to the address shown as the address of the holder in the Register at the opening of business on the relevant Record Date.

22.8 *Unavailability of Currency:*

If the Specified Currency is not available to the Issuer for making payments of principal of, and premium, interest and/or additional amounts, if any, on any Registered Note (whether due to the imposition of exchange controls or other circumstances beyond the control of the Issuer, or if the Specified Currency is no longer used by the government of the country issuing that currency or by public institutions within the international banking community for the settlement of transactions) (in which case an "**Unavailability of Currency Event**" shall be deemed to have occurred in respect of such Notes), the Issuer may satisfy its obligations to Noteholders by making payments on the date of payment in U.S. dollars on the basis of the prevailing exchange rate on the date of the payment or of the most recent practicable date, such rate being based on the highest bid quotation in The City of New York received by the Exchange Rate Agent at approximately 11:00 a.m., New York City time, on the second Business Day preceding the applicable payment date from three recognised foreign exchange dealers for the purchase by the quoting dealer:

- (a) of the Specified Currency for U.S. dollars for settlement on the payment date;
- (b) in the aggregate amount of the Specified Currency payable to those holders or beneficial owners of Notes; and
- (c) at which the applicable dealer commits to execute a contract.

If those bid quotations are not available, the Exchange Rate Agent will determine the Market Exchange Rate at its sole discretion. All determinations by the Exchange Rate Agent will, in the absence of manifest error, be conclusive for all purposes and binding on the Issuer, the Guarantor (if applicable) and the Noteholders. The Exchange Rate Agent will be Morgan Stanley & Co. International plc, unless otherwise noted in the applicable Pricing Supplement. If the Exchange Rate Agent is not an affiliate of Morgan Stanley, it may be one of the dealers providing quotations.

For the avoidance of doubt, any payment made in U.S. dollars on the basis of the prevailing exchange rate where the required payment is in an unavailable Specified Currency will not constitute an Event of Default.

The foregoing provisions do not apply to CNY Notes or if a Specified Currency is unavailable because it has been replaced by the euro. If the euro has been substituted for a Specified Currency, the Issuer may (or will, if required by applicable law) without the consent of the holders of the affected Notes, pay the principal of, premium, if any, or interest, if any, on any Note denominated in the Specified Currency in euro instead of the Specified Currency, in conformity with legally applicable measures taken pursuant to, or by virtue of, the Treaty. Any payment made in U.S. dollars or in euro as described above where the required payment is in an unavailable Specified Currency will not constitute an Event of Default.

## 23. PHYSICAL SETTLEMENT

### 23.1 *Delivery Notice:*

- (a) Each Noteholder in respect of Physical Settlement Notes, shall, on or before the scheduled date for redemption thereof (or such earlier date as the Issuer shall notify to the Fiscal Agent and the Noteholders is, in its determination, necessary for the Issuer, the Fiscal Agent and/or the Relevant Clearing System(s) to perform their respective obligations hereunder) send to the Relevant Clearing System(s) (in accordance with the relevant operating procedures) and the Fiscal Agent an irrevocable notice (the "**Delivery Notice**") in the form from time to time approved by the Issuer, which must:
  - (i) specify the name and address of the Noteholder;
  - (ii) specify the number of Notes in respect of which he is the Noteholder;
  - (iii) specify the number of the Noteholder's account at the Relevant Clearing System(s) to be debited with such Notes;
  - (iv) irrevocably instruct and authorise the Relevant Clearing System(s) (A) to debit the Noteholder's account with such Notes on the Physical Settlement Date and (B) that no further transfers of the Notes specified in the Delivery Notice may be made;
  - (v) contain a representation and warranty from the Noteholder to the effect that the Notes to which the Delivery Notice relates are free from all liens, charges, encumbrances and other third party rights;
  - (vi) specify the number and account name of the account at the Clearing System(s) to be credited with the Physical Delivery Amount if Physical Settlement is applicable;
  - (vii) contain an irrevocable undertaking to pay the Redemption Expenses and Taxes (if any) and an irrevocable instruction to the Relevant Clearing System(s) to debit on or after the Physical Settlement Date the cash or other account of the Noteholder with the Relevant Clearing System(s) specified in the Delivery Notice with such Redemption Expenses and Taxes;

- (viii) authorise the production of the Delivery Notice in any applicable administrative or legal proceedings; and
- (ix) certify that the Notes are not being redeemed by or on behalf of a U.S. Person or a person within the United States and the Notes are not beneficially owned by a U.S. Person or a person within the United States (terms used in this Condition 23.1(a)(ix) have the meanings given in Regulation S).
- (b) A Delivery Notice, once delivered to the Relevant Clearing System(s) shall be irrevocable and may not be withdrawn without the consent in writing of the Issuer. A Noteholder may not transfer any Note which is the subject of a Delivery Notice following delivery of such Delivery Notice to the Relevant Clearing System(s). A Delivery Notice shall only be valid to the extent that the Relevant Clearing System(s) has not received conflicting prior instructions in respect of the Notes which are the subject of the Delivery Notice.
- (c) Failure to properly complete and deliver a Delivery Notice may result in such notice being treated as null and void. Any determination as to whether such notice has been properly completed and delivered as provided shall be made by the Relevant Clearing System(s) after consultation with the Fiscal Agent and shall be conclusive and binding on the Issuer and the Noteholder.
- (d) The Fiscal Agent shall promptly, on the Business Day following receipt of such notice, send a copy of the Delivery Notice to the Issuer or such person as the Issuer may previously have specified.

#### 23.2 *Delivery Obligation:*

- (a) Subject to the other provisions of this Condition 23.2 (*Delivery Obligation*), the Issuer shall discharge its obligation to deliver the Physical Delivery Amount in respect of any Notes by delivering, or procuring the delivery of, the relevant Underlying Securities on the Physical Settlement Date to the Clearing System for credit to the account with the Clearing System specified in the Delivery Notice of the relevant Noteholder.
- (b) The number of Underlying Securities to be delivered to or for the account of each Noteholder on redemption of any Physical Settlement Notes shall be as determined in accordance with the applicable Pricing Supplement. The Issuer may pay a residual cash amount to each Noteholder representing any fractions of Underlying Securities comprising the Physical Delivery Amount.
- (c) After delivery to or for the account of a Noteholder of the relevant Physical Delivery Amount and for such period of time as the transferor or its agent or nominee shall continue to be registered in any clearing system as the owner of the Underlying Securities comprised in such Physical Delivery Amount (the "**Intervening Period**"), none of such transferor or any agent or nominee for the Issuer or such transferor shall (i) be under any obligation to deliver to such Noteholder or any other person any letter, certificate, notice, circular, dividend or any other document or payment whatsoever received by the Issuer or such transferor, agent or nominee in its capacity as holder of such Underlying Securities, (ii) be under any obligation to exercise any rights (including voting rights) attaching to such Underlying Securities during the Intervening Period, or (iii) be under any liability to such Noteholder or any other person in respect of any loss or damage which the Noteholder or any other person may sustain or suffer as a result, whether directly or indirectly, of the Issuer or such transferor, agent or nominee being registered in the Clearing System during such Intervening Period as legal owner of such Underlying Securities.
- (d) Any amounts in respect of dividends and interest on the Underlying Securities comprising the Physical Delivery Amount to be delivered will be payable to the party that would receive such amounts according to market practice for a sale of such Underlying Securities executed on the Exchange Business Day following the Determination Date in respect of the Notes. Any such amounts will be paid to or for credit to the account specified by the Noteholder in the relevant Delivery Notice. No right to dividends or interest on the Underlying Securities will accrue to Noteholders prior to the Determination Date.

23.3 *Settlement Disruption of Physical Settlement:*

- (a) This Condition 23.3 (*Settlement Disruption of Physical Settlement*) shall apply only where Physical Settlement is applicable.
- (b) The Determination Agent shall determine whether or not at any time a Settlement Disruption Event has occurred in respect of Underlying Securities comprised in the Physical Delivery Amount (the "**Affected Securities**") and where it determines such an event has occurred and so has prevented delivery of such Affected Securities on the original day that but for such Settlement Disruption Event would have been the Physical Settlement Date, then the Physical Settlement Date will be the first succeeding day on which delivery of such Affected Securities can take place through the Clearing System unless a Settlement Disruption Event prevents settlement on each of the ten (10) Clearing System Business Days immediately following the original date that, but for the Settlement Disruption Event, would have been the Physical Settlement Date. In that case, (a) if such Affected Securities can be delivered in any other commercially reasonable manner, then the Physical Settlement Date will be the first day on which settlement of a sale of such Affected Securities executed on that tenth Clearing System Business Day customarily would take place using such other commercially reasonable manner of delivery (which other manner of delivery will be deemed the Clearing System for the purposes of delivery of such Affected Securities), and (b) if such Affected Shares cannot be delivered in any other commercially reasonable manner, then the Physical Settlement Date will be postponed until delivery can be effected through the Clearing System or in any other commercially reasonable manner.
- (c) For the purposes hereof "Settlement Disruption Event" means, as determined by the Determination Agent, an event which is beyond the control of the Issuer or the transferor of any relevant Underlying Securities and as a result of which the Clearing System cannot receive or clear the transfer of such Underlying Securities.

23.4 *Delivery Disruption of Physical Settlement:*

- (a) This Condition 23.4 (*Delivery Disruption of Physical Settlement*) shall apply only where Physical Settlement is applicable.
- (b) If the Determination Agent determines that a Delivery Disruption Event has occurred, the Determination Agent shall notify the Issuer who shall promptly notify the Noteholders, and the Issuer will then deliver, or procure the delivery of, on the Physical Settlement Date such number of Underlying Securities comprised in the Physical Delivery Amount (if any) as it can deliver, or procure the delivery of, on that date and pay such amount as in the opinion of the Determination Agent is appropriate in the circumstances by way of compensation for the non delivery of the remainder of the Underlying Securities comprised in the Physical Delivery Amount (assuming satisfaction of each applicable condition precedent) to which the Noteholders would have been entitled under the Notes but for the occurrence of such Delivery Disruption Event, in which event the entitlements of the respective Noteholders to receive Underlying Securities on redemption shall cease and the Issuer's obligations under the Notes shall be satisfied in full upon delivery of such number of Underlying Securities and payment of such amount.
- (c) Where this Condition 23.4 (*Delivery Disruption of Physical Settlement*) falls to be applied, insofar as the Determination Agent determines to be practical, the same shall be applied as between the Noteholders on a *pro rata* basis, but subject to such rounding down (whether of the amount of a payment or of a number of Underlying Securities to be delivered) and also to such other adjustments as the Determination Agent determines to be appropriate to give practical effect to such provisions.
- (d) For the purposes hereof "**Delivery Disruption Event**" means, as determined by the Determination Agent, the failure or inability, due to illiquidity in the market for the Underlying Securities comprised in the Physical Delivery Amount, by or of the Issuer to deliver, or procure the delivery of, on the Physical Settlement Date all the Underlying Securities comprised in the Physical Delivery Amount to be delivered on that date.

23.5 *Additional Definitions:*

For the purposes of this Condition 23 (*Physical Settlement*):

**"Clearing System"** means, in respect of an Underlying Security relating to a Physical Settlement Note, the clearing system specified as such for such security in the applicable Pricing Supplement or any successor to such clearing system as determined by the Determination Agent. If the Pricing Supplement do not specify a clearing system, the Clearing System will be the principal domestic system customarily used for settling trades in the relevant Underlying Securities. If the Clearing System ceases to settle trades in such Underlying Securities, the Determination Agent will, acting in good faith and in a commercially reasonable manner, select another method of delivery;

**"Clearing System Business Day"** means, in respect of a Clearing System, any day on which such Clearing System is (or, but for the occurrence of a Settlement Disruption Event, would have been) open for the acceptance and execution of settlement instructions;

**"Physical Delivery Amount"** means in respect of any Series of Physical Settlement Notes, the Underlying Securities to be delivered by the Issuer to Noteholders on redemption of each Note, as provided in the applicable Pricing Supplement;

**"Physical Settlement Date"** means, in relation to Underlying Securities to be delivered, subject to Condition 23.3 (*Settlement Disruption of Physical Settlement*), in respect of any Notes, the date following the Maturity Date or any other applicable redemption date, as the case may be, which is the first day on which settlement of a sale of such Underlying Securities executed on that Maturity Date or other redemption date, as the case may be, customarily would take place through the Applicable Clearing System, unless otherwise specified in the applicable Pricing Supplement;

**"Settlement Disruption Event"** means, in relation to an security, an event beyond the control of the parties as a result of which the Clearing System cannot clear the transfer of such security.

24. **TAXATION**

24.1 *Additional Amounts:*

If specified in the applicable Pricing Supplement, in respect of a Series of Notes, the relevant Issuer or Guarantor, if applicable, will, subject to certain exceptions and limitations set forth below, pay those additional amounts (the **"Additional Amounts"**) to any Noteholder who is a U.S. Alien as may be necessary in order that every net payment of the principal of and interest on the Note and any other amounts payable on the Note after withholding for or on account of any present or future tax, assessment or governmental charge imposed upon or as a result of that payment by the United States or any political subdivision or taxing authority thereof or therein, will not be less than the amount provided for in the Note to be then due and payable. For the avoidance of doubt, if not so provided in the applicable Pricing Supplement, Additional Amounts as provided in this Condition 24.1 (*Additional Amounts*) shall not be payable.

The relevant Issuer or Guarantor, if applicable, will not, however, be required to make any payment of Additional Amounts to any Noteholder for or on account of:

- (a) any tax, assessment or other governmental charge that would not have been so imposed but for:
  - (i) the existence of any present or former connection between the holder or beneficial owner, or between a fiduciary, settlor, beneficiary, member or shareholder of the Noteholder, if the holder or beneficial owner is an estate, a trust, a partnership or a corporation, and the United States and its possessions, including, without limitation, the holder or beneficial owner, or such fiduciary, settlor, beneficiary, member or shareholder, being or having been a citizen or resident of the United States or being or having been engaged in the conduct of a trade or business or present in the United States or having, or having had, a permanent establishment in the United States; or

- (ii) the presentation by the Noteholder for payment on a date more than 15 days after the date on which payment became due and payable or the date on which payment thereof is duly provided for, whichever occurs later;
- (b) any estate, inheritance, gift, sales, transfer, capital gains, corporation, income or personal property tax or any similar tax, assessment or governmental charge;
- (c) any tax, assessment or other governmental charge imposed by reason of the holder's or beneficial owner's past status as a personal holding company or controlled foreign corporation or passive foreign investment company with respect to the United States or as a corporation that accumulates earnings to avoid U.S. federal income tax or as a private foundation or other tax exempt organisation;
- (d) any tax, assessment or other governmental charge that is payable otherwise than by withholding from payments on or in respect of any Note;
- (e) any tax, assessment or other governmental charge that would not have been imposed but for the failure to comply with certification, information or other reporting requirements concerning the nationality, residence or identity of the holder or beneficial owner of that Note, if compliance is required by statute or by regulation of the United States or of any political subdivision or taxing authority thereof or therein as a precondition to relief or exemption from the tax, assessment or other governmental charge;
- (f) any withholding tax imposed under Sections 1471 through 1474 of the Code or any agreement with the IRS pursuant to these Code sections, any applicable U.S. Treasury regulations promulgated thereunder or published administrative guidance implementing such sections and any provisions of non-U.S. laws analogous or relating to the foregoing (including withholding resulting from any inter-governmental agreement or an individual agreement with a taxing authority in connection with such sections of the Code, regulations, guidance or laws);
- (g) any tax, assessment or other governmental charge imposed by reason of Sections 871(m) or 897 of the Code, and any applicable U.S. Treasury regulations promulgated thereunder or published administrative guidance implementing such section;
- (h) any tax, assessment or other governmental charge imposed by reason of the holder's or beneficial owner's past or present status as the actual or constructive owner of 10 per cent. or more of the total combined voting power of all classes of stock entitled to vote of Morgan Stanley or as a direct or indirect subsidiary of Morgan Stanley;
- (i) any tax, assessment or other governmental charge imposed by reason of the holder of any Note and/or Coupon or beneficial owner not qualifying for the portfolio interest exemption or for an exemption with respect to coupon payments exempted under the "other income" provision of a Qualifying Treaty; or
- (j) any combination of the items listed above.

In addition, the relevant Issuer or Guarantor, if applicable, will not be required to make any payment of Additional Amounts with respect to any Note presented for payment by or on behalf of a holder or beneficial owner who would have been able to avoid such withholding or deduction by presenting the relevant Note to another paying agent in a Member State of the European Union.

Nor will Additional Amounts be paid with respect to any payment on a Note to a U.S. Alien who is a fiduciary or partnership or other than the sole beneficial owner of that payment to the extent that payment would be required by the laws of the United States (or any political subdivision thereof) to be included in the income, for tax purposes, of a beneficiary or settlor with respect to the fiduciary or a member of that partnership or a beneficial owner who would not have been entitled to the Additional Amounts had that beneficiary, settlor, member or beneficial owner been the Noteholder.

The term "**U.S. Alien**" means any person who, for U.S. federal income tax purposes, is a foreign corporation, a nonresident alien individual, a nonresident alien fiduciary of a foreign estate or trust, or a foreign

partnership one or more of the members of which is a foreign corporation, a nonresident alien individual or a nonresident alien fiduciary of a foreign estate or trust.

#### 24.2 *Implementation of Financial Transaction Tax:*

If "Implementation of Financial Transaction Tax" is specified in the applicable Pricing Supplement to be applicable to any Series of Notes, then upon the occurrence of an Implementation of Financial Transaction Tax, the Issuer may (i) in its sole discretion, with immediate effect amend the Conditions of the Notes by adjusting downward any amount payable and/or any other value or term of the Conditions to account for the economic impact of the Implementation of Financial Transaction Tax on the Issuer and its Affiliates in relation to the Notes, and (ii) to the extent that at any time thereafter the Issuer determines (acting in good faith and in a commercially reasonable manner) that it (including its Affiliates) has incurred additional loss as a result of the Implementation of Financial Transaction Tax that has not been accounted for through the adjustment made pursuant to (i) (such amount, "**Additional Increased Tax**"), it may reduce the amount otherwise payable on the Notes on the next payment date (and any payment date thereafter) by an amount up to the Additional Increased Tax amount. Any such adjustments shall be notified to Noteholders as soon as reasonably practicable. If an event or circumstance which would otherwise constitute a Change in Law or Increased Cost of Hedging (where applicable) also constitutes an Implementation of Financial Transaction Tax, it will be treated as an Implementation of Financial Transaction Tax.

### 25. **EVENTS OF DEFAULT**

#### 25.1 If any of the following events (each, an "**Event of Default**") occurs and is continuing:

- (a) *Non-payment:* in the case of Morgan Stanley Notes, Morgan Stanley, or, in the case of MSFL Notes, either MSFL or the Guarantor, fails to pay any amount of principal in respect of the Notes within 30 days of the due date for payment thereof or fails to pay any amount of interest in respect of the Notes within thirty days of the due date for payment thereof; or
- (b) *Insolvency, etc.:*
  - (i) the Issuer becomes insolvent or is unable to pay its debts as they fall due;
  - (ii) an administrator or liquidator of the Issuer or the whole or a substantial part of the undertaking, assets and revenues of the Issuer is appointed (otherwise than for the purposes of or pursuant to an amalgamation, reorganisation or restructuring whilst solvent);
  - (iii) the Issuer takes any action for a composition with or for the benefit of its creditors generally; or
  - (iv) an order is made or an effective resolution is passed for the winding up, liquidation or dissolution of the Issuer (otherwise than for the purposes of or pursuant to an amalgamation, reorganisation or restructuring whilst solvent) and such order or effective resolution has remained in force and has not been rescinded, revoked or set aside for sixty days after the date on which such order is made or effective resolution is passed,

then Noteholders of not less than 25 per cent. in aggregate principal amount of the Notes may, by written notice addressed to the Issuer and delivered to the Issuer or to the Specified Office of the Fiscal Agent, declare the Notes to be immediately due and payable, whereupon they shall become so due and payable at their Early Redemption Amount (or in accordance with any other provisions specified in the applicable Pricing Supplement) without further action or formality. Notice of any such declaration shall promptly be given to the Noteholders.

In the case of MSFL Notes, nothing herein contained shall be deemed to authorise any Noteholder to exercise any remedy against MSFL or the Guarantor solely as a result of, or because it is related directly or indirectly to, the insolvency of the Guarantor or the commencement of any proceedings relative to the Guarantor under Title 11 of the United States Code, or the appointment of a receiver for the Guarantor under Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 or the commencement of any other applicable federal or state bankruptcy, insolvency, resolution or other similar law, or solely as a result of, or because it is related directly or indirectly to, a receiver, assignee or trustee in bankruptcy or reorganization,

liquidator, sequestrator or similar official having been appointed for or having taken possession of the Guarantor or its property, or solely as a result of, or because it is related directly or indirectly to, the institution of any other comparable judicial or regulatory proceedings relative to the Guarantor, or to the creditors or property of the Guarantor. Notwithstanding the foregoing, Noteholders are authorised to exercise any remedy against MSFL as a result of an Event of Default described in this Condition 25.1(b).

25.2 *Annulment of Acceleration and Waiver of Defaults:*

In some circumstances, if any or all Events of Default, other than the non-payment of the principal of the Notes of a Series that has become due as a result of an acceleration, have been cured, waived or otherwise remedied, then the holders of a majority in principal amount of such Series of Notes (voting as one class) may annul past declarations of acceleration of or waive past defaults of the Notes. However, any continuing default in payment of principal of or any premium or interest on those Notes may not be waived.

26. **ILLEGALITY EVENT**

26.1 If this Condition 26 (*Illegality Event*) is specified in the Pricing Supplement to be applicable to a Series of Notes, the Issuer shall have the right to redeem the Notes early (at the amount specified in the applicable Pricing Supplement), if it shall have determined, in its sole and absolute discretion, that its performance thereunder, or, if applicable, the Guarantor's performance of its obligation under the Guarantee, shall have become or will be unlawful in whole or in part as a result of compliance in good faith by the Issuer, or, if applicable, the Guarantor, with any applicable present or future law, rule, regulation, judgment, order or directive of any governmental, administrative, legislative or judicial authority or power ("**applicable law**") (an "**Illegality Event**").

26.2 If this Condition 26 (*Illegality Event*) is specified in the Pricing Supplement to be applicable to a Series of Notes and, subject to the conditions set out in Condition 26.1 above, the Issuer determines that the Notes shall be redeemed early in accordance with this Condition 26 (*Illegality Event*), the Issuer shall give not less than five Business Days' notice to the Noteholders informing them that either an Illegality Event has occurred, as a result of which the Notes shall be redeemed early on the date specified for redemption in such notice. In such circumstances the Issuer will, if and to the extent permitted by applicable law, pay to each Noteholder in respect of each Note held by such Noteholder an amount determined by the Determination Agent, in its sole and absolute discretion, as representing either: (i) the fair market value of such Note immediately prior to such redemption (ignoring such Illegality Event) less the cost to the Issuer (or its Affiliates) of, or the loss realised by the Issuer (or its Affiliates) on, unwinding any related underlying hedging arrangements, the amount of such cost or loss being as determined by the Determination Agent in its sole and absolute discretion, if "Early Redemption Amount (Illegality Event) – Fair Value Less Costs" is specified in the Pricing Supplement; (ii) the fair market value of such Note immediately prior to such redemption (ignoring such Illegality Event), if "Early Redemption Amount (Illegality Event) – Fair Value" is specified in the Pricing Supplement; or (iii) the Calculation Amount of such Note, if "Early Redemption Amount (Illegality Event) – Par" is specified in the Pricing Supplement. The Issuer's obligations under the Notes shall be satisfied in full upon payment in respect of each Note of the amount determined by the Determination Agent to be payable in accordance with the provisions above, based on the elections made in the applicable Pricing Supplement. Payment will be made to the relevant Clearing System in such manner as shall be notified to the Noteholders in accordance with Condition 32 (*Notices*).

26.3 The Issuer shall also, as soon as reasonably practicable under the circumstances, notify the Fiscal Agent and the Determination Agent of the occurrence of an Illegality Event.

27. **PRESCRIPTION**

Claims for principal and interest on redemption in respect of Notes shall become void unless the relevant Individual Note Certificates are surrendered for payment within ten years of the appropriate Relevant Date.

28. **REPLACEMENT OF NOTES AND COUPONS**

If any Note or Individual Note Certificate is lost, stolen, mutilated, defaced or destroyed, it may be replaced at the Specified Office of the Registrar, during normal business hours (and, if the Notes are then admitted to listing, trading and/or quotation by any listing authority, stock exchange and/or quotation system which requires the appointment of a Paying Agent or Transfer Agent in any particular place, the Paying Agent or



Transfer Agent having its Specified Office in the place required by such listing authority, stock exchange and/or quotation system), subject to all applicable laws and stock exchange requirements, upon payment by the claimant of the expenses incurred in connection with such replacement and on such terms as to evidence, security, indemnity and otherwise as the Issuer may reasonably require. Mutilated or defaced Notes, Individual Note Certificates must be surrendered before replacements will be issued.

## 29. AGENTS

29.1 In acting under the Issue and Paying Agency Agreement and in connection with the Notes, the Agents (save as provided below) act solely as agents of the Issuer and do not assume any obligations towards or relationship of agency or trust for or with any of the Noteholders. All calculation and determination functions required of the relevant Agent may be delegated to such persons as the relevant Agent may decide and all notifications, opinions, determinations, certificates, calculations, quotations and decisions given, expressed, made or obtained for the purposes of the Notes by the Agents or the Issuer shall (in the absence of manifest error or wilful misconduct) be binding on the Issuer and the Noteholders and (subject as aforesaid) no liability to the Noteholders (or any of them) shall attach to the Agents or the Issuer in connection with the exercise or non-exercise by any of them of their powers, duties and discretions for such purposes. The Determination Agent shall act as an expert and not as an agent for the Issuer or the Noteholders. All determinations, considerations and decisions made by the Determination Agent shall, in the absence of manifest error, wilful default or bad faith, be final and conclusive and the Determination Agent shall have no liability in relation to such determinations except in the case of its wilful default or bad faith.

29.2 The initial Agents and their initial Specified Office are listed below on the inside back cover of this Offering Circular. The initial Calculation Agent is the Fiscal Agent. The Issuer reserves the right at any time to vary or terminate the appointment of any Agent and to appoint a successor Fiscal Agent or Registrar or Calculation Agent and additional or successor paying agents; provided, however, that:

- (a) there shall at all times be a Fiscal Agent and a Registrar appointed in respect of the Notes;
- (b) if a Calculation Agent is specified in the applicable Pricing Supplement, the Issuer shall at all times maintain a Calculation Agent; and
- (c) if and for so long as the Notes are admitted to listing, trading and/or quotation by any listing authority, stock exchange and/or quotation system which requires the appointment of a Paying Agent and/or a Transfer Agent in any particular place, the Issuer shall maintain a Paying Agent and/or a Transfer Agent having its Specified Office in the place required by such listing authority, stock exchange and/or quotation system.

29.3 Notice of any change in any of the Paying Agents or in their Specified Offices shall promptly be given to the Noteholders in accordance with Condition 32 (*Notices*).

## 30. MEETINGS OF NOTEHOLDERS AND MODIFICATION

### 30.1 *Meetings of Noteholders:*

The Issue and Paying Agency Agreement contains provisions for convening meetings of Noteholders to consider matters relating to the Notes, including the modification of any provision of these Conditions. Any such modification may be made if sanctioned by an Extraordinary Resolution. Such a meeting may be convened by the Issuer and shall be convened by it upon the request in writing of Noteholders holding not less than one tenth of the aggregate principal amount of the outstanding Notes. The quorum at any meeting convened to vote on an Extraordinary Resolution will be two or more Persons holding or representing one more than half of the aggregate principal amount of the outstanding Notes or, at any adjourned meeting, two or more Persons being or representing Noteholders whatever the principal amount of the Notes held or represented, provided, however, that Reserved Matters may only be sanctioned by an Extraordinary Resolution passed at a meeting of Noteholders at which two or more Persons holding or representing not less than three quarters or, at any adjourned meeting, one quarter of the aggregate principal amount of the outstanding Notes form a quorum. Any Extraordinary Resolution duly passed at any such meeting shall be binding on all the Noteholders, whether present or not.

In addition, a resolution in writing signed by or on behalf of all Noteholders who for the time being are entitled to receive notice of a meeting of Noteholders will take effect as if it were an Extraordinary Resolution. Such a resolution in writing may be contained in one document or several documents in the same form, each signed by or on behalf of one or more Noteholders.

30.2 *Modification:*

- (a) The Notes, these Conditions, the Guarantee and the Deeds of Covenant may be amended without the consent of the Noteholders where, in the opinion of the Issuer:
  - (i) the amendment is to correct a manifest error or to effect a modification which is of a formal, minor or technical nature; or
  - (ii) the amendment is not materially prejudicial to the interest of the Noteholders.
- (b) The parties to the Issue and Paying Agency Agreement may agree to modify any provision thereof, but the Issuer shall not agree, without the consent of the Noteholders, to any such modification unless it is of a formal, minor or technical nature, it is made to correct a manifest error or it is, in its opinion, not materially prejudicial to the interests of the Noteholders.

30.3 *Interests of Noteholders:*

In connection with the Conditions, the Issuer and the Fiscal Agent shall have regard to the interests of the Noteholders as a class. In particular, but without limitation, the Issuer and the Fiscal Agent shall not have regard to the consequences for individual Noteholders resulting from such individual Noteholders being for any purpose domiciled or resident in, or otherwise connected with, or subject to the jurisdiction of, any particular territory.

30.4 *Severance:*

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

31. **FURTHER ISSUES**

The Issuer may from time to time, without the consent of the Noteholders, create and issue further notes having the same terms and conditions as the Notes in all respects (or in all respects except for the first payment of interest) so as to form a single series with the Notes.

32. **NOTICES**

- 32.1 Notices to holders of the Notes shall be sent to them by first class mail (or its equivalent) or (if posted to an overseas address) by airmail at their respective addresses on the Register and, to the extent the Notes are admitted to the Official List of Euronext Dublin or admitted to the Official List of the Luxembourg Stock Exchange will also be published in accordance with Conditions 32.2 (*Notes admitted to the Official List of Euronext Dublin and trading on its Global Exchange Market*), 32.3 (*Notes admitted to the Official List of the Luxembourg Stock Exchange and trading on the Euro MTF market*) and 32.4 (*Unlisted Notes*) below. Any such notice shall be deemed to have been given on the fourth day after the date of mailing.

32.2 *Notes admitted to the Official List of Euronext Dublin and trading on its Global Exchange Market:*

In relation to Notes admitted to the Official List of Euronext Dublin and trading on its Global Exchange Market, notices to Noteholders will be published in accordance with the rules of Euronext Dublin.

32.3 *Notes admitted to the Official List of the Luxembourg Stock Exchange and trading on the Euro MTF market:*

In relation to notes admitted to the Official List of the Luxembourg Stock Exchange and trading on the Euro MTF market, notices will be valid if published in a daily newspaper of general circulation in Luxembourg and/or on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)). Any such notice will be deemed

to have been given on the date of the first publication or, where required to be published in more than one newspaper, on the date of the first publication in all required newspapers.

32.4 *Unlisted Notes:*

Notices to Noteholders of non-listed Notes may be published, as specified in the applicable Pricing Supplement, in newspapers, on a website or otherwise.

33. **LOSSES**

In no event shall the Issuer or the Agents have any liability for indirect, incidental, consequential or other damages (whether or not it may have been advised of the possibility of such damages) other than interest until the date of payment on sums not paid when due in respect of any Notes or assets not delivered when due. Noteholders are entitled to damages only and are not entitled to the remedy of specific performance in respect of any Note.

34. **CURRENCY INDEMNITY**

34.1 If any sum due from the Issuer in respect of the Notes or any order or judgment given or made in relation thereto has to be converted from the currency (the "**first currency**") in which the same is payable under these Conditions or such order or judgment into another currency (the "**second currency**") for the purpose of (a) making or filing a claim or proof against the Issuer, (b) obtaining an order or judgment in any court or other tribunal or (c) enforcing any order or judgment given or made in relation to the Notes, the Issuer shall indemnify each Noteholder, on the written demand of such Noteholder addressed to the Issuer and delivered to the Issuer or to the Specified Office of the Fiscal Agent, against any loss suffered as a result of any discrepancy between (i) the rate of exchange used for such purpose to convert the sum in question from the first currency into the second currency and (ii) the rate or rates of exchange at which such Noteholder may in the ordinary course of business purchase the first currency with the second currency upon receipt of a sum paid to it in satisfaction, in whole or in part, of any such order, judgment, claim or proof.

34.2 This indemnity constitutes a separate and independent obligation of the Issuer and shall give rise to a separate and independent cause of action.

35. **ROUNDING**

For the purposes of any calculations referred to in these Conditions (unless otherwise specified in these Conditions or the applicable Pricing Supplement), (a) all percentages resulting from such calculations will be rounded, if necessary, to the nearest one hundred thousandth of a percentage point (with 0.000005 per cent. rounded up to 0.00001 per cent.), (b) all U.S. dollar amounts used in or resulting from such calculations will be rounded to the nearest cent (with one half cent rounded upward), (c) all Japanese Yen amounts used in or resulting from such calculations will be rounded downward to the next lower whole Japanese Yen amount and (d) all amounts denominated in any other currency used in or resulting from such calculations will be rounded to the nearest two decimal places in such currency (with 0.005 rounded up to 0.01).

36. **REDENOMINATION, RENOMINALISATION AND RECONVENTIONING**

36.1 *Application:*

This Condition 36 (*Redenomination, Renominalisation and Reconventioning*) is applicable to the Notes only if it is specified in the applicable Pricing Supplement as being applicable.

36.2 *Notice of redenomination:*

If the country of the Specified Currency becomes or, announces its intention to become, a Participating Member State, the Issuer may, without the consent of the Noteholders, on giving at least 30 days' prior notice to the Noteholders and the Paying Agents, designate a date (the "**Redenomination Date**"), being an Interest Payment Date under the Notes falling on or after the date on which such country becomes a Participating Member State.

*Redenomination:* Notwithstanding the other provisions of these Conditions, with effect from the Redenomination Date, the Notes shall be deemed to be redenominated into euro in the denomination of euro 0.01 with a principal amount for each Note equal to the principal amount of that Note in the Specified Currency, converted into euro at the rate for conversion of such currency into euro established by the Council of the European Union pursuant to the Treaty (including compliance with rules relating to rounding in accordance with European Community regulations); provided, however, that, if the Issuer determines, with the agreement of the Fiscal Agent that the then market practice in respect of the redenomination into euro 0.01 of internationally offered securities is different from that specified above, such provisions shall be deemed to be amended so as to comply with such market practice and the Issuer shall promptly notify the Noteholders, each listing authority, stock exchange and/or quotation system (if any) by which the Notes have been admitted to listing, trading and/or quotation and the Paying Agents of such deemed amendments.

36.3 *Interest:*

Following redenomination of the Notes pursuant to this Condition 36 (*Redenomination, Renominalisation and Reconventioning*), where Notes have been issued in definitive form, the amount of interest due in respect of such Notes will be calculated by reference to the aggregate principal amount of the Notes presented for payment by the relevant holder.

36.4 *Interest Determination Date:*

If the Floating Rate Note Provisions are specified in the applicable Pricing Supplement as being applicable and Screen Rate Determination is specified in the applicable Pricing Supplement as the manner in which the Rate(s) of Interest is/are to be determined, with effect from the Redenomination Date the Interest Determination Date shall be deemed to be the second TARGET Settlement Day before the first day of the relevant Interest Period.

37. **SUBSTITUTION**

37.1 *Substitution of Issuer with Morgan Stanley Group entities:*

Subject to the conditions set out in this Condition 37 (*Substitution*), but without the consent of Noteholders, each Issuer may, where the Issuer is:

- (a) Morgan Stanley, substitute a subsidiary of Morgan Stanley in place of Morgan Stanley as principal debtor under the Notes, provided that any Notes in respect of which such a substitution is effected will be fully, unconditionally and irrevocably guaranteed pursuant to a guarantee of Morgan Stanley as to the payment of principal of, premium, interest and supplemental amounts, if any, and any Additional Amounts on those Notes when and as the same will become due and payable, whether at maturity or otherwise, and provided further that under the terms of the guarantee, Noteholders will not be required to exercise their remedies against the substitute prior to proceeding directly against Morgan Stanley (as guarantor);
- (b) MSFL, substitute Morgan Stanley or a subsidiary of Morgan Stanley in place of MSFL as principal debtor under the Notes, provided that, unless Morgan Stanley is the substitute issuer, any Notes in respect of which such a substitution is effected will be fully, unconditionally and irrevocably guaranteed pursuant to a guarantee of Morgan Stanley as to the payment of principal of, premium, interest and supplemental amounts, if any, and any Additional Amounts on those Notes when and as the same will become due and payable, whether at maturity or otherwise, and provided further that under the terms of the guarantee, Noteholders will not be required to exercise their remedies against the substitute prior to proceeding directly against Morgan Stanley (as guarantor).

37.2 *Substitution of Issuer or Guarantor with non Morgan Stanley Group entities:*

If this Condition 37.2 (*Substitution of Issuer or Guarantor with non Morgan Stanley Group entities*) is specified in the Pricing Supplement to be applicable to a Series of Notes, subject to the conditions set out in this Condition 37 (*Substitution*), including the rights of Noteholders under Condition 37.6 (*Right to Redemption in respect of substitutions with non Morgan Stanley Group entities*), but without the consent of Noteholders, the Issuer or the Guarantor (in the case of MSFL Notes) may, in the event that the Issuer or the Guarantor (as the case may be) has determined that any of the following events has occurred in respect of the

Issuer or the Guarantor (as the case may be): an insolvency, receivership or equivalent event under the jurisdiction of the Issuer or the Guarantor (as the case may be); a divestment mandated for regulatory reasons; any action being required to satisfy any regulatory licensing requirements; or a change of control (each a "**Substitution Event**"), substitute for itself any entity which is not a Morgan Stanley Group entity, provided that such entity has a long term credit rating from at least one rating agency of standard application on the international capital markets (including but not limited to Standard & Poor's, Moody's Investors Services and Fitch Ratings) which is at least as high as the long term credit rating of the relevant Issuer or Guarantor (as the case may be) being substituted immediately prior to the occurrence of the relevant Substitution Event. Notwithstanding the foregoing, for any Series of Notes in respect of which Morgan Stanley is the Issuer, Morgan Stanley may not be substituted as Issuer with any entity which is not a Morgan Stanley Group entity within one year of the Issue Date of such Notes.

37.3 *Conditions to substitution:*

Substitution of an Issuer or Guarantor for another entity (the "**Substitute**") as provided in Condition 37.1 (*Substitution of Issuer with Morgan Stanley Group entities*) or 37.2 (*Substitution of Issuer or Guarantor with non Morgan Stanley Group entities*) above (as applicable) are subject to the following conditions:

- (a) the Substitute becoming party to the Issue and Paying Agency Agreement with any appropriate consequential amendments, as if it had been an original party to it in place of the relevant Issuer or the Guarantor (as the case may be);
- (b) the Substitute is validly existing under the laws under which it is established or incorporated, has capacity to assume all rights, obligations and liabilities under the Notes, receipts, coupons and Guarantee, as applicable, and has obtained all necessary corporate authorisations to assume all such rights, obligations and liabilities under the Notes or Guarantee (as applicable);
- (c) the Substitute has obtained all necessary governmental or regulatory approvals and consents for the performance by it of its obligations in connection with the Notes or Guarantee (as applicable) and that all such approvals and consents are in full force and effect and that the Substitute and the Notes comply with all applicable requirements of the Securities Act;
- (d) in the case of substitution of an Issuer or Guarantor pursuant to Condition 37.2 (*Substitution of Issuer or Guarantor with non Morgan Stanley Group entities*) above only:
  - (i) the Substitute and the relevant Issuer having obtained (a) legal opinions from independent legal advisers of recognised standing in the country of incorporation of the Substitute and in England that the obligations of the Substitute, in the case of a substitution of an Issuer, under the Notes and the relevant Deed of Covenant, or, in New York, in the case of a substitution of the Guarantor under the Deed of Guarantee, are legal, valid and binding obligations of the Substitute and (b) in the case of the substitution of the Issuer which is MSFL (or any substitute thereof), a legal opinion from an independent legal adviser in New York of recognised standing, that the Deed of Guarantee will apply to the Substitute mutatis mutandis as it applies to the Issuer prior to the substitution and will constitute legal, valid and binding obligations of the Guarantor, in respect of the Substitute (provided that no opinion as referred to in this Condition 37.3(d) shall be required where the Substitute is the Guarantor with respect to MSFL Notes; and
  - (ii) if the relevant Notes are rated at the relevant time, the Substitute has obtained, prior to the substitution date, an acknowledgement from the relevant rating agencies that the substitution will not result in whole or in part in a withdrawal, downgrading, placement in creditwatch or negative outlook of the Notes;
- (e) the Fiscal Agent has confirmed to the relevant Issuer or Guarantor (as the case may be) that it has completed its relevant "know your customer" requirements on the proposed Substitute;
- (f) such substitution being permitted by the rules of any stock exchange on which the Notes are listed and each such stock exchange confirming that, following the proposed substitution of the Substitute, the Notes will continue to be listed on such stock exchange;

- (g) no payment in respect of the Notes, receipts and coupons is overdue at the relevant time;
- (h) at the time of any such substitution, the Substitute is in a position to fulfil all payment obligations arising from or in connection with the Notes in freely convertible and transferable lawful money without the necessity of any taxes or duties to be withheld at source, and to transfer all amounts which are required therefor to the Fiscal Agent without any restrictions;
- (i) if appropriate, the Substitute appointing a process agent as its agent in England to receive service of process on its behalf in relation to any legal action or proceedings arising out of or in connection with the Notes; and
- (j) in respect of Notes which benefit from the Guarantee, such Notes shall continue to benefit from the Guarantee following substitution of the Issuer and/or the Guarantor (as the case may be), pursuant to this Condition 37 (*Substitution*).

37.4 *Reference in the Conditions to the Issuer or the Guarantor (as the case may be):*

In the event of a substitution pursuant to this Condition 37 (*Substitution*), any reference in the Conditions to the relevant Issuer or the Guarantor (as the case may be) shall be construed as a reference to the entity substituted.

37.5 *Notification to Noteholders:*

The relevant Issuer shall as soon as reasonably practicable, and in any event not more than 15 Business Days after the date on which a substitution pursuant to Condition 37.1 (*Substitution of Issuer with Morgan Stanley Group entities*) has taken place, notify Noteholders of such substitution in accordance with Condition 32 (*Notices*).

37.6 *Right to Redemption in respect of substitutions with non Morgan Stanley Group entities:*

- (a) With respect to the right of substitution referred to in Condition 37.2 (*Substitution of Issuer or Guarantor with non Morgan Stanley Group entities*), the Issuer shall provide at least 60 calendar days' notice of any substitution under such Condition to Noteholders in accordance with Condition 32 (*Notices*). Noteholders who object to the substitution will have the right to require the Issuer to redeem their Notes at a price determined in accordance with the provisions of this Condition 37.6, (*Right to Redemption in respect of substitutions with non Morgan Stanley Group entities*) by providing notice of their intention to exercise such right in the manner set out in this Condition 37.6 (*Right to Redemption in respect of substitutions with non Morgan Stanley Group entities*) (the "**Right to Redemption**").
- (b) The redemption of any Notes in respect of which the Right to Redemption has been exercised by Noteholders shall take place 10 Business Days prior to the relevant substitution becoming effective (the "**Substitution Redemption Date**"). The Issuer shall redeem any Notes in respect of which the Right to Redemption has been exercised at a price equal to (i) in the case of Notes the terms of which provide for the repayment in full of principal at maturity, the Replacement Value of such Notes or (ii) in every other case, the fair market value of such Notes on the day on which the relevant Right to Redemption Notice is deposited, in accordance with the provisions of this Condition 37.6 (*Right to Redemption in respect of substitutions with non Morgan Stanley Group entities*), as determined by the Determination Agent in its reasonable discretion, together with interest (if any) accrued to such date (to the extent that such interest is not otherwise taken into account in determining the fair market value of such Notes).
- (c) For the purpose of this Condition 37.6 (*Right to Redemption in respect of substitutions with non Morgan Stanley Group entities*), "**Replacement Value**" means an amount determined by the Determination Agent, acting in good faith and in a commercially reasonable manner, as at the day on which the relevant Right to Redemption Notice is deposited in accordance with the provisions of this Condition 37.6 (*Right to Redemption in respect of substitutions with non Morgan Stanley Group entities*) to be the amount that a Qualified Financial Institution would charge to assume all of the Issuer's payment and other obligations with respect to the Notes as if the relevant Substitution Event described in Condition 37.2 (*Substitution of Issuer or Guarantor with non Morgan Stanley Group*

entities) and the substitution described in this Condition 37 (*Substitution*) had not occurred or to undertake obligations that would have the effect of preserving the economic equivalent of any payment by the Issuer to the Noteholder with respect to the Notes.

- (d) In order to exercise the option contained in this Condition 37.6 (*Right to Redemption in respect of substitutions with non Morgan Stanley Group entities*) the holder of a Note must, not less than 15 Business Days before the date on which the substitution is due to take place (the “**Substitution Date**”), deposit such Note (together with all unmatured Coupons relating thereto) with the Registrar, and a duly completed Right to Redemption Notice in the form obtainable from any Paying Agent. The Paying Agent with which a Note is so deposited shall deliver a duly completed Right to Redemption Receipt to the depositing Noteholder. No Note, once deposited with a duly completed Right to Redemption Notice in accordance with this Condition 37.6 (*Right to Redemption in respect of substitutions with non Morgan Stanley Group entities*), may be withdrawn; provided, however, that if, prior to the relevant Substitution Redemption Date, any such Note becomes due and payable or, upon due presentation of any such Note on the relevant Substitution Redemption Date, payment of the 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 Right to Redemption Notice and shall hold such Note at its Specified Office for collection by the depositing Noteholder against surrender of the relevant Right to Redemption Receipt. For so long as any outstanding Note is held by a Paying Agent in accordance with this Condition 37.6 (*Right to Redemption in respect of substitutions with non Morgan Stanley Group entities*), the depositor of such Note and not such Paying Agent shall be deemed to be the holder of such Note for all purposes.
- (e) Notwithstanding the foregoing, in respect of any Series of Notes for which Morgan Stanley is the Issuer, Noteholders shall only have the right to submit a Right to Redemption Notice from the date which is one calendar year after the Issue Date of such Notes.
- (f) Any payments made to Noteholders in accordance with this Condition 37.6 (*Right to Redemption in respect of substitutions with non Morgan Stanley Group entities*) shall be made in accordance with the provisions of Condition 22 (*Payments*).

### 38. REPRESENTATIONS AND ACKNOWLEDGEMENTS BY NOTEHOLDERS

Each Noteholder shall be deemed to represent and acknowledge to the Issuer on acquiring any Notes that:

- (a) neither the Issuer nor any Affiliate or any of their agents is acting as a fiduciary for it or provides investment, tax, accounting, legal or other advice in respect of the Notes and that such Noteholder and its advisors are not relying on any communication (written or oral and including, without limitation, opinions of third party advisors) of the Issuer or any Affiliate as (i) legal, regulatory, tax, business, investment, financial, accounting or other advice, (ii) a recommendation to invest in any Notes or (iii) an assurance or guarantee as to the expected results of an investment in the Notes (it being understood that information and explanations related to the terms and conditions of the Notes shall not be considered to be any such advice, recommendation, assurance or guarantee and should be independently confirmed by the recipient and its advisors prior to making any such investment);
- (b) such Noteholder (i) has consulted with its own legal, regulatory, tax, business, investments, financial and accounting advisors to the extent that it has deemed necessary, and has made its own investment, hedging, and trading decisions based upon its own judgement and upon any advice from such advisors as it has deemed necessary and not upon any view expressed by the Issuer or any Affiliate or any of their agents and (ii) is acquiring the Notes with a full understanding of the terms, conditions and risks thereof and it is capable of and willing to assume those risks; and
- (c) the Issuer and/or any Affiliates may have banking or other commercial relationships with issuers of any securities to which the Notes relate and may engage in proprietary trading in any securities, indices, futures contracts, commodities, fund interests or other property to which the Notes relate or options, futures, derivatives or other instruments relating thereto (including such trading as the Issuer and/or any Affiliate deem appropriate in their sole discretion to hedge the market risk on the Notes and other transactions between the Issuer and/or any Affiliates and any third parties), and that such trading (i) may affect the price or level thereof and consequently the amounts payable under the

Notes and (ii) may be effected at any time, including on or near any Valuation Date, Reference Date or Averaging Date (as applicable).

39. **GOVERNING LAW AND JURISDICTION**

39.1 *Governing Law:*

Unless otherwise specified in the applicable Pricing Supplement, the Notes and any non-contractual obligations arising out of or in connection with them shall be governed by and construed in accordance with English law.

39.2 *Jurisdiction:*

Each of Morgan Stanley and MSFL agrees for the benefit of the Noteholders that the courts of England shall have jurisdiction to hear and determine any suit, action or proceedings, and to settle any disputes, which may arise out of or in connection with the Notes (respectively, "**Proceedings**" and "**Disputes**") and, for such purposes, irrevocably submits to the jurisdiction of such courts.

39.3 *Appropriate Forum:*

Each of Morgan Stanley and MSFL irrevocably waives any objection which it might now or hereafter have to the courts of England being nominated as the forum to hear and determine any Proceedings and to settle any Disputes, and agrees not to claim that any such court is not a convenient or appropriate forum.

39.4 *Process Agent:*

Each of Morgan Stanley and MSFL agrees that the process by which any Proceedings in England are begun may be served on it by being delivered to (i) in the case of Morgan Stanley, Morgan Stanley & Co. International plc, 25 Cabot Square, Canary Wharf, London E14 4QA or, if different, its registered office for the time being and (ii) in the case of MSFL, Morgan Stanley (UK) Limited, 25 Cabot Square, Canary Wharf, London E14 4QA or, if different, its registered office for the time being or (iii) at any address of the Issuer in Great Britain at which process may be served on it in accordance with Part 34 of the UK Companies Act 2006. If such Person is not or ceases to be effectively appointed to accept service of process on behalf of any Issuer, such Issuer shall, on the written demand of any Noteholder addressed to the Issuer and delivered to the Issuer or to the Specified Office of the Fiscal Agent, appoint another Person in England to accept service of process on its behalf and, failing such appointment within 15 days, any Noteholder shall be entitled to appoint such a Person by written notice addressed to the Issuer and delivered to the Issuer or to the Specified Office of the Fiscal Agent. Nothing in this Condition 39.4 (*Process Agent*) shall affect the right of any Noteholder to serve process in any other manner permitted by law.

39.5 *Non exclusivity:*

The submission to the jurisdiction of the courts of England shall not (and shall not be construed so as to) limit the right of any Noteholder to take Proceedings in any other court of competent jurisdiction, nor shall the taking of Proceedings in any one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction (whether concurrently or not) if and to the extent permitted by law.

40. **RIGHTS OF THIRD PARTIES**

No person shall have any right to enforce any term or condition of the Notes under the Contracts (*Rights of Third Parties*) Act 1999.



**PRO FORMA PRICING SUPPLEMENT FOR THE NOTES**

**PRICING SUPPLEMENT DATED [●]**

(TO OFFERING CIRCULAR FOR NON-PRINCIPAL PROTECTED SECURITIES DATED 28 JUNE 2019)

**[Morgan Stanley / Morgan Stanley Finance LLC]**  
as Issuer

**Legal Entity Identifier (LEI): [IGJSJL3JD5P30I6NJZ34 / 5493003FCPSE9RKT4B56]**

Issue of [Aggregate Nominal Amount of Tranche] [Title of Notes] due [●]

[to be consolidated and to form a single series with the Series [●] Tranche [1] [Title of Notes] due [●]<sup>1</sup>]

[Guaranteed by Morgan Stanley]

under the

**Regulation S Program for the Issuance of Notes, Series A and B, Warrants and Certificates**

The Offering Circular referred to below (as completed by this Pricing Supplement) has been prepared on the basis that any offer of Notes in any Member State of the European Economic Area which has implemented the Prospectus Directive (2003/71/EC) (as amended, including by Directive 2010/73/EU (together, the "**Prospective Directive**")) (each, a "**Relevant Member State**") will be made pursuant to an exemption under the Prospectus Directive, as implemented in that Relevant Member State, from the requirement to publish a prospectus for offers of the Notes. Accordingly any person making or intending to make an offer in that Relevant Member State of the Notes may only do so in circumstances in which no obligation arises for the Issuer or any Distribution Agent to publish a prospectus pursuant to Article 3 of the Prospectus Directive or supplement a prospectus pursuant to Article 16 of the Prospectus Directive, in each case, in relation to such offer. Neither the Issuer nor any Distribution Agent has authorised, nor do they authorise, the making of any offer of Notes in any other circumstances.

**Warning:** Neither this Pricing Supplement nor the Offering Circular referred to below constitutes a "prospectus" for the purposes of Article 5.4 of Directive 2003/71/EC (as amended, including by Directive 2010/73/EU, the "**Prospectus Directive**"), and the Pricing Supplement and the Offering Circular have been prepared on the basis that no prospectus shall be required under the Prospectus Directive in relation to any Notes be offered and sold under hereby.

**THE NOTES ARE NOT DEPOSITS OR SAVINGS ACCOUNTS AND ARE NOT INSURED BY THE U.S. FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY OR INSTRUMENTALITY OR DEPOSIT PROTECTION SCHEME ANYWHERE, NOR ARE THEY OBLIGATIONS OF, OR GUARANTEED BY, A BANK.**

**[PROHIBITION OF SALES TO EEA RETAIL INVESTORS:**

THE NOTES ARE NOT INTENDED TO BE OFFERED, SOLD OR OTHERWISE MADE AVAILABLE TO AND SHOULD NOT BE OFFERED, SOLD OR OTHERWISE MADE AVAILABLE TO ANY RETAIL INVESTOR IN THE EUROPEAN ECONOMIC AREA (THE "**EEA**"). FOR THESE PURPOSES, A RETAIL INVESTOR MEANS A PERSON WHO IS ONE (OR MORE) OF:

- (A) A RETAIL CLIENT AS DEFINED IN POINT (11) OF ARTICLE 4(1) OF DIRECTIVE 2014/65/EU, AS AMENDED ("**MIFID II**");
- (B) A CUSTOMER WITHIN THE MEANING OF DIRECTIVE 2002/92/EC, AS AMENDED OR SUPERSEDED (THE "**INSURANCE MEDIATION DIRECTIVE**"), WHERE THAT CUSTOMER WOULD NOT QUALIFY AS A PROFESSIONAL CLIENT AS DEFINED IN POINT (10) OF ARTICLE 4(1) OF MIFID II; OR

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<sup>1</sup> Insert language if the issue is a fungible tranche

- (C) NOT A QUALIFIED INVESTOR AS DEFINED IN DIRECTIVE 2003/71/EC, AS AMENDED OR SUPERSEDED.

CONSEQUENTLY NO KEY INFORMATION DOCUMENT REQUIRED BY REGULATION (EU) NO 1286/2014, AS AMENDED (THE "**PRIIPS REGULATION**") FOR OFFERING OR SELLING THE NOTES OR OTHERWISE MAKING THEM AVAILABLE TO RETAIL INVESTORS IN THE EEA HAS BEEN PREPARED AND THEREFORE OFFERING OR SELLING THE NOTES OR OTHERWISE MAKING THEM AVAILABLE TO ANY RETAIL INVESTOR IN THE EEA MAY BE UNLAWFUL UNDER THE PRIIPS REGULATION.]

**[MIFID II PRODUCT GOVERNANCE / PROFESSIONAL INVESTORS AND ECPS ONLY TARGET MARKET:**

SOLELY FOR THE PURPOSES OF THE MANUFACTURER'S PRODUCT APPROVAL PROCESS, THE TARGET MARKET ASSESSMENT IN RESPECT OF THE NOTES HAS LED TO THE CONCLUSION THAT:

- (A) THE TARGET MARKET FOR THE NOTES IS ELIGIBLE COUNTERPARTIES AND PROFESSIONAL CLIENTS ONLY, EACH AS DEFINED IN MIFID II; AND
- (B) ALL CHANNELS FOR DISTRIBUTION OF THE NOTES TO ELIGIBLE COUNTERPARTIES AND PROFESSIONAL CLIENTS ARE APPROPRIATE.

ANY PERSON SUBSEQUENTLY OFFERING, SELLING OR RECOMMENDING THE NOTES (A "**DISTRIBUTOR**") SHOULD TAKE INTO CONSIDERATION THE MANUFACTURER'S TARGET MARKET ASSESSMENT; HOWEVER, A DISTRIBUTOR SUBJECT TO MIFID II IS RESPONSIBLE FOR UNDERTAKING ITS OWN TARGET MARKET ASSESSMENT IN RESPECT OF THE NOTES (BY EITHER ADOPTING OR REFINING THE MANUFACTURER'S TARGET MARKET ASSESSMENT) AND DETERMINING APPROPRIATE DISTRIBUTION CHANNELS.]

## PART A – CONTRACTUAL TERMS

THE NOTES DESCRIBED HEREIN [AND ANY GUARANTEE IN RESPECT THEREOF,] AND THE SECURITIES TO BE DELIVERED ON REDEMPTION OF THE NOTES (IF ANY) HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "**SECURITIES ACT**"), OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION OF THE UNITED STATES. [THE ISSUER IS NOT REGISTERED AND WILL NOT REGISTER] [NEITHER THE ISSUER NOR THE GUARANTOR IS REGISTERED, OR WILL REGISTER,] UNDER THE U.S. INVESTMENT COMPANY ACT OF 1940, AS AMENDED. TRADING IN THE NOTES HAS NOT BEEN APPROVED BY THE U.S. COMMODITY FUTURES TRADING COMMISSION UNDER THE U.S. COMMODITY EXCHANGE ACT OF 1936, AS AMENDED.

THE NOTES DESCRIBED HEREIN, ANY INTEREST THEREIN [AND ANY GUARANTEE IN RESPECT THEREOF,] AND THE SECURITIES TO BE DELIVERED ON REDEMPTION OF THE NOTES (IF ANY), MAY NOT BE OFFERED, SOLD, PLEDGED, ASSIGNED, DELIVERED OR OTHERWISE TRANSFERRED OR REDEEMED AT ANY TIME, DIRECTLY OR INDIRECTLY, WITHIN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, U.S. PERSONS (AS DEFINED IN REGULATION S UNDER THE SECURITIES ACT). HEDGING TRANSACTIONS INVOLVING ANY "EQUITY SECURITIES" OF "DOMESTIC ISSUERS" (AS SUCH TERMS ARE DEFINED IN THE SECURITIES ACT AND REGULATIONS THEREUNDER) MAY ONLY BE CONDUCTED IN ACCORDANCE WITH THE SECURITIES ACT. SEE "**SUBSCRIPTION AND SALE**" AND "**NO OWNERSHIP BY U.S. PERSONS**" IN THE OFFERING CIRCULAR DATED 28 JUNE 2019. IN PURCHASING THE NOTES, PURCHASERS WILL BE DEEMED TO REPRESENT AND WARRANT THAT THEY ARE NEITHER LOCATED IN THE UNITED STATES NOR A U.S. PERSON AND THAT THEY ARE NOT PURCHASING ON BEHALF OF, OR FOR THE ACCOUNT OR BENEFIT OF, ANY U.S. PERSON.

[THE NOTES ARE NOT RATED.]<sup>2</sup>

This document constitutes the Pricing Supplement relating to the issue of the Notes described herein.<sup>3</sup>

[Terms used herein shall be deemed to be defined as such for the purposes of the Conditions set forth in the Offering Circular dated 28 June 2019 [and the supplemental Offering Circular[s] dated [●]] (together, the "**Offering Circular**").]<sup>4</sup>[Terms used herein shall be deemed to be defined as such for the purposes of the Conditions set forth in the Offering Circular dated 28 June 2019 [and the supplemental Offering Circular[s] dated [●]] which are incorporated by reference in the Offering Circular dated 28 June 2019 (together, the "**Offering Circular**").]<sup>5</sup>

This Pricing Supplement must be read in conjunction with such Offering Circular [as so supplemented]. Full information on the Issuer [, the Guarantor] and the offer of the Notes is only available on the basis of the combination of this Pricing Supplement and the Offering Circular. Copies of the Offering Circular are available from the offices of Morgan Stanley & Co. International plc at 25 Cabot Square, Canary Wharf, London, E14 4QA. The Offering Circular has also been published on the website of Euronext Dublin ([www.ise.ie](http://www.ise.ie)) and the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)).

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

[Terms used herein shall be deemed to be defined as such for the purposes of the Terms and Conditions of the Notes set forth in the offering circular dated [●] [and the supplements dated [●]] to the offering circular ([as so supplemented,] the "**Original Offering Circular**"). This document constitutes the Pricing Supplement of the Notes described herein and must be read in conjunction with the Offering Circular, save in respect of the Terms and Conditions of the Notes which are extracted from the Original Offering Circular and which are incorporated by reference into the Offering Circular. Full information on the Issuer, the Guarantor and the offer of the Notes is only available on the basis of the combination of this Pricing Supplement, the Offering Circular and the Original Offering Circular incorporated by reference therein. Copies of the Offering Circular are available from the offices of Morgan Stanley & Co. International

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<sup>2</sup> Delete if the Notes are rated.

<sup>3</sup> Any offer by an Issuer of Notes which fall outside of the scope of the Pricing Supplement, will be by way of a drawdown prospectus approved by the Luxembourg Stock Exchange rather than a pricing supplement.

<sup>4</sup> Use if not a fungible issuance.

<sup>5</sup> Only include this language where it is a fungible issue and the original tranche was issued under an Offering Circular with a different date.

plc at 25 Cabot Square, Canary Wharf, London, E14 4Q and [copies of the Offering Circular and Pricing Supplement are also available on the website of Euronext Dublin ([www.ise.ie](http://www.ise.ie)) and the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu))].

*[Include whichever of the following apply or specify as "Not Applicable". Note that the numbering should either (i) remain as set out below, even if "Not Applicable" is indicated for individual paragraphs or sub-paragraphs, or (ii) be revised based on the deletion of all individual paragraphs that are "Not Applicable". Italics denote guidance for completing the Pricing Supplement.]*

## Information Concerning Investment Risk

[•]

*(Include whichever of the following apply or specify as "Not Applicable" (N/A). Note that the numbering should remain as set out below, even if "Not Applicable" is indicated for individual paragraphs or sub-paragraphs. Italics denote guidance for completing the Pricing Supplement.)*

1.      [(i)]      Issuer:      [Morgan Stanley] [Morgan Stanley Finance LLC]  
                  [(ii)]      Guarantor:      Morgan Stanley]
2.      [(i)]      Series Number:      [•]  
                  [(ii)]      [Tranche Number:]      [•]  
                  *(If fungible with an existing Series, details of that Series, including the date on which the Notes become fungible).*      [Fungible with the Series [•] Tranche [1] [Title of Notes] due [•] issued by [Morgan Stanley][Morgan Stanley Finance LLC], bearing ISIN [•]. To be consolidated to form a single series with Tranche [1] with effect as of the Issue Date of Tranche [2]]
3.      **Specified Currency or Currencies:**      [•]
4.      **Aggregate [Nominal Amount]/[Number] of the Notes:**      [•]  
                  [In respect of the Tranche [2] Notes, [•] and the total Aggregate Nominal Amount of [•] represents the sum of the aggregate nominal amounts of Tranche 1 and Tranche 2 as of their respective issue dates]  
                  [(i)]      Series:      [•]  
                  [(ii)]      Tranche:      [•]
5.      **Issue Price**      [•] per cent. of par per Note/[•] per Note
6.      (i)      Specified Denominations:      [•] [and integral multiples of [•] in excess thereof].  
                  *(N.B. where multiple denominations above €100,000 (or its equivalent in other currencies) are being used the following sample wording should be followed:*  
                  *[€100,000] and integral multiples of [€1,000] in excess thereof up to and including [€199,000]. No Notes in definitive form will be issued with a denomination above [€199,000]"")*  
                  *(NB: The exchange upon notice at any time shall not be applicable if this language is used. Furthermore, such*

*Specified Denomination construction is not permitted in relation to any issuance of Notes which is to be represented on issue by a Permanent Bearer Global Notes exchangeable for Definitive Notes.)*

*(N.B. Notes (including Notes denominated in pounds sterling) in respect of which the issue proceeds are to be accepted by the Issuer in the United Kingdom or whose issue otherwise constitutes a contravention of Section 19 FSMA and which have a maturity of less than one year must have a minimum redemption value of £100,000 (or its equivalent in other currencies)).*

- |      |                           |     |
|------|---------------------------|-----|
| (ii) | Calculation Amount (Par): | [•] |
|------|---------------------------|-----|
- 7.
- |         |                            |  |
|---------|----------------------------|--|
| (i)     | Issue Date:                | [•]                                      |
| [(ii)]  | [Tranche 1 Issue Date:]    | [•] <sup>6</sup>                         |
| [(iii)] | [Tranche 2 Issue Date:]    | [•]                                      |
| (ii)    | Trade Date:                | [•]                                      |
| (iii)   | Interest Commencement Date | [•] (specify)/Issue Date/Not Applicable] |
| (iv)    | [Strike Date]:             | [•]                                      |
8. **Maturity Date:**
- [•] (specify date or (for Floating Rate Notes) Interest Payment Date falling in, or nearest to, the relevant month and year) [subject to adjustment in accordance with the Business Day Convention (i) in the event such date is not a Business Day or (ii) such that the Maturity Date shall always be at least five (5) Business Days following the Determination Date.]
9. **Interest Basis:**
- [[•]% Fixed Rate]
- [[specify reference rate] +/- [•]% Floating Rate]
- [Zero Coupon]
- [Dual Currency Interest]
- [Equity-Linked Interest]<sup>7</sup>
- [Commodity-Linked Interest]
- [Currency-Linked Interest]
- [Credit-Linked Interest]
- [Inflation-Linked Interest]
- [Property-Linked Interest]

<sup>6</sup> Delete if not an additional Tranche issue

<sup>7</sup> Specify if interest provisions are linked to ETF Interests or a Basket of ETF Interests.

- [Fund-Linked Interest]
- [Futures Contract-Linked Interest]
- [Other (*specify*)]
- (further particulars specified below)
- [*include all that apply*]
10. **Redemption/Payment Basis:**
- [Redemption at par]
- [Redemption at Final Redemption Amount]
- [Dual Currency Redemption]
- [Equity-Linked Redemption]<sup>8</sup>
- [Commodity-Linked Redemption]
- [Currency-Linked Redemption]
- [Credit-Linked Redemption]
- [Inflation-Linked Redemption]
- [Property-Linked Redemption]
- [Fund-Linked Redemption]
- [Futures Contract-Linked Redemption]
- [Partly Paid]
- [Instalment]
- [Other (*specify*)]
- [*include all that apply*]
11. **Change of Interest or Redemption/Payment Basis:** [•] (Specify details of any provision for convertibility of Notes into another interest or redemption/payment basis)
12. **Put/Call Options/Autocallable Early Redemption:**
- (i) Redemption at the Option of the Issuer: [Applicable/Not Applicable]
- (Condition 21.4)
- (ii) Redemption at the Option of Noteholders: [Applicable/Not Applicable]
- (Condition 21.6)

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<sup>8</sup> Specify if redemption provisions are linked to ETF Interests or a Basket of ETF Interests.

- (iii) Autocallable Early Redemption: [Applicable/Not Applicable]  
(Condition 18)
- (iv) Other put/call options: [Applicable/Not Applicable]
13. [(i)] **Status of the Notes:** As set out in Condition 4.1  
(Condition 4)
- [(ii)] **Status of the Guarantee:** As set out in Condition 4.2]
14. **Method of distribution:** [Syndicated/Non-syndicated]

## RELEVANT UNDERLYING

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- (A) Single Share Notes, Share Basket Notes: (if not applicable, delete sub paragraph (A))  
(Condition 10)
- (i) Whether the Notes relate to a single share or a basket of shares (each, an **"Underlying Share"**) and the identity of the relevant issuer(s) and class of the Underlying Share (each an **"Underlying Share Issuer"**): [Single Share Notes]  
[Share Basket Notes]
- (ii) ISIN: [•]
- (iii) Exchange[s]: [•]
- (iv) Related Exchange[s]: [•] [None specified]
- (B) Single Index Notes, Index Basket Notes: (if not applicable, delete sub paragraph (B))  
(Condition 10)
- (i) Types of Notes: [Single Index Notes]/[Index Basket Notes]  
[•], sponsored by [•]  
(*Bloomberg*<sup>®</sup> code: [•])  
(*specify Index/Indices/Index Sponsors*)
- (ii) Exchange[s]: [•] (*specify Exchange, or "Multi-Exchange Index", in relation to each Index*)
- (iii) Related Exchange[s]: [•] [None specified]
- (iv) Benchmark Trigger Provisions: [Applicable][Not Applicable]
- (v) Alternative Pre-nominated Index: [None][Specify] (*specify in respect of each Relevant Equity Index Benchmark*)

- (C) Single ETF Notes, ETF Basket Notes: (if not applicable, delete sub paragraph (C))
- (Condition 10)
- (i) Whether the Notes relate to a single ETF or a basket of ETFs (each, an "ETF Interest " and the identity of the related ETF (each, an "ETF")): [Single ETF Notes]  
[ETF Basket Notes]  
(specify ETF Interest(s) and ETF(s))
- (ii) Exchange[s]: [•]
- (iii) Related Exchange[s]: [•] [None specified]
- (D) Commodity-Linked Notes: (if not applicable, delete sub paragraph (D))
- (Condition 11)
- (i) Commodity/ies or Commodity Index/Indices: [•] [if applicable, specify whether Non Metal, Base Metal or Precious Metal]
- (ii) Commodity Reference Price: [•] (specify Commodity Reference Price)
- (iii) Benchmark Trigger Provisions: [Applicable][Not Applicable]
- (iv) Alternative Pre-nominated Index: [None][Specify] (specify in respect of each Relevant Commodity Benchmark)
- (v) Other Relevant Commodity Benchmark: [None][Specify] (specify in respect of each Relevant Commodity Benchmark)
- (E) Currency-Linked Notes: (if not applicable, delete sub paragraph (E))
- (Condition 12)
- (i) Settlement Currency: [•]
- (ii) Reference Currency: [•]
- (iii) Specified Amount: [•]
- (iv) Settlement Rate: [•]
- (v) Benchmark Trigger Provisions: [Applicable][Not Applicable] (if not applicable, delete the remainder of this sub-paragraph)
- Other Relevant FX Benchmark: [None][Specify] (specify in respect of each Relevant FX Benchmark)
- (F) Inflation-Linked Notes: (if not applicable, delete sub paragraph (F))
- (Condition 13)
- (i) Index /Indices [•]  
[•], sponsored by [•]



- (Bloomberg® code: [●])
- (specify Index/Indices/Index Sponsors (including place of publication))
- (G) Property-Linked Notes: (if not applicable, delete sub paragraph (G))
- (Condition 15)
- (i) Property Index: [●]
- (ii) Benchmark Trigger Provisions: [Applicable][Not Applicable]
- (iii) Alternative Pre-nominated Index: [None][Specify] (specify in respect of each Relevant Property Index Benchmark)
- (H) Fund-Linked Notes: (if not applicable, delete sub paragraph (H))
- (Condition 16)
- (i) Fund: [●] (specify or delete if not applicable)
- (ii) Fund Interest: [●] (specify or delete if not applicable or if fallback is applicable)
- (iii) Fund Interest Unit: [●] (specify or delete if not applicable or if fallback is applicable)
- (iv) Basket of Funds: [●] (specify or delete if not applicable, include any relevant weightings of each Fund)
- (v) Company: [●] (specify or delete if not applicable)
- (vi) Fund Business Day: [●] (specify or delete if not applicable or if fallback is applicable)
- (vii) Fund Administrator: [●] (specify or delete if not applicable or if fallback is applicable)
- (viii) Fund Adviser: [●] (specify or delete if not applicable or if fallback is applicable)
- (ix) Fund Custodian: [●] (specify or delete if not applicable or if fallback is applicable)
- (x) Additional Fund Service Provider: [●] (specify or delete if not applicable)
- (xi) Additional Fund Documents: [●] (specify or delete if not applicable)
- (xii) NAV source: [●] (specify where the NAV of any Fund will be published)
- (I) Futures Contract-Linked Notes: (if not applicable, delete sub paragraph (I))
- (Condition 17)
- (i) Whether the Notes relate to a single futures contract or a basket of futures contracts (each, a "Futures Contract"): [Single Futures Contract-Linked Notes]  
[Futures Contract Basket-Linked Notes]

- (ii) Futures Contract(s): *[Specify name of futures contract] [having an Expiry Date scheduled to fall [on] [immediately before] [immediately after] [●] [specify date]]*  
*(In respect of each Scheduled Reference Date and Scheduled Averaging Date, where the final settlement price is being referenced, the Scheduled Reference Date or Scheduled Averaging Date (as applicable) should be expressed as "The Expiry Date")*
- (iii) Futures Contract Underlier(s): [●] [None specified]
- (iv) Exchange: [●]
- (v) Benchmark Trigger Provisions: [Applicable] [Not Applicable]
- (vi) Alternative Pre-nominated Futures Contract[s]: [●] [None][Specify] (specify in respect of each Relevant Futures Contract Benchmark)

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

16. **Fixed Rate Note Provisions** [Applicable/Not Applicable]  
 (Condition 5) *(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Rate[(s)] of Interest: [●] per cent. per annum [payable [annually/semi-annually/quarterly/monthly/ other (specify)] in arrear]
- (ii) Interest Period: [As set out in Condition 2] / [Insert "Unadjusted" if the application of the relevant Business Day Convention is not intended to affect the Interest Period]
- (iii) Interest Payment Date(s): [●] in each year [adjusted in accordance with [●] (specify Business Day Convention and any applicable Additional Business Centre(s) for the definition of "Business Day") /not adjusted]
- (iv) Fixed Coupon Amount[(s)]: [●] per Calculation Amount
- (v) Broken Amount(s): [●] per Calculation Amount, payable on the Interest Payment Date falling [in/on] [●]
- (vi) Day Count Fraction: [Actual/Actual; Actual/365(Fixed); Actual/360; 30/360; 30/360 (ISDA); 30E/360; Bond Basis; Eurobond Basis; Actual/Actual (ICMA); other]
- (vii) Business Day Convention: [Floating Rate Convention/ Following Business Day Convention/ Modified Following Business Day Convention/ Preceding Business Day Convention/ No Adjustment/ other (give details)]
- (viii) Other terms relating to the method of calculating interest for Fixed Rate Notes: [Not Applicable/give details]
- (ix) Party responsible for calculating the Rate(s) of Interest and/or Interest Amount(s): [●]

17.	<b>Floating Rate Note Provisions</b>	[Applicable/Not Applicable]
	(Condition 6)	<i>(If not applicable, delete the remaining sub-paragraphs of this paragraph)</i>
(i)	Interest Payment Dates:	[•]
(ii)	First Interest Payment Date:	<i>[delete if not applicable]</i>
(iii)	Interest Period:	[As set out in Condition 2] / <i>[Insert "Unadjusted" if the application of the relevant Business Day Convention is not intended to affect the Interest Period]</i>
(iv)	Business Day Convention:	[Floating Rate Convention/ Following Business Day Convention/ Modified Following Business Day Convention/ Preceding Business Day Convention/ other <i>(give details)</i> ]
(v)	Specified Period:	[•]/[Not Applicable]
(vi)	Additional Business Centre(s):	[•]
(vii)	Manner in which the Rate(s) of Interest is/are to be determined:	[Screen Rate Determination/ISDA Determination/other <i>(give details)</i> ]
(viii)	Party responsible for calculating the Rate(s) of Interest and/or Interest Amount(s) (if not the Calculation Agent):	[•]
(ix)	Screen Rate Determination:	[Applicable/Not Applicable]
	• Reference Rate:	[•]
	• Interest Determination Date(s):	[•]
	• Relevant Time:	[•]
	• Relevant Screen Page:	[•]
	• Reference Banks:	[•]
	• Relevant Financial Centre:	[•]
(x)	ISDA Determination	[Applicable/Not Applicable]
	• Floating Rate Option:	[•]
	• Designated Maturity:	[•]
	• Reset Date:	[•]
(xi)	Margin(s):	[+/-][•] per cent. per annum
(xii)	Minimum Rate of Interest:	[•] per cent. per annum
(xiii)	Maximum Rate of Interest:	[•] per cent. per annum

- (xiv) Day Count Fraction: [•]
- (xv) Fallback provisions, rounding provisions, denominator and any other terms relating to the method of calculating interest on Floating Rate Notes, if different from those set out in the Conditions: [•]
- (xvi) Condition 6.11 (*Relevant Rates Benchmark Discontinuance or Prohibition on Use*): [Applicable][Not Applicable]<sup>9</sup> (*if not applicable delete the remaining sub-paragraphs of this paragraph*)
- (1) Other Relevant Rates Benchmark: [specify][Not Applicable] (*specify any applicable Relevant Rates Benchmark Rate which is not a Reference Rate. Otherwise delete line*)
- (2) Alternative Pre-nominated Reference Rate: [specify][Not Applicable] (*specify in respect of each Relevant Rates Benchmark*)
- (3) Administrator/Benchmark Event applicable for Condition 6.11(c): [Applicable as per the Conditions] [Not Applicable]
18. **Zero Coupon Note Provisions** [Applicable/Not Applicable]
- (Condition 7) (*If not applicable, delete the remaining sub paragraphs of this paragraph*)
- (i) Accrual Yield: [•] per cent. per annum
- (ii) Reference Price: [•]
- (iii) Day Count Fraction: [•]
- (iv) Additional Business Centre(s): [•]
- (v) Any other formula/basis of determining amount payable: [•]
19. **Dual Currency-Linked Note Interest Provisions** [Applicable/Not Applicable]
- (Condition 8) (*If not applicable, delete the remaining sub paragraphs of this paragraph*)
- (i) Rate of Exchange/method of calculating Rate of Exchange: [give details]
- (ii) Party, if any, responsible for calculating the Rate(s) of interest and/or Interest Amount(s) (if not the Calculation Agent): [•]
- (iii) Provisions applicable where calculation by reference to Rate of [Need to include a description of market disruption or

<sup>9</sup> Not applicable where the Relevant Rates Benchmark is U.S. dollar LIBOR.

	Exchange impossible or impracticable or otherwise disrupted:	<i>settlement disruption events and adjustment provisions.</i> ]
(iv)	Person at whose option Specified Currency(ies) is/are payable:	[•]
(v)	Other special terms and conditions:	[•]
20.	<b>Equity-Linked Interest Note Provisions</b>	[Applicable/Not Applicable]
	(Condition 10)	
(A)	Single Share Notes, Share Basket Notes:	<i>(if not applicable, delete sub paragraph (A))</i> <i>(if Single Share Notes, delete sub paragraph below)</i>
	Scheduled Trading Days and Disrupted Days:	[Common Scheduled Trading Days and Common Disrupted Days: Applicable] [Individual Scheduled Trading Days and Individual Disrupted Days: Applicable] [Common Scheduled Trading Days and Individual Disrupted Days: Applicable] <i>(select one as appropriate and delete other two)</i>
(i)	Partial Lookthrough Depositary Receipt Provisions:	[Applicable/Not Applicable]
(ii)	Full Lookthrough Depositary Provisions:	[Applicable/Not Applicable]
(iii)	Weighting for each Underlying Share comprising the basket:	[Insert details] [N/A]
(iv)	Party responsible for calculating the Rate(s) of Interest and/or Interest Amount(s) (if not the Calculation Agent):	[•]
(v)	Provisions for determining Rate of Interest where calculated by reference to one or more Shares:	[•]
(vi)	Provisions for determining Rate of Interest and/or Interest Amount where calculation by reference to one or more Shares is impossible or impracticable or otherwise disrupted:	[•]
(vii)	Interest Determination Date(s):	[•]
(viii)	Interest Period:	[As set out in Condition 2] / [Insert "Unadjusted" if the application of the relevant Business Day Convention is not intended to affect the Interest Period]
(ix)	Specified Interest Payment Dates:	[•]
(x)	Valuation Date(s):	[•]

- |         |                                     |   |
|---------|-------------------------------------|---|
| (xi)    | Averaging Dates:                    | [•]   |
| (xii)   | Averaging Date Disruption:          | [Omission/Postponement/Modified Postponement]   |
| (xiii)  | Observation Date(s):                | [•]   |
| (xiv)   | Observation Period:                 | [•]   |
| (xv)    | Business Day Convention:            | [Floating Rate Convention/ Following Business Day Convention/Modified Following Business Day Convention/Preceding Business Day Convention/other (give details)] |
| (xvi)   | Additional Business Centre(s):      | [•]   |
| (xvii)  | Day Count Fraction:                 | [•]   |
| (xviii) | Minimum Rate/Amount of Interest:    | [•] per cent. per annum   |
| (xix)   | Maximum Rate/Amount of Interest:    | [•] per cent. per annum   |
| (xx)    | Other special terms and conditions: | [•]   |
- (B) Single Index Notes, Index Basket Notes: (If not applicable, delete sub paragraph (B))
- (if Single Index Notes, delete sub paragraph below)*
- |  |  |
|--|--|
| Scheduled Trading Days and Disrupted Days: | [Common Scheduled Trading Days and Common Disrupted Days: Applicable]<br><br>[Individual Scheduled Trading Days and Individual Disrupted Days: Applicable]<br><br>[Common Scheduled Trading Days and Individual Disrupted Days: Applicable]<br><br><i>(select one as appropriate and delete other two)</i> |
|--|--|
- |       |   |  |
|-------|---|--|
| (i)   | Weighting for each Index:   | [•] <i>(insert details)</i> /[Not Applicable]  |
| (ii)  | Party responsible for calculating the Rate(s) of interest and/or Interest Amount(s) (if not the Calculation Agent):   | [•]  |
| (iii) | Provisions for determining Rate of Interest and/or Interest Amount where calculated by reference to Index:  | [•]  |
| (iv)  | Provisions for determining Rate of Interest and/or Interest Amount where calculation by reference to Index is impossible or impracticable or otherwise disrupted: | [•]<br><br><i>(Need to include a description of market disruption or settlement disruption events and adjustment provisions)</i> |
| (v)   | Interest Determination Date(s):   | [•]  |
| (vi)  | Interest Period:  | [As set out in Condition 2] / <i>[Insert "Unadjusted" if the application of the relevant Business Day Convention is not</i>      |

		<i>intended to affect the Interest Period]</i>
(vii)	Specified Interest Payment Dates:	[•]
(viii)	Valuation Date(s):	[•]
(ix)	Averaging Dates:	[•]
(x)	Averaging Date Disruption:	[Omission/Postponement/Modified Postponement]
(xi)	Observation Date(s):	[•]
(xii)	Observation Period:	[•]
(xiii)	Business Day Convention:	[Floating Rate Convention/ Following Business Day Convention/Modified Following Business Day Convention/Preceding Business Day Convention/other (give details)]
(xiv)	Additional Business Centre(s):	[•]
(xv)	Day Count Fraction:	[•]
(xvi)	Minimum Rate/Amount of Interest:	[•] per cent. per annum
(xvii)	Maximum Rate/Amount of Interest:	[•] per cent. per annum
(xviii)	Other special terms and conditions:	[•]
(C)	Single ETF Notes, ETF Basket Notes:	<i>(if not applicable, delete sub paragraph (C))</i>
		<i>(if Single ETF Notes, delete sub paragraph below)</i>
	Scheduled Trading Days and Disrupted Days:	[Common Scheduled Trading Days and Common Disrupted Days: Applicable] [Individual Scheduled Trading Days and Individual Disrupted Days: Applicable] [Common Scheduled Trading Days and Individual Disrupted Days: Applicable] <i>(select one as appropriate and delete other two)</i>
(i)	Weighting for each ETF Interest comprising the basket:	[Insert details] [N/A]
(ii)	Party responsible for calculating the Rate(s) of Interest and/or Interest Amount(s):	[•]
(iii)	Provisions for determining Rate of Interest and/or Interest Amount(s) where calculated by reference to one or more Shares:	[•]
(iv)	Provisions for determining Rate of Interest where calculation by reference to one or more ETFs is impossible or	[•] <i>(Need to include a description of market disruption or</i>

	impracticable or otherwise disrupted:	<i>settlement disruption events and adjustment provisions)</i>
(v)	Interest Determination Date(s):	[•]
(vi)	Interest Period:	[As set out in Condition 2] / [Insert "Unadjusted" if the application of the relevant Business Day Convention is not intended to affect the Interest Period]
(vii)	Specified Interest Payment Dates:	[•]
(viii)	Valuation Date(s):	[•]
(ix)	Averaging Dates:	[Applicable/Not Applicable]
(x)	Averaging Date Disruption:	[Omission/Postponement/Modified Postponement]
(xi)	Observation Date(s):	[•]
(xii)	Observation Period:	[•]
(xiii)	Business Day Convention:	[Floating Rate Convention/ Following Business Day Convention/Modified Following Business Day Convention/Preceding Business Day Convention/other (give details)]
(xiv)	Additional Business Centre(s):	[•]
(xv)	Day Count Fraction:	[•]
(xvi)	Minimum Rate/Amount of Interest:	[•] per cent. per annum
(xvii)	Maximum Rate/Amount of Interest:	[•] per cent. per annum
(xviii)	Other special terms and conditions:	[•]
21.	<b>Commodity-Linked Interest Note Provisions</b>	[Applicable] [Not Applicable]
	(Condition 11)	<i>(if not applicable, delete the remaining sub paragraphs of this paragraph)</i>
(i)	Weighting	[•]
(ii)	Party responsible for calculating the Rate(s) of interest and/or Interest Amount(s):	[•]
(iii)	Provisions for determining Rate(s) of Interest and/or Interest Amount(s) where calculated by reference to Commodity/ies and/or Index:	[•]
(iv)	Provisions for determining Rate(s) of Interest and/or Interest Amount(s) where calculation by reference to Commodity/ies and/or Index is impossible or impracticable or otherwise disrupted:	[•]



- (v) Interest Determination Date(s): [•]
- (vi) Interest Period: [As set out in Condition 2] / *[Insert "Unadjusted" if the application of the relevant Business Day Convention is not intended to affect the Interest Period]*
- (vii) Specified Interest Payment Dates: [•]
- (viii) Business Day Convention: [Floating Rate Convention/ Following Business Day Convention/Modified Following Business Day Convention/Preceding Business Day Convention/other *(give details)*]
- (ix) Additional Business Centre(s): [•]
- (x) Day Count Fraction: [•]
- (xi) Minimum Rate/Amount of Interest: [•] per cent. per annum
- (xii) Maximum Rate/Amount of Interest: [•] per cent. per annum
- (xiii) Price Source: [•]  
*(specify for each Commodity)*
- (xiv) Specified Price: [high][low][average of high and low][closing price][opening price][bid] [asked] [average of high and low prices][settlement price][official settlement price][official price][morning fixing][afternoon fixing][spot price][Other *(specify)*]  
  
*(if appropriate, specify time as of which the price will be determined)*
- (xv) Delivery Date: [•]  
  
*(specify whether price based on spot market, First Nearby Month, Second Nearby Month, etc.)*
- (xvi) [Pricing Date: [•]]
- (xvii) Common Pricing: [Applicable] [Not Applicable]  
  
*(include only if Basket of Commodities)*
- (xviii) Commodity Disruption Events: [Price Source Disruption]  
[Trading Disruption]  
[Disappearance of Commodity Reference Price]  
[Material Change in Formula]  
[Material Change in Content]  
[Tax Disruption]  
[Not Applicable]  
  
*(specify any applicable additional Commodity Disruption Events)*
- (xix) Commodity Disruption Fallback: [Determination Agent Determination as defined in Condition 11.3/Other *(specify)*]
- (xx) Commodity Index Disruption Events: As per Condition 11.6(a)

(xxi)	Commodity Index Disruption Fallback	As per Condition 11.6(b)
(xxii)	Physical Hedging Fallback	[Applicable] [Not Applicable]
(xxiii)	Business Day Convention:	[Floating Rate Convention/ Following Business Day Convention/ Modified Following Business Day Convention/ Preceding Business Day Convention/ No Adjustment/ other <i>(give details)</i> ]
(xxiv)	Day Count Fraction:	[•]
(xxv)	Other special terms and conditions:	[•]
22.	<b>Currency-Linked Interest Note Provisions</b>	[Applicable] [Not Applicable]
	(Condition 12)	<i>(if not applicable, delete the remaining sub paragraphs of this paragraph)</i>
(i)	Party responsible for calculating the Rate(s) of interest and/or Interest Amount(s):	[•]
(ii)	Provisions for determining Rate(s) of Interest and/or Interest Amount(s) where calculated by reference to other variable:	[•]
(iii)	Interest Determination Date(s):	[•]
(iv)	Provisions for determining Rate(s) of Interest and/or Interest Amount(s) where calculation by reference to other variable is impossible or impracticable or otherwise disrupted:	[•] <i>(Need to include a description of market disruption or settlement disruption events and adjustment provisions)</i>
(v)	Interest Period:	[As set out in Condition 2] / <i>[Insert "Unadjusted" if the application of the relevant Business Day Convention is not intended to affect the Interest Period]</i>
(vi)	Specified Interest Payment Dates:	[•]
(vii)	Business Day Convention:	[Floating Rate Convention/ Following Business Day Convention/Modified Following Business Day Convention/Preceding Business Day Convention/other <i>(give details)</i> ]
(viii)	Additional Business Centre(s):	[•]
(ix)	Day Count Fraction:	[•]
(x)	Minimum Rate/Amount of Interest:	[•] per cent. per annum
(xi)	Maximum Rate/Amount of Interest:	[•] per cent. per annum
(xii)	Averaging Date(s):	[•]
(xiii)	Other special terms and conditions:	[•]

23.	<b>Inflation-Linked Interest Note Provisions</b>	[Applicable/ Not Applicable]
	(Condition 13)	<i>(if applicable, insert relevant provisions)</i>
	(i) Party responsible for calculating the Rate(s) of interest and/or Interest Amount(s):	[•]
	(ii) Provisions for determining Rate(s) of Interest and/or Interest Amount(s) where calculated by reference to Index:	[•]
	(iii) Interest Determination Date(s):	[•]
	(iv) Provisions for determining Rate(s) of Interest and/or Interest Amount(s) where calculation by reference to Index is impossible or impracticable or otherwise disrupted:	[•] <i>(Need to include a description of market disruption or settlement disruption events and adjustment provisions)</i>
	(v) Interest Period:	[As set out in Condition 2] / <i>[Insert "Unadjusted" if the application of the relevant Business Day Convention is not intended to affect the Interest Period]</i>
	(vi) Specified Interest Payment Dates:	[•]
	(vii) Business Day Convention:	[Floating Rate Convention/ Following Business Day Convention/Modified Following Business Day Convention/Preceding Business Day Convention/other <i>(give details)</i> ]
	(viii) Additional Business Centre(s):	[•]
	(ix) Day Count Fraction:	[•]
	(x) Minimum Rate/Amount of Interest:	[•] per cent. per annum
	(xi) Maximum Rate/Amount of Interest:	[•] per cent. per annum
	(xii) Other special terms and conditions:	[•]
24.	<b>Credit-Linked Interest Note Provisions</b>	[Applicable/ Not Applicable] <i>(if applicable, insert relevant provisions)<sup>10</sup></i>
	(Condition 14)	
25.	<b>Property-Linked Interest Note Provisions</b>	[Applicable/ Not Applicable] <i>(if applicable, insert relevant provisions)</i>
	(Condition 15)	
	(i) Property Index Level	[•]
	(ii) Additional Disruption Event:	[Change in Law/Hedging Disruption/Increased Cost of Hedging/[•] <i>(specify)</i> ]

<sup>10</sup> Any offer by an Issuer of Credit-Linked Notes will be done by way of a drawdown prospectus rather than a pricing supplement

26.	<b>Fund-Linked Interest Note Provisions</b>	[Applicable/ Not Applicable] <i>(if applicable, insert relevant provisions)</i>
	(Condition 16)	
		<i>(if Basket of Funds is Not Applicable, delete sub paragraph below)</i>
	Fund Business Days and Disrupted Days:	[Common Fund Business Days and Common Disrupted Days: Applicable]
		[Individual Fund Business Days and Individual Disrupted Days: Applicable]
		[Common Fund Business Days and Individual Disrupted Days: Applicable]
		<i>(select one as appropriate and delete other two)</i>
(i)	Cut-off Period:	[●] <i>(specify or delete if not applicable or if fallback is applicable)</i>
	(Condition 16.2)	
(ii)	Final Cut-off Date:	[●] <i>(specify)</i>
	(Condition 16.2)	
(iii)	Party responsible for calculating the Rate(s) of Interest and/or Interest Amount(s):	[●]
(iv)	Provisions for determining Rate(s) of Interest and/or Interest Amount(s) where calculated by reference to Fund:	[●]
(v)	Interest Determination Date(s):	[●]
(vi)	Provisions for determining Rate(s) of Interest and/or Interest Amount(s) where calculation by reference to Fund is impossible or impracticable or otherwise disrupted:	[●] <i>(Include a description of market disruption or settlement disruption events and adjustment provisions)</i>
(vii)	Interest Period:	[As set out in Condition 2.1 / <i>(Insert "Unadjusted" if the application of the relevant Business Day Convention is not intended to affect the Interest Period)</i> ]
(viii)	Specified Interest Payment Dates:	[●]
(ix)	Valuation Date(s):	[●]
	(Condition 16.1)	<i>(specify or delete if not applicable or if fallback is applicable)</i>
(x)	Valuation Time:	[●] <i>(specify or delete if not applicable or if fallback is applicable)</i>
(xi)	Observation Date:	[●]
(xii)	Averaging Date:	[●] <i>(specify or delete if not applicable or if fallback is applicable)</i>
	(Condition 16.1)	

- (xiii) Scheduled Fund Valuation Date(s): [●] (*specify or delete if not applicable or if fallback is applicable*)
- (xiv) Extraordinary Dividend: [●] (*specify or delete if not applicable or if fallback is applicable*)  
(Condition 16.7)
- (xv) Adjustments: [Condition 16.4 applies/[●] (*specify if other period applies*)]  
(Condition 16.4):
- (xvi) Fund Interest Performance: [●] (*specify or amend Conditions, as applicable*)
- (xvii) Fund Subscription Date: [●] (*specify or delete if not applicable or if fallback is applicable*)
- (xviii) Hypothetical Investor: [●] (*specify or delete if not applicable or if fallback is applicable*)
- (xix) Hypothetical Investor Jurisdiction: [●] (*specify or delete if not applicable or if fallback is applicable*)
- (xx) Scheduled Redemption Payment Date: [●] (*specify or delete if not applicable or if fallback is applicable*)
- (xxi) Scheduled Redemption Valuation Date: [●] (*specify or delete if not applicable or if fallback is applicable*)
- (xxii) Subscription Notice Date: [●] (*specify or delete if not applicable or if fallback is applicable*)
- (xxiii) Redemption Notice Date: [●] (*specify or delete if not applicable or if fallback is applicable*)
- (xxiv) Reference Price: [●] (*specify or delete if not applicable or if fallback is applicable*)
- (xxv) Relevant Fund Interest Unit Price: [●] (*specify or delete if not applicable or if fallback is applicable*)
- (xxvi) Eligible Fund Interest: [●] (*specify or delete if as applicable*)  
(Condition 16.5)
- (xxvii) Fund Event(s): [●] (*specify if any Fund Events are not applicable and/or amend Conditions, as applicable*)  
(Condition 16.5)
- (xxviii) NAV Trigger Percentage: [●] (*if Fund Event (c) (NAV Trigger/ Restriction Event) is applicable, specify the applicable percentage or delete if not applicable*)
- (xxix) NAV Trigger Period: [●] (*if Fund Event (c) (NAV Trigger/ Restriction Event) is applicable, specify the applicable period or delete if not applicable*)
- (xxx) Aggregate NAV Trigger Value: [●] (*if Fund Event (d) (Aggregate NAV Trigger Event) is applicable and in relation to Fund Basket Notes only, specify the relevant value or delete if not applicable*)
- (xxxi) Aggregate NAV Trigger Period: [●] (*if Fund Event (d) (Aggregate NAV Trigger Event) is applicable and in relation to Fund Basket Notes only,*

		<i>specify the applicable period or delete if not applicable)</i>
(xxxii)	Additional Fund Event(s):	[●] ( <i>specify or delete if not applicable</i> )
(xxxiii)	Business Day Convention:	[Floating Rate Convention/ Following Business Day Convention/ Modified Following Business Day Convention/ Preceding Business Day Convention/ No Adjustment/ Other ( <i>give details</i> )]
(xxxiv)	Additional Business Centre(s):	[●]
(xxxv)	Market of Listing for Fund	[●]/[Not Applicable] <sup>11</sup>
(xxxvi)	Other terms:	[●] ( <i>insert any other relevant terms</i> )
27.	<b>Futures Contract-Linked Interest Note Provisions</b>	[Applicable/ Not Applicable] ( <i>if applicable, insert relevant provisions</i> )
	(Condition 17)	
		<i>(if Single Futures Contract-Linked Notes, delete sub paragraph below)</i>
	Scheduled Trading Days and Disrupted Days:	<p>[Common Scheduled Trading Days and Common Disrupted Days: Applicable]</p> <p>[Individual Scheduled Trading Days and Individual Disrupted Days: Applicable]</p> <p>[Common Scheduled Trading Days and Individual Disrupted Days: Applicable]</p> <p><i>(select one as appropriate and delete other two)</i></p>
(i)	Determination Agent responsible for calculating the Interest Amount:	[●]
(ii)	Provisions for determining Rate(s) of Interest and/or Interest Amount(s) where calculated by reference to Futures Contract:	[●]
(iii)	Provisions for determining Rate(s) of Interest and/or Interest Amount(s) where calculation by reference to Futures Contract is impossible or impracticable or otherwise disrupted:	[●] ( <i>Include a description of market disruption or settlement disruption events and adjustment provisions</i> )
(iv)	Interest Determination Date(s):	[●]
(v)	Specified Number of Scheduled Trading Days:	[●] [As per Condition 17.7]
(vi)	Specified Number of Common Scheduled Trading Days:	[●] [As per Condition 17.7]
(vii)	Futures Contract Adjustment Events:	<p>[Price Source Disruption] [Trading Restriction]</p> <p>[Disappearance of Futures Contract or Settlement Price]</p> <p>[Material Change in Formula] [Material Change in</p>

<sup>11</sup> Where the Fund is not listed, these Notes shall not be listed on Euronext Dublin.

	Content] [Tax Disruption] [Change of Exchange] [Illiquidity Event]
(viii) Adjustments for Futures Contract Adjustment Events:	<i>(Specify criteria for replacement of futures contract contemplated by Condition 17.4(a)(ii), if any)</i>
(ix) Additional Disruption Events:	[Change in Law] [Hedging Disruption] [Increased Cost of Hedging]
(x) Correction Cut-Off Time:	[•]
(xi) Weighting for each Futures Contract comprising the Basket of Futures Contracts:	<i>[Insert details]</i> [N/A]
(xii) Averaging Date(s):	[•]
(xiii) Averaging Date Disruption:	[Omission/Postponement/Modified Postponement]
(xiv) Observation Date(s):	[•]
(xv) Valuation Date(s):	[•]

#### PROVISIONS RELATING TO REDEMPTION

28.	<b>Call Option</b>	[Applicable/Not Applicable]
	(Condition 21.4)	<i>(If not applicable, delete the remaining sub paragraphs of this paragraph)</i>
	(i) Optional Redemption Date(s):	[•]
	(ii) Optional Redemption Amount(s) of each Note and method, if any, of calculation of such amount(s):	[•] per Calculation Amount
	(iii) Maximum Call Notice Number of Day(s):	[•] [calendar day[s]] / [Business Day[s]]
	(iv) Minimum Call Notice Number of Day(s):	[•] [calendar day[s]] / [Business Day[s]]
29.	<b>Put Option</b>	[Applicable/Not Applicable]
	(Condition 21.6)	<i>(If not applicable, delete the remaining sub paragraphs of this paragraph)</i>
	(i) Optional Redemption Date(s):	[•]
	(ii) Optional Redemption Amount(s) of each Note and method, if any, of calculation of such amount(s):	[•] per Calculation Amount
	(iii) Maximum Put Notice Number of Day(s):	[•] [calendar day[s]] / [Business Day[s]]
	(iv) Minimum Put Notice Number of Day(s):	[•] [calendar day[s]] / [Business Day[s]]

30. **Autocallable Early Redemption** [Applicable/Not Applicable]  
(Condition 18) *(If Not Applicable, delete the remaining sub paragraphs of this paragraph, if Applicable, insert relevant provisions)*
- (i) Autocallable Early Redemption [•]  
Observation Date(s):
- (ii) Autocallable Early Redemption [•]  
Amount(s) of each Note and method  
and calculation of such amount(s):
- (iii) Autocallable Early Redemption [•]  
Date(s):
31. **Final Redemption Amount of each Note** [[•] per Calculation Amount] [Linked Redemption Amount specified below]  
(Condition 21.1)
32. **Dual Currency Redemption Provisions** [Applicable (give details)/Not Applicable]  
(Condition 8)
- (i) Rate of Exchange/method of [give details]  
calculating Rate of Exchange:
- (ii) Determination Agent responsible for [•]  
calculating the Final Redemption  
Amount:
- (iii) Provisions for determining Final [•]  
Redemption Amount:
- (iv) Provisions for determining Final [Need to include a description of market disruption or  
Redemption Amount where settlement disruption events and adjustment provisions.]  
calculation by reference to Rate of  
Exchange is impossible or  
impracticable or otherwise disrupted:
- (v) Person at whose option Specified [•]  
Currency(ies) is/are payable:
- (vi) Terms and conditions: [•]
33. **Equity-Linked Redemption Provisions** [Applicable/Not Applicable] *(If not applicable, delete the remaining sub paragraphs of this paragraph)*  
(Condition 10)
- (A) Single Share Notes, Share Basket Notes: *(if not applicable, delete sub paragraph (A))*  
*(if Single Share Notes, delete sub paragraph below)*
- Scheduled Trading Days and [Common Scheduled Trading Days and Common  
Disrupted Days: Applicable]  
[Individual Scheduled Trading Days and Individual  
Disrupted Days: Applicable]  
[Common Scheduled Trading Days and Individual



Disrupted Days: Applicable]

(select one as appropriate and delete other two)

- (i) Determination Agent responsible for calculating the Final Redemption Amount: [•]
- (ii) Provisions for determining Final Redemption Amount: [•]
- (iii) Whether redemption of the Notes will be by (a) Cash Settlement or (b) Physical Settlement or (c) in certain circumstances depending on the closing price of the Underlying Shares, Cash Settlement or Physical Delivery at the option of the Issuer: [Cash Settlement/Physical Settlement]<sup>12</sup>  
[In the event of (describe triggers linked to the closing price of the Underlying Shares), Cash Settlement or Physical Settlement at the option of the Issuer]
- (iv) Weighting for each Underlying Share comprising the Basket of Shares: [Insert details] [N/A]
- (v) Averaging Dates: [Applicable/Not Applicable]
- (vi) Averaging Date Disruption: [Omission/Postponement/Modified Postponement]
- (vii) Observation Date(s): [•]
- (viii) Observation Period: [•]
- (ix) Determination Date[s]: [•]
- (x) Determination Time[s]: [•]
- (xi) Valuation Date(s): [•]
- (xii) Potential Adjustment Events: [•] (specify if any Potential Adjustment Events are not applicable and amend Condition accordingly, otherwise delete)
- (xiii) Delivery provisions for Underlying Shares (including details of who is to make such delivery): [•] (only where Physical Settlement is applicable)
- (xiv) Physical Settlement: [Applicable / Not Applicable]<sup>13</sup>
- (xv) Additional Disruption Events: Change in Law, Hedging Disruption, Loss of Stock Borrow and Increased Cost of Hedging shall apply [specify if any are not applicable, or any further Additional Disruption Events]
- (xvi) Other special terms and conditions: [•]
- (B) Index/Index Basket Notes: (If not applicable, delete sub paragraph (B))

<sup>12</sup> Where "Physical Settlement" is applicable, the Notes will not be listed on the Luxembourg Stock Exchange

<sup>13</sup> Where "Physical Settlement" is applicable, the Notes will not be listed on the Luxembourg Stock Exchange

*(if Single Index Notes, delete sub paragraph below)*

Scheduled Trading Days and Disrupted Days:

[Common Scheduled Trading Days and Common Disrupted Days: Applicable]

[Individual Scheduled Trading Days and Individual Disrupted Days: Applicable]

[Common Scheduled Trading Days and Individual Disrupted Days: Applicable]

*(select one as appropriate and delete other two)*

- (i) Averaging Date[s]: [Applicable/Not Applicable]
- (ii) Averaging Date Disruption: [Omission, Postponement or Modified Postponement]
- (iii) Observation Date(s): [•]
- (iv) Observation Period: [•]
- (v) Determination Date[s]: [•]
- (vi) Determination Time[s]: [•]
- (vii) Valuation Date(s): [•]
- (viii) Determination Agent responsible for calculating the Final Redemption Amount: [•]
- (ix) Provisions for determining Final Redemption Amount: [•]
- (x) Provisions for determining Final Redemption Amount where calculation by reference to Index is impossible or impracticable or otherwise disrupted: [•]
- (xi) Weighting for each Index: [insert details][Not Applicable]
- (xii) Potential Adjustment Events [•] *(specify if any are not applicable and amend Conditions accordingly, otherwise delete)*
- (xiii) Additional Disruption Events: Change in Law, Hedging Disruption and Increased Cost of Hedging shall apply *[specify if any are not applicable, or any further Additional Disruption Events]*
- (xiv) Other special terms and conditions: [•]

(C) Single ETF Notes, ETF Basket Notes: *(if not applicable, delete sub paragraph (C))*

*(if Single ETF Notes, delete sub paragraph below)*

Scheduled Trading Days and Disrupted Days:

[Common Scheduled Trading Days and Common Disrupted Days: Applicable]

[Individual Scheduled Trading Days and Individual Disrupted Days: Applicable]

- [Common Scheduled Trading Days and Individual Disrupted Days: Applicable]
- (select one as appropriate and delete other two)
- (i) Determination Agent responsible for calculating the Final Redemption Amount: [•]
  - (ii) Provisions for determining Final Redemption Amount: [•]
  - (iii) Whether redemption of the Notes will be by (a) Cash Settlement or (b) Physical Settlement or (c) in certain circumstances depending on the closing price of the ETF Interests or Basket of ETF Interests, Cash Settlement or Physical Delivery at the option of the Issuer: [Cash Settlement/Physical Settlement]<sup>14</sup>  
[In the event of (describe triggers linked to the closing price of the ETF Interests/ Basket of ETF Interests), Cash Settlement or Physical Settlement at the option of the Issuer]
  - (iv) Weighting for each ETF comprising the basket: [•] (Insert details) [Not Applicable]
  - (v) Averaging Dates: [Applicable/Not Applicable]
  - (vi) Averaging Date Disruption: [Omission/Postponement/Modified Postponement]
  - (vii) Observation Date(s): [•]
  - (viii) Observation Period: [•]
  - (ix) Determination Date[s]: [•]
  - (x) Determination Time[s]: [•]
  - (xi) Valuation Date(s): [•]
  - (xii) Potential Adjustment Events: [•] (specify if any Potential Adjustment Events are not applicable and amend Conditions accordingly otherwise delete)
  - (xiii) Delivery provisions for ETF Interests (including details of who is to make such delivery): [•] (only where Physical Settlement is applicable)
  - (xiv) Physical Settlement: [Applicable / Not Applicable]<sup>15</sup>
  - (xv) Eligible ETF Interest: [•] (specify or delete if not applicable or fallback provisions in Condition 10.4 apply)
  - (xvi) Additional Extraordinary ETF Event(s): [•] (specify if applicable)
  - (xvii) Additional Disruption Events Change in Law, Hedging Disruption, Loss of Stock Borrow and Increased Cost of Hedging shall apply [specify if any are not applicable, or any further Additional

<sup>14</sup> Where "Physical Settlement" is applicable, the Notes will not be listed on the Luxembourg Stock Exchange

<sup>15</sup> Where "Physical Settlement" is applicable, the Notes will not be listed on the Luxembourg Stock Exchange

		<i>Disruption Events]</i>
	(xviii) Other special terms and conditions:	[•]
34.	<b>Commodity-Linked Redemption Provisions</b> (Condition 11)	[Applicable/Not Applicable] <i>(If not applicable, delete the remaining sub paragraphs of this paragraph)</i>
	(i) Weighting:	[•]
	(ii) Exchange:	[•] <i>(specify for each Commodity)</i>
	(iii) Determination Agent responsible for calculating the Final Redemption Amount:	[•]
	(iv) Provisions for determining Final Redemption Amount:	[•]
	(v) Observation Date(s):	[•]
	(vi) Observation Period:	[•]
	(vii) Provisions for determining Final Redemption Amount where calculation by reference to Index and/or other variable is impossible or impracticable or otherwise disrupted:	[•]
	(viii) Price Source:	[•] <i>(specify for each Commodity)</i>
	(ix) Specified Price:	[[high][low][average of high and low][closing price][opening price][bid] [asked] [average of high and low prices][settlement price][official settlement price][official price][morning fixing][afternoon fixing][spot price][ <i>Other (specify)</i> ]  <i>(if appropriate, specify time as of which the price will be determined)</i>
	(x) Delivery Date:	[•] <i>(specify whether price based on spot market, First Nearby Month, Second Nearby Month, etc.)</i>
	(xi) Pricing Date:	[•]
	(xii) Common Pricing:	[Applicable] [Not Applicable] <i>(include only if Basket of Commodities)</i>
	(xiii) Commodity Disruption Events:	[Price Source Disruption [ - Price Materiality Percentage: [•]  [Trading Disruption]  [Disappearance of Commodity Reference Price]  [Material Change in Formula]

		[Material Change in Content]
		[Tax Disruption]
		[Trading Limitation]
		[•] ( <i>specify any applicable additional Commodity Disruption Events</i> )
		[Not Applicable]
(xiv)	(A) Commodity Disruption Fallback:	[Determination Agent Determination as defined in Condition 11.3] [ <i>Other (specify)</i> ]
	(B) Commodity Disruption Fallback for Administrator/Benchmark Event (Condition 11.4):	[Determination Agent Determination as defined in Condition 11.3/Other ( <i>specify</i> )]
(xv)	Commodity Index Disruption Events:	As per Condition 11.6(a)
(xvi)	Commodity Index Disruption Fallback:	As per Condition 11.6(b)
(xvii)	Physical Hedging Fallback	[Applicable] [Not Applicable]
(xviii)	Additional Disruption Events:	[Change in Law, Hedging Disruption, Increased Cost of Hedging shall apply] ( <i>specify if any are <u>not</u> applicable, or any further Additional Disruption Events</i> )
(xix)	Other special terms and conditions:	[•]
35.	<b>Currency-Linked Redemption Provisions</b> (Condition 12)	[Applicable/Not Applicable] ( <i>If not applicable, delete the remaining sub paragraphs of this paragraph</i> )
(i)	Determination Agent responsible for calculating the Final Redemption Amount:	[•]
(ii)	Provisions for determining Final Redemption Amount:	[•]
(iii)	Specified Time:	[•]
(iv)	Valuation Date:	[•]
(v)	Averaging Date(s):	[•]
(vi)	Observation Date(s):	[•]
(vii)	Observation Period:	[•]
(viii)	Provisions for determining Final Redemption Amount where calculation by reference to Index and/or other variable is impossible or impracticable or otherwise disrupted:	[•]
(ix)	Business Day Convention:	[Floating Rate Convention/ Following Business Day Convention/Modified Following Business Day

	Convention/Preceding Business Day Convention/other (give details)]
(x) Additional Business Centre(s):	[•]
(xi) Reference Dealers:	[•]
(xii) Currency Disruption Events:	<p>[Price Source Disruption]</p> <p>[Additional Price Source Disruption]: <i>(If not applicable, delete the remaining sub paragraphs of this paragraph)</i></p> <p>Reference Source: [•]</p> <p>[Price Materiality Event:] <i>(If not applicable, delete the remaining sub paragraphs of this paragraph)</i></p> <p>Price Materiality Percentage: [•]</p> <p>Primary Rate: [•]</p> <p>Secondary Rate: [•]</p> <p>[Other (specify)]</p>
(xii)(A) Currency Disruption Fallbacks:	<p>[Determination Agent Determination of Settlement Rate];</p> <p>[Fallback Reference Price];</p> <p>[Currency Reference Dealers]</p> <p>Specified Rate: <i>Specify one of:</i></p> <p>Reference Currency bid exchange rate;</p> <p>Reference Currency offer exchange rate;</p> <p>Average of Reference Currency bid and offer exchange rates;</p> <p>Settlement Currency bid exchange rate;</p> <p>Settlement Currency offer exchange rate;</p> <p>Average of Settlement Currency bid and offer exchange rates;</p> <p>Official fixing rate;</p> <p>[Other (specify)]</p> <p>[Other (specify)]</p> <p><i>(where applicable, specify which Currency Disruption Fallback applies to which Currency Disruption Event, and if more than one Currency Disruption Fallback may apply to a Currency Disruption Event, the order in which such</i></p>

		<i>Currency Disruption Fallbacks will apply)</i>
(xii)(B)	Currency Disruption Fallbacks for Administrator/Benchmark Event (Condition 12.5):	<p>[Determination Agent Determination of Settlement Rate];</p> <p>[Fallback Reference Price];</p> <p>[Currency Reference Dealers]</p> <p>[Specified Rate:</p> <p><i>(Specify one of:)</i></p> <p>Reference Currency bid exchange rate;</p> <p>Reference Currency offer exchange rate;</p> <p>Average of Reference Currency bid and offer exchange rates;</p> <p>Settlement Currency bid exchange rate;</p> <p>Settlement Currency offer exchange rate;</p> <p>Average of Settlement Currency bid and offer exchange rates;</p> <p>Official fixing rate;]</p> <p>[Other <i>(specify)</i>]]</p> <p>[Other <i>(specify)</i>]</p> <p><i>(if more than one Currency Disruption Fallback may apply, specify the order in which such Currency Disruption Fallbacks will apply)</i></p>
(xiii)	Additional Disruption Events	<p>Change in Law – [Applicable] / [Not Applicable]</p> <p>Hedging Disruption - [Applicable] / [Not Applicable]</p> <p>Increased Cost of Hedging - [Applicable] / [Not Applicable]</p> <p><i>(specify any further Additional Disruption Events)</i></p>
(xiv)	Other special terms and conditions:	[•]
36.	<b>Inflation-Linked Redemption Provisions</b> (Condition 13)	[Applicable/Not Applicable] <i>(If not applicable, delete the remaining sub paragraphs of this paragraph)</i>
(i)	Determination Agent responsible for calculating the Final Redemption Amount:	[•]
(ii)	Provisions for determining Final Redemption Amount:	[•]
(iii)	Provisions for determining Final Redemption Amount where calculation by reference to Index and/or other variable is impossible or	[•]

impracticable or otherwise disrupted:

- |        |  |   |
|--------|--|---|
| (iv)   | Related Bond:  | [•]/Fallback Bond]  |
| (v)    | Fallback Bond:   | [Applicable/Not Applicable]   |
| (vi)   | Index Sponsor:   | [•]   |
| (vii)  | Additional Disruption Events                                   | <p>Change in Law – [Applicable] / [Not Applicable]</p> <p>Hedging Disruption - [Applicable] / [Not Applicable]</p> <p>Increased Cost of Hedging - [Applicable] / [Not Applicable]</p> <p>[•] (<i>specify any further Additional Disruption Events</i>)</p>  |
| (viii) | Other special terms and conditions:                            | [•]   |
| 37.    | <b>Credit-Linked Redemption Provisions</b><br>(Condition 14)   | [[Applicable/ Not Applicable] ( <i>if applicable, insert relevant provisions</i> )  |
| 38.    | <b>Property-Linked Redemption Provisions</b><br>(Condition 15) | [[Applicable/ Not Applicable] ( <i>if applicable, insert relevant provisions</i> )  |
| (i)    | Property Index Level   | [•]   |
| (ii)   | Additional Disruption Event:                                   | [Change in Law/Hedging Disruption/Increased Cost of Hedging/[•] ( <i>specify</i> )]   |
| 39.    | <b>Fund-Linked Redemption Provisions</b><br>(Condition 16)     | <p>[[Applicable/ Not Applicable] (<i>if applicable, insert relevant information specified below, If "Not Applicable", delete sub-paragraphs below</i>)</p> <p>(<i>if Basket of Funds is Not Applicable, delete (a) below</i>)</p>   |
|        | (a) Fund Business Days and Disrupted Days:                     | <p>[Common Fund Business Days and Common Disrupted Days: Applicable]</p> <p>[Individual Fund Business Days and Individual Disrupted Days: Applicable]</p> <p>[Common Fund Business Days and Individual Disrupted Days: Applicable]</p> <p>(<i>select one as appropriate and delete other two</i>)</p> |
| (i)    | Cut-off Period:<br>(Condition 16.2)                            | [•] ( <i>specify or delete if not applicable or if fallback is applicable</i> )   |
| (ii)   | Final Cut-off Date:<br>(Condition 16.2)                        | [•] ( <i>specify</i> )  |
| (iii)  | Valuation Date(s):   | [•] ( <i>specify or delete if not applicable or if fallback is</i>  |



- (Condition 16.1) *applicable*
- (iv) Valuation Time: [•] *(specify or delete if not applicable or if fallback is applicable)*
- (v) Averaging Dates: [•] *(specify or delete if not applicable or if fallback is applicable)*  
(Condition 16.1)
- (vi) Determination Date(s): [•] *(specify or delete if not applicable or if fallback is applicable)*  
(Condition 16.1)
- (vii) Provisions for determining Final Redemption Amount: [•] *(specify)*
- (viii) Provisions for determining Final Redemption Amount where calculation by reference to Fund is impossible or impracticable or otherwise disrupted: [•] *(specify)*
- (ix) Scheduled Fund Valuation Date(s): [•] *(specify or delete if not applicable or if fallback is applicable)*
- (x) Extraordinary Dividend: [•] *(specify or delete if not applicable or if fallback is applicable)*  
(Condition 16.3)
- (xi) Adjustments (Condition 16.4) : [Condition 16.4 applies/ *specify if other period applies*]
- (xii) Fund Interest Performance: [•] *(specify or amend Conditions, as applicable)*
- (xiii) Fund Subscription Date: [•] *(specify or delete if not applicable or if fallback is applicable)*
- (xiv) Hypothetical Investor: [•] *(specify or delete if not applicable or if fallback is applicable)*
- (xv) Hypothetical Investor Jurisdiction: [•] *(specify or delete if not applicable or if fallback is applicable)*
- (xvi) Scheduled Redemption Payment Date: [•] *(specify or delete if not applicable or if fallback is applicable)*
- (xvii) Scheduled Redemption Valuation Date: [•] *(specify or delete if not applicable or if fallback is applicable)*
- (xviii) Subscription Notice Date: [•] *(specify or delete if not applicable or if fallback is applicable)*
- (xix) Redemption Notice Date: [•] *(specify or delete if not applicable or if fallback is applicable)*
- (xx) Reference Price: [•] *(specify or delete if not applicable or if fallback is applicable)*

- (xxi) Relevant Fund Interest Unit Price: [•] (*specify or delete if not applicable or if fallback is applicable*)
- (xxii) Eligible Fund Interest: [•] (*specify or delete, as applicable*)  
(Condition 16.5)
- (xxiii) Fund Event(s): [•] (*specify if any Fund Events are not applicable and/or amend Conditions, as applicable*)  
(Condition 16.5)
- (a) NAV Trigger Percentage: [•] (*if Fund Event (c) (NAV Trigger/ Restriction Event) is applicable, specify the applicable percentage or delete if not applicable*)
- (b) NAV Trigger Period: [•] (*if Fund Event (c) (NAV Trigger/ Restriction Event) is applicable, specify the applicable period or delete if not applicable*)
- (c) Aggregate NAV Trigger Value: [•] (*if Fund Event (d) (Aggregate NAV Trigger Event) is applicable and in relation to Fund Basket Notes only, specify the relevant value or delete if not applicable*)
- (d) Aggregate NAV Trigger Period: [•] (*if Fund Event (d) (Aggregate NAV Trigger Event) is applicable and in relation to Fund Basket Notes only, specify the applicable period or delete if not applicable*)
- (xxiv) Additional Fund Event(s): [•] (*specify or delete if not applicable*)
- (xxv) Additional Business Centre(s): [•]
- (xxvi) Market of Listing for Fund: [•]/Applicable<sup>16</sup>
- (xxvii) Other terms: [•] (*insert any other relevant terms*)
40. **Futures Contract-Linked Redemption Provisions** [Applicable/ Not Applicable] (*if applicable, insert relevant provisions*)  
(Condition 17)
- (if Single Futures Contract-Linked Notes, delete sub paragraph below)*
- Scheduled Trading Days and Disrupted Days: [Common Scheduled Trading Days and Common Disrupted Days: Applicable]  
[Individual Scheduled Trading Days and Individual Disrupted Days: Applicable]  
[Common Scheduled Trading Days and Individual Disrupted Days: Applicable]  
*(select one as appropriate and delete other two)*
- (i) Determination Agent responsible for calculating the Final Redemption [•]

<sup>16</sup> Where the Fund is not listed, these Notes shall not be listed on Euronext Dublin.

Amount:

- (ii) Provisions for determining Final Redemption Amount: [●]
- (iii) Provisions for determining Final Redemption Amount where calculation by reference to Fund is impossible or impracticable or otherwise disrupted: [●]
- (iv) Specified Number of Scheduled Trading Days: [●] [As per Condition 17.7]
- (v) Specified Number of Common Scheduled Trading Days: [●] [As per Condition 17.7]
- (vi) Futures Contract Adjustment Events: [Price Source Disruption] [Trading Restriction] [Disappearance of Futures Contract or Settlement Price] [Material Change in Formula] [Material Change in Content] [Tax Disruption] [Change of Exchange] [Illiquidity Event]
- (vii) Adjustments for Futures Contract Adjustment Events: *(Specify criteria for replacement of futures contract contemplated by Condition 17.4(a)(ii), if any)*
- (viii) Additional Disruption Events: [Change in Law] [Hedging Disruption] [Increased Cost of Hedging]
- (ix) Correction Cut-Off Time: [●]
- (x) Weighting for each Futures Contract comprising the Basket of Futures Contracts: [Insert details] [N/A]
- (xi) Averaging Date(s): [●]
- (xii) Averaging Date Disruption: [Omission/Postponement/Modified Postponement]
- (xiii) Observation Date(s): [●]
- (xiv) Valuation Date(s): [●]
- (xv) Determination Date(s): [●]
- 41. (i) Early Redemption Amount upon Event of Default (Condition 25): [As determined in accordance with Condition 21.7] OR *(specify)* (if Zero Coupon Notes)
  - [Accrual Value]
  - [Par Redemption]
  - [Qualified Financial Institution Determination]
  - [Theoretical Value]
- (ii) Early redemption amount payable upon an event described in [Condition 10/11/12/13/15/16/17]: [As provided in Condition 10/11/12/13/15/16/17]

- (iii) Early redemption amount upon early redemption

(Conditions 21.2, 21.4, 21.9, 23 and 25)

Early redemption amount(s) per Calculation Amount payable on redemption for taxation reasons or other early redemption and/or the method of calculating the same (if required or if different from that set out in the Conditions):

[An amount equal to the fair market value of such Note, on such day as is selected by the Determination Agent in its sole and absolute discretion (provided that such day is not more than 15 days before the date fixed for redemption of the Note), less the proportion attributable to that Note of the reasonable cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related hedging arrangements, all as calculated by the Determination Agent in its sole and absolute discretion]/[An amount equal to the principal amount of such Note, together with accrued interest (if any)]/[●] (*specify any other provisions applicable to determining the Early Redemption Amount*)

- (iv) Early Redemption Amount (Condition 6.11):

[Not Applicable]/[As determined in accordance with Condition 21.7] OR (*specify*) (if *Zero Coupon Notes*)

[Accrual Value]

[Par Redemption]

[Qualified Financial Institution Determination]

[Theoretical Value]

42. **Governing Law:**

[English law/other (*specify*)]

## GENERAL PROVISIONS APPLICABLE TO THE NOTES

43. **Form of Notes:**

(Condition 3)

[Global Note Certificate registered in the name of [a nominee for] [a common depositary for Euroclear and Clearstream, Luxembourg]/[a common safekeeper for Euroclear and Clearstream, Luxembourg (that is, held under the New Safekeeping Structure (NSS))] <sup>17</sup>, exchangeable for Individual Note Certificates on [●] days' notice/ in the limited circumstances described in the Global Note Certificate]

[Individual Note Certificates]

44. **Record Date:**

[The Record Date is [one<sup>18</sup>] [Business Day/day/clearing system business day] before the relevant due date for payment/Not Applicable]

45. **Additional Financial Centre(s) or other special provisions relating to Payment Business Days:**

(Condition 22.5)

[Not Applicable/[●] (*specify Additional Financial Centre(s)*).]

<sup>17</sup> To be included for Notes in global form which are to be held under the NSS.

<sup>18</sup> This reflects the ICSMA standard of the clearing systems.

46. **Determination Agent:** [Morgan Stanley & Co. International plc/[•]]
47. **Details relating to Partly Paid Notes:** amount of each payment comprising the Issue Price and date on which each payment is to be made and consequences (if any) of failure to pay, including any right of the Issuer to forfeit the Notes and interest due on late payment: [Not Applicable/give details]
48. **Details relating to Instalment Notes:** amount of each instalment, date on which each payment is to be made: [Not Applicable/give details]
49. **Redenomination, renominalisation and reconventioning provisions:** [Not Applicable/The provisions [in Condition 36] [annexed to this Pricing Supplement apply]
50. **Restrictions on free transferability of the Notes:** [None][give details]
51. **Inconvertibility Event Provisions:** [Applicable][Not Applicable]  
[Converted Payment][, Early Redemption][, Suspended Payment]
- (i) Inconvertibility Early Redemption Amount Options: [insert amount][Early Redemption Amount][Fair Market Value]
- (ii) Fallback FX Spot Rate: [•]
- (iii) Inconvertibility Specified Currency: [•]
- (iv) Relevant Currency/ies: [•]
- (v) Relevant Jurisdiction: [•]
52. **CNY Centre:** [•]/[Not Applicable]
53. **Illegality Event:**  
(Condition 26)
- (i) Illegality Event (Condition 26.1): Applicable
- (ii) Early Redemption Amount (Illegality Event) 
$$\frac{[\text{Early Redemption Amount (Illegality Event)} - \text{Fair Value Less Costs}]}{[\text{Early Redemption Amount (Illegality Event)} - \text{Fair Value}] + [\text{Early Redemption Amount (Illegality Event)} - \text{Par}]}$$
 shall apply
54. **Taxation:**
- (i) Condition 24.1: "Additional Amounts" is [Applicable/Not Applicable]
- (ii) Condition 24.2: Implementation of Financial Transaction Tax: [Applicable/Not Applicable]
55. **Other terms:** [•]  
Implementation of Financial Transaction Tax: [Applicable/Not Applicable]

56. **Substitution of Issuer or Guarantor with non Morgan Stanley Group entities:** Applicable

(General Condition 37)

**DISTRIBUTION**

57. (i) If syndicated, names and addresses of Managers and underwriting commitments: and names and addresses of the entities agreeing to place the issue without a firm commitment or on a "best efforts" basis if such entities are not the same as the Managers.) [Not Applicable/give names[, addresses and underwriting commitments]] [(Include names and addresses of entities agreeing to underwrite the issue on a firm commitment basis.)]
- (ii) [Date of [Subscription] Agreement: [•]]
- (iii) Stabilising Manager(s) (if any): [Not Applicable/give name]
58. If non-syndicated, name and address of Dealer: [Not Applicable/give name and address]
59. U.S. Selling Restrictions: Regulation S
60. [Total commission and concession: [•] per cent. of the Aggregate Nominal Amount]<sup>19</sup>
61. Additional selling restrictions: [Not Applicable/give details]

**Taxation**

**This discussion is limited to the U.S. federal tax issues addressed below. Additional issues may exist that are not addressed in this discussion and that could affect the federal tax treatment of an investment in the Notes. Holders should seek their own advice based upon their particular circumstances from an independent tax advisor.**

A Non-U.S. Holder (as defined in the Offering Circular) should review carefully the section entitled "*United States Federal Taxation*" in the Offering Circular.

**Withholding on Coupon Payments Treated as "Other Income"**

Due to the uncertain treatment of the Notes for U.S. federal income tax purposes, a Non-U.S. Holder should expect that a withholding agent generally will treat coupon payments, if any, on the Notes as subject to U.S. federal withholding tax at a rate of 30 per cent., unless a Non-U.S. Holder qualifies for an exemption. In the case of Notes that pay coupons no portion of which is treated as interest income, a Non-U.S. Holder generally will need to establish an exemption under the "other income" provision of a Qualifying Treaty (as defined below). An income tax treaty between a non-U.S. jurisdiction and the United States is a "Qualifying Treaty" if it provides for a 0 per cent. rate of tax on "other income" earned by a resident of the non-U.S. jurisdiction from sources within the United States. Accordingly, if a Non-U.S. Holder is a resident of a non-U.S. jurisdiction that qualifies for benefits under such a Qualifying Treaty, it should generally be eligible for an exemption under the "other income" provision referred to above if the Non-U.S. Holder complies with the certification requirement described in the section entitled "*United States Federal Taxation*" in the Offering Circular. However, because most income tax treaties contain complex eligibility rules and limitations, a Non-U.S. Holder should consult its tax advisor about its eligibility for this exemption. To demonstrate eligibility for the "other income" exemption to the Issuer or an applicable withholding agent, a Non-U.S. Holder generally will be required to provide a properly completed Internal Revenue Service ("IRS") Form W-8BEN or W-8BEN-E certifying that it is not a U.S. person and that it is eligible for the benefits of a Qualifying Treaty (or, if the Non-U.S. Holder holds its Notes through certain intermediaries, it may be permitted to

<sup>19</sup> Optional.

provide alternative documentation in lieu of the appropriate Form W-8BEN or W-8BEN-E to establish that it is not a U.S. person and that it is eligible for the benefits of a Qualifying Treaty) as discussed in the section entitled "*United States Federal Taxation*" in the Offering Circular. Notwithstanding the discussion above, because the U.S. federal income tax treatment of the Notes is unclear, the coupon payments, if any, on the Notes could alternatively be treated in whole or part as payments of interest. In addition, in the case of certain Notes paying unconditional fixed-rate coupons, a portion of the coupons on such Notes may be treated as interest as described under "United States Federal Taxation" in the Offering Circular. Nonetheless, even if the coupon payments are treated as interest, under current law and administrative practice a Non-U.S. Holder generally will qualify for the "portfolio interest exemption" with respect to coupon payments on the Notes so long as the Non-U.S. Holder has provided certifications to establish that it is not a U.S. person and certain other requirements are met, as discussed in the section entitled "*United States Federal Taxation—Taxation of Notes—Withholding on Coupon Payments (If Applicable)*" in the Offering Circular. Non-U.S. Holders should consult their tax advisors regarding their eligibility for the "portfolio interest exemption" in light of their particular circumstances.

As described in "*United States Federal Taxation*" in the Offering Circular, U.S. withholding may also be imposed in other circumstances, such as under FATCA, the U.S. backup withholding rules or Section 871(m) of the Internal Revenue Code.

If withholding is so required, the relevant Issuer will not be required to pay any additional amounts with respect to the amounts so withheld.

### Potential Section 871(m) Transaction

Please see paragraph 9 of Part B – Other Information to this Pricing Supplement for additional information regarding withholding under Section 871(m) of the Code.

### [PURPOSE OF PRICING SUPPLEMENT

This Pricing Supplement comprises the pricing supplement required to issue, list and have admitted to trading on [specify relevant market] the issue of Notes described herein pursuant to the Regulation S Program for the Issuance of Notes, Series A and B, Warrants and Certificates.]

### RESPONSIBILITY

The Issuer accepts responsibility for the information contained in this Pricing Supplement. [(Relevant third party information) has been extracted from [●] (specify source)]. The Issuer confirms that such information has been accurately reproduced and that, so far as it is aware, and is able to ascertain from information published by[●] no facts have been omitted which would render the reproduced information inaccurate or misleading.]

Signed on behalf of the Issuer:

By: .....  
Duly authorised

## PART B – OTHER INFORMATION

### 1. LISTING

Listing and admission to Trading:

[Application [has been made/is expected to be made] by the Issuer (or on its behalf) for the Notes to be admitted to the Official List of Euronext Dublin and trading on its Global Exchange Market with effect from [●].]

[Application [has been made/is expected to be] made by the Issuer (or on its behalf) for the Notes to be admitted to listing on the Official List of the Luxembourg Stock Exchange and to trading on the Luxembourg Stock Exchange's Euro MTF Market with effect from [●].]

[No assurances can be given that such application for listing and/or admission to trading will be granted (or, if granted, will be granted by [●] [the Issue Date.]) [The Issuer has no duty to maintain the listing (if any) of the Notes on the relevant stock exchange(s) over their entire lifetime.]

[Not Applicable.]

[Where documenting a fungible issue, indicate that original Notes are already admitted to trading.]

[Last day of Trading: [●]]

[Estimate of total expenses related to admission to trading: [●]]<sup>20</sup>

## 2. RATINGS

Ratings: [The Notes to be issued have been rated:

[S & P: [●]]

[Moody's:[●]]

[Fitch: [●]]

[[Other]: [●]]

(The above disclosure should reflect the rating allocated to Notes of the type being issued under the Program generally or, where the issue has been specifically rated, that rating.)

[The Notes will not be rated].]

## 3. [INTERESTS OF NATURAL AND LEGAL PERSONS INVOLVED IN THE [ISSUE/OFFER]]<sup>21</sup>

*Need to include a description of any interest, including conflicting ones, that is material to the issue/offer, detailing the persons involved and the nature of the interest. May be satisfied by the inclusion of the following statement:*

"Save as discussed in ["*Subscription and Sale*"], so far as the Issuer is aware, no person involved in the offer of the Notes has an interest material to the offer".]

## 4. REASONS FOR THE OFFER, ESTIMATED NET PROCEEDS AND TOTAL EXPENSES

[(i) Reasons for the offer: [●]

(If reasons for offer different from making profit and/or hedging certain risks, include those reasons here.)]

[(ii) Estimated net proceeds: [●]

(it is only necessary to include disclosure of net proceeds where

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<sup>20</sup> Only applicable where the Notes are to be admitted to the Official List of Euronext Dublin and trading on its Global Exchange Market and are "debt securities" under the rules of Euronext Dublin.

<sup>21</sup> Only applicable where the Notes are to be admitted to the Official List of Euronext Dublin and trading on its Global Exchange Market and are "derivative securities" under the rules of Euronext Dublin.



*disclosure is included at (i) above.)*

[(iii)] Estimated total expenses: [•] [Include breakdown of expenses.]

*(it is only necessary to include disclosure of total expenses where disclosure is included at (i) above.)*

5. **[Fixed Rate Notes only – YIELD<sup>22</sup>**

Indication of yield: [•]

[The yield is calculated at the Issue Date on the basis of the Issue Price. It is not an indication of future yield.]

6. **[Equity/Commodity/Fund or other variable-linked Notes only – PERFORMANCE OF EQUITY/INDEX/COMMODITY/CURRENCY/FUND/FUTURES CONTRACT/FORMULA/OTHER VARIABLE AND OTHER INFORMATION CONCERNING THE UNDERLYING**

*[Need to include details of where past and future performance and volatility of the index/equity/commodity/currency/fund/formula/other variable can be obtained. [Where the underlying is an index, include the name of the index and a description if composed by the Issuer and if the index is not composed by the Issuer, include details of where the information about the index can be obtained, including for these purposes where the index is published. Where the underlying is not an index, include equivalent information.] Include other information concerning the underlying required by the rules of Euronext Dublin or Luxembourg Stock Exchange.]*

The Issuer does not intend to provide post-issuance information with regard to the underlying unless required to do so by applicable laws and regulations.

7. **[Dual Currency-Linked Notes only – PERFORMANCE OF RATE[S] OF EXCHANGE [AND EXPLANATION OF EFFECT ON VALUE OF INVESTMENT]<sup>23</sup>**

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

8. **OPERATIONAL INFORMATION**

ISIN: [•]

Common Code: [•]

CFI: [[•]/Not Applicable]

FISN: [[•]/Not Applicable]

Any clearing system(s) other than Euroclear Bank S.A./N.V. and Clearstream Banking *société anonyme* and the relevant identification number(s): [Not Applicable/give name(s) and number(s)]

[Japan Securities Depository Center, Inc.]

<sup>22</sup> Only applicable where the Notes are to be admitted to the Official List of Euronext Dublin and trading on its Global Exchange Market and are "debt securities" under the rules of Euronext Dublin.

<sup>23</sup> Only applicable where the Notes are to be admitted to the Official List of Euronext Dublin and trading on its Global Exchange Market and are "derivative securities" under the rules of Euronext Dublin.

		[other relevant clearing system, as applicable]
Delivery:		Delivery [against/free of] payment
Names and addresses of initial Paying Agent(s):	[•]	
Names and addresses of additional Paying Agent(s) (if any):	[•]	
Intended to be held in a manner which would allow Eurosystem eligibility:		<p>[Yes. Note that the designation "yes" simply means that the Notes are intended upon issue to be deposited with one of the ICSDs as common safekeeper [(and registered in the name of a nominee of one of the ICSDs acting as common safekeeper,)] [include this text for registered notes] and does not necessarily mean that the Notes will be recognized as eligible collateral for Eurosystem monetary policy and intra day credit operations by the Eurosystem either upon issue or at any or all times during their life. Such recognition will depend upon the ECB being satisfied that Eurosystem eligibility criteria have been met.]</p> <p>[No. Whilst the designation is specified as "no" at the date of this Pricing Supplement, should the Eurosystem eligibility criteria be amended in the future such that the Notes are capable of meeting them the Notes may then be deposited with one of the ICSDs as common safekeeper [(and registered in the name of a nominee of one of the ICSDs acting as common safekeeper,)] [include this text for registered notes] . Note that this does not necessarily mean that the Notes will then be recognised as eligible collateral for Eurosystem monetary policy and intra day credit operations by the Eurosystem at any time during their life. Such recognition will depend upon the ECB being satisfied that Eurosystem eligibility criteria have been met.]]</p>
Prohibition of Sales to EEA Retail Investors:		[Applicable]/[Not Applicable]
9. <b>POTENTIAL SECTION 871(M) TRANSACTION</b>		<p>[Not Applicable] / [The Issuer has determined that the Notes should not be subject to withholding under Section 871(m) of the Code[, and hereby instructs its agents and withholding agents that no withholding is required, unless such agent or withholding agent knows or has reason to know otherwise].] / [The Issuer has determined that the Notes should not be subject to withholding under Section 871(m) of the Code because the Relevant Underlying is a "qualified index" under the applicable U.S. Treasury Regulations[, and hereby instructs its agents and withholding agents that no withholding is required, unless such agent or withholding agent knows or has reason to know otherwise].] / [The Notes are U.S. equity linked Notes subject to withholding under Section 871(m) of the Code.] [For further information please [call [•]] / [visit our website at [•]] / [write to [•]].].]</p>
10. <b>DETAILS OF BENCHMARKS ADMINISTRATORS AND REGISTRATION UNDER BENCHMARKS REGULATION</b>		<p>[Applicable]/[Not Applicable]</p> <p>[[specify benchmark] is administered by [insert legal name of administrator], who as at the Issue Date, appears on the register of administrators and benchmarks established and maintained by the European Securities and Markets Authority pursuant to</p>

Article 36 of the Benchmarks (Regulation (EU) 2016/2011) (the “**Benchmarks Regulation**”).][*[specify benchmark]* is administered by *[insert legal name of administrator]*, who as at the Issue Date, does not appear on the register of administrators and benchmarks established and maintained by the European Securities and Markets Authority pursuant to Article 36 of the Benchmarks (Regulation (EU) 2016/1011) (the “**Benchmarks Regulation**”). As far as the Issuer is aware, the transitional provisions in Article 51 of the Benchmarks Regulation apply, such that *[insert legal name of administrator]* is not currently required to obtain authorisation or registration (or if located outside the European Union, recognition, endorsement or equivalence).] *(repeat as appropriate)*

## FORM OF NOTES

Morgan Stanley and MSFL may issue Notes in registered form.

### The Notes

Notes will be in the form of either individual Note Certificates in registered form ("**Individual Note Certificates**") or a global Note in registered form (a "**Global Note Certificate**"), in each case as specified in the relevant Pricing Supplement. Each Global Note Certificate will either be: (a) in the case of a Registered Note which is not to be held under the New Safekeeping Structure (defined below), registered in the name of a common depositary (or its nominee) for the Relevant Clearing System and the relevant Global Note Certificate will be deposited on or about the issue date with the common depositary and will be exchangeable in accordance with its terms; or (b) in the case of a Registered Note to be held under the new safekeeping structure ("**New Safekeeping Structure**" or "**NSS**"), be registered in the name of a common safekeeper (or its nominee) for the Relevant Clearing System and the relevant Global Note Certificate will be deposited on or about the issue date with the common safekeeper for the Relevant Clearing System and will be exchangeable for Individual Note Certificates in accordance with its terms.

If the applicable Pricing Supplement specifies the form of Notes as being "**Individual Note Certificates**", then the Notes will at all times be in the form of Individual Note Certificates issued to each Noteholder in respect of their respective holdings.

If the applicable Pricing Supplement specifies the form of Notes as being "**Global Registered Note exchangeable for Individual Note Certificates**", then the Notes will initially be in the form of a Global Registered Note which will be exchangeable in whole, but not in part, for Individual Note Certificates:

- (a) on the expiry of such period of notice as may be specified in the applicable Pricing Supplement; or
- (b) if the applicable Pricing Supplement specifies "in the limited circumstances described in the Global Registered Note", then if (a) the Relevant Clearing System is closed for business for a continuous period of 14 days (other than by reason of legal holidays) or announces an intention permanently to cease business or (b) any of the circumstances described in Condition 25 (*Events of Default*) occurs.

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

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

### Terms and Conditions applicable to the Notes

The terms and conditions applicable to any Individual Note Certificate will be endorsed on that Individual Note Certificate and will consist of the terms and conditions set out under "*Terms and Conditions of the Notes*" above and the provisions of the applicable Pricing Supplement which supplement, modify and/or replace those terms and conditions. The terms and conditions applicable to any Global Registered Note will differ from those terms and conditions which would apply to the Note were it in individual form to the extent described under "*Summary of Provisions relating to the Notes while in Global Form*" below.

## SUMMARY OF PROVISIONS RELATING TO THE NOTES WHILE IN GLOBAL FORM

### Clearing System Accountholders

In relation to any Notes (or any Tranche thereof) represented by a Global Registered Note, references in the "*Terms and Conditions of the Notes*" to "**Noteholder**" are references to the person in whose name such Global Registered Note is for the time being registered in the Register which, for so long as the Global Registered Note is held by or on behalf of a depositary or a common depositary for the Relevant Clearing System, will be that depositary or common depositary or a nominee for that depositary or common depositary.

Each of the persons shown in the records of the Relevant Clearing System as being entitled to an interest in a Global Registered Note (each an "**Accountholder**") must look solely to the Relevant Clearing System for such Accountholder's share of each payment made by the relevant Issuer to the holder of such Global Registered Note and in relation to all other rights arising under such Global Registered Note, including any right to exchange any exchangeable Notes or any right to require the relevant Issuer to repurchase such Notes. The respective rules and procedures of the Relevant Clearing System from time to time will determine the extent to which, and the manner in which, Accountholders may exercise any rights arising under the Global Registered Note and the timing requirements for meeting any deadlines for the exercise of those rights. For so long as the relevant Notes are represented by a Global Registered Note, Accountholders shall have no claim directly against the relevant Issuer in respect of payments due under the Notes and such obligations of the relevant Issuer will be discharged by payment to the holder of such Global Registered Note.

### Exchange of Global Registered Notes

Whenever a Global Registered Note is to be exchanged for Individual Note Certificates, the Issuer shall procure that Individual Note Certificates will be issued in an aggregate principal amount equal to the principal amount of the Global Registered Note within five business days of the delivery, by or on behalf of the holder of the Global Registered Note to the Registrar of such information as is required to complete and deliver such Individual Note Certificates (including, without limitation, the names and addresses of the persons in whose names the Individual Note Certificates are to be registered and the principal amount of each such person's holding) against the surrender of the Global Registered Note at the specified office of the Registrar. Such exchange will be effected in accordance with the provisions of the Issue and Paying Agency Agreement and the regulations concerning the transfer and registration of Notes scheduled thereto and, in particular, shall be effected without charge to any holder, but against such indemnity as the Registrar may require in respect of any tax or other duty of whatsoever nature which may be levied or imposed in connection with such exchange.

If:

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

then at 5.00 p.m. (London time) on such thirtieth day (in the case of (a) above) or at 5.00 p.m. (London time) on such due date (in the case of (b) above) each Accountholder shall acquire the right under the Morgan Stanley Deed of Covenant and the MSFL Deed of Covenant (the "**Deeds of Covenant**"), as the case may be, or any additional Deed of Covenant to enforce against the Issuer, the Issuer's obligations to the Noteholder in respect of the Notes represented by the Global Registered Note, including the obligation of the Issuer to make all payments and deliveries when due at any time in respect of such Notes as if such Notes had been duly presented and (where required by the Conditions) surrendered on the due date in accordance with the Conditions. Each Accountholder shall acquire such right without prejudice to any other rights which the Noteholder may have under the Global Registered Note and the Deed of Covenant. Notwithstanding the rights that each Accountholder may acquire under the Deeds of Covenant, payment or delivery to the Noteholder in respect of any Notes represented by the Global Registered Note shall constitute a discharge of the Issuer's obligations to the extent of any such payment or delivery and nothing in the Deed of Covenant shall oblige the Issuer to make any payment or delivery under the Notes to or to the order of any person other than the Noteholder.

## **Conditions Applicable to Global Registered Notes**

Each Global Registered Note will contain provisions which modify the terms and conditions set out in "*Terms and Conditions of the Notes*" as they apply to the Global Registered Note. The following is a summary of certain of those provisions:

### **Payments**

All payments in respect of the Global Registered Note which, according to the Terms and Conditions of the Notes, require presentation and/or surrender of an Individual Note Certificate will be made against presentation and (in the case of payment of principal in full with all interest accrued thereon) surrender of the Global Registered Note at the Specified Office or to the order of any paying agent and will be effective to satisfy and discharge the corresponding liabilities of the relevant Issuer in respect of the Notes.

### **Exercise of Put Option**

In order to exercise the Noteholder's put option set out in Condition 21.6 (*Redemption at the Option of Noteholders*) of the Terms and Conditions of the Notes, the holder of a Global Registered Note must, within the period specified therein for the deposit of the relevant Note and put notice, give written notice of such exercise to the Fiscal Agent and/or such other person as is specified in the applicable Pricing Supplement specifying the principal amount of Notes in respect of which such option is being exercised. Any such notice will be irrevocable and may not be withdrawn.

### **Partial Exercise of Call Option**

In connection with an exercise of the option contained in Condition 21.4 (*Redemption at the Option of the Issuer*) of the Terms and Conditions of the Notes in relation to some but not all of the Notes or Global Registered Note may be redeemed in part in the principal amount specified by the relevant Issuer in accordance with the provisions set out therein and the Notes to be redeemed will not be selected as provided in the Conditions but in accordance with the rules and procedures of Euroclear and/or Clearstream, Luxembourg (to be reflected in the records of Euroclear and/or Clearstream, Luxembourg as either a pool factor or a reduction in principal amount, at their discretion).

### **Notices**

Notwithstanding Condition 32 (*Notices*) of the Terms and Conditions of the Notes while all the Notes are represented by a Global Registered Note is deposited with a common depository for the Relevant Clearing System, notices to Noteholders may be given by delivery of the relevant notice to the Relevant Clearing System and, in any case, such notices shall be deemed to have been given to the Noteholders in accordance with Condition 32 (*Notices*) of the Terms and Conditions of the Notes, on the date of delivery to the Relevant Clearing System, except that, for so long as the Notes are listed on any stock exchange or are admitted to trading by another relevant authority, any notice to Noteholders shall be published in accordance with the rules and regulations of each such stock exchange or other relevant authority.

### **Redenomination**

Following redenomination of the Notes, where Notes have been issued in definitive form, the amount of interest due in respect of such Notes will be calculated by reference to the aggregate principal amount of the Notes presented for payment by the relevant holder.

### **Notes**

Notwithstanding Condition 22 (*Payments*), each payment in respect of any Global Registered Note shall be made to the person shown in the Register as the holder of the Notes represented by such Global Registered Note at the close of business (in the relevant clearing system) on the Clearing System Business Day before the due date for such payment (the "**Record Date**") where the "Clearing System Business Day" means a day on which each clearing system for which the Global Registered Note is being held is open for business.

In the case of payments by Morgan Stanley in respect of Notes issued by Morgan Stanley, in order to avoid United States withholding taxes, the beneficial owner of a Registered Note that is not a United States person (or a financial institution holding a Registered Note on behalf of the beneficial owner that is not a United States person) is required

under current applicable law to furnish the appropriate U.S. Internal Revenue Service Form W-8BEN-E on which the beneficial owner certifies under penalties of perjury that it is not a United States person.

## TERMS AND CONDITIONS OF THE WARRANTS AND CERTIFICATES

*The following is the text of the terms and conditions which, as supplemented, modified and/or replaced by the applicable Pricing Supplement, will be endorsed on each Security issued in individual registered form issued under the Program specified as being governed by English law. The terms and conditions applicable to any Security issued in registered form will differ from those terms and conditions which would apply to the Security were it in individual registered form to the extent described under "Summary of Provisions relating to the Warrants and Certificates while in Global Form" below.*

This security is one of a series (each, a **"Series"**) of Warrants (the **"Warrants"**) or Certificates (the **"Certificates"**) issued pursuant to a securities agency agreement dated 30 November 2000 (as modified and restated on 4 December 2001, 30 June 2005, 11 July 2006, 22 June 2007, 19 June 2008, 17 June 2009, 15 June 2010, 11 May 2011, 10 June 2011, 7 June 2012, 27 June 2013, 18 August 2014, 17 August 2015, 16 August 2016 and 29 June 2018, the **"Securities Agency Agreement"**, which expression shall include any further amendments or supplements thereto or replacements thereof). The other parties to the Securities Agency Agreement are (1) Morgan Stanley, (2) Morgan Stanley Finance LLC; (3) The Bank of New York Mellon (as successor to JPMorgan Chase Bank, N.A., London Branch), as principal Securities Agent (the **"Principal Securities Agent"**), (4) The Bank of New York Mellon SA/NV, Luxembourg Branch (the **"Securities Registrar"** and the **"Securities Transfer Agent"**), which expressions includes any successor or substitute Principal Securities Agent, Securities Registrar or Securities Transfer Agent, as the case may be, appointed in accordance with the Securities Agency Agreement) and (together, the **"Securities Agents"** and together with the Principal Securities Agent, the Securities Registration, the Securities Transfer Agent and any other agents appointed pursuant to the Securities Agency Agreement (the **"Agents"**)). MSFL acceded to the Securities Agency Agreement by way of an Accession Agreement dated 29 April 2016. In the following provisions of these terms and conditions (the **"Conditions"**), each reference to the **"Issuer"** is a reference to Morgan Stanley.

Warrants and Certificates issued by Morgan Stanley in global form are constituted by a deed of covenant entered into by Morgan Stanley dated 29 June 2018 (as supplemented and/or amended and/or restated and/or replaced from time to time the **"Morgan Stanley Deed of Covenant"**). Warrants and Certificates issued by MSFL in global form are constituted by a deed of covenant entered into by MSFL dated 29 June 2018 (as supplemented and/or amended and/or restated and/or replaced from time to time the **"MSFL Deed of Covenant"**, and together with the Morgan Stanley Deed of Covenant, the **"Deeds of Covenant"**).

In relation to a Series of Warrants or Certificates, the expression **"Warrants"** and the term **"Certificates"** shall, unless the context otherwise requires, include any further Warrants or, as the case may be, Certificates issued pursuant to Condition 29 (*Further Issues*) of these Conditions and forming a single series with such Series. The Securityholders (as defined below) are entitled to the benefit of, and are bound by and are deemed to have notice of, all the provisions of the Securities Agency Agreement, these Conditions and the Pricing Supplement (as defined below) relating to the relevant Warrants or Certificates.

Each Series of Warrants and each Series of Certificates issued under the Program as Relevant Securities (as defined in the Conditions) may comprise one or more tranches (**"Tranches"** and each, a **"Tranche"**) of Warrants or, as the case may be, Certificates. Each Tranche will be the subject of a pricing supplement supplemental hereto (each, **"Pricing Supplement"**), a copy of which may, in the case of a Tranche in relation to which application has been made for admission to the Official List of Euronext Dublin and trading on its Global Exchange Market or an admission to the Official List of the Luxembourg Stock Exchange and trading on its Euro MTF market, be obtained free of charge from the specified office of the Principal Securities Agent. In the case of a Tranche in relation to which application has not been made for admission to listing, trading and/or quotation by any listing authority, stock exchange and/or quotation system, copies of the applicable Pricing Supplement will only be available for inspection by a holder of Warrants or Certificates of that Tranche.

References in the Conditions to Warrants or Certificates are to the Warrants or Certificates of the relevant Series and references to the Issuer, the Principal Securities Agent, the Determination Agent, any holder or the Securityholders are to those persons in relation to the Warrants or Certificates of the relevant Series. Capitalised terms used but not defined in these Conditions shall have the meanings given to them in the applicable Pricing Supplement, the absence of any such meaning indicating that such term is not applicable to the Warrants or Certificates of the relevant Series.



## 1. DEFINITIONS

As used in these Conditions, the following expressions shall have the following meanings in respect of any Warrants or Certificates or Series of Warrants or Certificates:

**"Administrator/Benchmark Event"** means, in respect of any Warrants or Certificates, a determination made by the Determination Agent that any authorisation, registration, recognition, endorsement, equivalence decision, approval or inclusion in any official register in respect of the Relevant Benchmark or the administrator or sponsor of the Relevant Benchmark has not been, or will not be, obtained or has been, or will be, rejected, refused, suspended or withdrawn by the relevant competent authority or other relevant official body, in each case with the effect that any of the Issuer, the Determination Agent or the Calculation Agent is not, or will not be, permitted under any applicable law or regulation to use the Relevant Benchmark to perform its or their respective obligations in respect of the Warrants or Certificates;

**"Administrator/Benchmark Event Date"** means, in respect of any Warrants or Certificates and an Administrator/Benchmark Event, the date on which the authorisation, registration, recognition, endorsement, equivalence decision, approval or inclusion in any official register is:

- (a) required under any applicable law or regulation; or
- (b) rejected, refused, suspended or withdrawn, if the applicable law or regulation provides that the Relevant Benchmark is not permitted to be used under the Warrants or Certificates following rejection, refusal, suspension or withdrawal,

or, in each case, if such date occurs before the Issue Date, the Issue Date;

**"Affiliate"** means any entity which is (a) an entity controlled, directly or indirectly, by the Issuer, (b) an entity that controls, directly or indirectly, the Issuer or (c) an entity directly or indirectly under common control with the Issuer;

**"Alternative Pre-nominated Index"** means, in respect of a Relevant Benchmark, the first of the indices, benchmarks or other price sources specified in the applicable Pricing Supplement as an "Alternative Pre-nominated Index" that is not subject to an Administrator/Benchmark Event or (in the case of Equity-Linked Securities) an Index Cancellation or an Index Modification or (in the case of Commodity-Linked Securities which reference a Commodity Index) a Commodity Index Cancellation or a Commodity Index Modification or (in the case of Property-Linked Securities) a Property Index Adjustment Event;

**"Australian dollars", "A\$" and "AUD"** are to the lawful currency of the Commonwealth of Australia;

**"Bond Securities"** means Warrants or Certificates relating to bonds or other debt securities;

**"Business Day"** means any day, other than a Saturday or Sunday,

- (a) that is neither a legal holiday nor a day on which banking institutions are authorised or required by law or regulation to close in London; and
- (b) for Warrants and Certificates denominated in:
  - (i) a Specified Currency other than euro or Australian dollars, a day that is neither a legal holiday nor a day on which banking institutions are authorised or required by law or regulation to close in the principal financial centre of the country of the Specified Currency, and in each (if any) Additional Business Centre;
  - (ii) Australian dollars, a day that is neither a legal holiday nor a day on which banking institutions are authorised or required by law or regulation to close in Sydney, and in each (if any) Additional Business Centre; and
  - (iii) euro, that is also a TARGET Settlement Day and a day that is neither a legal holiday nor a day on which banking institutions are authorised or required by law or regulation to close in each (if any) Additional Business Centre;

**"Business Day Convention"**, in relation to any particular date, has the meaning given in the applicable Pricing Supplement and, if so specified in the applicable Pricing Supplement, may have different meanings in relation to different dates and, in this context, the following expressions shall have the following meanings:

- (a) **"Following Business Day Convention"** means that the relevant date shall be postponed to the first following day that is a Business Day;
- (b) **"Modified Following Business Day Convention"** or **"Modified Business Day Convention"** means that the relevant date shall be postponed to the first following day that is a Business Day, unless that day falls in the next calendar month, in which case that date will be the first preceding day that is a Business Day;
- (c) **"Nearest"** means that the relevant date shall be the first preceding day that is a Business Day, if the relevant date would otherwise fall on a day other than a Sunday or a Monday, and will be the first following day that is a Business Day, if the relevant date would otherwise fall on a Sunday or a Monday;
- (d) **"Preceding"** means that the relevant date will be the first preceding day that is a Business Day; and
- (e) **"No Adjustment"** means that the relevant date shall not be adjusted in accordance with any Business Day Convention;

**"Cash Settlement Payment Date"** means, in respect of each Exercise Date, the date specified or otherwise determined as provided in the applicable Pricing Supplement or, if such date is not a Scheduled Trading Day, Commodity Business Day, Currency Business Day, the next succeeding Currency Business Day;

**"CEA"** means the United States Commodity Exchange Act, as amended;

**"Clearing System"** means Euroclear, Clearstream, Luxembourg and/or any other relevant clearing system located outside the United States specified in the applicable Pricing Supplement which the Underlying Security is, for the time being, held;

**"Clearing System Business Day"** means, in respect of a Clearing System, any day on which such Clearing System is (or, but for the occurrence of a Settlement Disruption Event, would have been) open for the acceptance and execution of settlement instructions;

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

**"CNY Securities"** means Warrants or Certificates denominated in CNY or Renminbi deliverable in Hong Kong, or such other CNY Center as specified in the applicable Pricing Supplement;

**"Commencement Date"** means the date specified as such in the applicable Pricing Supplement, or, if such date is not a Scheduled Trading Day, the next following Scheduled Trading Day;

**"Commodity Securities"** means any Series of Warrants or Certificates that relate to a commodity or commodities or to a commodity index;

**"Currency Business Day"** means, unless otherwise specified in the applicable Pricing Supplement and subject as provided in Condition 9.7 (*Additional Disruption Events*) with respect to Currency Securities, for the purpose of the definition of Cash Settlement Payment Date in respect of any Series of Warrants or Certificates, any day (1) that is neither a legal holiday nor a day on which banking institutions are authorised or required by law or regulation to close (x) in The City of New York or London, (y) in relation to sums payable in currencies other than U.S. dollars, euro or Australian dollars, in the principal financial centre of the country of the relevant currency or (z) in relation to sums payable in Australian dollars, in Sydney and (2) in relation to sums payable in euro, a day that is also a TARGET Settlement Day;

**"Currency Securities"** means Warrants or Certificates relating to a currency exchange rate or currency exchange rates;

**"Determination Agent"** means Morgan Stanley & Co. International plc or such other entity specified as such in the applicable Pricing Supplement;

**"Disrupted Day"** has the meaning ascribed thereto in Condition 7.8 (*Definitions applicable to Share Securities, Share Basket Securities, Index Securities, Index Basket Securities, ETF Securities and ETF Basket Securities*);

**"EC Treaty"** means the Treaty establishing the European Community (signed in Rome on 25 March 1957), as amended by the Treaty on European Union (signed in Maastricht on 7 February 1992) and as amended by the Treaty of Amsterdam (signed in Amsterdam on 2 October 1997), as further amended from time to time;

**"ETF Basket Securities"** means any Series of Warrants or Certificates that relates to a basket of Underlying Securities that are exchange traded funds;

**"ETF Securities"** means any Series of Warrants and Certificates that relates to a single Underlying Security that is an exchange traded fund;

**"Euro", "euro", "€" and "EUR"** each means the lawful single currency of the member states of the European Union that have adopted and continue to retain a common single currency through monetary union in accordance with European Union treaty law (as amended from time to time);

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

**"European Economic and Monetary Union"** means economic and monetary union pursuant to the EC Treaty;

**"Exercise Date"** means, in respect of any Warrant or Certificate, the day on which such Warrant or Certificate is deemed to have been exercised in accordance with Condition 5.6 (*Deemed Exercise*), if applicable, or on which an Exercise Notice relating to that Warrant or Certificate is delivered in accordance with the provisions of Condition 5.1 (*Exercise Notice*);

**"Exercise Notice"** means any notice in the form scheduled to the Securities Agency Agreement (or such other form as may from time to time be agreed by the Issuer and the Principal Securities Agent) which is delivered by a Securityholder in accordance with Condition 5.1 (*Exercise Notice*);

**"Exercise Period"** means, unless otherwise specified in the applicable Pricing Supplement, the period beginning on (and including) the Commencement Date and ending on (and including) the Expiration Date;

**"Exercise Receipt"** means a receipt issued by a Securities Agent or Securities Registrar to a depositing Securityholder upon deposit of a Warrant or Certificate with such Securities Agent or Securities Registrar by any Securityholder wanting to exercise a Warrant or Certificate;

**"Expiration Date"** means:

- (a) in respect of any Share Security, Share Basket Security, Index Security, Index Basket Security, ETF Security, ETF Basket Security, Fund Security, Fund Basket Security, Futures Contract Security or Futures Contract Basket Security, the date specified as such in the applicable Pricing Supplement, or, if such date is not a Scheduled Trading Day or a Fund Business Day (as applicable), the relevant Expiration Date shall (i) in the case of any Share Security, Share Basket Security, Index Security, Index Basket Security, ETF Security, ETF Basket Security, Futures Contract Security or Futures Contract Basket Security, be the next succeeding Scheduled Trading Day; or (ii) in the case of Fund Security or Fund Basket Security, be the next succeeding Fund Business Day, and if any Expiration Date is a Disrupted Day, the provisions of, as applicable, Condition 7.1 (*Reference Dates, Averaging Dates and Market Disruption*), Condition 14.1 (*Reference Dates, Averaging Dates and Market Disruption*) or Condition 15.1 (*Reference Dates, Averaging Dates and Market Disruption*) shall apply *mutatis mutandis* as if such Expiration Date were a Reference Date, and otherwise subject to adjustment in accordance with the Conditions. Notwithstanding the foregoing, if a Warrant or Certificate is exercised on a Scheduled Trading Day or Fund Business Day (as applicable) that would have been an Expiration Date but for the occurrence of an event giving rise to a Disrupted Day, such Scheduled Trading Day or Fund Business Day (as applicable) shall be deemed to be the

Expiration Date for the purpose of determining whether an Exercise Date has occurred during the Exercise Period.

If (A) either “Common Scheduled Trading Days and Common Disrupted Days” or “Common Scheduled Trading Days and Individual Disrupted Days” is specified to be applicable in the applicable Pricing Supplement, references in the above sub-paragraph to “Scheduled Trading Day” shall be read as references to “Common Scheduled Trading Day”; and (B) either “Common Fund Business Days and Common Disrupted Days” or “Common Fund Business Days and Individual Disrupted Days” is specified to be applicable in the applicable Pricing Supplement, references in the above sub-paragraph to “Fund Business Day” shall be read as references to “Common Fund Business Day”; and

- (b) in respect of any Bond Security, Commodity Security, Currency Security, Inflation Security or Property Security, the date specified as such in the applicable Pricing Supplement or, if that date is not a Business Day and, if specified in the applicable Pricing Supplement, an Exchange Business Day, a Commodity Business Day or a Currency Business Day, the next following day that is a Business Day and, as the case may be, an Exchange Business Day, a Commodity Business Day or a Currency Business Day;

**"Fund Basket Securities"** means Warrants or Certificates that relate to a basket of Underlying Securities that are funds;

**"Fund Securities"** means Warrants or Certificates relating to a single Underlying Security that is funds;

**"Futures Contract Basket Securities"** means Warrants or Certificates relating to a basket of futures contracts;

**"Futures Contract Securities"** means Warrants or Certificates relating to a single futures contract;

**"Global Registered Security"** means a global Registered Security representing interests in Securities;

**"Implementation of Financial Transaction Tax"** means that, on or after the Trade Date of any Warrants or Certificates due to the adoption of or any change in any applicable law or regulation (including without limitation any law or regulation implementing a system of financial transaction taxes in any jurisdiction, including the European Union relating to any tax, payable in respect of the transfer of, or issue or modification or redemption of, any financial instruments), the Issuer determines (acting in good faith and in a commercially reasonable manner) that either it or any of its Affiliates would incur or has incurred a materially increased amount of tax, transfer tax, duty, stamp duty, stamp duty reserve tax, expense or fee (other than brokerage commissions) to (A) enter into, modify or unwind the Warrants or Certificates or any part thereof, or perform its obligations under such Warrants or Certificates, including for the avoidance of doubt any obligation or exercise of any right to deliver Shares or any other asset or (B) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the risk of entering into and performing its obligations with respect to the relevant Warrants or Certificates or (C) realise, recover or remit the proceeds of any such transaction(s) or asset(s), provided that the Issuer has determined that the nature of the adoption of or any change in law or regulation is such that it is applicable to investors generally when carrying out similar trading or hedging activities in the relevant jurisdiction.

**"Index Basket Securities"** means Warrants or Certificates relating to a basket of Indices;

**"Index Securities"** means Warrants or Certificates relating to a single Index;

**"Individual Registered Security"** has the meaning set forth in Condition 2.2 (*Registered Securities*);

**"Inflation Securities"** means Warrants or Certificates relating to an inflation index;

**"Initial Date"** means the date specified as such in the applicable Pricing Supplement;

**"Japanese Yen"** and "¥" are to the lawful currency of Japan;

**"Latest Exercise Time"** means 10:00 a.m. (local time in the place where the Specified Office of the relevant Securities Agent or Securities Registrar, as the case may be, is located), unless specified otherwise in the applicable Pricing Supplement;

**"Maximum Call Notice Number of Day(s)"** means the number of calendar days or Business Days specified as such in the applicable Pricing Supplement;

**"Minimum Call Notice Number of Day(s)"** means the number of calendar days or Business Days specified as such in the applicable Pricing Supplement;

**"Morgan Stanley Securities"** means Warrants or Certificates issued by Morgan Stanley;

**"MSFL Securities"** means Warrants issued by MSFL;

**"Optional Settlement Amount (Call)"** means, in respect of any Warrant or Certificate, its principal amount or such other amount as may be specified in, or determined in accordance with, the applicable Pricing Supplement;

**"Optional Settlement Date (Call)"** has the meaning given in the applicable Pricing Supplement;

**"Person"** means any individual, company, corporation, firm, partnership, joint venture, association, organization, state or agency of a state or other entity, whether or not having separate legal personality;

**"Property Securities"** means Warrants or Certificates relating to a property index;

**"Physical Settlement Date"** means, in relation to Underlying Securities to be delivered following exercise of a Warrant or Certificate on an Exercise Date, and unless otherwise specified in the applicable Pricing Supplement, the first day on which settlement of a sale of such Underlying Securities on that Exercise Date customarily would take place through the relevant Clearing System, unless a Settlement Disruption Event prevents delivery of such Underlying Securities on that day;

**"Potential Exercise Date"** means:

- (a) in respect of any Share Security, Share Basket Security, Index Security, Index Basket Security, ETF Security, ETF Basket Security, Fund Security, Fund Basket Security, Futures Contract Security or Futures Contract Basket Security, each date specified as such in the applicable Pricing Supplement, or, if such date is not a Scheduled Trading Day or a Fund Business Day (as applicable), the relevant Potential Exercise Date shall (i) in the case of any Share Security, Share Basket Security, Index Security, Index Basket Security, ETF Security, ETF Basket Security, Futures Contract Security or Futures Contract Basket Security, be the next succeeding Scheduled Trading Day; or (ii) in the case of Fund Security or Fund Basket Security, be the next succeeding Fund Business Day, and if any Potential Exercise Date is a Disrupted Day, the provisions of, as applicable, Condition 7.1 (*Reference Dates, Averaging Dates and Market Disruption*), Condition 14.1 (*Reference Dates, Averaging Dates and Market Disruption*) or Condition 15.1 (*Reference Dates, Averaging Dates and Market Disruption*) shall apply *mutatis mutandis* as if such Potential Exercise Date were a Reference Date, and otherwise subject to adjustment in accordance with the Conditions.

Notwithstanding the foregoing, if a Warrant or Certificate is exercised on a Scheduled Trading Day or Fund Business Day (as applicable) that would have been a Potential Exercise Date prior to the occurrence of an event giving rise to a Disrupted Day, such Scheduled Trading Day or Fund Business Day (as applicable) shall be deemed to be the Potential Exercise Date for the purpose of determining whether an Exercise Date has occurred during the Exercise Period.

If (A) either "Common Scheduled Trading Days and Common Disrupted Days" or "Common Scheduled Trading Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement, references in the above two sub-paragraphs to "Scheduled Trading Day" shall be read as references to "Common Scheduled Trading Day"; and (B) either "Common Fund Business Days and Common Disrupted Days" or "Common Fund Business Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement,

references in the above sub-paragraph to “Fund Business Day” shall be read as references to “Common Fund Business Day”; and

- (b) in respect of any Bond Security, Commodity Security, Currency Security, Inflation Security, or Property Security, the dates specified in the applicable Pricing Supplement (or, if any such date is not a Business Day, and, if so specified in the applicable Pricing Supplement, an Exchange Business Day, a Commodity Business Day or a Currency Business Day, the next following date that is a Business Day, and, as the case may be, an Exchange Business Day, a Commodity Business Day or a Currency Business Day);

**"Principal Financial Centre"** means, in respect of any Series of Warrants or Certificates and any currency, the financial centre(s) for that currency specified as such in the applicable Pricing Supplement, or, if none is specified, the financial centre or centres determined by the Determination Agent in its sole and absolute discretion;

**"Reference Dealers"** means, in respect of any Series of Warrants or Certificates, the dealers specified as such in the applicable Pricing Supplement;

**"Registered Certificates"** has the meaning ascribed thereto in Condition 2 (*Form, Title and Transfer*);

**"Registered Warrants"** has the meaning ascribed thereto in Condition 2 (*Form, Title and Transfer*);

**"Regulation S"** means Regulation S under the Securities Act;

**"Relevant Benchmark"** means a Relevant Commodity Benchmark, a Relevant Equity Index Benchmark, a Relevant FX Benchmark, a Relevant Property Index Benchmark or a Relevant Futures Contract Benchmark;

**"Relevant Securities"**, in relation to Warrants and Certificates, means Warrants and Certificates issued (or to be issued) under the Securities Agency Agreement;

**"Renminbi"**, **"RMB"** and **"CNY"** are to the lawful currency of the People's Republic of China ("**PRC**") which, for the purpose of these Conditions, shall exclude the Hong Kong Special Administrative Region of the People's Republic of China, the Macau Special Administrative Region of the People's Republic of China and Taiwan;

**"Reserved Matter"** means any proposal to change any date fixed for payment in respect of the Warrants or Certificates, to reduce the amount of any payment payable on any date in respect of the Warrants or Certificates, to alter the method of calculating the amount of any payment in respect of the Warrants or Certificates or the date for any such payment, to change the currency of any payment under the Warrants or Certificates or to change the quorum requirements relating to meetings or the majority required to pass an Extraordinary Resolution;

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

**"Security"** means any Warrant or Certificate;

**"Securityholder"** has the meaning ascribed thereto in Condition 2 (*Form, Title and Transfer*);

**"Settlement Currency"** means, in respect of any Series of Warrants or Certificates, the currency specified as such in the applicable Pricing Supplement;

**"Settlement Cycle"** means, in respect of an Underlying Security, Index or ETF, the period of Settlement Cycle Days following a trade in such Underlying Security, the securities or other property underlying such Index or ETF as the case may be, on the Exchange in which settlement will customarily occur according to the rules of such Exchange (or, if there are multiple Exchanges in respect of an Index, the longest such period) and for this purpose "Settlement Cycle Day" means a day on which the relevant Exchange at the relevant time is (or, but for the occurrence of a Settlement Disruption Event would have been) open for the acceptance and execution of settlement instructions or, if none, a day selected by the Determination Agent;

**"Settlement Election Date"** means, in respect of any Series of Warrants or Certificates, the date specified in the applicable Pricing Supplement or, if such date is not a Business Day, the next following day that is a Business Day;

**"Share Basket Securities"** means Warrants or Certificates relating to a basket of Underlying Securities that are shares;

**"Share Securities"** means Warrants or Certificates relating to a single Underlying Security that is a share;

**"Specified Office"** means, in respect of any Series of Warrants or Certificates, in the case of a Reference Dealer, any office or branch of the Reference Dealer located in the city specified for such purpose in the applicable Pricing Supplement and, in the case of the Principal Securities Agent, the Securities Registrar or the Securities Transfer Agent, has the meaning given to such term in the Securities Agency Agreement. If a city is not so specified in respect of a Reference Dealer, the Specified Office will be deemed to be an office or branch of such Reference Dealer located in the Principal Financial Centre of the Reference Currency unless no quotations are available from the relevant office or branch of such Reference Dealer in which case, the Specified Office of the relevant Reference Dealer shall be the office or branch of such Reference Dealer located in any major financial market for the purchase and sale of the Reference Currency and the Settlement Currency outside the country where the Reference Currency is the lawful currency, as selected by the Determination Agent;

**"Specified Time"** means, in respect of any Series of Warrants or Certificates and the determination of the Spot Rate, the time specified as such in the applicable Pricing Supplement;

**"Sterling"** and **"£"** are to the lawful currency of the United Kingdom;

**"Strike Price"** means, in respect of any Series of Warrants or Certificates, the price, level or amount specified as such or otherwise determined as provided in the applicable Pricing Supplement;

**"Strike Price Payment Date"** has the meaning ascribed thereto in the applicable Pricing Supplement;

**"TARGET2"** means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilises a single shared platform and which was launched on 19 November 2007;

**"TARGET Settlement Day"** means any day on which TARGET2 is open for the settlement of payments in euro;

**"Taxes"** mean all applicable stamp tax, stamp duty reserve tax, financial transaction tax, estate, inheritance, gift, transfer, capital gains, corporation, income, property, withholding, other taxes, duties and charges;

**"Underlying Securities"** means shares, bonds, other debt securities, other securities or other property specified as such in the applicable Pricing Supplement, and "Underlying Security" shall be construed accordingly;

**"Underlying Security Issuer"** means, in respect of Underlying Securities, the issuer of the relevant Underlying Securities; and

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

## 2. **FORM, TITLE AND TRANSFER**

### 2.1 *Form:*

Morgan Stanley may issue Warrants and Certificates and MSFL may issue Warrants in registered form ("**Registered Warrants**" and "**Registered Certificates**", together, the "**Registered Securities**").

2.2 *Registered Securities:*

- (a) *Form:* Registered Securities will be in global registered form ("**Global Registered Securities**") or individual registered form ("**Individual Registered Securities**"), in each case as specified in the applicable Pricing Supplement.
- (b) *Title:* Title to the Registered Securities passes by registration in the Register which is kept by the Securities Registrar in accordance with the provisions of the Securities Agency Agreement. A certificate (an "**Individual Registered Security**") will be issued to each holder of Registered Securities in respect of its registered holding. Each Individual Registered Security will be numbered serially with an identifying number which will be recorded in the Register. "**holder**" means the person in whose name such Registered Security is for the time being registered in the Register (or, in the case of a joint holding, the first named thereof) and "**Securityholder**" shall be construed accordingly.
- (c) *Ownership:* The holder of any Registered Security shall (except as otherwise required by law) be treated as its absolute owner for all purposes (whether or not it is overdue and regardless of any notice of ownership, trust or any other interest therein, any writing thereon or on the Individual Registered Security relating thereto (other than the endorsed form of transfer) or any notice of any previous loss or theft thereof) and no person shall be liable for so treating such holder.
- (d) *Transfers:* Subject to Conditions 2.2(g) (*Closed Periods*) and 2.2(h) (*Regulations concerning transfers and registration*) below, a Registered Security may be transferred upon surrender of the relevant Individual Registered Security, with the endorsed form of transfer duly completed, at the Specified Office of the Securities Registrar or any Securities Transfer Agent, together with such evidence as the Securities Registrar or (as the case may be) such Securities Transfer Agent may reasonably require to prove the title of the transferor and the authority of the individuals who have executed the form of transfer. Where not all the Registered Securities represented by the surrendered Individual Registered Security are the subject of the transfer, a new Individual Registered Security in respect of the balance of the Registered Securities will be issued to the transferor.
- (e) *Registration and Delivery:* Within five business days of the surrender of an Individual Registered Security in accordance with Condition 2.2(d) (*Transfers*) above, the Securities Registrar will register the transfer in question and deliver a new Individual Registered Security of a like number or nominal amount to the Registered Securities transferred to each relevant holder at its Specified Office or (as the case may be) the Specified Office of any Securities Transfer Agent or (at the request and risk of any such relevant holder) by uninsured first class mail (airmail if overseas) to the address specified for the purpose by such relevant holder. In this Condition 2.2(e) (*Registration and Delivery*), "**business day**" means a day on which commercial banks are open for general business (including dealings in foreign currencies) in the city where the Securities Registrar or (as the case may be) the relevant Securities Transfer Agent has its Specified Office.
- (f) *No charge:* The transfer of a Registered Security will be effected without charge by or on behalf of the Issuer or the Securities Registrar or any Securities Transfer Agent but against such indemnity as the Securities Registrar or (as the case may be) such Securities Transfer Agent may require in respect of any tax or other duty of whatsoever nature which may be levied or imposed in connection with such transfer.
- (g) *Closed Periods:* Holders of Registered Securities may not require transfers to be registered during the period of 15 days ending on the due date for any payment in respect of the Registered Securities.
- (h) *Regulations concerning transfers and registration:* All transfers of Registered Securities and entries on the Register are subject to the detailed regulations concerning the transfer of Registered Securities scheduled to the Securities Agency Agreement. The regulations may be changed by the Issuer with the prior written approval of the Securities Registrar. A copy of the current regulations will be mailed (free of charge) by the Securities Registrar to any holder of Registered Securities who requests in writing a copy of such regulations. The Issuer shall have the right to refuse to honour the transfer of any Securities to a person who is a U.S. Person (as defined in Regulation S) or is in the United States.



2.3 *General provisions relating to the Warrants and Certificates:*

Interests in any Warrants or Certificates will be transferable in a minimum amount of such number of Warrants or Certificates (the "**Minimum Transfer Amount**") as is specified in the applicable Pricing Supplement.

Warrants and Certificates may not be offered, sold, delivered or otherwise transferred at any time within the United States or to, or for the account or benefit of, U.S. Persons (as such terms are used in Regulation S under the Securities Act and the CEA) and each Warrant or Certificate will have a legend to such effect.

3. **STATUS OF WARRANTS AND CERTIFICATES**

3.1 *Status of Warrants and Certificates:*

The Warrants and Certificates of each Series constitute direct and general obligations of the Issuer which rank *pari passu* among themselves.

3.2 *The Issuer may elect the form of settlement:*

By exercising a Warrant or Certificate, the holder thereof shall be deemed to have agreed to such form of settlement as the Issuer may elect in accordance with Conditions 4.6 (*Optional Physical Settlement*) and 4.7 (*Optional Cash Settlement*), if applicable.

4. **RIGHTS ON EXERCISE OF WARRANTS AND CERTIFICATES**

4.1 *American Style Securities:*

If the Warrants or Certificates are specified in the applicable Pricing Supplement as being "**American Style Securities**", then this Condition 4.1 (*American Style Securities*) is applicable and the Warrants or Certificates are exercisable not later than the Latest Exercise Time on any day during the Exercise Period which is a Business Day and, if so specified in the applicable Pricing Supplement, a Scheduled Trading Day, a Common Scheduled Trading Day, an Exchange Business Day, a Commodity Business Day, a Currency Business Day, a Fund Business Day and/or a Common Fund Business Day, subject to Condition 4.9 (*Warrants and Certificates void on expiry*) and to prior termination of the Warrants or Certificates as provided in Conditions 7.4 (*Adjustments affecting Underlying Shares and ETF Interests*) to 19 (*Provisions relating to all Warrants and Certificates*) (as applicable), 22 (*Events of Default*) and 23 (*Illegality Event*).

4.2 *European Style Securities:*

If the Warrants or Certificates are specified in the applicable Pricing Supplement as being "**European Style Securities**", then this Condition 4.2 (*European Style Securities*) is applicable and the Warrants or Certificates are exercisable only not later than the Latest Exercise Time on the Expiration Date, subject to Condition 4.9 (*Warrants and Certificates void on expiry*) and to prior termination of the Warrants or Certificates as provided in Conditions 7.4 (*Adjustments affecting Underlying Securities Shares and ETF Interests*) to 19 (*Provisions relating to all Warrants and Certificates*) (as applicable), 22 (*Events of Default*) and 23 (*Illegality Event*).

4.3 *Bermudan Style Securities:*

If the Warrants or Certificates are specified in the applicable Pricing Supplement as being "**Bermudan Style Securities**", then this Condition 4.3 (*Bermudan Style Securities*) is applicable and the Warrants or Certificates are exercisable only not later than the Latest Exercise Time on each Potential Exercise Date, subject to Condition 4.9 (*Warrants and Certificates void on expiry*) and to prior termination of the Warrants or Certificates as provided in Conditions 7.4 (*Adjustments affecting Underlying Shares and ETF Interests*) to 19 (*Provisions relating to all Warrants and Certificates*) (as applicable), 20 (*Events of Default*) and 23 (*Illegality Event*).

4.4 *Cash Settlement Securities:*

If the Warrants or Certificates are specified in the applicable Pricing Supplement as being "**Cash Settlement Securities**", then, subject to Condition 4.6 (*Optional Physical Settlement*) if applicable, upon exercise each Warrant and Certificate entitles the holder thereof to receive from the Issuer on the Cash Settlement Payment Date an amount (the "**Cash Settlement Amount**") calculated in accordance with the applicable Pricing Supplement in the currency (the "Settlement Currency") specified in the applicable Pricing Supplement (less any amount in respect of Taxes). The Cash Settlement Amount will be rounded down to the nearest minimum unit of the Settlement Currency, with Warrants or Certificates exercised at the same time by the same Securityholder being aggregated for the purpose of determining the aggregate Cash Settlement Amount payable in respect of such Warrants or Certificates.

4.5 *Physical Settlement Securities:*

- (a) *Full Physical Settlement Securities:* If the Warrants or Certificates are specified in the applicable Pricing Supplement as being "**Full Physical Settlement Securities**", then, subject to Condition 4.7 (*Optional Cash Settlement*) if applicable, upon the exercise of a Warrant or Certificate by a Securityholder, the Issuer will deliver or procure the delivery of all the Underlying Securities in respect of such Warrant or Certificate on the Physical Settlement Date to the account of the Clearing System specified, or as may otherwise be specified for that purpose by such Securityholder in the relevant Exercise Notice, following payment by such Securityholder to or to the order of the Issuer on or before the Strike Price Payment Date of the Strike Price (plus an amount equal to **Taxes** due by reason of the exercise of such Warrant or Certificate and the purchase for, and credit to or to the order of such Securityholder of such Underlying Securities and, in the case of Bond Securities, accrued interest, if any, on the Bond Security Entitlement computed by the Determination Agent in accordance with customary trade practices employed with respect to bonds or such other debt securities), all as more fully described in Condition 5 (*Exercise*).
- (b) *Part Physical Settlement Securities:* If the Warrants or Certificates are specified in the applicable Pricing Supplement as being "**Part Physical Settlement Securities**", then, subject to Condition 4.7 (*Optional Cash Settlement*) if applicable, upon the exercise of a Warrant or Certificate by a Securityholder, the Issuer will deliver or procure the delivery of all the Underlying Securities in respect of such Warrant or Certificate on the Physical Settlement Date to the account of the Clearing System specified, or as may otherwise be specified for that purpose by such Securityholder in the relevant Exercise Notice. The number of Underlying Securities to be so delivered shall be an amount of Underlying Securities, rounded down if not a whole number, whose market value (as determined by the Determination Agent in its sole and absolute discretion) on the Exercise Date (less any commissions which the Issuer may charge at such rate as it deems fit in its sole and absolute discretion and any applicable Taxes due by reason of the exercise of such Warrant or Certificate and the purchase for, and credit to or to the order of such Securityholder of such Underlying Securities) is equal to the excess, if any, of the Settlement Price over the Strike Price (plus, in the case of Bond Securities, any accrued interest, as specified in Condition 4.5(a) (*Full Physical Settlement Securities*) above). Where a Securityholder becomes entitled to receive Underlying Securities in respect of more than one Warrant or Certificate, any rounding adjustment referred to in this Condition 4.5(b) (*Part Physical Settlement Securities*) shall be applied only to the aggregate number of Underlying Securities deliverable in respect of such Warrants or Certificates.
- (c) *Other Physical Settlement Securities:* If the Warrants or Certificates are specified in the applicable Pricing Supplement as being "**Other Physical Settlement Securities**", then, subject to Condition 4.7 (*Optional Cash Settlement*) if applicable, upon the exercise of a Warrant or Certificate by a Securityholder, the Issuer will deliver or procure the delivery of such amount of Underlying Securities, or the Warrants or Certificates will be settled in any other manner, as may be specified in, or determined in accordance with, the applicable Pricing Supplement.
- (d) In these Conditions, references to "**Physical Settlement Securities**" shall, where the context so admits, comprise Full Physical Settlement Securities, Part Physical Settlement Securities and Other Physical Settlement Securities.

4.6 *Optional Physical Settlement:*

If this Condition 4.6 (*Optional Physical Settlement*) is specified in the applicable Pricing Supplement as being applicable, then, upon the exercise of a Warrant or Certificate by a Securityholder, the Issuer may elect not to pay the Cash Settlement Amount to that Securityholder in accordance with Condition 4.4 (*Cash Settlement Securities*), but instead deliver or procure the delivery of Underlying Securities in accordance with Condition 4.5(a) (*Full Physical Settlement Securities*) or Condition 4.5(b) (*Part Physical Settlement Securities*).

4.7 *Optional Cash Settlement:*

If this Condition 4.7 (*Optional Cash Settlement*) is specified in the applicable Pricing Supplement as being applicable, then, upon the exercise of a Warrant or Certificate by a Securityholder, the Issuer may elect not to deliver or procure the delivery of Underlying Securities in accordance with Condition 4.5(a) (*Full Physical Settlement Securities*) or Condition 4.5(b) (*Part Physical Settlement Securities*), but instead to pay the Cash Settlement Amount to that Securityholder in accordance with Condition 4.4 (*Cash Settlement Securities*).

4.8 *Notification of election:*

If Condition 4.6 (*Optional Physical Settlement*) or Condition 4.7 (*Optional Cash Settlement*) is specified in the applicable Pricing Supplement as being applicable, the Issuer will, by the close of business (London time) on the Settlement Election Date, notify the Principal Securities Agent, the Securities Registrar (in the case of the Registered Warrants or Registered Certificates), the Determination Agent and the relevant Securityholder whether it has elected to pay the Cash Settlement Amount in accordance with Condition 4.4 (*Cash Settlement Securities*) or deliver or procure the delivery of Underlying Securities in accordance with Condition 4.5(a) (*Full Physical Settlement Securities*) or Condition 4.5(b) (*Part Physical Settlement Securities*). Notice to the relevant Securityholder shall be given by facsimile or telex to the number specified in the relevant Exercise Notice, and any notice so given shall be deemed received by the relevant Securityholder.

4.9 *Warrants and Certificates void on expiry:*

Subject to Condition 5.6 (*Deemed Exercise*), Warrants or Certificates with respect to which an Exercise Notice has not been duly completed and delivered to the Principal Securities Agent or the Securities Registrar, in the manner set out in Condition 5 (*Exercise*), before the Latest Exercise Time shall become void for all purposes and shall cease to be transferable.

4.10 *Delivery outside the United States:*

Notwithstanding the foregoing, no cash, securities or other property shall be delivered in the United States (as defined in Regulation S and in the CEA) in connection with the settlement of, or exercise of, Warrants or Certificates.

5. **EXERCISE**

5.1 *Exercise Notice:*

- (a) Subject to Condition 4.9 (*Warrants and Certificates void on expiry*) and to prior termination of the Warrants or Certificates as provided in Conditions 7.4 (*Adjustments affecting Underlying Shares and ETF Interests*) to 19 (*Provisions relating to all Warrants and Certificates*) (as applicable), 22 (*Events of Default*) and 23 (*Illegality Event*), Warrants and Certificates may be exercised by a Securityholder (at his own expense) at such time and on such day(s) as provided in Condition 4.1 (*American Style Securities*), 4.2 (*European Style Securities*) or 4.3 (*Bermudan Style Securities*), as applicable, by (i) depositing from a location outside the United States the relevant Individual Registered Security and delivering from a location outside the United States a duly completed and signed Exercise Notice to the Securities Registrar and (ii) delivering a copy of such Exercise Notice to the Determination Agent.
- (b) Subject to Condition 4.9 (*Warrants and Certificates void on expiry*), any Exercise Notice delivered after the Latest Exercise Time on any day shall: (a) in the case of Bermudan Style Securities and European Style Securities, be void and (b) in the case of American Style Securities, be deemed to have been delivered on the next following day on which such Warrants or Certificates are

exercisable (unless no such day occurs on or prior to the Expiration Date, in which case that Exercise Notice shall be void).

- (c) The Securities Registrar with which an Individual Registered Security is so deposited shall deliver a duly completed Exercise Receipt to the depositing Securityholder.
- (d) No Individual Registered Security, once deposited with a duly completed Exercise Notice in accordance with this Condition 5 (*Exercise*), may be withdrawn; provided however that if, following due presentation of any such Individual Registered Security, payment of the moneys falling due is improperly withheld or refused by the Issuer, the relevant Securities Agent or Securities Registrar (as applicable) shall mail notification thereof to the depositing Securityholder at such address as may have been given by such Securityholder in the relevant Exercise Notice and shall hold such Individual Registered Security at its Specified Office for collection by the depositing Securityholder against surrender of the relevant Exercise Receipt.

5.2 *Form of Exercise Notice for Cash Settlement Securities:*

Each Exercise Notice shall be in the form (for the time being current) available from each Securities Agent or the Securities Registrar, and must:

- (a) specify the name, address, telephone and facsimile details of the Securityholder in respect of the Warrants or Certificates being exercised;
- (b) specify the number of Warrants or Certificates of the relevant Series being exercised by the Securityholder (which must not be less than the Minimum Exercise Number);
- (c) include an irrevocable undertaking to pay any applicable Taxes due by reason of exercise of the relevant Warrants or Certificates and, if such amounts have not been paid prior to the Cash Settlement Payment Date, an authority to the Issuer to deduct an amount in respect thereof from any Cash Settlement Amount due to such Securityholder (on the Cash Settlement Payment Date) and to credit the specified account of the Principal Securities Agent (for the account of the Issuer) with an amount or amounts in respect thereof;
- (d) specify the details of the relevant account of the Securityholder to be credited with the relevant Cash Settlement Amount; and
- (e) contain a representation and warranty from the Securityholder to the effect that the Warrants or Certificates to which the Exercise Notice relates are free from all liens, charges, encumbrances and other third party rights.

5.3 *Form of Exercise Notice for Physical Settlement Securities:*

If the Warrants or Certificates are specified in the applicable Pricing Supplement as being Physical Settlement Securities or if Condition 4.6 (*Optional Physical Settlement*) is specified in the applicable Pricing Supplement as being applicable, the Exercise Notice shall:

- (a) specify the name, address, telephone and facsimile details of the Securityholder in respect of the Warrants or Certificates being exercised;
- (b) specify the number of Warrants or Certificates of the relevant Series being exercised by the Securityholder (which must not be less than the Minimum Exercise Number);
- (c) in the case of Full Physical Settlement Securities, include an irrevocable undertaking to pay on or prior to the Strike Price Payment Date to the specified account of the Principal Securities Agent (for the account of the Issuer) the aggregate Strike Price in respect of the Warrants or Certificates being exercised (plus any applicable Taxes and, in the case of Bond Securities, any accrued interest, as specified in Condition 4.5(a) (*Full Physical Settlement Securities*) above);
- (d) include an irrevocable undertaking to pay to the specified account of the Principal Securities Agent (for the account of the Issuer) any applicable Taxes due by reason of the transfer (if any) of

Underlying Securities to the account specified by the Securityholder to the account of the Issuer with an amount in respect thereof;

- (e) specify the details of the Securityholder's account to be credited with the relevant Underlying Securities;
- (f) contain a representation and warranty from the Securityholder to the effect that the Warrants or Certificates to which the Exercise Notice relates are free from all liens, charges, encumbrances and other third party rights;
- (g) specify such other details as the applicable Pricing Supplement may require; and
- (h) certify that the Warrants or Certificates are not being exercised or settled by or on behalf of a U.S. Person or a person within the United States and the Warrants or Certificates are not beneficially owned by a U.S. Person or a person within the United States (terms used in this Condition 5.3(h) have the meanings given in Regulation S).

5.4 *Verification of Securityholder:*

- (a) To exercise Warrants or Certificates the holder thereof must duly complete an Exercise Notice. The relevant Securities Agent or the Securities Registrar shall, in accordance with its normal operating procedures, verify that each person exercising the Warrants and Certificates is the holder thereof.
- (b) If, in the determination of the relevant Securities Agent or the Securities Registrar:
  - (i) the Exercise Notice is not complete or not in proper form;
  - (ii) the person submitting an Exercise Notice is not validly entitled to exercise the relevant Warrants or Certificates or not validly entitled to deliver such Exercise Notice; or
  - (iii) the relevant Securityholder does not provide evidence, at the reasonable request of the relevant Securities Agent or Securities Registrar, that sufficient funds equal to any applicable Taxes and the aggregate Strike Price (if any) will be available on the Exercise Date,

that Exercise Notice will be treated as void and a new duly completed Exercise Notice must be submitted if exercise of the holder's Warrants or Certificates is still desired.

- (c) Any determination by the relevant Securities Agent or Securities Registrar as to any of the matters set out in Condition 5.4(b) above shall, in the absence of manifest error, be conclusive and binding upon the Issuer and the Securityholder of the Warrants or Certificates exercised.
- (d) In the case of Warrants and Certificates the exercise of which would require the Issuer to deliver indebtedness in bearer form, the issuance of, payment on and delivery of the Warrants or Certificates and the indebtedness will be subject to the limitations set out in these Conditions and the applicable Pricing Supplement.

5.5 *Notification to the relevant Securities Agent or Securities Registrar:*

- (a) Subject to the verification set out in Condition 5.4(a) (*Verification of Securityholder*) above, the relevant Securities Agent or the Securities Registrar will confirm to the Principal Securities Agent (copied to the Issuer and the Determination Agent) the receipt of the Exercise Notice and the number of Warrants or Certificates being exercised.
- (b) Upon the exercise in part of the total number or aggregate nominal amount of Warrants or Certificates represented by an Individual Registered Security, the Securities Registrar will note such exercise shall cancel the relevant Individual Registered Security deposited and issue the holder of the relevant Warrant or Certificate with a new Individual Registered Security representing the number or nominal amount of the holder's Warrants or Certificates not exercised.

5.6 *Deemed Exercise:*

If "**Deemed Exercise**" is specified in the applicable Pricing Supplement to be applicable in relation to a Series of Warrants or Certificates, where an Exercise Notice has not been duly completed and delivered by the Latest Exercise Time on the Expiration Date in respect of any Warrants or Certificates of such Series, each such Warrant or Certificate shall be deemed to have been exercised at that time on such date and/or upon such other terms as may be specified in the applicable Pricing Supplement, subject in each case to prior termination as provided for in Conditions 7.4 (*Adjustments affecting Underlying Shares and ETF Interests*) to 19 (*Provisions relating to all Warrants and Certificates*) (as applicable), 22 (*Events of Default*) and 23 (*Illegality Event*). Notwithstanding such deemed exercise, the Issuer shall be under no obligation to settle any such Warrant or Certificate until the holder has delivered an Exercise Notice in the prescribed form in accordance with Conditions 5.2 (*Form of Exercise Notice for Cash Settlement Securities*) and/or 5.3 (*Form of Exercise Notice for Physical Settlement Securities*) above, provided that where the holder has not delivered an Exercise Notice within 30 Business Days of the day on which such Warrants or Certificates were deemed to have been exercised, such Warrants or Certificates shall become void for all purposes.

5.7 *Payment and delivery – Registered Securities:*

- (a) In respect of Registered Securities which have been exercised in full and which are specified in the applicable Pricing Supplement as being Cash Settlement Securities, or in respect of which the Issuer has elected Cash Settlement in accordance with Condition 4.7 (*Optional Cash Settlement*), payments in respect of any amounts in respect of a Registered Security shall be made only following surrender of the relevant Individual Registered Security at the Specified Office of the Securities Registrar outside the United States by cheque drawn in the currency in which the payment is due on, or, upon application of a holder of a Registered Security, by transfer to the account specified by the relevant Securityholder in the Exercise Notice denominated in that currency (or, if that currency is euro, any other account to which euro may be credited or transferred) and maintained by the payee with, a bank in the principal financial centre of that currency not later than the Business Day that is not later than fifteen days prior to the due date for payment.
- (b) In respect of Registered Securities which have been exercised and which are specified in the applicable Pricing Supplement as being Physical Settlement Securities, or in respect of which the Issuer has elected Physical Settlement in accordance with Condition 4.6 (*Optional Physical Settlement*), subject, in the case of Full Physical Settlement Securities, to transfer of the Strike Price (plus any applicable Taxes and, in the case of Bond Securities, any accrued interest, as specified in Condition 4.5(a) (*Full Physical Settlement Securities*) above) from the relevant account of the Securityholder to the relevant account of the Principal Securities Agent (in favour of the Issuer) as aforesaid, the Issuer shall, on the Physical Settlement Date deliver or procure the delivery of the relevant number of Underlying Securities in respect of each Registered Security for credit to the account specified in the relevant Exercise Notice. The Issuer shall be entitled, if it so elects, to divide any Underlying Securities to be transferred into such number of lots of such size as it desires to facilitate its delivery obligations.
- (c) Exercise of the Registered Securities and payments and deliveries by the Issuer and the Securities Agents will be subject in all cases to all applicable fiscal and other laws, regulations and practices in force at the relevant time (including, without limitation, any relevant exchange control laws or regulations) and none of the Issuer or any Securities Agent shall incur any liability whatsoever if it is unable to effect the transactions contemplated, after using all reasonable efforts, as a result of any such laws, regulations and practices.
- (d) Where payment is to be made by transfer to an account, payment instructions (for value the due date, or, if the due date is not Business Day, for value the next succeeding Business Day) will be initiated and, where payment is to be made by cheque, the cheque will be mailed on the later of the due date for payment and the day on which the relevant Individual Registered Security is surrendered at the Specified Office of the Securities Registrar. A holder of a Registered Security shall not be entitled to any interest or other payment in respect of any delay in payment resulting from (A) the due date for a payment not being a Business Day or (B) a cheque mailed in accordance with this Condition 5 (*Exercise*) arriving after the due date for payment or being lost in the mail.
- (e) Each payment or delivery in respect of a Registered Security will be made to the person shown as the holder in the Register at the opening of business in the place of the Securities Registrar's

Specified Office on such number of days before the due date for such payment as is specified in the applicable Pricing Supplement (the "**Record Date**"). Where the payment in respect of a Registered Security is to be made by cheque, the cheque will be mailed to the address of the holder in the Register at the opening of business on the relevant Record Date.

- (f) Notwithstanding the foregoing, in respect of CNY Securities, no payment in CNY will be made by cheque and all payments to Securityholders will be made solely (i) for so long as the CNY Securities are represented by a Global Registered Security held with the common depositary for Clearstream Banking société anonyme and Euroclear Bank S.A./N.V. or any alternative clearing system, by transfer to a CNY bank account maintained outside the PRC, or (ii) for so long as the Securities are in definitive form, by transfer to a CNY bank account maintained outside the PRC, in each case in accordance with prevailing rules and regulations.

#### 5.8 *Effect of Exercise Notice:*

- (a) For so long as any outstanding Warrant or Certificate is held by a Securities Agent, Securities Registrar or Securities Transfer Agent in accordance with this Condition 5 (*Exercise*), the depositor of the relevant Individual Registered Security and not such Securities Agent, Securities Registrar or Securities Transfer Agent (as applicable) shall be deemed to be the Securityholder for all purposes.
- (b) Delivery of an Exercise Notice shall constitute an irrevocable election and undertaking by the Securityholder to exercise the Warrants or Certificates specified therein, provided that, in the case of a Registered Security, the person exercising and delivering such Exercise Notice is the person then appearing in the Register as the holder of the relevant Registered Security. If the person exercising and delivering the Exercise Notice is not the person so appearing, such Exercise Notice shall for all purposes become void and shall be deemed not to have been so delivered.
- (c) After the delivery of an Exercise Notice (other than an Exercise Notice which shall become void pursuant to Condition 5.1(b) (*Exercise Notice*)) by a Securityholder, such Securityholder shall not be permitted to transfer either legal or beneficial ownership of the Warrants or Certificates exercised thereby. Notwithstanding this, if any Securityholder does so transfer or attempt to transfer such Warrants or Certificates, the Securityholder will be liable to the Issuer for any losses, costs and expenses suffered or incurred by the Issuer including those suffered or incurred as a consequence of it having terminated any related hedging operations in reliance on the relevant Exercise Notice and subsequently: (i) entering into replacement hedging operations in respect of such Warrants or Certificates; or (ii) paying any amount on the subsequent exercise of such Warrants or Certificates without having entered into any replacement hedging operations.

#### 5.9 *Minimum Number of Warrants and Certificates Exercisable:*

The Warrants and Certificates are exercisable in the minimum number (the "**Minimum Exercise Number**") specified in the applicable Pricing Supplement (or, if a "Permitted Multiple" is specified in the applicable Pricing Supplement, higher integral multiples of the Minimum Exercise Number) on any particular occasion or such lesser Minimum Exercise Number or other Permitted Multiple as the Issuer may from time to time notify to the Securityholders in accordance with Condition 24 (*Notices*).

### 6. **ISSUER CALL OPTION**

If the "**Issuer Call Option**" is specified in the applicable Pricing Supplement as being applicable, the Warrants or Certificates may be terminated at the option of the Issuer in whole or, if so specified in the applicable Pricing Supplement, in part on any Optional Settlement Date (Call) at the relevant Optional Settlement Amount (Call) on the Issuer's giving not less than the Minimum Call Notice Number of Day(s) nor more than One Maximum Call Notice Number of Day(s) (or such other notice period as specified in the applicable Pricing Supplement) notice to the Securityholders (which notice shall be irrevocable and shall oblige the Issuer to terminate the Warrants or Certificates specified in such notice on the relevant Optional Settlement Date (Call) at the Optional Settlement Amount (Call) plus accrued interest (if any) to such date).

### 7. **PROVISIONS RELATING TO SHARE SECURITIES, SHARE BASKET SECURITIES, INDEX SECURITIES, INDEX BASKET SECURITIES, ETF SECURITIES AND ETF BASKET SECURITIES**

This Condition 7 (*Provisions relating to Share Securities, Share Basket Securities, Index Securities, Index Basket Securities, ETF Securities and ETF Basket Securities*) is applicable only in relation to Warrants or Certificates specified in the applicable Pricing Supplement as being Share Securities, Share Basket Securities, Index Securities, Index Basket Securities, ETF Securities or ETF Basket Securities.

7.1 *Reference Dates, Averaging Dates and Market Disruption:*

- (a) If a Reference Date is not a Scheduled Trading Day, the relevant Reference Date shall be the next succeeding Scheduled Trading Day or, if either “Common Scheduled Trading Days and Common Disrupted Days” or “Common Scheduled Trading Days and Individual Disrupted Days” is specified to be applicable in the applicable Pricing Supplement, the next succeeding Common Scheduled Trading Day.
- (b) If any Scheduled Reference Date is a Disrupted Day, then:
  - (i) in the case of an Index Security, Share Security or ETF Security, the relevant Reference Date shall be the earlier of (i) the first succeeding Scheduled Trading Day that is not in the determination of the Determination Agent a Disrupted Day and (ii) the Reference Cut-Off Date (notwithstanding that such Scheduled Trading Day is a Disrupted Day).
  - (ii) in the case of an Index Basket Security, a Share Basket Security or an ETF Basket Security (as the case may be):
    - (A) where "Individual Scheduled Trading Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement, if the Determination Agent determines that any Scheduled Reference Date is a Disrupted Day in respect of any Basket Component, then:
      - (1) the Reference Date for each Basket Component in respect of which the Scheduled Reference Date is not a Disrupted Day shall be the Scheduled Reference Date for such Basket Component; and
      - (2) the Reference Date for any Basket Component in respect of which the Scheduled Reference Date is a Disrupted Day (each an "**Affected Basket Component**") shall be the earlier of (A) the first Scheduled Trading Day following the relevant Scheduled Reference Date that is not a Disrupted Day in respect of such Affected Basket Component; and (B) the Reference Cut-Off Date for such Affected Basket Component (notwithstanding that such day may not be a Scheduled Trading Day).
    - (B) where "Common Scheduled Trading Days and Common Disrupted Days" is specified to be applicable in the applicable Pricing Supplement, if the Determination Agent determines that any Scheduled Reference Date is a Disrupted Day in respect of any Basket Component, then the Reference Date for each Basket Component shall be the earlier of (i) the first Common Scheduled Trading Day following the relevant Scheduled Reference Date that is not a Disrupted Day with respect to any Basket Component; and (ii) the Reference Cut-Off Date (notwithstanding that such day may not be a Common Scheduled Trading Day).
    - (C) where "Common Scheduled Trading Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement, if the Determination Agent determines that any Scheduled Reference Date is a Disrupted Day in respect of any Basket Component, then:
      - (1) the Reference Date for each Basket Component in respect of which the Scheduled Reference Date is not a Disrupted Day shall be the Scheduled Reference Date for such Basket Component; and
      - (2) the Reference Date for each Basket Component in respect of which the Scheduled Reference Date is a Disrupted Day (each an "**Affected Basket**



**Component"**) shall be the earlier of (A) the first Scheduled Trading Day following the relevant Scheduled Reference Date that is not a Disrupted Day in respect of such Affected Basket Component; and (B) the Reference Cut-Off Date for such Affected Basket Component (notwithstanding that such day may not be a Common Scheduled Trading Day or a Scheduled Trading Day).

- (iii) in the case of any Index Security, Share Security, ETF Security, Index Basket Security, Share Basket Security or ETF Basket Security (as the case may be), where a Reference Date falls on the relevant Reference Cut-Off Date pursuant to Condition 7.1(b)(ii), then:
  - (A) if such Reference Cut-Off Date is not a Disrupted Day for such Index Security, Share Security, ETF Security, Index Basket Security, Share Basket Security or ETF Basket Security (as the case may be), the Determination Agent shall determine the level of such Index or the value of such Underlying Share or ETF Interest (as the case may be) as at the Determination Time on such Reference Cut-Off Date; or
  - (B) if such Reference Cut-Off Date is a Disrupted Day:
    - (1) in respect of Index Securities and Index Basket Securities, the Determination Agent shall determine, in its sole and absolute discretion, the level of such Index as of the Determination Time on the Reference Cut-Off Date in accordance with the formula for and method of calculating such Index last in effect prior to the occurrence of the first Disrupted Day using the Exchange traded or quoted price as of the Determination Time on such Reference Cut-Off Date of each security (or other property) comprised in that Index (or, if an event giving rise to a Disrupted Day has occurred in respect of the relevant security on such Reference Cut-Off Date, its good faith estimate of the value for the relevant security as of the Determination Time on such Reference Cut-Off Date); and
    - (2) in respect of Share Securities, ETF Securities, Share Basket Securities and ETF Basket Securities (as the case may be), the Determination Agent shall determine, in its sole and absolute discretion, its good faith estimate of the value for such Underlying Share or ETF Interest (as the case may be) as of the Determination Time on such Reference Cut-Off Date.
- (c) If Averaging Dates are specified in the applicable Pricing Supplement as being applicable, then, notwithstanding any other provisions of these Conditions, the following provisions will apply to the valuation of the relevant Index, Underlying Share, ETF Interest, Basket of Indices, Basket of Shares or Basket of ETF Interests in relation to the relevant Reference Date:
  - (i) For purposes of determining the Settlement Price in relation to a Reference Date, the Settlement Price will be:
    - (A) in respect of an Index Security, a Share Security, an ETF Security, in respect of a Share Basket Security that is a Cash Settlement Security or a Part Physical Settlement Security, the arithmetic mean of the relevant Prices of the Index, the Underlying Shares or ETF Interests (as the case may be);
    - (B) in respect of an Index Basket Security, the arithmetic mean of the amounts for the Basket of Indices determined by the Determination Agent in its sole and absolute discretion as provided in the applicable Pricing Supplement as of the relevant Determination Time(s) on each Averaging Date or, if no means for determining the Settlement Price are so provided, the arithmetic mean of the amounts for the Basket calculated on each Averaging Date as the sum of the Relevant Prices of each Index comprised in the Basket (weighted or adjusted in relation to each Index as provided in the applicable Pricing Supplement);

- (C) in respect of a Share Basket Security, the arithmetic mean of the amounts for the Basket of Shares determined by the Determination Agent in its sole and absolute discretion as provided in the applicable Pricing Supplement as of the relevant Determination Time(s) on each Averaging Date or, if no means for determining the Settlement Price is so provided, the arithmetic mean of the amounts for the Basket calculated on each Averaging Date as the sum of the values calculated for the Underlying Shares of each Underlying Share Issuer as the product of (1) the Relevant Price of such Underlying Share and (2) the number of such Underlying Shares comprised in the Basket; and
  - (D) in respect of an ETF Basket Security, the arithmetic mean of the amounts for the Basket of ETF Interests determined by the Determination Agent in its sole and absolute discretion as provided in the applicable Pricing Supplement as of the relevant Determination Times(s) on each Averaging Date or, if no means for determining the Settlement Price is provided, the arithmetic mean of the amounts for the Basket calculated on each Averaging Date as the sum of the values calculated for the ETF Interests as the product of (1) the Relevant Price of such ETF Interest and (2) the number of such ETF Interests comprised in the Basket.
- (ii) If, in respect of an Index Security, a Share Security or an ETF Security, a Scheduled Averaging Date is determined by the Determination Agent to be a Disrupted Day, then if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is:
- (A) "**Omission**", then such date will be deemed not to be a relevant Averaging Date in respect of such Reference Date for the purposes of determining the relevant Settlement Price provided that, if through the operation of this provision no Averaging Date would occur with respect to the relevant Reference Date, then Condition 7.1(b) will apply for purposes of determining the relevant level, price or amount on the final Averaging Date in respect of that Reference Date as if such final Averaging Date were a Reference Date that was a Disrupted Day;
  - (B) "**Postponement**", then Condition 7.1(b) will apply for the purposes of determining the relevant level, price or amount on that date as if such date were a Reference Date that was a Disrupted Day irrespective of whether, pursuant to such determination, that deferred Averaging Date would fall on a day that already is or is deemed to be an Averaging Date for the relevant Warrants or Certificates; or
  - (C) "**Modified Postponement**", then the Averaging Date shall be the earlier of (I) the first Valid Date following the Scheduled Averaging Date and (II) the Averaging Cut-Off Date, irrespective of whether it falls on a day that already is or is deemed to be an Averaging Date.
- (iii) If, in respect of an Index Basket Security, a Share Basket Security or an ETF Basket Security, a Scheduled Averaging Date in respect of a Reference Date is determined by the Determination Agent to be a Disrupted Day in respect of any Basket Component, then:
- (A) where "Individual Scheduled Trading Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement:
    - (1) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Omission":
      - (a) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is not a Disrupted Day shall be the Scheduled Averaging Date; and
      - (b) such date shall not be an Averaging Date in respect of such Reference Date for any Basket Component in respect of which the Scheduled Averaging Date is a Disrupted Day (each such Basket Component, an "**Affected Basket Component**"), provided that if

through the operation of this provision there would not be any Averaging Date in respect of such Reference Date for the Affected Basket Component, then the sole Averaging Date for such Affected Basket Component shall be the earlier of (I) the first Scheduled Trading Day following the final Scheduled Averaging Date that is not a Disrupted Day in respect of such Affected Basket Component and (II) the Averaging Cut-Off Date for such Affected Basket Component;

- (2) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Postponement":

- (a) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is not a Disrupted Day shall be the Scheduled Averaging Date; and
- (b) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is a Disrupted Day (each such Basket Component, an "**Affected Basket Component**") shall be the earlier of (I) the first Scheduled Trading Day following the Scheduled Averaging Date that is not a Disrupted Day in respect of such Affected Basket Component and (II) the Averaging Cut-Off Date for such Affected Basket Component. Any day (including, for the avoidance of doubt, the Averaging Cut-Off Date) determined to be an Averaging Date as a result of the operation of this Condition 7.1(c)(iii)(A)(2)(b) shall be an Averaging Date, irrespective of whether it falls on a day that already is or is deemed to be an Averaging Date; or

- (3) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Modified Postponement":

- (a) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is not a Disrupted Day shall be the Scheduled Averaging Date; and
- (b) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is a Disrupted Day (each such Basket Component, an "**Affected Basket Component**") shall be the earlier of (I) the first Valid Date following the Scheduled Averaging Date in respect of such Affected Basket Component and (II) the Averaging Cut-Off Date for such Affected Basket Component, irrespective of whether it falls on a day that already is or is deemed to be an Averaging Date;

- (B) where "Common Scheduled Trading Days and Common Disrupted Days" is specified to be applicable in the applicable Pricing Supplement:

- (1) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Omission", such date will be deemed not to be a relevant Averaging Date in respect of any Basket Component for the purposes of determining the relevant Settlement Price provided that, if through the operation of this provision there would be no Averaging Date in respect of such Reference Date, then the sole Averaging Date for each Basket Component shall be the earlier of (A) the first Common Scheduled Trading Day following the Scheduled Averaging Date that is not a Disrupted Day for any Basket Component and (B) the Averaging Cut-Off Date (notwithstanding the fact that such Averaging Cut-Off Date may not be a Common Scheduled Trading Day);
- (2) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Postponement", then the Averaging Date shall be the earlier of (A) the first Common Scheduled Trading Day

following the Scheduled Averaging Date that is not a Disrupted Day in respect of any Basket Component and (B) the Averaging Cut-Off Date (notwithstanding the fact that such Averaging Cut-Off Date may not be a Common Scheduled Trading Day). Any day (including, for the avoidance of doubt, the Averaging Cut-Off Date) determined to be an Averaging Date as a result of the operation of this Condition 7.1(c)(iii)(B)(2) shall be an Averaging Date, irrespective of whether it falls on a day that already is or is deemed to be an Averaging Date; or

- (3) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Modified Postponement", then the Averaging Date for each Basket Component shall be the earlier of (I) the first Common Valid Date following the Scheduled Averaging Date and (II) the Averaging Cut-Off Date (notwithstanding the fact that such Averaging Cut-Off Date may not be a Common Scheduled Trading Day), irrespective of whether it falls on a day that already is or is deemed to be an Averaging Date;

(C) where "Common Scheduled Trading Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement:

- (1) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Omission":
  - (a) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is not a Disrupted Day shall be the Scheduled Averaging Date; and
  - (b) such date shall not be an Averaging Date in respect of such Reference Date for any Basket Component in respect of which the Scheduled Averaging Date is a Disrupted Day (each such Basket Component, an "**Affected Basket Component**"), provided that if through the operation of this provision there would not be any Averaging Date in respect of such Reference Date for the Affected Basket Component, then the sole Averaging Date for such Affected Basket Component shall be the earlier of (I) the first Scheduled Trading Day following the final Scheduled Averaging Date that is not a Disrupted Day in respect of such Affected Basket Component and (II) the Averaging Cut-Off Date for such Affected Basket Component (notwithstanding the fact that such day may not be a Common Scheduled Trading Day);
- (2) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Postponement":
  - (a) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is not a Disrupted Day shall be the Scheduled Averaging Date; and
  - (b) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is a Disrupted Day (each such Basket Component, an "**Affected Basket Component**") shall be the earlier of (I) the first Scheduled Trading Day following the Scheduled Averaging Date that is not a Disrupted Day in respect of such Affected Basket Component and (II) the Averaging Cut-Off Date for such Affected Basket Component (notwithstanding the fact that such day not be a Common Scheduled Trading Day). Any day (including, for the avoidance of doubt, the Averaging Cut-Off Date) determined to be an Averaging Date as a result of the operation of this Condition 7.1(c)(iii)(C)(2)(b) shall be an Averaging Date, irrespective of whether it falls on a day that already is or is deemed to be an Averaging Date; or

- (3) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Modified Postponement":
  - (a) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is not a Disrupted Day shall be the Scheduled Averaging Date; and
  - (b) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is a Disrupted Day (each such Basket Component, an "**Affected Basket Component**") shall be the earlier of (I) the first Valid Date (that is a Scheduled Trading Day) following the Scheduled Averaging Date in respect of such Affected Basket Component and (II) the Averaging Cut-Off Date for such Affected Basket Component, irrespective of whether it falls on a day that already is or is deemed to be an Averaging Date;
- (iv) If, in respect of any Index Security, Share Security, ETF Security, Index Basket Security, Share Basket Security or ETF Basket Security (as the case may be), an Averaging Date falls on the relevant Averaging Cut-Off Date pursuant to Condition 7.1(c)(iii):
  - (A) if such Averaging Cut-Off Date is not a Disrupted Day for such Index Security, Share Security, ETF Security, Index Basket Security, Share Basket Security or ETF Basket Security (as the case may be), the Determination Agent shall determine the level of such Index or the value of such Underlying Share or ETF Interest (as the case may be) as at the Determination Time on such Averaging Cut-Off Date; or
  - (B) if such Averaging Cut-Off Date is a Disrupted Day:
    - (1) in respect of Index Securities and Index Basket Securities, the Determination Agent shall determine, in its sole and absolute discretion, the level of such Index as of the Determination Time on such date in accordance with the formula for and method of calculating such Index last in effect prior to the occurrence of the first Disrupted Day using the Exchange traded or quoted price as of the Determination Time on such Averaging Cut-Off Date of each security comprised in that Index (or, if an event giving rise to a Disrupted Day has occurred in respect of the relevant security on such Averaging Cut-Off Date, its good faith estimate of the value for the relevant security as of the Determination Time on such Averaging Cut-Off Date); and
    - (2) in respect of Share Securities, ETF Securities, Share Basket Securities and ETF Basket Securities (as the case may be), the Determination Agent shall determine, in its sole and absolute discretion, its good faith estimate of the value for such Share or ETF Interest (as the case may be) as of the Determination Time on such Averaging Cut-Off Date.
- (v) If any Averaging Dates in relation to a Reference Date occur after that Reference Date as a result of the occurrence of a Disrupted Day, then (i) the relevant Exercise Date or, as the case may be, the relevant Physical Settlement Date or (ii) the occurrence of an Extraordinary Event, an Extraordinary ETF Event, an Index Adjustment Event, a Potential Adjustment Event or an Additional Disruption Event shall be determined by reference to the last such Averaging Date as though it were that Reference Date.

## 7.2 *Adjustments to Indices:*

This Condition 7.2 (*Adjustments to Indices*) is applicable only in relation to Warrants or Certificates specified in the applicable Pricing Supplement as being Index Securities or Index Basket Securities.

- (a) *Successor Index:*

If a relevant Index is (a) not calculated and announced by the Index Sponsor, but is calculated and announced by a successor sponsor acceptable to the Determination Agent in its sole and absolute discretion or (b) replaced by a Successor Index using, in the determination of the Determination Agent (such determination to be at the Determination Agent's sole and absolute discretion), the same or a substantially similar formula for and method of calculation as used in the calculation of that Index, then in each case that index (the "**Successor Index**") will be deemed to be the Index.

(b) *Index Cancellation or Administrator/Benchmark Event Date:*

If on or prior to any Reference Date or Averaging Date either (a) the Index Sponsor permanently cancels the Index and no Successor Index exists (an "**Index Cancellation**") or (b) the applicable Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and an Administrator/Benchmark Event and an Administrator/Benchmark Event Date occurs in respect of such Index, then:

(i) If the applicable Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and if an Alternative Pre-nominated Index has been specified in relation to such Index in the applicable Pricing Supplement, then:

(A) the Determination Agent shall attempt to determine an Adjustment Payment;

(B) if the Determination Agent determines an Adjustment Payment,

(1) it shall notify the Issuer of the Adjustment Payment and if the Adjustment Payment is an amount that the Securityholder would (but for Condition 7.2(b)(i)(B)(3)(b)) be required to pay to the Issuer in respect of each Security, request the Issuer to notify the Determination Agent whether it intends to terminate the Warrants or Certificates pursuant to Condition 7.2(d) (*Termination for Index Adjustment Event*). If the Issuer does not intend to terminate the Warrants or Certificates pursuant to Condition 7.2(d) (*Termination for Index Adjustment Event*) then the following provisions of this Condition 7.2(b)(i) shall apply;

(2) the terms of the Warrants or Certificates shall be amended so that references to the Index are replaced by references to the Alternative Pre-nominated Index;

(3) the Conditions shall be adjusted to implement the Adjustment Payment as follows:

(a) if the Adjustment Payment is an amount that the Issuer is required to pay in respect of each Security, the Determination Agent shall adjust the Conditions to provide for the payment of the Adjustment Payment on the date when the Warrants or Certificates are settled in full; or

(b) if the Adjustment Payment is an amount that the Securityholder would (but for this Condition 7.2(b)(i)(B)(3)(b)) be required to pay to the Issuer in respect of each Security, the Determination Agent shall adjust the Conditions to provide for the reduction of the amounts due by the Issuer until the aggregate amount of such reductions is equal to the Adjustment Payment, (subject, in the determination of the Determination Agent, to any minimum settlement amount of the Warrants or Certificates which the Determination Agent determines is required pursuant to any applicable law or regulation (including, without limitation, any tax law) and the rules of each listing authority, stock exchange and/or quotation system by which the Warrants or Certificates have then been admitted to listing, trading and/or quotation);

- (4) the Determination Agent shall make such other adjustments to the Conditions as it determines necessary or appropriate in order to account for the effect of the replacement of the Index with the Alternative Pre-nominated Index and/or to preserve as nearly as practicable the economic equivalence of the Warrants or Certificates before and after the replacement of the Index with the Alternative Pre-nominated Index; and
- (5) the Determination Agent shall notify the Issuer, the Fiscal Agent and the Securityholders of any replacement of the Index by the Alternative Pre-nominated Index, the Adjustment Payment and any other adjustments to the Conditions, giving summary details of the adjustment(s), provided that any failure to give such notice shall not affect the validity of the foregoing.

(C) If the Determination Agent is unable to determine an Adjustment Payment, then Condition 7.2(d) (*Termination for Index Adjustment Event*) shall apply.

- (ii) If the applicable Pricing Supplement does not specify that the Benchmark Trigger Provisions are applicable or, if the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable but does not specify an Alternative Pre-nominated Index in relation to the Relevant Equity Index Benchmark, then Condition 7.2(d) (*Termination for Index Adjustment Event*) shall apply.

(c) *Index Modification and Index Disruption:*

If (i) on or prior to any Reference Date or Averaging Date, a relevant Index Sponsor announces that it will make a material change in the formula for or the method of calculating that Index or in any other way materially modifies that Index (other than a modification prescribed in that formula or method to maintain that Index in the event of changes in constituent securities and capitalisation and other routine events) (an "**Index Modification**") or (ii) on any Reference Date or Averaging Date, the Index Sponsor fails to calculate and announce a relevant Index (provided that the Determination Agent may, in its sole and absolute discretion, determine that, in respect of a Multi-Exchange Index, such failure to calculate and announce such Index shall instead be a Disrupted Day in respect of such Index) (an "**Index Disruption**") then the Determination Agent shall determine if such Index Modification or Index Disruption has a material effect on the Warrants or Certificates and, if so, subject to Condition 7.2(d) (*Termination for Index Adjustment Event*), shall calculate in its sole and absolute discretion the relevant Settlement Price using, in lieu of a published level for that Index, the level for that Index as at that Reference Date or, as the case may be, that Averaging Date as determined by the Determination Agent in its sole and absolute discretion in accordance with the formula for and method of calculating that Index last in effect prior to that change, failure or cancellation, but using only those securities that comprised that Index immediately prior to that Index Adjustment Event.

(d) *Termination for Index Adjustment Event:*

If:

- (i) an Index Cancellation occurs and the Pricing Supplement does not specify that the Benchmark Trigger Provisions are applicable;
- (ii) an Index Cancellation or an Administrator/Benchmark Event Date occurs, the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable but does not specify an Alternative Pre-nominated Index;
- (iii) an Index Cancellation or an Administrator/Benchmark Event Date occurs, the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and specifies an Alternative Pre-nominated Index but the Determination Agent is unable to determine the Adjustment Payment;

- (iv) an Index Cancellation or an Administrator/Benchmark Event Date occurs, the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and specifies an Alternative Pre-nominated Index and the Determination Agent determines that the Adjustment Payment would be an amount that the Securityholder would (but for Condition 7.2(b)(i)(B)(3)(b)) be required to pay to the Issuer in respect of each Security; or
- (v) an Index Modification or an Index Disruption occurs and it (a) would be unlawful at any time under any applicable law or regulation or (b) would contravene any applicable licensing requirements, in each case for the Determination Agent to calculate the relevant Settlement Price in accordance with Condition 7.2(c) (*Index Modification and Index Disruption*),

then the Issuer may, at any time thereafter and in its sole and absolute discretion, determine that the Warrants or Certificates shall be terminated as of any later date. If the Issuer so determines that the Warrants or Certificates shall be terminated, then the Warrants or Certificates shall cease to be exercisable (or, in the case of any Warrants or Certificates which have been exercised, the entitlements of the respective exercising Securityholders to receive the Underlying Shares or ETF Interests or payment of the Cash Settlement Amount, as the case may be, pursuant to such exercise shall cease) as of such later date and the Issuer will pay an amount in respect of each Warrant or Certificate which the Determination Agent, in its sole and absolute discretion, determines is the fair value to the Securityholder of a Warrant or Certificate with terms that would preserve for the Securityholder the economic equivalent of any payment or delivery (assuming satisfaction of each applicable condition precedent) to which the Securityholder would have been entitled under the relevant Warrant or Certificate after that date but for the occurrence of such termination, less the cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related underlying hedging arrangements, the amount of such cost or loss being as determined by the Determination Agent in its sole and absolute discretion.

The Issuer's obligations under the relevant Warrants or Certificates shall be satisfied in full upon payment of such amount.

If the Issuer determines that the relevant Warrants or Certificates shall continue, the Determination Agent may make such adjustment as the Determination Agent, in its sole and absolute discretion, considers appropriate, if any, to any variable relevant to the exercise, settlement or payment terms of the relevant Warrants or Certificates and/or any other adjustment, which change or adjustment shall be effective on such date as the Determination Agent shall determine. The Determination Agent shall provide notice to the Securityholders of any such change or adjustment, giving summary details of the relevant change or adjustment, as soon as reasonably practicable provided that any failure to give such notice shall not affect the validity of any such change or adjustment.

- (e) *Correction of Index Levels:* If the level of an Index published by the Index Sponsor and which is utilised by the Determination Agent for any calculation or determination (the "**Original Determination**") under the Securities is subsequently corrected and the correction (the "**Corrected Value**") is published by the Index Sponsor by such time as may be specified in the applicable Pricing Supplement (or, if none is so specified, within one Settlement Cycle after the original publication and prior to the Exercise Date), then the Determination Agent will notify the Issuer and the Principal Securities Agent of the Corrected Value as soon as reasonably practicable and shall determine the relevant value (the "**Replacement Determination**") using the Corrected Value. If the result of the Replacement Determination is different from the result of the Original Determination, to the extent that it determines to be necessary and practicable, the Determination Agent may adjust any relevant terms accordingly.
- (f) *Additional Disruption Events:* If Additional Disruption Events are specified as applicable in the applicable Pricing Supplement, then, if an Additional Disruption Event occurs in respect of an Index or Indices:
  - (i) the Determination Agent will determine, in its sole and absolute discretion the appropriate adjustment, if any, to be made to any one or more of the Conditions relating to the calculation of Cash Settlement Amount and/or any other amounts applicable to the Securities set out in the applicable Pricing Supplement and/or remove and/or substitute the



affected Index, to account for the Additional Disruption Event and determine the effective date of that adjustment; or

- (ii) by giving notice to Securityholders in accordance with Condition 24 (*Notices*), the Issuer, in its sole and absolute discretion, may redeem all, but not some only, of the Securities, each Security being redeemed at the Early Settlement Amount.

Upon the occurrence of an Additional Disruption Event, the Issuer shall give notice, as soon as practicable, to the Securityholders in accordance with Condition 24 (*Notices*) stating the occurrence of the Additional Disruption Event, as the case may be, giving details thereof and the action to be taken.

- (g) *Notice:* Upon the occurrence of an Index Adjustment Event, the Determination Agent shall give notice as soon as practicable to the Securityholders in accordance with Condition 24 (*Notices*) giving details of the action proposed to be taken in relation thereto.

### 7.3 *Inconvertibility Event:*

If the Issuer in good faith determines that an Inconvertibility Event has occurred, it may at any time thereafter, in its sole discretion give notice to the holders stating whether the Issuer's obligations under the Warrants or Certificates will be suspended or terminated (any election to suspend shall not preclude the Issuer at any time thereafter giving notice to terminate the relevant Warranties or Certificates), all as more fully set out in Condition 24 (*Notices*). If the Issuer elects to terminate the relevant Warrants or Certificates then the Warrants or Certificates shall cease to be exercisable (or, in the case of any Warrants or Certificates which have been exercised, the entitlements of the respective exercising Securityholders to receive the Underlying Shares or ETF Interests or payment of the Cash Settlement Amount, as the case may be, pursuant to such exercise shall cease) as of such later date and the Issuer will pay an amount which the Determination Agent, in its sole and absolute discretion, determines is the fair value to the Securityholder of a Warrant or Certificate with terms that would preserve for the Securityholder the economic equivalent of any payment or delivery (assuming satisfaction of each applicable condition precedent) to which the Securityholder would have been entitled under the relevant Warrant or Certificate after that date but for the occurrence of such termination, less the cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related underlying hedging arrangements, the amount of such cost or loss being as determined by the Determination Agent in its sole and absolute discretion. The Issuer's obligations under the Warrants or Certificates shall be satisfied in full upon payment of such amount. Upon the occurrence of any event that constitutes both an Inconvertibility Event and a Market Disruption Event or an event causing a Disrupted Day, it will be deemed to be a Market Disruption Event or an event causing a Disrupted Day and will not constitute an Inconvertibility Event.

### 7.4 *Adjustments affecting Underlying Shares and ETF Interests:*

This Condition 7.4 (*Adjustments affecting Underlying Shares and ETF Interests*) is applicable only in relation to Share Securities, ETF Securities, Share Basket Securities and ETF Basket Securities.

- (a) *Adjustments for Potential Adjustment Events:*

Following the declaration by the Underlying Share Issuer, the relevant ETF or an ETF Service Provider of the terms of a Potential Adjustment Event, the Determination Agent will determine whether such Potential Adjustment Event has a diluting or concentrative effect on the theoretical value of the relevant Underlying Shares or ETF Interests and, if so, will (i) make such adjustment as it in its sole and absolute discretion considers appropriate, if any, to the Strike Price, to the formula for the Cash Settlement Amount and/or the Settlement Price set out in the applicable Pricing Supplement, the number of Underlying Shares or ETF Interests to which each Warrant or Certificate relates, the number of Underlying Shares or ETF Interests comprised in a Basket of Shares or Basket of ETF Interests, the amount, the number of or type of shares, fund interests or other securities which may be delivered in respect of such Warrants or Certificates and/or any other adjustment and, in any case, any other variable relevant to the exercise, settlement, payment or other terms of the relevant Warrants or Certificates as the Determination Agent determines, in its sole and absolute discretion, to be appropriate to account for that diluting or concentrative effect and (ii) determine, in its sole and absolute discretion, the effective date(s) of such adjustment(s).

(b) *Correction of Underlying Share and ETF Interest Prices:*

If any price published on the Exchange and which is utilised by the Determination Agent for any calculation or determination (the "**Original Determination**") under the Warrants or Certificates is subsequently corrected and the correction (the "**Corrected Value**") is published by the Exchange by such time as may be specified in the applicable Pricing Supplement (or, if none is so specified, within one Settlement Cycle after the original publication and prior to the Expiration Date), then the Determination Agent will notify the Issuer and the Principal Securities Agent of the Corrected Value as soon as reasonably practicable and shall determine the relevant value (the "**Replacement Determination**") using the Corrected Value. If the result of the Replacement Determination is different from the result of the Original Determination, to the extent that it determines to be necessary and practicable, the Determination Agent may adjust any relevant terms accordingly.

7.5 *Extraordinary Events:*

This Condition 7.5 (*Extraordinary Events*) is applicable only in relation to Warrants or Certificates specified in the applicable Pricing Supplement as being Share Securities, ETF Securities, Share Basket Securities or ETF Basket Securities.

(a) *Merger Event or Tender Offer:*

- (i) Following the occurrence of any Merger Event or Tender Offer, the Issuer will, in its sole and absolute discretion, determine whether the relevant Warrants or Certificates shall continue or shall be redeemed early.
- (ii) If the Issuer determines that the relevant Warrants or Certificates shall continue, the Determination Agent may make such adjustment as the Determination Agent, in its sole and absolute discretion, considers appropriate, if any, to the Strike Price, to the formula for the Cash Settlement Amount and/or the Settlement Price set out in the applicable Pricing Supplement, the number of Underlying Shares or ETF Interests to which each Warrant or Certificate relates, the number of Underlying Shares or ETF Interests comprised in a Basket of Shares or a Basket of ETF Interests, the amount, the number of or type of shares or other securities which may be delivered under such Warrants or Certificates and, in any case, any other variable relevant to the exercise, settlement, or payment terms of the relevant Warrants or Certificates and/or any other adjustment (including, without limitation, in relation to Share Basket Warrants or Certificates or ETF Basket Warrants or Certificates, the cancellation of terms applicable in respect of Underlying Shares or ETF Interests affected by the relevant Merger Event or Tender Offer) which adjustment shall be effective on such date as the Determination Agent shall determine.
- (iii) If the Issuer determines that the relevant Warrants or Certificates shall be terminated then the relevant Warrants or Certificates shall cease to be exercisable as of the Merger Date (in the case of a Merger Event) or Tender Offer Date (in the case of a Tender Offer) (or, in the case of any Warrants or Certificates which have been exercised but remain unsettled, the entitlements of the respective exercising Securityholders to receive Underlying Securities or the Cash Settlement Amount, as the case may be, pursuant to such exercise shall cease) and the Issuer's obligations under the Warrants or Certificates shall be satisfied in full upon payment of the Merger Event Settlement Amount (as defined below) (in the case of a Merger Event) or Tender Offer Settlement Amount (in the case of a Tender Offer).

For the purposes hereof:

"**Merger Date**" means the closing date of a Merger Event or, where a closing date cannot be determined under the local law applicable to such Merger Event, such other date as determined by the Determination Agent in its sole and absolute discretion.

"**Merger Event**" means, in respect of any relevant Underlying Shares or ETF Interests, as determined by the Determination Agent, acting in a commercially reasonable manner, any: (i) reclassification or change of such Underlying Shares or ETF Interests that results in a transfer of or an irrevocable commitment to transfer all of such Underlying Shares or ETF

Interests outstanding to another entity or person, (ii) consolidation, amalgamation, merger or binding share exchange of the Underlying Share Issuer or ETF with or into another entity or person (other than a consolidation, amalgamation, merger or binding share exchange in which such Underlying Share Issuer or ETF is the continuing entity and which does not result in a reclassification or change of all such Underlying Shares or ETF Interests outstanding), (iii) takeover offer, tender offer, exchange offer, solicitation, proposal or other event by any entity or person to purchase or otherwise obtain 100 per cent. of the outstanding Underlying Shares or ETF Interests of the Underlying Share Issuer or ETF that results in a transfer of or an irrevocable commitment to transfer all such Underlying Shares or ETF Interests (other than such Underlying Shares or ETF Interests owned or controlled by such other entity or person), or (iv) consolidation, amalgamation, merger or binding share exchange of the Underlying Share Issuer or its subsidiaries or ETF or its sub funds with or into another entity in which the Underlying Share Issuer or ETF is the continuing entity and which does not result in a reclassification or change of all such Underlying Shares or ETF Interests outstanding but results in the outstanding Underlying Shares (other than Underlying Shares or ETF Interests owned or controlled by such other entity) immediately prior to such event collectively representing less than 50 per cent. of the outstanding Underlying Shares or ETF Interests immediately following such event (a **"Reverse Merger"**), in each case if the Merger Date is on or before, (A) in respect of Physical Settlement Securities, the later to occur of the Exercise Date and the Physical Settlement Date or, (B) in any other case, the final Reference Date.

**"Merger Event Settlement Amount"** means an amount which the Determination Agent, in its sole and absolute discretion, determines is the fair value to the Securityholder of a Warrant or Certificate with terms that would preserve for the Securityholder the economic equivalent of any payment or delivery (assuming satisfaction of each applicable condition precedent) to which the Securityholder would have been entitled under the relevant Warrant or Certificate after that date but for the occurrence of the Merger Event, less the cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related underlying hedging arrangements, the amount of such cost or loss being as determined by the Determination Agent in its sole and absolute discretion.

**"Tender Offer"** means, in respect of any Underlying Shares or ETF Interests, as determined by the Determination Agent, acting in a commercially reasonable manner, a takeover offer, tender offer, exchange offer, solicitation, proposal or other event by any entity or person that results in such entity or person purchasing, or otherwise obtaining or having the right to obtain, by conversion or other means, greater than 10 per cent. and less than 100 per cent. of the outstanding voting shares of the Underlying Share Issuer or ETF, as determined by the Determination Agent, based upon the making of filings with governmental or self regulatory agencies or such other information as the Determination Agent deems relevant.

**"Tender Offer Date"** means, in respect of a Tender Offer, the date on which voting shares in the amount of the applicable percentage threshold are actually purchased or otherwise obtained, as determined by the Determination Agent in its sole and absolute discretion.

**"Tender Offer Settlement Amount"** means an amount which the Determination Agent, in its sole and absolute discretion, determines is the fair value to the Securityholder of a Warrant or Certificate with terms that would preserve for the Securityholder the economic equivalent of any payment or delivery (assuming satisfaction of each applicable condition precedent) to which the Securityholder would have been entitled under the relevant Warrant or Certificate after that date but for the occurrence of the Tender Offer, less the cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related underlying hedging arrangements, the amount of such cost or loss being as determined by the Determination Agent in its sole and absolute discretion.

(b) *Nationalisation, Insolvency and Delisting:*

- (i) If in the determination of the Determination Agent, acting in a commercially reasonable manner:

- (A) all the Underlying Shares or ETF Interests or all or substantially all the assets of an Underlying Share Issuer or ETF are nationalised, expropriated or are otherwise required to be transferred to any governmental agency, authority, entity or instrumentality thereof ("**Nationalisation**"); or
- (B) by reason of the voluntary or involuntary liquidation, bankruptcy, insolvency, dissolution or winding up of, or any analogous proceeding affecting, an Underlying Share Issuer, ETF or ETF Service Provider, (1) all the Underlying Shares or ETF Interests of that Underlying Share Issuer are required to be transferred to a trustee, liquidator or other similar official or (2) holders of the Underlying Shares or ETF Interests of that Underlying Share Issuer, ETF or ETF Service Provider become legally prohibited from transferring them ("**Insolvency**"); or
- (C) the Exchange announces that pursuant to the rules of such Exchange, the Underlying Shares or ETF Interests cease (or will cease) to be listed, traded or publicly quoted on the Exchange for any reason (other than a Merger Event or Tender Offer) and are not immediately re listed, re traded or re quoted on an exchange or quotation system located in the same country as the Exchange (or, where the Exchange is within the European Union, in any Member State of the European Union) ("**Delisting**"),

then the Issuer will, in its sole and absolute discretion, determine whether or not the Warrants or Certificates shall continue.

- (ii) If the Issuer determines that the relevant Warrants or Certificates shall continue, the Determination Agent may make such adjustment as the Determination Agent, in its sole and absolute discretion, considers appropriate, if any, to the Strike Price to the formula for the Cash Settlement Amount and/or the Settlement Price set out in the applicable Pricing Supplement, the number of Underlying Shares or ETF Interests to which each Warrant or Certificate relates, the number of Underlying Shares or ETF Interests comprised in a Basket of Shares, the amount, the number of or type of shares or other securities which may be delivered under such Warrants or Certificates and, in any case, any other variable relevant to the settlement or payment terms of the relevant Warrants or Certificates and/or any other adjustment (including without limitation, in relation to Share Basket Warrants or Certificates or ETF Basket Warrants or Certificates, the cancellation of terms applicable in respect of Underlying Shares or ETF Interests affected by the relevant Extraordinary Event) which change or adjustment shall be effective on such date as the Determination Agent shall determine.
- (iii) If the Issuer determines that the relevant Warrants or Certificates shall be terminated, then the relevant Warrants or Certificates shall cease to be exercisable (or, in the case of any Warrants or Certificates which have been exercised but remain unsettled, the entitlements of the respective exercising Securityholders to receive Underlying Shares, ETF Interests or the Cash Settlement Amount, as the case may be, pursuant to such exercise shall cease) as of the Announcement Date and the Issuer's obligations under the Warrants or Certificates shall be satisfied in full upon payment of an amount which the Determination Agent, in its sole and absolute discretion, determines is the fair value to the Securityholder of a Warrant or Certificate with terms that would preserve for the Securityholder the economic equivalent of any payment or delivery (assuming satisfaction of each applicable condition precedent) to which the Securityholder would have been entitled under the relevant Warrant or Certificate after that date but for the occurrence of such Nationalisation, Insolvency or Delisting, less the cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related underlying hedging arrangements, the amount of such cost or loss being as determined by the Determination Agent in its sole and absolute discretion.
- (iv) For the purposes hereof, "**Announcement Date**" means, as determined by the Determination Agent in its sole and absolute discretion: (i) in the case of a Nationalisation, the date of the first public announcement to nationalise (whether or not subsequently amended) that leads to the Nationalisation, (ii) in the case of an Insolvency, the date of the

first public announcement of the institution of a proceeding or presentation of a petition or passing of a resolution (or other analogous procedure in any jurisdiction) that leads to the Insolvency and (iii) in the case of a Delisting, the date of the first public announcement by the Exchange that the Underlying Securities will cease to be listed, traded or publicly quoted in the manner described in Condition 7.5(a)(iii) (*Merger Event or Tender Offer*) above. In respect of any such event, if the announcement of such event is made after the actual closing time for the regular trading session on the relevant Exchange, without regard to any after hours or any other trading outside of regular trading session hours, the Announcement Date shall be deemed to be the next following Scheduled Trading Day.

#### 7.6 *Extraordinary ETF Events:*

This Condition 7.6 (*Extraordinary ETF Events*) is applicable only in relation to ETF Securities or ETF Basket Securities.

- (a) Following the occurrence of any Extraordinary ETF Event, the Issuer will, in its sole and absolute discretion, determine whether the relevant Warrants or Certificates shall continue or shall be redeemed early. The Determination Agent shall not have any obligation to monitor the occurrence of an Extraordinary ETF Event nor shall it have any obligation to make a determination of an Extraordinary ETF Event.
- (b) If the Issuer determines that the relevant Warrants or Certificates shall continue, the Determination Agent may:
  - (i) substitute any Affected ETF Interest with the Successor ETF Interest relating to such Affected ETF interest, provided that if no Successor ETF Interest has been identified in the manner set forth below within 10 Business Days of the Extraordinary ETF Event Notice Date (as defined below), then Condition 7.6(b)(ii) below shall apply; and/or
  - (ii) make such adjustment as the Determination Agent, in its sole and absolute discretion, considers appropriate, if any, to the Strike Price to the formula for the Cash Settlement Amount and/or the Settlement Price set out in the applicable Pricing Supplement, the number of ETF Interests to which each Warrant or Certificate relates, the number of ETF Interests comprised in a Basket of ETF Interests, the amount, the number of or type of shares or other securities which may be delivered under such Warrants or Certificates and, in any case, any other variable relevant to the exercise, settlement, or payment terms of the relevant Warrants or Certificates and/or any other adjustment (including, without limitation, in relation to ETF Basket Securities, the cancellation of terms applicable in respect of ETF Interests affected by the relevant Extraordinary ETF Event) which adjustment shall be effective on such date as the Determination Agent shall determine.
- (c) If the Issuer determines that the relevant Warrants or Certificates shall be terminated, then the Warrants or Certificates shall cease to be exercisable (or, in the case of any Warrants or Certificates which have been exercised, the entitlements of the respective exercising Securityholders to receive the ETF Interests or payment of the Cash Settlement Amount, as the case may be, pursuant to such exercise shall cease) as of such later date and the Issuer will pay an amount which the Determination Agent, in its sole and absolute discretion, determines is the fair value to the Securityholder of a Warrant or Certificate with terms that would preserve for the Securityholder the economic equivalent of any payment or delivery (assuming satisfaction of each applicable condition precedent) to which the Securityholder would have been entitled under the relevant Warrant or Certificate after that date but for the occurrence of such termination, less the cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related underlying hedging arrangements, the amount of such cost or loss being as determined by the Determination Agent in its sole and absolute discretion.
- (d) The Issuer shall as soon as reasonably practicable under the circumstances notify the Principal Securities Agent of the Determination Agent's determination of the occurrence of an Extraordinary ETF Event (the date of such notice, the "**Extraordinary ETF Event Notice Date**").

(e) For the purposes hereof:

**"Extraordinary ETF Event"** shall mean, with respect to an ETF or ETF Service Provider (as the case may be), the occurrence of any of the following events, as determined by the Determination Agent, in its sole and absolute discretion:

- (i) there exists any litigation against the ETF or an ETF Service Provider which in the sole and absolute discretion of the Determination Agent could materially affect the value of the ETF Interests or on the rights or remedies of any investor therein;
- (ii) an allegation of criminal or fraudulent activity is made in respect of the ETF, or any ETF Service Provider, or any employee of any such entity, or the Determination Agent reasonably determines that any such criminal or fraudulent activity has occurred, or (ii) any investigative, judicial, administrative or other civil or criminal proceedings is commenced or is threatened against the ETF, any ETF Service Provider or any key personnel of such entities if such allegation, determination, suspicion or proceedings could, in the sole and absolute discretion of the Determination Agent, materially affect the value of the ETF Interests or the rights or remedies of any investor in such ETF Interests;
- (iii) (A) an ETF Service Provider ceases to act in such capacity in relation to the ETF (including by way of Merger Event or Tender Offer) and is not immediately replaced in such capacity by a successor acceptable to the Determination Agent; and/or (B) any event occurs which causes, or will with the passage of time (in the opinion of the Determination Agent) cause, the failure of the ETF and/or any ETF Service Provider to meet or maintain any obligation or undertaking under the ETF Documents which failure is reasonably likely to have an adverse impact on the value of the ETF Interests or on the rights or remedies of any investor therein;
- (iv) a material modification of or deviation from any of the investment objectives, investment restrictions, investment process or investment guidelines of the ETF (howsoever described, including the underlying type of assets in which the ETF invests), from those set out in the ETF Documents, or any announcement regarding a potential modification or deviation, except where such modification or deviation is of a formal, minor or technical nature;
- (v) a material modification, cancellation or disappearance (howsoever described), or any announcement regarding a potential future material modification, cancellation or disappearance (howsoever described), of the type of assets (i) in which the ETF invests, (ii) the ETF purports to track, or (iii) the ETF accepts/provides for purposes of creation/redemption baskets;
- (vi) a material modification, or any announcement regarding a potential future material modification, of the ETF (including but not limited to a material modification of the ETF Documents or to the ETF's liquidity terms) other than a modification or event which does not affect the ETF Interests or the ETF or any portfolio of assets to which the ETF Interest relates (either alone or in common with other ETF Interests issued by the ETF);
- (vii) the ETF ceases to be an undertaking for collective investment under the legislation of its relevant jurisdiction, provided that on the relevant Issue Date, the ETF was such an undertaking, and any such cessation would, in the sole and absolute discretion of the Determination Agent have a material adverse effect on any investor in such ETF Interests;
- (viii) any relevant activities of or in relation to the ETF or any ETF Service Provider are or become unlawful, illegal or otherwise prohibited in whole or in part as a result of compliance with any present or future law, regulation, judgment, order or directive of any governmental, administrative, legislative or judicial authority or power, or in the interpretation thereof, in any applicable jurisdiction (including, but not limited to, any cancellation, suspension or revocation of the registration or approval of the ETF by any governmental, legal or regulatory entity with authority over the ETF), (B) a relevant authorisation or licence is revoked, lapses or is under review by a competent authority in respect of the ETF or the ETF Service Provider or new conditions are imposed, or existing conditions varied, with respect to any such authorisation or licence, (C) the ETF is required

by a competent authority to redeem any ETF Interests, (D) any hedge provider is required by a competent authority or any other relevant entity to dispose of or compulsorily redeem any ETF Interests held in connection with any hedging arrangements relating to the Warrants or Certificates and/or (E) any change in the legal, tax, accounting or regulatory treatment of the ETF or any ETF Service Provider that is reasonably likely to have an adverse impact on the value of the ETF Interests or other activities or undertakings of the ETF or on the rights or remedies of any investor therein;

- (ix) the value of any ETF Interest held by the Issuer and its Affiliates is greater than 10 per cent. of the aggregate net asset value of the relevant ETF (whether or not all of such holding results from hedging transactions entered into in connection with the Warrants or Certificates) and including, where the excess holding results from a reduction in the aggregate net asset value of the relevant ETF; or
- (x) any event specified as an Additional Extraordinary ETF Event in respect of the Warrants or Certificates in the applicable Pricing Supplement occurs; and

**"Successor ETF Interest"** means, in respect of an Affected ETF Interest, (1) if specified in the applicable Pricing Supplement, any Eligible ETF Interest; (2) if no Eligible ETF Interest is specified, the successor ETF Interest as determined by the Determination Agent, using commercially reasonable efforts, taking into account any factors which the Determination Agent determines to be relevant, including (but not limited to) the existence of other ETFs that are linked to the same underlying index or asset as the Affected ETF Interest, liquidity of the proposed successor ETF Interest, the prevailing market conditions at the time the Determination Agent makes its determination and the Issuer's hedging arrangements in respect of the relevant Warrants or Certificates; or (3) if the Determination Agent determines that it is unable to determine a successor ETF Interest, the Determination Agent may determine that the relevant Warrants or Certificates, where the Affected ETF Interests related to an index, will be linked to the relevant underlying index (the **"Related Underlying Index"**) and such Related Underlying Index shall be the Successor ETF Interest and the provisions applicable to Index Securities or Index Basket Securities (as the case may be) will apply to the relevant Warrants or Certificates with such adjustments as the Determination Agent determines to be appropriate.

#### 7.7 *Additional Disruption Events:*

- (a) Following the occurrence of an Additional Disruption Event, the Issuer will, in its sole and absolute discretion, determine whether or not the relevant Warrants and Certificates shall continue or be redeemed early.
- (b) If the Issuer determines that the relevant Warrants or Certificates shall continue, the Determination Agent may make such adjustment as the Determination Agent, in its sole and absolute discretion, considers appropriate, if any, to the Strike Price, to the formula for the Cash Settlement Amount and/or the Settlement Price set out in the applicable Pricing Supplement, the number of Underlying Shares or ETF Interests to which each Warrant or Certificate relates, the number of Underlying Shares or ETF Interest comprised in a Basket, the amount, the number of or type of shares, fund interests or other securities or assets which may be delivered under such Warrant or Certificate and, in any case, any other variable relevant to the redemption, settlement, or payment terms of the relevant Warrants or Certificates and/or any other adjustment (including without limitation, in relation to Share Basket Warrants or Certificates, Index Basket Warrants or Certificates or ETF Basket Warrants or Certificates, the cancellation of terms applicable in respect of any Underlying Shares, Index or ETF Interest, as the case may be, affected by the relevant Additional Disruption Event) which change or adjustment shall be effective on such date as the Determination Agent shall determine.
- (c) If the Issuer determines that the relevant Warrants or Certificates shall be terminated, then the Warrants or Certificates shall cease to be exercisable (or, in the case of any Warrants or Certificates which have been exercised, the entitlements of the respective exercising Securityholders to receive the Underlying Shares or ETF Interests or payment of the Cash Settlement Amount, as the case may be, pursuant to such exercise shall cease) as of such later date and the Issuer will pay an amount which the Determination Agent, in its sole and absolute discretion, determines is the fair value to the Securityholder of a Warrant or Certificate with terms that would preserve for the Securityholder the

economic equivalent of any payment or delivery (assuming satisfaction of each applicable condition precedent) to which the Securityholder would have been entitled under the relevant Warrant or Certificate after that date but for the occurrence of such termination, less the cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related underlying hedging arrangements, the amount of such cost or loss being as determined by the Determination Agent in its sole and absolute discretion.

- (d) The Issuer shall as soon as reasonably practicable under the circumstances notify the Principal Securities Agent and the Determination Agent of the occurrence of an Additional Disruption Event.
- (e) For the purposes hereof:

**"Additional Disruption Event"** means with respect to any Series of Warrants or Certificates (unless otherwise specified in the applicable Pricing Supplement) a Change in Law, Hedging Disruption, Increased Cost of Hedging and Loss of Stock Borrow, and any further event or events as may be specified in the applicable Pricing Supplement as an Additional Disruption Event with respect to such Warrants or Certificates.

7.8 *Definitions applicable to Share Securities, Share Basket Securities, Index Securities, Index Basket Securities, ETF Securities and ETF Basket Securities:*

In relation to Share Securities, Share Basket Securities, Index Securities, Index Basket Securities, ETF Securities and ETF Basket Securities, the following expressions have the meanings set out below:

**"Adjustment Payment"** means, in respect of any Security, the payment (if any) determined by the Determination Agent as is required in order to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value to or from the Issuer as a result of the replacement of the Index by the Alternative Pre-nominated Index. The Determination Agent may determine that the Adjustment Payment is zero;

**"Affected ETF Interest"** means, at any time, any ETF Interest in respect of which the Determination Agent has determined that an Extraordinary ETF Event has occurred;

**"Averaging Cut-Off Date"** means, in the case where Certificates or Warrants relate to an Index, Underlying Share or ETF Interest or a Basket of Indices, Basket of Shares or Basket of ETF Interests and in respect of a Scheduled Averaging Date for the purposes of Condition 7.1(c) (*Reference Dates, Averaging Dates and Market Disruption*):

- (a) if "Common Scheduled Trading Days and Common Disrupted Days" in respect of a Basket of Indices, Basket of Shares or Basket of ETF Interests is specified to be applicable in the Pricing Supplement, the eighth Common Scheduled Trading Day following such Scheduled Averaging Date; or
- (b) in any other case, the eighth Scheduled Trading Day following such Scheduled Averaging Date;

**"Averaging Date"** means, in respect of each Reference Date, either:

- (a) in the case of (i) an Index Security, a Share Security or an ETF Security (as the case may be); or (ii) an Index Basket Security, a Share Basket Security or an ETF Basket Security (as the case may be) where the applicable Pricing Supplement provides that "Individual Scheduled Trading Days and Individual Disrupted Days" shall be applicable, each date specified as such in the applicable Pricing Supplement, or, if such date is not a Scheduled Trading Day, the next following Scheduled Trading Day for such (or the relevant) Index, Underlying Share or ETF Interest or Basket Component (as the case may be); or
- (b) in the case of an Index Basket Security, a Share Basket Security or an ETF Basket Security, where the applicable Pricing Supplement provides that either "Common Scheduled Trading Days and Common Disrupted Days" or "Common Scheduled Trading Days and Individual Disrupted Days" shall be applicable, each date specified as such in the applicable Pricing Supplement, or if any such date is not a Common Scheduled Trading Day, the next following Common Scheduled Trading Day for such Basket of Indices, Basket of Shares or Basket of ETF Interests (as the case may be),



provided that if any such day is a Disrupted Day, the Averaging Date shall be determined in accordance with the provisions of Condition 7.1 (*Market Disruption, References Dates and Averaging Dates*);

**"Basket"** means in relation to any Share Basket Warrants or Certificates, the Underlying Shares specified in the applicable Pricing Supplement as comprising the Basket, in relation to Index Basket Warrants or Certificates, the Indices specified in the applicable Pricing Supplement as comprising the Basket and in relation to any ETF Basket Warrants or Certificates, the ETF Interests specified in the applicable Pricing Supplement as comprising the Basket, in each case in the relative proportions specified in such Pricing Supplement;

**"Basket Component"** means, in relation to a particular Series of Index Basket Securities, Share Basket Securities or ETF Basket Securities (as applicable), each Index, Underlying Share or ETF Interest (as applicable) comprised in the relevant Basket of Indices, Basket of Shares or Basket of ETF Interests (as applicable);

**"Basket of ETF Interests"** means, in relation to a particular Series, a basket comprising the ETF Interests specified in the applicable Pricing Supplement in relative proportions or number of ETF Interests specified in the such Pricing Supplement;

**"Basket of Indices"** means, in relation to a particular Series, a basket comprising the Indices specified in the applicable Pricing Supplement in the relative proportions specified in such Pricing Supplement;

**"Basket of Shares"** means, in relation to a particular Series, a basket comprising Underlying Shares of each Underlying Share Issuer specified in the applicable Pricing Supplement in the relative proportions or number of Underlying Shares of each Underlying Share Issuer specified in such Pricing Supplement;

**"Change in Law"** means that, on or after the Trade Date (A) due to the adoption of or any change in any applicable law or regulation (including, without limitation, any tax law), or (B) due to the promulgation of or any change in the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law or regulation (including any action taken by a taxing authority), the Issuer determines that (x), in the case of Share Warrants or Certificates, Index Warrants or Certificates, ETF Warrants or Certificates, Share Basket Warrants or Certificates, Index Basket Warrants or Certificates, or ETF Basket Warrants or Certificates, it has become illegal to hold, acquire or dispose of any relevant Underlying Shares or ETF Interests or of any financial instrument or contract providing exposure to the Underlying Shares or ETF Interests or Related Underlying Index or Indices (as the case may be), or (y) it will incur a materially increased cost in performing its obligations with respect to the Warrants or Certificates (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on its tax position);

**"Common Scheduled Trading Day"** means, in respect of an Index Basket Security, a Share Basket Security or an ETF Basket Security (as the case may be), each day which is a Scheduled Trading Day for all the Basket Components;

**"Common Valid Date"** means, in respect of an Index Basket Security, a Share Basket Security or an ETF Basket Security (as the case may be), a Common Scheduled Trading Day that is not a Disrupted Day for any Basket Component and on which another Averaging Date does not or is deemed not to occur;

**"Component"** means in relation to an Index, any security which comprises such Index;

**"Determination Date"** means, in relation to any determination, each date specified as such in the applicable Pricing Supplement, provided that if any such date is (i) not a Scheduled Trading Day and/or (ii) a Disrupted Day, the relevant Determination Date shall be determined in accordance with the provisions of Condition 7.1 (*Reference Dates, Averaging Dates and Market Disruption*);

**"Determination Time"** means the time specified as such in the applicable Pricing Supplement, or if no such time is specified, (a) save with respect to a Multi-Exchange Index, the Scheduled Closing Time on the relevant Exchange in relation to each Index, Underlying Share or ETF Interest to be valued. If the relevant Exchange closes prior to its Scheduled Closing Time and the specified Determination Time is after the actual closing time for its regular trading session, then the Determination Time shall be such actual closing time; and (b) with respect to any Multi-Exchange Index, (i) for the purposes of determining whether a Market

Disruption Event has occurred: (x) in respect of any Component, the Scheduled Closing Time on the Exchange in respect of such Component and (y) in respect of any option contracts or futures contracts on the Index, the close of trading on the Related Exchange; and (ii) in all other circumstances, the time at which the official closing level of the Index is calculated and published by the Index Sponsor;

**"Disrupted Day"** means (a) except with respect to a Multi-Exchange Index, any Scheduled Trading Day on which a relevant Exchange or any Related Exchange fails to open for trading during its regular trading session or on which a Market Disruption Event has occurred, and (b) with respect to any Multi-Exchange Index, any Scheduled Trading Day on which (i) the Index Sponsor fails to publish the level of the Index; (ii) the Related Exchange fails to open for trading during its regular trading session or (iii) a Market Disruption Event has occurred;

**"Early Closure"** means (a) except with respect to a Multi-Exchange Index, the closure on any Exchange Business Day of the relevant Exchange (or in the case of a Security Index or Index Basket Security, any relevant Exchange(s) relating to securities that comprise 20 per cent. or more of the level of the relevant Index) or any Related Exchange(s) prior to its Scheduled Closing Time unless such earlier closing time is announced by such Exchange(s) or Related Exchange(s) at least one hour prior to the earlier of (i) the actual closing time for the regular trading session on such Exchange(s) or Related Exchange(s) on such Exchange Business Day and (ii) the submission deadline for orders to be entered into the Exchange or Related Exchange system for execution at the Determination Time on such Exchange Business Day and (b) with respect to any Multi-Exchange Index, the closure on any Exchange Business Day of the Exchange in respect of any Component or the Related Exchange prior to its Scheduled Closing Time unless such earlier closing is announced by such Exchange or Related Exchange (as the case may be) at least one hour prior to the earlier of: (i) the actual closing time for the regular trading session on such Exchange or Related Exchange (as the case may be) on such Exchange Business Day; and (ii) the submission deadline for orders to be entered into such Exchange or Related Exchange system for execution at the relevant Determination Time on such Exchange Business Day;

**"Eligible ETF Interest"** means, in respect of any Affected ETF Interest, the interest specified as such in the applicable Pricing Supplement;

**"ETF"** means any fund specified in the applicable Pricing Supplement;

**"ETF Documents"** means, unless otherwise specified in the applicable Pricing Supplement, with respect to any ETF Interest, the offering document of the relevant ETF, the constitutive and governing documents, subscription agreements and any other agreement or document specifying the terms and conditions of such ETF Interest and any additional documents specified in the applicable Pricing Supplement, each as amended from time to time.;

**"ETF Interest"** means the share, or other interest or unit of holding (including, without limitation, any debt security) issued to or held by an investor in an ETF, as identified in the applicable Pricing Supplement;

**"ETF Service Provider"** means, in respect of any ETF, any person who is appointed to provide services, directly or indirectly, in respect of such ETF, whether or not specified in the ETF Documents, including any advisor, manager, administrator, operator, management company, depository, custodian, sub-custodian, prime broker, administrator, trustee, registrar, transfer agent, domiciliary agent, sponsor or general partner or any other person specified in the applicable Pricing Supplement;

**"Exchange"** means:

- (a) (i) in respect of an Index relating to Index Securities or Index Basket Securities other than a Multi-Exchange Index, each exchange or quotation system specified as such for such Index in the applicable Pricing Supplement or, if none is specified, the principal exchange or quotation system for trading in such Index, as determined by the Determination Agent, any successor to such exchange or quotation system or any substitute exchange or quotation system to which trading in the shares underlying such Index has temporarily relocated, **provided that** the Determination Agent has determined that there is comparable liquidity relative to the shares underlying such Index on such temporary substitute exchange or quotation system as on the original Exchange, and (ii) with respect to any Multi-Exchange Index, and in respect of each Component, the principal stock exchange on which such Component is principally traded, as determined by the Determination Agent;

- (b) in respect of an Underlying Share relating to Share Securities or Share Basket Securities, each exchange or quotation system specified as such for such Underlying Share in the applicable Pricing Supplement or, if none is specified, the principal exchange or quotation system for trading in such Underlying Share, as determined by the Determination Agent, any successor to such Exchange or quotation system or any substitute exchange or quotation system to which trading in the Underlying Share has temporarily relocated, **provided that** the Determination Agent has determined that there is comparable liquidity relative to such Underlying Share on such temporary substitute exchange or quotation system as on the original Exchange; and
- (c) in respect of an ETF Interest relating to ETF Securities or ETF Basket Securities, each exchange or quotation system specified as such for such ETF Interest in the applicable Pricing Supplement or, if none is specified, the principal exchange or quotation system for trading in such ETF Interest, as determined by the Determination Agent, any successor to such Exchange or quotation system or any substitute exchange or quotation system to which trading in the ETF Interest has temporarily relocated, **provided that** the Determination Agent has determined that there is comparable liquidity relative to such ETF Interest on such temporary substitute exchange or quotation system as on the original Exchange.

**"Exchange Business Day"** means (a) except with respect to a Multi-Exchange Index, any Scheduled Trading Day on which each Exchange and Related Exchange are open for trading during their respective regular trading sessions, notwithstanding any such Exchange or Related Exchange closing prior to its Scheduled Closing Time and (b) with respect to any Multi-Exchange Index, any Scheduled Trading Day on which (i) the Index Sponsor publishes the level of the Index and (ii) the Related Exchange is open for trading during its regular trading session, notwithstanding any Exchange or the Related Exchange closing prior to its Scheduled Closing Time;

**"Exchange Disruption"** means (a) except with respect to a Multi-Exchange Index, any event (other than an Early Closure) that disrupts or impairs (as determined by the Determination Agent) the ability of market participants in general (i) to effect transactions in, or obtain market values for, the Underlying Shares or ETF Interests on the Exchange (or in the case of Index Securities or Index Basket Securities, on any relevant Exchange(s) relating to securities that comprise 20 per cent. or more of the level of the relevant Index), or (ii) to effect transactions in, or obtain market values for, futures or options contracts relating to the Underlying Shares, the relevant Index or the ETF Interests (as the case may be) on any relevant Related Exchange and (b) with respect to any Multi-Exchange Index, any event (other than an Early Closure) that disrupts or impairs (as determined by the Determination Agent) the ability of market participants in general to effect transactions in, or obtain market values for, (i) any Component on the Exchange in respect of such Component, or (ii) futures or options contracts relating to the Index on the Related Exchange;

**"Extraordinary Dividend"** means the dividend per Underlying Share or ETF Interest, or portion thereof, to be characterised as an Extraordinary Dividend as determined by the Determination Agent;

**"Extraordinary ETF Event"** has the meaning given in Condition 7.6(e) (*Extraordinary ETF Events*).

**"Extraordinary Event"** means a Merger Event, Tender Offer, Nationalisation, Insolvency or Delisting;

**"Hedging Disruption"** means that the Issuer is unable, after using commercially reasonable efforts, to (A) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the risk of entering into and performing its obligations under the Warrants or Certificates, or (B) realise, recover or remit the proceeds of any such transactions or asset(s);

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

**"Index"** means any index specified as such in the applicable Pricing Supplement, subject to Condition 7.2 (*Adjustments to Indices*);

**"Index Adjustment Event"** means, in respect of an Index, an Administrator/Benchmark Event, an Index Cancellation, an Index Disruption or an Index Modification;

**"Index Sponsor"** means, in respect of an Index, the corporation or other entity that (a) is responsible for setting and reviewing the rules and procedures and methods of calculation and adjustments, if any, related to the relevant Index and (b) announces (directly or through an agent) the level of the relevant Index on a regular basis during each Scheduled Trading Day;

**"Loss of Stock Borrow"** means that the Issuer is unable, after using commercially reasonable efforts, to borrow (or maintain a borrowing of) the Underlying Shares or the ETF Interests with respect to the Warrants or Certificates in an amount which the Issuer deems necessary to hedge the risk of entering into and performing its obligations with respect to the Warrants or Certificates (not to exceed the number of shares underlying the Warrants or Certificates) at a rate determined by the Issuer;

**"Market Disruption Event"** means (a) in respect of an Underlying Share, an Index other than a Multi-Exchange Index or an ETF Interest, the occurrence or existence of (i) a Trading Disruption, (ii) an Exchange Disruption, which in either case the Determination Agent determines is material, at any time during the one hour period that ends at the relevant Determination Time, or (iii) an Early Closure. For the purpose of determining whether a Market Disruption Event exists in respect of an Index at any time, if a Market Disruption Event occurs in respect of a security included in the Index at any time, then the relevant percentage contribution of that security to the level of the Index shall be based on a comparison of (x) the portion of the level of the Index attributable to that security and (y) the overall level of the Index, in each case immediately before the Market Disruption Event occurred; and (b) with respect to any Multi-Exchange Index either (i)(A) the occurrence or existence, in respect of any Component, of (1) a Trading Disruption, (2) an Exchange Disruption, which in either case the Determination Agent determines is material, at any time during the one hour period that ends at the relevant Determination Time in respect of the Exchange on which such Component is principally traded, OR (3) an Early Closure; AND (B) the aggregate of all Components in respect of which a Trading Disruption, an Exchange Disruption or an Early Closure occurs or exists comprises 20 per cent. or more of the level of the Index; OR (ii) the occurrence or existence, in respect of futures or options contracts relating to the Index, of: (A) a Trading Disruption, (B) an Exchange Disruption, which in either case the Determination Agent determines is material, at any time during the one hour period that ends at the relevant Determination Time in respect of the Related Exchange; or (C) an Early Closure.

For the purposes of determining whether a Market Disruption Event exists in respect of a Component at any time, if a Market Disruption Event occurs in respect of such Component at that time, then the relevant percentage contribution of that Component to the level of the Index shall be based on a comparison of (x) the portion of the level of the Index attributable to that Component to (y) the overall level of the Index, in each case using the official opening weightings as published by the Index Sponsor as part of the market **"opening data"**;

**"Multi-Exchange Index"** means any Index specified as such in the applicable Pricing Supplement;

**"Observation Date"** means each date specified as such in the applicable Pricing Supplement, provided that if any such date is (i) not a Scheduled Trading Day and/or (ii) a Disrupted Day, the relevant Observation Date shall be determined in accordance with the provisions of Condition 7.1 (*Reference Dates, Averaging Dates and Market Disruption*);

**"Observation Period"** has the meaning given in the applicable Pricing Supplement;

**"Potential Adjustment Event"** means, in respect of Share Securities, ETF Securities, Share Basket Securities or ETF Basket Securities:

- (a) a subdivision, consolidation or reclassification of an Underlying Share or ETF Interest (unless resulting in a Merger Event), or a free distribution or dividend of Underlying Shares or ETF Interests to existing holders by way of bonus, capitalisation or similar issue;
- (b) a distribution, issue or dividend to existing holders of relevant Underlying Shares or ETF Interests of (A) such Underlying Shares or ETF Interests, or (B) other share capital or securities granting the right to payment of dividends and/or the proceeds of liquidation of the Underlying Share Issuer or ETF equally or proportionately with such payments to holders of such an Underlying Shares or ETF

Interests, or (C) share capital or other securities of another issuer acquired or owned (directly or indirectly) by the Underlying Share Issuer or ETF as a result of a spin off or other similar transaction, or (D) any other type of securities, rights or warrants or other assets, in any case for payment (cash or other consideration) at less than the prevailing market price as determined by the Determination Agent;

- (c) an Extraordinary Dividend;
- (d) a call by the Underlying Share Issuer in respect of relevant Underlying Shares that are not fully paid;
- (e) a repurchase by an Underlying Share Issuer or ETF (as the case may be) or any of its subsidiaries of Underlying Shares or ETF Interests, whether out of profits or capital and whether the consideration for such repurchase is cash, securities or otherwise;
- (f) in respect of an Underlying Share Issuer, an event that results in any shareholder rights being distributed or becoming separated from shares of common stock or other shares of the capital stock of the Underlying Share Issuer pursuant to a shareholder rights plan or arrangement directed against hostile takeovers that provides, upon the occurrence of certain events, for a distribution of preferred stock, warrants, debt instruments or stock rights at a price below their market value, as determined by the Determination Agent, **provided that** any adjustment effected as a result of such an event shall be readjusted upon any redemption of such rights; or
- (g) any other event that may have a diluting or concentrative effect on the theoretical value of the relevant Underlying Shares or ETF Interests.

**"Reference Cut-Off Date"** means, in the case where Certificates or Warrants relate to an Index, Underlying Share or ETF Interest or a Basket of Indices, Basket of Shares or Basket of ETF Interests and in respect of a Scheduled Reference Date for the purposes of Condition 7.1(b) (*Reference Dates, Averaging Dates and Market Disruption*):

- (a) if "Common Scheduled Trading Days and Common Disrupted Days" in respect of a Basket of Indices, Basket of Shares or Basket of ETF Interests is specified to be applicable in the Pricing Supplement, the eighth Common Scheduled Trading Day following such Scheduled Reference Date; or
- (b) in any other case, the eighth Scheduled Trading Day, or, in respect of a Basket of Indices, Basket of Shares or Basket of ETF Interests, the eighth Scheduled Trading Day for the Affected Basket Component, following such Scheduled Reference Date;

**"Reference Date"** means, for the purposes of Condition 7.1 (*Reference Dates, Averaging Dates and Market Disruption*), each Valuation Date, Observation Date, Strike Date, or Determination Date (as applicable) specified in the applicable Pricing Supplement, or otherwise, any date construed to be a Reference Date in accordance with the Conditions;

**"Related Exchange"**, in respect of an Index relating to Index Securities or Index Basket Securities, an Underlying Share relating to Share Securities or Share Basket Securities or an ETF Interest relating to ETF Securities or ETF Basket Securities, means the Exchange specified as the Related Exchange in the applicable Pricing Supplement, any successor to such exchange or quotation system or any substitute exchange or quotation system to which trading in futures and options contracts relating to such Index, Underlying Shares or ETF Interest has temporarily relocated (**provided that** the Determination Agent has determined that there is comparable liquidity relative to the futures or options contracts relating to such Index, Underlying Shares or ETF Interests on such temporary substitute exchange or quotation system as on the original Related Exchange) or, if none is specified, each exchange or quotation system where trading has a material effect (as determined by the Determination Agent) on the overall market for futures or options contracts relating to such Index, Underlying Shares or ETF Interests, as the case may be;

**"Relevant Equity Index Benchmark"** means the Index;

**"Relevant Price"** on any day means:

- (a) in respect of an Underlying Share to which a Share Security or a Share Basket Security relates, the price per Underlying Share determined by the Determination Agent in the manner provided in the applicable Pricing Supplement as of the Determination Time on the relevant day, or, if no means for determining the Relevant Price are so provided: (a) in respect of any Underlying Share for which the Exchange is an auction or "open outcry" exchange that has a price as of the Determination Time at which any trade can be submitted for execution, the Relevant Price shall be the price per Underlying Share as of the Determination Time on the relevant day, as reported in the official real time price dissemination mechanism for such Exchange; and (b) in respect of any Underlying Share for which the Exchange is a dealer exchange or dealer quotation system, the Relevant Price shall be the mid point of the highest bid and lowest ask prices quoted as of the Determination Time on the relevant day (or the last such prices quoted immediately before the Determination Time) without regard to quotations that "lock" or "cross" the dealer exchange or dealer quotation system;
- (b) in respect of an Index to which an Index Security or an Index Basket Security relates, the level of such Index determined by the Determination Agent as provided in the applicable Pricing Supplement as of the Determination Time on the relevant day or, if no method for determining the Relevant Price is so provided, the level of the Index as of the Determination Time on the relevant day; and
- (c) in respect of an ETF Interest to which an ETF Security or a ETF Basket relates, the price per ETF Interest determined by the Determination Agent in the manner provided in the applicable Pricing Supplement as of the Determination Time on the relevant day, or, if no means for determining the Relevant Price are so provided: (a) in respect of any ETF Interest for which the Exchange is an auction or "open outcry" exchange that has a price as of the Determination Time at which any trade can be submitted for execution, the Relevant Price shall be the price per ETF Interest as of the Determination Time on the relevant day, as reported in the official real time price dissemination mechanism for such Exchange; and (b) in respect of any ETF Interest for which the Exchange is a dealer exchange or dealer quotation system, the Relevant Price shall be the mid point of the highest bid and lowest ask prices quoted as of the Determination Time on the relevant day (or the last such prices quoted immediately before the Determination Time) without regard to quotations that "lock" or "cross" the dealer exchange or dealer quotation system;

**"Scheduled Averaging Date"** means an original date (following any adjustment (if applicable) pursuant to paragraph (a) or (b) in the definition of "Averaging Date") that, but for such day being a Disrupted Day, would have been an Averaging Date;

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

**"Scheduled Reference Date"** means, for the purposes of Condition 7.1(b) (*Reference Dates, Averaging Dates and Market Disruption*), any original date that, but for the occurrence of an event causing a Disrupted Day, would have been a Reference Date;

**"Scheduled Trading Day"** means (a) except with respect to a Multi-Exchange Index, any day on which each Exchange and each Related Exchange are scheduled to be open for trading for their respective regular trading session, and (b) with respect to any Multi-Exchange Index, any day on which (i) the Index Sponsor is scheduled to publish the level of the Index and (ii) the Related Exchange is scheduled to be open for trading for its regular trading session;

**"Settlement Cycle"** means, in respect of an Underlying Share, Index or ETF Interest, the period of Settlement Cycle Days following a trade in such Underlying Share, the securities underlying such Index or ETF Interest, as the case may be, on the Exchange in which settlement will customarily occur according to the rules of such exchange (or, in respect of any Multi exchange Index, the longest such period) and for this purpose **"Settlement Cycle Day"** means, in relation to a clearing system any day on which such clearing system is (or but for the occurrence of a Settlement Disruption Event would have been) open for acceptance and executions of settlement instructions;

**"Settlement Price"** means, in respect of a Share Security, a Share Basket Security, an Index Security, an Index Basket Security, a ETF Security or an ETF Basket Security, the price, level or amount as determined by

the Determination Agent, in its sole and absolute discretion, in accordance with the applicable Pricing Supplement;

**"Strike Date"** means each date specified as such in the applicable Pricing Supplement, provided that if any such date is (i) not a Scheduled Trading Day and/or (ii) a Disrupted Day, the relevant Strike Date shall be determined in accordance with the provisions of Condition 7.1 (*Reference Dates, Averaging Dates and Market Disruption*);

**"Trading Disruption"** means (a) except with respect to a Multi-Exchange Index, any suspension of or limitation imposed on trading by the Exchange or Related Exchange or otherwise and whether by reason of movements in price exceeding limits permitted by the Exchange, Related Exchange or otherwise (i) relating to the Underlying Share or ETF Interest on the Exchange, or, in the case of an Index Security or Index Basket Security, on any relevant Exchange(s) relating to securities that comprise 20 per cent. or more of the level of the relevant Index or (ii) in futures or options contracts relating to the Underlying Share, the relevant Index or Indices or the ETF Interest on any relevant Related Exchange, and (b) with respect to any Multi-Exchange Index, any suspension of or limitation imposed on trading by the Exchange or Related Exchange or otherwise and whether by reason of movements in price exceeding limits permitted by the Exchange or Related Exchange or otherwise (i) relating to any Component on the Exchange in respect of such Component; or (ii) in futures or options contracts relating to the Index on the Related Exchange;

**"Underlying Share Issuer"** means the entity that is the issuer of the Underlying Share specified in the applicable Pricing Supplement;

**"Underlying Share"** means, in relation to a particular Series of Securities, a share specified as such in the applicable Pricing Supplement, or, in the case of a Share Basket Security, a share forming part of a basket of shares to which such Warrants or Certificates relates;

**"Valid Date"** means a Scheduled Trading Day that is not a Disrupted Day and on which another Averaging Date in respect of the Reference Date does not, or is not deemed to, occur; and

**"Valuation Date"** means each date specified as such in the applicable Pricing Supplement, provided that if any such date is (i) not a Scheduled Trading Day and/or (ii) a Disrupted Day, the relevant Valuation Date shall be determined in accordance with the provisions of Condition 7.1 (*Reference Dates, Averaging Dates and Market Disruption*).

## 8. PROVISIONS RELATING TO BOND SECURITIES

This Condition 8 (*Provisions relating to Bond Securities*) is applicable only in relation to Warrants or Certificates specified in the applicable Pricing Supplement as being Bond Securities.

### 8.1 *Conversion:*

- (a) Following the occurrence of any Conversion, the Issuer will, in its sole and absolute discretion, determine whether or not the Warrants or Certificates will continue and, if so, the Determination Agent will determine, in its sole and absolute discretion, any adjustments to be made.
- (b) If the Issuer determines that the Warrants or Certificates shall continue, the Determination Agent may make such adjustment as it, in its sole and absolute discretion considers appropriate, to the Strike Price, the formula for the Cash Settlement Amount set out in the applicable Pricing Supplement, the Bond Security Entitlement, the number of Underlying Securities to which each Warrant or Certificate relates, the number of Underlying Securities comprised in a Basket, the amount, number of or type of bonds or other debt securities which may be delivered under such Warrants or Certificates and, in any case, any other variable relevant to the exercise, settlement, or payment terms of the relevant Warrants or Certificates and/or any other adjustment and determine, in its sole and absolute discretion, the effective date(s) of such adjustment.
- (c) If the Issuer determines that the Warrants or Certificates shall be terminated, then the Warrants or Certificates shall cease to be exercisable (or, in the case of any Warrants or Certificates which have been exercised, the entitlements of the respective exercising Securityholders to receive Underlying Securities or the Cash Settlement Amount, as the case may be, pursuant to such exercise, shall cease)

and the Issuer's obligations under the Warrants or Certificates shall be satisfied in full upon payment of the Conversion Settlement Amount.

- (d) For the purposes hereof:

**"Conversion"** means, as determined by the Determination Agent, acting in a commercially reasonable manner, in respect of any relevant Underlying Securities any irreversible conversion by the Underlying Security Issuer, of such Underlying Securities into other securities.

**"Conversion Settlement Amount"** means an amount which the Determination Agent, acting in a commercially reasonable manner, determines is the fair value to the Securityholder of a Warrant or Certificate with terms that would preserve the economic equivalent of any payment or delivery (assuming satisfaction of each applicable condition precedent) to which the Securityholder would have been entitled under the Warrant or Certificate but for the occurrence of the Conversion, less the cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related underlying hedging arrangements, the amount of such cost or loss being as determined by the Determination Agent in its sole and absolute discretion.

8.2 *Correction to published prices:*

For the purposes of determining the Spot Price for any day, if applicable, as specified in the applicable Pricing Supplement for the purposes of calculating the Cash Settlement Amount or any other amount in respect of a Bond Security, if the price published or announced on a given day and used or to be used by the Determination Agent to determine a Spot Price is subsequently corrected and the correction is published or announced by the person responsible for that publication or announcement by such time as may be specified in the applicable Pricing Supplement (or, if none is so specified, within thirty days of the original publication or announcement), and the Determination Agent determines (in its sole and absolute discretion) that an amount is repayable to the Issuer as a result of that correction, the Issuer shall be entitled to reimbursement of the relevant payment by the relevant Securityholder, together with interest on that amount at a rate per annum equal to the cost (without proof or evidence of actual cost) to the Issuer of funding that amount for the period from and including the day on which a payment originally was made, to but excluding the day of payment of the refund or payment resulting from that correction (all as determined by the Determination Agent in its sole and absolute discretion). Any such reimbursement shall be effected in such manner as the Issuer shall agree with the Principal Securities Agent and shall be notified to the relevant Securityholder(s) by facsimile or telex to the number specified in the relevant Exercise Notice.

8.3 *Additional Disruption Events:*

- (a) Following the occurrence of an Additional Disruption Event, the Issuer will, in its sole and absolute discretion, determine whether or not the relevant Warrants and Certificates shall continue or be redeemed early.
- (b) If the Issuer determines that the relevant Warrants or Certificates shall continue, the Determination Agent may make such adjustment as the Determination Agent, in its sole and absolute discretion, considers appropriate, if any, to any variable relevant to the redemption, settlement, or payment terms of the relevant Warrants or Certificates and/or any other adjustment which change or adjustment shall be effective on such date as the Determination Agent shall determine.
- (c) If the Issuer determines that the relevant Warrants or Certificates shall be terminated, then the Warrants or Certificates shall cease to be exercisable (or, in the case of any Warrants or Certificates which have been exercised, the entitlements of the respective exercising Securityholders to receive the Underlying Securities or payment of the Cash Settlement Amount, as the case may be, pursuant to such exercise shall cease) as of such later date and the Issuer will pay an amount which the Determination Agent, in its sole and absolute discretion, determines is the fair value to the Securityholder of a Warrant or Certificate with terms that would preserve for the Securityholder the economic equivalent of any payment or delivery (assuming satisfaction of each applicable condition precedent) to which the Securityholder would have been entitled under the relevant Warrant or Certificate after that date but for the occurrence of such termination, less the cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related underlying hedging arrangements, the amount of such cost or loss being as determined by the Determination Agent in its sole and absolute discretion.



(d) The Issuer shall as soon as reasonably practicable under the circumstances notify the Principal Securities Agent and the Determination Agent of the occurrence of an Additional Disruption Event.

(e) For the purposes hereof:

**"Additional Disruption Event"** means with respect to any Series of Warrants or Certificates (unless otherwise specified in the applicable Pricing Supplement) a Change in Law, Hedging Disruption, Increased Cost of Hedging and any further event or events as may be specified in the applicable Pricing Supplement as an Additional Disruption Event with respect to such Warrants or Certificates.

8.4 *In relation to Bond Securities, the following expressions have the meanings set out below:*

**"Change in Law"** means that, on or after the Trade Date (A) due to the adoption of or any change in any applicable law or regulation (including, without limitation, any tax law), or (B) due to the promulgation of or any change in the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law or regulation (including any action taken by a taxing authority), the Issuer determines that (x) it has become illegal to hold, acquire or dispose of Hedge Positions or (y) it will incur a materially increased cost in performing its obligations with respect to the Warrants or Certificates (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on its tax position);

**"Exchange"** means each securities exchange or trading market specified as such in the applicable Pricing Supplement (including any successor to that securities exchange or trading market) for so long as the Underlying Securities are listed or otherwise included in that securities exchange or trading market. If the specified Exchange ceases to list or otherwise include the Underlying Securities and the Underlying Securities are listed or otherwise included in any other securities exchange or trading market, the Determination Agent will, in its sole and absolute discretion, select an alternative securities exchange or trading market;

**"Exchange Business Day"** means, in respect of any Bond Security, any day that is a trading day on the Exchange (or on each Exchange if more than one is specified) other than a day on which trading on the Exchange is scheduled to close prior to its regular weekday closing time;

**"Hedge Positions"** means any purchase, sale, entry into or maintenance of one or more (i) positions or contracts in securities, commodities, options, futures, derivatives or foreign exchange, (ii) stock loan transactions or (iii) other instruments or arrangements (howsoever described) by a party in order to hedge, individually or on a portfolio basis, the Warrants or Certificates;

**"Hedging Disruption"** means that the Issuer is unable, after using commercially reasonable efforts, to (A) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the risk of entering into and performing its obligations under the Warrants or Certificates, or (B) realise, recover or remit the proceeds of any such transactions or asset(s);

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

**"Spot Price"** means, in respect of any Bond Security:

- (a) if the Strike Price is stated as an amount in the relevant currency, the price for the Underlying Securities, stated as an amount in the relevant currency, equal in amount to the nominal amount (the **"Bond Security Entitlement"**) specified in the applicable Pricing Supplement of the relevant Underlying Securities to which one Warrant or Certificate, as applicable relates; and
- (b) if the Strike Price is stated as a percentage of the nominal value of the Underlying Securities, the price of the Underlying Securities stated as a percentage of their nominal value,

in each case, as of the Valuation Time on the relevant Exercise Date, as determined by the Determination Agent in its sole and absolute discretion; and

**"Valuation Time"** means in the case of Bond Securities, the time specified as such in the applicable Pricing Supplement.

## 9. PROVISIONS RELATING TO CURRENCY SECURITIES

This Condition 9 (*Provisions relating to Currency Securities*) is applicable only in relation to Warrants or Certificates specified in the applicable Pricing Supplement as being Currency Securities.

### 9.1 Valuation Date:

**"Valuation Date"** means, in respect of any Series of Currency Securities, the date(s) specified as such in the applicable Pricing Supplement, **provided that** where the Valuation Date is not a Currency Business Day then the Valuation Date shall be the first preceding day that is a Currency Business Day, unless otherwise specified in the applicable Pricing Supplement. Unless otherwise specified in the applicable Pricing Supplement and subject to Condition 9.2 (*Averaging*), the Valuation Date will be the two Currency Business Days prior to the Exercise Date.

### 9.2 Averaging:

If Averaging Dates are specified in the applicable Pricing Supplement, then notwithstanding any other provisions of these Conditions, the following provisions will apply to the determination of the Settlement Rate in relation to a Valuation Date:

- (a) **"Averaging Date"** means, in respect of a Valuation Date, each date specified as such or otherwise determined as provided in the applicable Pricing Supplement, **provided that** if any such date is not a Currency Business Day, such date shall be the first preceding day that is a Currency Business Day, unless otherwise specified in the applicable Pricing Supplement.
- (b) For the purposes of determining the Settlement Rate in relation to a Valuation Date, the Settlement Rate will be the arithmetic mean of the Spot Rates on each Averaging Date (or, if different, the day on which rates for each Averaging Date would, in the ordinary course, be published or announced by the relevant price source).
- (c) Unless otherwise specified in the applicable Pricing Supplement, in the case where it becomes impossible to obtain the Spot Rate on an Averaging Date (or, if different, the day on which rates for that Averaging Date would, in the ordinary course, be published or announced by the relevant price source), such Averaging Date will be deemed not to be a relevant Averaging Date for purposes of determining the relevant Settlement Rate. If through the operation of this Condition 9.2(c), there would not be an Averaging Date with respect to the relevant Valuation Date, the provisions of Condition 9.4 (*Currency Disruption Fallbacks*) shall apply for purposes of determining the relevant Spot Rate on the final Averaging Date with respect to that Valuation Date as if such Averaging Date were a Valuation Date on which a Price Source Disruption had occurred.

### 9.3 Currency Disruption Events:

- (a) If so specified in the Pricing Supplement relating to any Series of Warrants or Certificates, the following shall constitute **"Currency Disruption Events"** for the purposes of such Series:
  - (i) **"Price Source Disruption"**, which means it becomes impossible, as determined by the Determination Agent, acting in a commercially reasonable manner, to determine the Settlement Rate on the Valuation Date (or, if different, the day on which rates for that Valuation Date would, in the ordinary course, be published or announced by the relevant price source);
  - (ii) **"Additional Price Source Disruption"**, which means in relation to the calculation of the Settlement Rate on the Valuation Date:

- (A) the relevant exchange rate is not displayed on the Reference Source or any successor page for such Valuation Date;
- (B) such Valuation Date is an Unscheduled Holiday; or
- (C) the Determination Agent determines in good faith that the exchange rate so displayed on the Reference Source is manifestly incorrect;
- (iii) **"Price Materiality Event"**, which means the Primary Rate differs from the Secondary Rate by at least the Price Materiality Percentage; and
- (iv) any other (if any) currency disruption event specified in the applicable Pricing Supplement.
- (b) If the applicable Pricing Supplement specifies that any Currency Disruption Event shall be applicable to such Series, then, where the Determination Agent determines, acting in a commercially reasonable manner, that such Currency Disruption Event has occurred and is continuing in respect of such Series:
  - (i) in the case of Price Source Disruption, on the day that is the Valuation Date in respect of such Series (or, if different, the day on which rates for that Valuation Date would, in the ordinary course, be published or announced by the relevant price source); and
  - (ii) in the case of any other Currency Disruption Event, on such day as may be specified for this purpose in the applicable Pricing Supplement,

then the Settlement Rate for such Series will be determined, or the Warrants or Certificates of such Series shall be settled following exercise, as the case may be, in accordance with the terms of the Currency Disruption Fallback first applicable pursuant to Condition 9.4 (*Currency Disruption Fallbacks*), which shall be subject to Condition 9.3(c) below.

- (c) (i) If the Series of Warrants or Certificates are Currency Securities linked to a single Currency Pair, the provisions of Conditions 9.3(a) and (b) shall apply.
- (ii) If the Series of Warrants or Certificates are Currency Securities linked to a Basket, and the Determination Agent determines that a Currency Disruption Event has occurred on any Valuation Date or Relevant Date in respect of any Settlement Rate (which for the purposes of this Condition 9.3 (*Currency Disruption Events*) and Condition 9.4 (*Currency Disruption Fallbacks*) shall mean the Settlement Rate in respect of each Currency Pair), then:
  - (A) for each Settlement Rate for which the Determination Agent determines that a Currency Disruption Event has not occurred, the Settlement Rate shall be determined in accordance with the Conditions; and
  - (B) for each Settlement Rate for which the Determination Agent determines that a Currency Disruption Event has occurred, the Determination Agent shall determine the Settlement Rate in accordance with the applicable Currency Disruption Fallback in accordance with Condition 9.4 (*Currency Disruption Fallbacks*) and the applicable Pricing Supplement.

#### 9.4 *Currency Disruption Fallbacks:*

- (a) If so specified in the Pricing Supplement relating to any Series of Warrants or Certificates, the following shall constitute **"Currency Disruption Fallbacks"** for the purposes of such Series, and the applicable Pricing Supplement shall specify which Currency Disruption Fallback(s) shall apply to such Series, to which Currency Disruption Event each such Currency Disruption Fallback shall apply and, where more than one Currency Disruption Fallback may apply to a Currency Disruption Event, the order in which such Currency Disruption Fallback(s) shall apply to such Currency Disruption Event:

- (i) **"Determination Agent Determination of Settlement Rate"** means that the Determination Agent will determine, in its sole and absolute discretion, the Settlement Rate (or a method for determining the Settlement Rate), taking into consideration all available information that it deems relevant including (but not limited to), in the case of Currency Securities linked to a Basket, the relevant rate for each unaffected Currency Pair which was determined on the relevant Valuation Date;
  - (ii) **"Fallback Reference Price"** means, in respect of Price Source Disruption or any other Currency Disruption Event, that the Determination Agent will determine, in its sole and absolute discretion, the Settlement Rate for such Series on the relevant Valuation Date (or, if different, the day on which rates for that Valuation Date would, in the ordinary course, be published or announced) pursuant to Currency-Reference Dealers (save that, if so specified in the applicable Pricing Supplement, the reference in the definition of Currency-Reference Dealers to the Cash Settlement Payment Date shall be a reference to such date as is specified for such purpose in the applicable Pricing Supplement) or pursuant to such other methodology or price sources as may be specified in the applicable Pricing Supplement; and
  - (iii) any other currency disruption fallbacks specified in the applicable Pricing Supplement.
- (b) Where more than one Currency Disruption Event occurs or exists or is deemed to occur or exist, then, unless the applicable Pricing Supplement has specified which Currency Disruption Fallback shall apply in such circumstances, the Determination Agent shall determine, in its sole and absolute discretion, which Currency Disruption Fallback shall apply.

#### 9.5 Administrator/Benchmark Events:

- (a) If the Benchmark Trigger Provisions are specified in the applicable Pricing Supplement as being applicable and an Administrator/Benchmark Event and an Administrator/Benchmark Event Date occur:
  - (i) the Currency Disruption Fallbacks specified in the applicable Pricing Supplement to apply with respect to Administrator/Benchmark Event will apply, or if none are specified, the Currency Disruption Fallbacks specified in the applicable Pricing Supplement to apply shall be deemed to apply in accordance with Condition 9.4 (*Currency Disruption Fallbacks*) provided that if the Relevant FX Benchmark is not the Settlement Rate then references to the "Settlement Rate" in the applicable Currency Disruption Fallbacks and related definitions and provisions of these Conditions shall be deemed to be references to the Relevant FX Benchmark;
  - (ii) if it (A) is or would be unlawful at any time under any applicable law or regulation or (B) would contravene any applicable licensing requirements, for the Issuer or the Determination Agent to perform the actions prescribed in an applicable Currency Disruption Fallback (or it would be unlawful or would contravene those licensing requirements were a determination to be made at such time), the next applicable Currency Disruption Fallback will apply; and
  - (iii) if the Issuer determines that the last applicable Currency Disruption Fallback does not provide a Settlement Rate (including due to the applicability of Condition 9.5(a)(ii) above in relation to the last applicable Currency Disruption Fallback), then the Issuer shall terminate the relevant Warrants or Certificates, which shall cease to be exercisable (or, in the case of any Warrants or Certificates which have been exercised, the entitlements of the respective exercising Securityholders to receive the Reference Currency or payment of the Cash Settlement Amount pursuant to such exercise shall cease) and the Issuer will pay an amount in respect of each Warrant or Certificate which the Determination Agent, in its sole and absolute discretion, determines is the fair value to the Securityholder of a Warrant or Certificate with terms that would preserve for the Securityholder the economic equivalent of any payment or delivery (assuming satisfaction of each applicable condition precedent) to which the Securityholder would have been entitled under the relevant Warrant or Certificate after that date but for the occurrence of such termination, less the cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on,

unwinding any related underlying hedging arrangements, the amount of such cost or loss being as determined by the Determination Agent in its sole and absolute discretion.

The Issuer's obligations under the relevant Warrants or Certificates shall be satisfied in full upon payment of such amount; and

- (b) The Determination Agent shall as soon as reasonably practicable under the circumstances notify the Issuer, the Fiscal Agent and the Securityholders of the occurrence of an Administrator/Benchmark Event Date and of any action taken as a consequence, provided that any failure to give such notice shall not affect the validity of the foregoing.

9.6 *Change to a Relevant FX Benchmark:*

If the definition, methodology or formula for a Relevant FX Benchmark, or other means of calculating the Relevant FX Benchmark, is changed (irrespective of the materiality of any such change or changes), then, unless otherwise specified in the applicable Pricing Supplement, references to that Relevant FX Benchmark shall be to the Relevant FX Benchmark as changed.

9.7 *Additional Disruption Events:*

- (a) Following the occurrence of an Additional Disruption Event, the Issuer will, in its sole and absolute discretion, determine whether or not the relevant Warrants and Certificates shall continue or be redeemed early.
- (b) If the Issuer determines that the relevant Warrants or Certificates shall continue, the Determination Agent may make such adjustment as the Determination Agent, in its sole and absolute discretion, considers appropriate, if any, to any variable relevant to the redemption, settlement, or payment terms of the relevant Warrants or Certificates and/or any other adjustment which change or adjustment shall be effective on such date as the Determination Agent shall determine.
- (c) If the Issuer determines that the relevant Warrants or Certificates shall be terminated, then the Warrants or Certificates shall cease to be exercisable (or, in the case of any Warrants or Certificates which have been exercised, the entitlements of the respective exercising Securityholders to receive the Reference Currency or the Cash Settlement Amount pursuant to such exercise shall cease) as of such later date and the Issuer will pay an amount which the Determination Agent, in its sole and absolute discretion, determines is the fair value to the Securityholder of a Warrant or Certificate with terms that would preserve for the Securityholder the economic equivalent of any payment or delivery (assuming satisfaction of each applicable condition precedent) to which the Securityholder would have been entitled under the relevant Warrant or Certificate after that date but for the occurrence of such termination, less the cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related underlying hedging arrangements, the amount of such cost or loss being as determined by the Determination Agent in its sole and absolute discretion.
- (d) The Issuer shall as soon as reasonably practicable under the circumstances notify the Principal Securities Agent and the Determination Agent of the occurrence of an Additional Disruption Event.
- (e) For the purposes hereof:

**"Additional Disruption Event"** means with respect to any Series of Warrants or Certificates (unless otherwise specified in the applicable Pricing Supplement) a Change in Law, Hedging Disruption, Increased Cost of Hedging and any further event or events as may be specified in the applicable Pricing Supplement as an Additional Disruption Event with respect to such Warrants or Certificates.

9.8 *In relation to Currency Securities, the following expressions have the meanings set out below:*

**"Basket"** means a basket composed of each Reference Currency specified in the applicable Pricing Supplement;

**"Change in Law"** means that, on or after the Trade Date (A) due to the adoption of or any change in any applicable law or regulation (including, without limitation, any tax law), or (B) due to the promulgation of or any change in the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law or regulation (including any action taken by a taxing authority), the Issuer determines that (x) it has become illegal to hold, acquire or dispose of Hedge Positions or (y) it will incur a materially increased cost in performing its obligations with respect to the Warrants or Certificates (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on its tax position);

**"Currency Business Day"** means, unless otherwise specified in the applicable Pricing Supplement, for the purposes of:

- (a) the definition of Valuation Date in Condition 9.1 (*Valuation Date*): (1) a day on which commercial banks are (or but for the occurrence of a Currency Disruption Event would have been) open for general business (including dealings in foreign exchange in accordance with the market practice of the foreign exchange markets) in the Principal Financial Centre(s) of the Reference Currency or (2) where the currency to be valued is euro, a day that is a TARGET Settlement Day and a Business Day; and
- (b) the definition of Cash Settlement Payment Date, Exercise Date, Exercise Period and Expiration Date and any other purpose: (1) a day on which commercial banks are open for general business (including dealings in foreign exchange in accordance with the market practice of the foreign exchange market) in the Principal Financial Centre(s) of the Reference Currency and (2) where one of the Currency Pair is euro, a day that is a TARGET Settlement Day;

**"Currency Pair"** means the Reference Currency and the Settlement Currency;

**"Currency-Reference Dealers"** means that the Settlement Rate or the Spot Rate for a Rate Calculation Date will be determined on the basis of quotations provided by Reference Dealers on that Rate Calculation Date of that day's Specified Rate, expressed as the amount of Reference Currency per one unit of Settlement Currency for the purposes of calculating the Cash Settlement Amount. The Determination Agent will request the Specified Office of each of the Reference Dealers to provide a firm quotation of its Specified Rate for a transaction where the amount of Reference Currency equals the Specified Amount. If four quotations are provided, the rate for a Rate Calculation Date will be the arithmetic mean of the Specified Rates, without regard to the Specified Rates having the highest and lowest value. If exactly three quotations are provided, the rate for a Rate Calculation Date will be the Specified Rate provided by the Reference Dealer that remains after disregarding the Specified Rates having the highest and lowest values. For this purpose, if more than one quotation has the same highest value or lowest value, then the Specified Rate of one of such quotations shall be disregarded. If exactly two quotations are provided, the rate for a Rate Calculation Date will be the arithmetic mean of the Specified Rates. If only one quotation is provided, the rate for a Rate Calculation Date will be the Specified Rate quoted by that Reference Dealer. The quotations used to determine the Spot Rate for a Rate Calculation Date will be determined in each case at the Specified Time on that Rate Calculation Date or, if no such time is specified, the time chosen by the Determination Agent;

**"Hedge Positions"** means any purchase, sale, entry into or maintenance of one or more (i) positions or contracts in securities, commodities, options, futures, derivatives or foreign exchange, (ii) stock loan transactions or (iii) other instruments or arrangements (howsoever described) by a party in order to hedge, individually or on a portfolio basis, the Warrants or Certificates;

**"Hedging Disruption"** means that the Issuer is unable, after using commercially reasonable efforts, to (A) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the risk of entering into and performing its obligations under the Warrants or Certificates, or (B) realise, recover or remit the proceeds of any such transactions or asset(s);

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

**"Price Materiality Percentage"** means the percentage specified as such in the applicable Pricing Supplement;

**"Primary Rate"** means the rate specified as such in the applicable Pricing Supplement;

**"Rate Calculation Date"** means any Valuation Date or Averaging Date (as defined in Conditions 9.1 (*Valuation Date*) and 9.2 (*Averaging*) respectively);

**"Reference Currency"** means the currency or currencies specified as such in the applicable Pricing Supplement;

**"Reference Source"** has the meaning specified as such in the applicable Pricing Supplement;

**"Relevant FX Benchmark"** means, in respect of any Warrants or Certificates:

- (a) the Settlement Rate;
- (b) the Primary Rate and the Secondary Rate; and
- (c) any other index, benchmark, rate or price source which is referenced in the Warrants or Certificates and which is a measure constituting an index (or combination of indices) under any law or regulation applicable to the Warrants or Certificates and identified as a "Relevant FX Benchmark" in the applicable Pricing Supplement.

To the extent that a Fallback Reference Price is used, it shall be a "Relevant FX Benchmark" from the day on which it is used.

**"Secondary Rate"** means the rate specified as such in the applicable Pricing Supplement;

**"Settlement Rate"** means the rate as determined by the Determination Agent, in its sole and absolute discretion, in accordance with the applicable Pricing Supplement and, where applicable shall be determined in accordance with Condition 9.2 (*Averaging*);

**"Specified Amount"** means the amount of Reference Currency specified as such in the applicable Pricing Supplement;

**"Specified Rate"** means any of the following rates, as specified in the applicable Pricing Supplement: (i) the Reference Currency bid exchange rate, (ii) the Reference Currency offer exchange rate, (iii) the average of the Reference Currency bid and offer exchange rates, (iv) the Settlement Currency bid exchange rate, (v) the Settlement Currency offer exchange rate, (vi) the average of the Settlement Currency bid and offer exchange rates, (vii) the official fixing rate or (viii) any other exchange rate specified in the applicable Pricing Supplement. If no such rate is specified, the Specified Rate will be deemed to be the average of the Reference Currency bid and offer rate;

**"Specified Time"** means, in respect of any series of Warrants or Certificates and the determination of the Spot Rate, the times specified as such in the applicable Pricing Supplement or if no such time is specified the time chosen by the Determination Agent;

**"Spot Rate"** means for any Valuation Date (as defined in Condition 9.1 (*Valuation Date*)), the relevant currency exchange rate expressed as the amount of Reference Currency per one unit of Settlement Currency determined as the currency exchange rate at the time at which such rate is to be determined for foreign exchange transactions in the Currency Pair for value on the relevant Valuation Date, as determined in good faith and in a commercially reasonable manner by the Determination Agent; and

**"Unscheduled Holiday"** means that a day is not a Currency Business Day and that the market was not aware of such fact (by means of a public announcement or by reference to other publicly available information) until a time later than 9:00 a.m. local time in the Principal Financial Centre(s) of the Reference Currency two Currency Business Days prior to such day.

## 10. PROVISIONS RELATING TO COMMODITY SECURITIES

This Condition 10 (*Provisions relating to Commodity Securities*) is applicable only in relation to Warrants or Certificates specified in the applicable Pricing Supplement as being Commodity Securities.

### 10.1 *Corrections to published prices:*

For the purposes of determining the Relevant Price for any Pricing Date, if applicable, as specified in the applicable Pricing Supplement for the purposes of calculating the Cash Settlement Amount or any other amount in respect of a Commodity Security, if the price published or announced on a given day and used or to be used by the Determination Agent to determine such Relevant Price is subsequently corrected and the correction is published or announced by the person responsible for that publication or announcement by such time as may be specified in the applicable Pricing Supplement (or, if none is so specified, within thirty days of the original publication or announcement, and the Determination Agent determines (in its sole and absolute discretion) that an amount is repayable to the Issuer as a result of that correction, the Issuer shall be entitled to reimbursement of the relevant payment by the relevant Securityholder, together with interest on that amount at a rate per annum equal to the cost (without proof or evidence of actual cost) to the Issuer of funding that amount for the period from and including the day on which a payment originally was made, to but excluding the day of payment of the refund or payment resulting from that correction (all as determined by the Determination Agent in its sole and absolute discretion). Any such reimbursement shall be effected in such manner as the Issuer shall agree with the Principal Securities Agent and shall be notified to the relevant Securityholder(s) by facsimile or telex to the number specified in the relevant Exercise Notice.

### 10.2 *Commodity Disruption Events:*

- (a) If so specified in the Pricing Supplement relating to any Series of Commodity Securities, the following shall constitute "**Commodity Disruption Events**" for the purposes of such Series:
  - (i) "**Price Source Disruption**", which means (i) the failure of the Price Source to announce or publish the Specified Price (or the information necessary for determining the Specified Price) for the relevant Commodity Reference Price, (ii) the temporary or permanent discontinuance or unavailability of the Price Source, (iii) if the Commodity Reference Price is "Commodity-Reference Dealers," the failure to obtain at least three quotations from the relevant Reference Dealers or (iv) if Price Materiality Percentage is specified in the applicable Pricing Supplement, the Specified Price for the relevant Commodity Reference Price differs from the Specified Price determined in accordance with the Commodity Reference Price "Commodity-Reference Dealers" by such Price Materiality Percentage;
  - (ii) "**Trading Disruption**", which means the material suspension of, or the material limitation imposed on, trading in the Futures Contract or the Commodity on the Exchange or in any additional futures contract, options contract or commodity on any Exchange as specified in the applicable Pricing Supplement. The determination of whether a suspension of or limitation on trading is material shall be made by the Determination Agent in its sole and absolute discretion;
  - (iii) "**Disappearance of Commodity Reference Price**", which means (i) the permanent discontinuation of trading in the relevant Futures Contract on the relevant Exchange or (ii) the disappearance of, or of trading in, the relevant Commodity or (iii) the disappearance or permanent discontinuance or unavailability of a Commodity Reference Price, notwithstanding the availability of the related Price Source or the status of trading in the relevant Futures Contract or the relevant Commodity;
  - (iv) "**Material Change in Content**", which means the occurrence since the Initial Date of a material change in the content, composition or constitution of the relevant Commodity or relevant Futures Contract;
  - (v) "**Material Change in Formula**", which means the occurrence since the Initial Date of a material change in the formula for or method of calculating the relevant Commodity Reference Price;



- (vi) **"Tax Disruption"**, which means the imposition of, change in or removal of an excise, severance, sales, use, value-added, transfer, stamp, documentary, recording or similar tax on, or measure by reference to, the relevant Commodity (other than a tax on, or measured by reference to, overall gross or net income) by any government or taxation authority after the Initial Date, if the direct effect of such imposition, change or removal is to raise or lower the Relevant Price on the day that would otherwise be a Pricing Date from what it would have been without that imposition, change or removal;
  - (vii) **"Trading Limitation"**, which means the material limitation imposed on trading in the Futures Contract or the Commodity on the Exchange or in any additional futures contract, options contract or commodity on any exchange or principal trading market as specified in the applicable Pricing Supplement; and
  - (viii) any other (if any) Commodity Disruption Event specified in the applicable Pricing Supplement.
- (b) If the applicable Pricing Supplement for a Series of Commodity Securities specifies that any Commodity Disruption Event shall be applicable to such Series, then, where the Determination Agent determines, acting in a commercially reasonable manner, that such Commodity Disruption Event has occurred and is continuing in respect of such Series on the Pricing Date in respect of such Series (or, if different, the day on which prices for that Pricing Date would, in the ordinary course, be published or announced by the Price Source), or on any other day as may be specified for this purpose in the applicable Pricing Supplement, then the Relevant Price will be determined, or the Warrants or Certificates of such Series shall be settled following exercise, as the case may be, in accordance with the terms of the Commodity Disruption Fallback first applicable pursuant to Condition 10.3 (*Commodity Disruption Fallbacks*).

#### 10.3 *Commodity Disruption Fallbacks:*

Where one or more Commodity Disruption Events occurs or exists, then unless the applicable Pricing Supplement specifies that any other Commodity Disruption Fallback shall apply in respect of any Commodity Disruption Event, **"Determination Agent Determination"** shall apply.

**"Determination Agent Determination"** means that the Determination Agent will determine, in its sole and absolute discretion, the Relevant Price (or a method for determining the Relevant Price), taking into consideration the latest available quotation for the relevant Commodity Reference Price and any other information that it deems relevant.

#### 10.4 *Administrator/Benchmark Events:*

If the Benchmark Trigger Provisions are specified in the applicable Pricing Supplement as being applicable and an Administrator/Benchmark Event and an Administrator/Benchmark Event Date occur in respect of any Relevant Commodity Benchmark (other than a Commodity Index):

- (a) the Commodity Disruption Fallbacks specified in the applicable Pricing Supplement to apply with respect to an Administrator/Benchmark Event will apply, or if none is so specified, or if none is so specified, Determination Agent Determination (as such term is defined in Condition 10.3 (*Commodity Disruption Fallbacks*)) shall be deemed to apply;
- (b) if it (i) is or would be unlawful at any time under any applicable law or regulation or (ii) would contravene any applicable licensing requirements, in each case for the Issuer, the Determination Agent or the Calculation Agent to perform the actions prescribed in an applicable Commodity Disruption Fallback (or it would be unlawful or would contravene those licensing requirements were a determination to be made at such time), the next applicable Commodity Disruption Fallback will apply;
- (c) if the Determination Agent determines that the last applicable Commodity Disruption Fallback does not provide the relevant level, price, value or amount (including due to the applicability of Condition 10.4(b) above in relation to the last applicable Commodity Disruption Fallback), then the Issuer shall terminate the relevant Warrants or Certificates, which shall cease to be exercisable (or, in the case of

any Warrants or Certificates which have been exercised, the entitlements of the respective exercising Securityholders to receive payment of the Cash Settlement Amount pursuant to such exercise shall cease) and the Issuer will pay an amount in respect of each Warrant or Certificate which the Determination Agent, in its sole and absolute discretion, determines is the fair value to the Securityholder of a Warrant or Certificate with terms that would preserve for the Securityholder the economic equivalent of any payment or delivery (assuming satisfaction of each applicable condition precedent) to which the Securityholder would have been entitled under the relevant Warrant or Certificate after that date but for the occurrence of such termination, less the cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related underlying hedging arrangements, the amount of such cost or loss being as determined by the Determination Agent in its sole and absolute discretion.

The Issuer's obligations under the relevant Warrants or Certificates shall be satisfied in full upon payment of such amount; and

- (d) the Determination Agent shall as soon as reasonably practicable under the circumstances notify the Issuer, the Fiscal Agent and the Securityholders of the occurrence of an Administrator/Benchmark Event and an Administrator/Benchmark Event Date and of any action taken as a consequence, provided that any failure to give such notice shall not affect the validity of the foregoing.

#### 10.5 *Common Pricing:*

With respect to Warrants or Certificates relating to a Basket of Commodities, if "**Common Pricing**" has been selected in the applicable Pricing Supplement as:

- (a) "**Applicable**", then no date will be a Pricing Date unless such date is a day on which all referenced Commodity Reference Prices (for which such date would otherwise be a Pricing Date) are scheduled to be published or announced, as determined as of the time of issue of the Warrants or Certificates.
- (b) "**Inapplicable**", then if the Determination Agent determines that a Commodity Disruption Event has occurred or exists on the Pricing Date in respect of any Commodity in the Basket (the "**Affected Commodity**"), the Relevant Price of each Commodity within the basket which is not affected by the occurrence of a Commodity Disruption Event shall be determined on its scheduled Pricing Date and the Relevant Price for each Affected Commodity shall be determined in accordance with the first applicable Commodity Disruption Fallback that provides a Commodity Reference Price.

#### 10.6 *Commodity Index Disruption Events:*

- (a) The following shall constitute "**Commodity Index Disruption Events**" for the purposes of any Series of Warrants or Certificates with respect to a Commodity Index:
  - (i) a temporary or permanent failure by the applicable exchange or other price source to announce or publish the final settlement price for the Commodity Index; or
  - (ii) the occurrence in respect of any Component of the relevant Commodity Index of a Commodity Disruption Event (as defined in Condition 10.2(a) (*Commodity Disruption Events*)).
- (b) Where the Determination Agent determines, acting in a commercially reasonable manner, that a Commodity Index Disruption Event has occurred and is continuing in respect of a Series on the Pricing Date in respect of such Series (or, if different, the day on which prices for that Pricing Date would, in the ordinary course, be published or announced by the Price Source), or on any other day as may be specified for this purpose in the applicable Pricing Supplement, then (unless Condition 10.6(c) (*Physical Hedging Fallback*) is specified to apply) the following provisions shall apply (the "**Commodity Index Disruption Fallback**"):
  - (i) with respect to each Component which is not affected by the Commodity Index Disruption Event, the Relevant Price will be determined by the Determination Agent based on the closing prices of each Component on the applicable Pricing Date;

- (ii) with respect to each Component which is affected by the Commodity Index Disruption Event, the Relevant Price will be determined by the Determination Agent (in the case of any Dow Jones-UBS Commodity Index) as set out in the DJ-UBSCI Manual or (in the case of any S&P Commodity Index) as set out in the Index Methodology, and in respect of any other Commodity Index as set out in the applicable Pricing Supplement, in each case based on the closing prices of each such Component on the first day following the applicable Pricing Date on which no Commodity Index Disruption Event occurs with respect to such Component;
  - (iii) subject to Condition 10.6(b)(iv) below, the Determination Agent shall determine the Relevant Price by reference to the closing prices determined in Condition 10.6(b)(i) and (ii) above using the then-current method for calculating the relevant Commodity Index; and
  - (iv) where a Commodity Index Disruption Event with respect to one or more Components continues to exist (measured from and including the first day following the applicable determination date) for five consecutive Trading Days, the Determination Agent shall determine the Relevant Price acting in good faith and in a commercially reasonable manner. In calculating the Relevant Price as set out in this Condition 10.6(b)(iv), the Determination Agent shall use the formula for calculating the relevant Commodity Index last in effect prior to the Commodity Index Disruption Event. For the purposes of this Condition 10.6(b)(iv), "**Trading Day**" shall mean a day when the exchanges for all Futures Contracts included in the relevant Commodity Index are scheduled to be open for trading.
- (c) *Physical Hedging Fallback:* Where the Determination Agent determines that a Commodity Index Disruption Event has occurred and is continuing in respect of a Series on the Pricing Date in respect of such Series and "Physical Hedging Fallback" is specified as applicable in the applicable Pricing Supplement, then the following provisions shall apply:
- (i) with respect to each Component included in the Commodity Index which is not affected by the Commodity Index Disruption Event, the Relevant Price will be based on the closing prices of each such Component on the applicable determination date;
  - (ii) with respect to each Component included in the Commodity Index which is affected by the Commodity Index Disruption Event, the Relevant Price will be based on the closing price of each such Component on the first day following the applicable determination date on which no Commodity Index Disruption Event occurs with respect to such Component;
  - (iii) subject to Condition 10.6(d) below, the Determination Agent shall determine the Relevant Price by reference to the closing prices determined in Condition 10.6(c)(i) and (ii) above using the then-current method for calculating the Relevant Price; and
  - (iv) where a Commodity Index Disruption Event with respect to one or more Components included in the Commodity Index continues to exist (measured from and including the first day following the applicable determination date) for five consecutive Trading Days, the Determination Agent shall determine the Relevant Price in good faith and in a commercially reasonable manner. For the purposes of this Condition 10.6(c)(iv), "**Trading Day**" shall mean a day when the exchanges for all Futures Contracts included in the relevant Commodity Index are scheduled to be open for trading with respect to each Futures Contract included in the Commodity Index which is not affected by the Commodity Index Disruption Event, the Relevant Price will be based on the closing prices of each such contract on the applicable determination date.
- (d) If it (i) is or would be unlawful at any time under any applicable law or regulation or (ii) would contravene any applicable licensing requirements, for the Determination Agent to perform the actions prescribed in either Condition 10.6(b) or (c) (*Physical Hedging Fallback*) (as applicable) then the Issuer shall terminate the relevant Warrants or Certificates, which shall cease to be exercisable (or, in the case of any Warrants or Certificates which have been exercised, the entitlements of the respective exercising Securityholders to receive payment of the Cash Settlement Amount pursuant to such exercise shall cease) and the Issuer will pay an amount in respect of each Warrant or Certificate which the Determination Agent, in its sole and absolute discretion, determines is the fair value to the Securityholder of a Warrant or Certificate with terms that would preserve for

the Securityholder the economic equivalent of any payment or delivery (assuming satisfaction of each applicable condition precedent) to which the Securityholder would have been entitled under the relevant Warrant or Certificate after that date but for the occurrence of such termination, less the cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related underlying hedging arrangements, the amount of such cost or loss being as determined by the Determination Agent in its sole and absolute discretion.

- (e) The Determination Agent shall as soon as reasonably practicable under the circumstances notify the Issuer, the Fiscal Agent and the Securityholders of the occurrence of a Commodity Index Disruption Event and of any action taken as a consequence, provided that any failure to give such notice shall not affect the validity of the foregoing.

10.7 *Adjustments to Commodity Index:*

- (a) If a Commodity Index is permanently cancelled or is not calculated and announced by the sponsor of such Commodity Index or any of its affiliates (together the "**Sponsor**") but (i) is calculated and announced by a successor sponsor (the "**Successor Sponsor**") acceptable to the Determination Agent, or (ii) replaced by a successor index (the "**Successor Index**") using, in the determination of the Determination Agent, the same or a substantially similar formula for and method of calculation as used in the calculation of such Commodity Index, then the Commodity Reference Price will be determined by the Index so calculated and announced by that Successor Sponsor or that Successor Index, as the case may be.

- (b) *Commodity Index Cancellation or Administrator/Benchmark Event Date:*

If, for a Commodity Index with respect to a Commodity Reference Price, on or prior to the settlement date or early settlement date of the Warrants or Certificates, either (i) the Sponsor permanently cancels the Commodity Index and no Successor Index exists (a "**Commodity Index Cancellation**") or (ii) the applicable Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and an Administrator/Benchmark Event and an Administrator/Benchmark Event Date occurs in respect of such Commodity Index, then:

- (i) If the applicable Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and if an Alternative Pre-nominated Index has been specified in relation to such Commodity Index in the applicable Pricing Supplement, then:
  - (A) the Determination Agent shall attempt to determine an Adjustment Payment;
  - (B) if the Determination Agent determines an Adjustment Payment,
    - (1) it shall notify the Issuer of the Adjustment Payment and if the Adjustment Payment is an amount that the Securityholder would (but for Condition 10.7(b)(i)(B)(3)(b)) be required to pay to the Issuer in respect of each Security, request the Issuer to notify the Determination Agent whether it intends to terminate the Warrants or Certificates pursuant to Condition 10.7(d) (*Termination for Commodity Index Adjustment Event*). If the Issuer does not intend to terminate the Warrants or Certificates pursuant to Condition 10.7(d) (*Termination for Commodity Index Adjustment Event*) then the following provisions of this Condition 10.7(b)(i) shall apply;
    - (2) the terms of the Warrants or Certificates shall be amended so that references to the Commodity Index are replaced by references to the Alternative Pre-nominated Index;
    - (3) the Conditions shall be adjusted to implement the Adjustment Payment as follows:
      - (a) if the Adjustment Payment is an amount that the Issuer is required to pay in respect of each Security, the Determination Agent shall adjust the Conditions to provide for the payment of

the Adjustment Payment on the date when the Warrants or Certificates are settled in full; or

- (b) if the Adjustment Payment is an amount that the Securityholder would (but for this Condition 10.7(b)(i)(B)(3)(b)) be required to pay to the Issuer in respect of each Security, the Determination Agent shall adjust the Conditions to provide for the reduction of the amounts due by the Issuer until the aggregate amount of such reductions is equal to the Adjustment Payment, (subject, in the determination of the Determination Agent, to any minimum settlement amount of the Warrants or Certificates which the Determination Agent determines is required pursuant to any applicable law or regulation (including, without limitation, any tax law) and the rules of each listing authority, stock exchange and/or quotation system by which the Warrants or Certificates have then been admitted to listing, trading and/or quotation);
  - (4) the Determination Agent shall make such other adjustments to the Conditions as it determines necessary or appropriate in order to account for the effect of the replacement of the Commodity Index with the Alternative Pre-nominated Index and/or to preserve as nearly as practicable the economic equivalence of the Warrants or Certificates before and after the replacement of the Commodity Index with the Alternative Pre-nominated Index; and
  - (5) the Determination Agent shall notify the Issuer, the Fiscal Agent and the Securityholders of any replacement of the Commodity Index by the Alternative Pre-nominated Index, the Adjustment Payment and any other adjustments to the Conditions, giving summary details of the adjustment(s), provided that any failure to give such notice shall not affect the validity of the foregoing.
- (C) If the Determination Agent is unable to determine an Adjustment Payment, then Condition 10.7(d) (*Termination for Commodity Index Adjustment Event*) shall apply.
- (ii) If the applicable Pricing Supplement does not specify that the Benchmark Trigger Provisions are applicable or, if the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable but does not specify an Alternative Pre-nominated Index in relation to the Relevant Commodity Benchmark, then Condition 10.7(d) (*Termination for Commodity Index Adjustment Event*) shall apply.
- (c) *Commodity Index Modification and Commodity Index Disruption:*

If, for a Commodity Index with respect to a Commodity Reference Price, on or prior to the settlement date or early settlement date of the Warrants or Certificates, (i) the Sponsor makes a material change in the formula for or the method of calculating such Commodity Index or in any other way materially modifies such Commodity Index (other than a modification prescribed in that formula or method to maintain the Commodity Index in the event of changes in constituent commodities and weightings and other routine events) (a "**Commodity Index Modification**") or, (ii) the Sponsor fails to calculate and announce the Commodity Index for a continuous period of three Trading Days and the Determination Agent determines that there is no Successor Sponsor or Successor Index (a "**Commodity Index Disruption**"), then the Determination Agent may at its option (in the case of (i)) and shall (in the case of (ii)) calculate the Relevant Price using in lieu of the published level for that Commodity Index (if any), the level for that Commodity Index as at the relevant determination date as determined by the Determination Agent in accordance with the formula for and method of calculating that Commodity Index last in effect prior to the relevant Commodity Index Adjustment Event, but using only those Components that comprised that Commodity Index immediately prior to the relevant Commodity Index Adjustment Event (other than those futures contracts that have ceased to be listed on any relevant exchange).

(d) *Termination for Commodity Index Adjustment Event:*

If:

- (i) a Commodity Index Cancellation occurs and the Pricing Supplement does not specify that the Benchmark Trigger Provisions are applicable;
- (ii) a Commodity Index Cancellation or an Administrator/Benchmark Event Date occurs in respect of a Commodity Index, the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable but does not specify an Alternative Pre-nominated Index;
- (iii) a Commodity Index Cancellation or an Administrator/Benchmark Event Date occurs in respect of a Commodity Index, the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and specifies an Alternative Pre-nominated Index but the Determination Agent is unable to determine the Adjustment Payment;
- (iv) a Commodity Index Cancellation or an Administrator/Benchmark Event Date occurs in respect of a Commodity Index, the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and specifies an Alternative Pre-nominated Index and the Determination Agent determines that the Adjustment Payment would be an amount that the Securityholder would (but for Condition 10.7(b)(i)(B)(3)(b)) be required to pay to the Issuer in respect of each Security; or
- (v) a Commodity Index Modification or a Commodity Index Disruption occurs and it (a) would be unlawful at any time under any applicable law or regulation or (b) would contravene any applicable licensing requirements, in each case for the Determination Agent to calculate the Relevant Price in accordance with Condition 10.7(c) (*Commodity Index Modification and Commodity Index Disruption*),

then the Issuer may, at any time thereafter and in its sole and absolute discretion, determine that the Warrants or Certificates shall be terminated as of any later date. If the Issuer so determines that the Warrants or Certificates shall be terminated, then the Warrants and Certificates shall cease to be exercisable (or, in the case of any Warrants or Certificates which have been exercised, the entitlements of the respective exercising Securityholders to receive payment of the Cash Settlement Amount pursuant to such exercise shall cease) as of such later date and the Issuer will pay an amount in respect of each Warrant or Certificate which the Determination Agent, in its sole and absolute discretion, determines is the fair value to the Securityholder of a Warrant or Certificate with terms that would preserve for the Securityholder the economic equivalent of any payment or delivery (assuming satisfaction of each applicable condition precedent) to which the Securityholder would have been entitled under the relevant Warrant or Certificate after that date but for the occurrence of such termination, less the cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related underlying hedging arrangements, the amount of such cost or loss being as determined by the Determination Agent in its sole and absolute discretion.

The Issuer's obligations under the relevant Warrants or Certificates shall be satisfied in full upon payment of such amount.

If the Issuer determines that the relevant Warrants or Certificates shall continue, the Determination Agent may make such adjustment as the Determination Agent, in its sole and absolute discretion, considers appropriate, if any, to any variable relevant to the exercise, settlement or payment terms of the relevant Warrants or Certificates and/or any other adjustment, which change or adjustment shall be effective on such date as the Determination Agent shall determine. The Determination Agent shall provide notice to the Securityholders of any such change or adjustment, giving summary details of the relevant change or adjustment, as soon as reasonably practicable provided that any failure to give such notice shall not affect the validity of any such change or adjustment.

- (e) The Determination Agent shall as soon as reasonably practicable under the circumstances notify the Issuer, the Fiscal Agent and the Securityholders of the occurrence of a Commodity Index Adjustment Event and of any action taken as a consequence, provided that any failure to give such notice shall not affect the validity of the foregoing.

10.8 *Additional Disruption Events:*

- (a) Following the occurrence of an Additional Disruption Event, the Issuer will, in its sole and absolute discretion, determine whether or not the relevant Warrants and Certificates shall continue or be redeemed early.
- (b) If the Issuer determines that the relevant Warrants or Certificates shall continue, the Determination Agent may make such adjustment as the Determination Agent, in its sole and absolute discretion, considers appropriate, if any, to any variable relevant to the redemption, settlement, or payment terms of the relevant Warrants or Certificates and/or any other adjustment which change or adjustment shall be effective on such date as the Determination Agent shall determine.
- (c) If the Issuer determines that the relevant Warrants or Certificates shall be terminated, then the Warrants or Certificates shall cease to be exercisable (or, in the case of any Warrants or Certificates which have been exercised, the entitlements of the respective exercising Securityholders to receive the relevant Commodity or payment of the Cash Settlement Amount pursuant to such exercise shall cease) as of such later date and the Issuer will pay an amount which the Determination Agent, in its sole and absolute discretion, determines is the fair value to the Securityholder of a Warrant or Certificate with terms that would preserve for the Securityholder the economic equivalent of any payment or delivery (assuming satisfaction of each applicable condition precedent) to which the Securityholder would have been entitled under the relevant Warrant or Certificate after that date but for the occurrence of such termination, less the cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related underlying hedging arrangements, the amount of such cost or loss being as determined by the Determination Agent in its sole and absolute discretion.
- (d) The Issuer shall as soon as reasonably practicable under the circumstances notify the Principal Securities Agent and the Determination Agent of the occurrence of an Additional Disruption Event.
- (e) For the purposes hereof:  
  

**"Additional Disruption Event"** means with respect to any Series of Warrants or Certificates (unless otherwise specified in the applicable Pricing Supplement) a Change in Law, Hedging Disruption, Increased Cost of Hedging and any further event or events as may be specified in the applicable Pricing Supplement as an Additional Disruption Event with respect to such Warrants or Certificates.

10.9 *In relation to Commodity Securities, the following expressions have the meanings set out below:*

**"Adjustment Payment"** means, in respect of any Security, the payment (if any) determined by the Determination Agent as is required in order to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value to or from the Issuer as a result of the replacement of the Commodity Index by the Alternative Pre-nominated Index;

**"Basket"** means a basket composed of each Commodity specified in the applicable Pricing Supplement;

**"Change in Law"** means that, on or after the Trade Date (A) due to the adoption of or any change in any applicable law or regulation (including, without limitation, any tax law), or (B) due to the promulgation of or any change in the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law or regulation (including any action taken by a taxing authority), the Issuer determines that (x) it has become illegal to hold, acquire or dispose of Hedge Positions or (y) it will incur a materially increased cost in performing its obligations with respect to the Warrants or Certificates (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on its tax position);

**"Commodity"** means each commodity specified in the applicable Pricing Supplement;

**"Commodity Business Day"** means:

- (a) in the case where the Commodity Reference Price is a price announced or published by an Exchange, a day that is (or, but for the occurrence of a Commodity Disruption Event, would have been) a day on which the Exchange is open for trading during its regular trading session; and
- (b) in the case where the Commodity Reference Price is not a price announced or published by an Exchange, a day in respect of which the relevant Price Source published (or, but for the occurrence of a Commodity Disruption Event, would have published) a price;

**"Commodity Index"** means an index comprising commodities specified as such in the applicable Pricing Supplement;

**"Commodity Index Adjustment Event"** means, in respect of a Commodity Index, a Commodity Index Cancellation, a Commodity Index Disruption or a Commodity Index Modification;

**"Commodity Reference Price"** means the commodity reference price(s) specified in the applicable Pricing Supplement;

**"Component"** means, in respect of a Commodity Index, each commodity or Futures Contract comprising such Commodity Index;

**"Delivery Date"** means the relevant date or month for delivery of the underlying Commodity (which must be a date or month reported or capable of being determined from information reported in or by the relevant Price Source) as specified in, or determined in accordance with the provisions in, the applicable Pricing Supplement. In relation to any underlying Commodity which is specified in the applicable Pricing Supplement to be a **"Non Metal"** and each Pricing Date, the relevant Delivery Date shall be the month of expiration of the first Futures Contract to expire following such Pricing Date. In relation to any underlying Commodity which is specified in the applicable Pricing Supplement to be a **"Base Metal"** or a **"Precious Metal"** and each Pricing Date, the Delivery Date shall be such Pricing Date;

**"DJ-UBS Commodity Index"** means the Dow Jones-UBS Commodity Index and any other Commodity Index, in each case which is calculated and sponsored by Dow Jones Inc, or any successor to such sponsor;

**"DJ-UBSCI Manual"** means the manual or handbook in respect of a DJ-UBS Commodity Index published by the sponsor of the relevant Commodity Index and in effect from time to time;

**"Exchange"** means each exchange or principal trading market specified in the applicable Pricing Supplement, or any successor to such exchange or principal trading market;

**"Futures Contract"** means either (a) the contract for future delivery in respect of the relevant Delivery Date relating to the relevant Commodity referred to in the relevant Commodity Reference Price or (b) each futures contract underlying or included in a Commodity Index;

**"Hedge Positions"** means any purchase, sale, entry into or maintenance of one or more (i) positions or contracts in securities, commodities, options, futures, derivatives or foreign exchange, (ii) stock loan transactions or (iii) other instruments or arrangements (howsoever described) by a party in order to hedge, individually or on a portfolio basis, the Warrants or Certificates;

**"Hedging Disruption"** means that the Issuer is unable, after using commercially reasonable efforts, to (A) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the risk of entering into and performing its obligations under the Warrants or Certificates, or (B) realise, recover or remit the proceeds of any such transactions or asset(s);

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



**"Index Methodology"** means the manual or handbook in respect of an S&P Commodity Index published by the sponsor of the relevant Commodity Index and in effect from time to time;

**"Price Source"** means the publication (or such other origin of reference, including an Exchange) containing (or reporting) the Specified Price (or prices from which the Specified Price is calculated) specified in the applicable Pricing Supplement;

**"Pricing Date"** means each date specified as such (or determined pursuant to a method specified for such purpose) in the applicable Pricing Supplement;

**"Relevant Commodity Benchmark"** means:

- (a) the Commodity Reference Price (or, if applicable, the index, benchmark or other price source that is referred to in the Commodity Reference Price);
- (b) the Commodity Index; and
- (c) any other index, benchmark or price source specified as such in the applicable Pricing Supplement.

To the extent that a Fallback Reference Price is used, such Fallback Reference Price shall be a "Relevant Benchmark" from the day on which it is used;

**"Relevant Price"** on any day means, in respect of a unit of measure of the Commodity to which a Commodity Security relates, the price, expressed as a price per unit, determined by the Determination Agent as provided in the applicable Pricing Supplement with respect to such day for the specified Commodity Reference Price; and

**"S&P Commodity Index"** means the S&P GSCI Commodity Index and any other Commodity Index, in each case which is calculated and sponsored by Standard & Poor's, or any successor to such sponsor;

**"Specified Price"** means any of the following prices of a Commodity or Commodities or levels of a Commodity Index (which must be a price reported or capable of being determined from information reported in or by the relevant Price Source), as specified in the applicable Pricing Supplement (and, if applicable, as of the time so specified) (a) the high price, (b) the low price, (c) the average of the high price and the low price, (d) the closing price, (e) the opening price, (f) the bid price, (g) the asked price, (h) the average of the bid price and the asked price, (i) the settlement price, (j) the official settlement price (which shall be the Specified Price for any Commodity Index, and for any Commodity specified in the applicable Pricing Supplement as a **"Non Metal"**), (k) the official price, (l) the morning fixing, (m) the afternoon fixing (which shall be the Specified Price in respect of any Commodity specified in the applicable Pricing Supplement as a **"Precious Metal"**), (n) the spot price or (o) any other price specified in the applicable Pricing Supplement. The Specified Price for any Commodity specified in the applicable Pricing Supplement as a "Precious Metal" shall be the official cash bid price.

## 11. PROVISIONS RELATING TO PHYSICAL SETTLEMENT SECURITIES

This Condition 11 (*Provisions relating to Physical Settlement Securities*) is applicable only in relation to Warrants or Certificates specified in the applicable Pricing Supplement as being Physical Settlement Securities.

### 11.1 *Settlement Disruption:*

- (a) The Determination Agent shall determine, acting in a commercially reasonable manner, whether or not at any time a Settlement Disruption Event has occurred and where it determines such an event has occurred and so has prevented delivery of Underlying Securities on the original day that but for such Settlement Disruption Event would have been the Physical Settlement Date, then the Physical Settlement Date will be the first succeeding day on which delivery of such Underlying Securities can take place through the relevant Clearing System unless a Settlement Disruption Event prevents settlement on each of the 10 relevant Clearing System Business Days immediately following the original date or during such other period specified in the applicable Pricing Supplement that, but for the Settlement Disruption Event, would have been the Physical Settlement Date. In that case, if the

Underlying Securities are bonds or other debt securities, the Issuer shall use reasonable efforts to deliver such Underlying Securities promptly thereafter in a commercially reasonable manner outside the relevant Clearing System or exchange on a delivery versus payment basis, and in all other cases: (a) if such Underlying Securities can be delivered in any other commercially reasonable manner, then the Physical Settlement Date will be the first day on which settlement of a sale of Underlying Securities executed on that 10th relevant Clearing System Business Day, or during such other period specified in the applicable Pricing Supplement, customarily would take place using such other commercially reasonable manner of delivery (which other manner of delivery will be deemed the relevant Clearing System for the purpose of delivery of the relevant Underlying Securities), and (b) if such Underlying Securities cannot be delivered in any other commercially reasonable manner, then the Physical Settlement Date will be postponed until delivery can be effected through the relevant Clearing System or in any other commercially reasonable manner, as determined by the Determination Agent.

- (b) For the avoidance of doubt, where a Settlement Disruption Event affects some but not all of the Underlying Securities comprised in a Basket, the Physical Settlement Date for Underlying Securities not affected by the Settlement Disruption Event will be the first day on which settlement of a sale of such Underlying Securities executed on that Exercise Date customarily would take place through the relevant Clearing System. In the event that a Settlement Disruption Event will result in the delivery on a Physical Settlement Date of some but not all of the Underlying Securities comprised in a Basket, the Determination Agent shall determine in its sole and absolute discretion the appropriate *pro rata* portion of the Strike Price (if any) to be paid by the relevant party in respect of that partial settlement.
- (c) For the purposes hereof, "**Settlement Disruption Event**" in relation to an Underlying Security means an event beyond the control of the Issuer as a result of which or following which the relevant Clearing System cannot clear the transfer or otherwise prevents the settlement of such Underlying Security.

#### 11.2 *Delivery Disruption:*

- (a) If the Determination Agent determines, acting in a commercially reasonable manner, that a Delivery Disruption Event has occurred and the Determination Agent has notified the Issuer, the Principal Securities Agent and the relevant Securityholder(s) within one Clearing System Business Day of the relevant Exercise Date to that effect, then the Issuer may:
  - (i) determine, in its sole and absolute discretion, that the obligation to deliver the relevant Underlying Securities will be terminated and the Issuer will pay an amount which the Determination Agent, in its sole and absolute discretion, determines is the fair value to the Securityholder of a Warrant or Certificate with terms that would preserve for the Securityholder the economic equivalent of the relevant delivery (assuming satisfaction of each applicable condition precedent) to which the Securityholder would have been entitled under the relevant Warrant or Certificate after that date but for the occurrence of such Delivery Disruption Event, less the cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related underlying hedging arrangements, the amount of such cost or loss being as determined by the Determination Agent in its sole and absolute discretion, in which event the entitlements of the respective exercising Securityholders to receive Underlying Securities pursuant to such exercise shall cease and the Issuer's obligations under the Warrants or Certificates shall be satisfied in full upon payment of such amount; or
  - (ii) deliver on the Physical Settlement Date such number of Underlying Securities (if any) as it can deliver on that date and pay an amount, as determined by the Determination Agent in its sole and absolute discretion, which shall seek to preserve for the Securityholder the economic equivalent of the delivery of the remainder of Underlying Securities (assuming satisfaction of each applicable condition precedent) to which the Securityholder would have been entitled under the relevant Warrant or Certificate after that date but for the occurrence of such Delivery Disruption Event, in which event the entitlements of the respective exercising Securityholders to receive Underlying Securities pursuant to such exercise shall cease and the Issuer's obligations under the Warrants or Certificates shall be satisfied in full upon delivery of such number of Underlying Securities and payment of such amount.

- (b) For the purposes hereof, "**Delivery Disruption Event**" means the failure by the Issuer or the Principal Securities Agent to deliver on the relevant Physical Settlement Date the requisite number of relevant Underlying Securities under the relevant Warrant or Certificate which is due to illiquidity in the market for such Underlying Securities.

## 12. INFLATION SECURITIES

This Condition 12 (*Inflation Securities*) is applicable only in relation to Warrants and Certificates specified in the applicable Pricing Supplement as being Inflation Securities.

### 12.1 *Delay of Publication:*

If any level of an Index for a Reference Month which is relevant to the calculation of a an amount payable under the Warrants or Certificates (a "**Relevant Level**") has not been published or announced by the day that is five Business Days prior to the next Exercise Date under the Warrants or Certificates, the Determination Agent shall determine a Substitute Index Level (in place of such Relevant Level) in a commercially reasonable manner in its sole discretion. If a Relevant Level is published or announced at any time after the day that is five Business Days prior to the next Exercise Date, such Relevant Level will not be used in any calculations. The Substitute Index Level so determined pursuant to this Condition 12.1 (*Delay of Publication*), will be the definitive level for that Reference Month.

### 12.2 *Cessation of Publication:*

If a level for the Index has not been published or announced for two consecutive months or the Index Sponsor announces that it will no longer continue to publish or announce the Index then the Determination Agent shall determine a Successor Index (in lieu of any previously applicable Index) for the purposes of the Warrants or Certificates by using the following methodology:

- (a) If at any time a Successor Index has been designated by the calculation agent of the Related Bond pursuant to the terms and conditions of the Related Bond, such Successor Index shall be designated a "Successor Index" for the purposes of all subsequent Exercise Dates in relation to the Warrants or Certificates, notwithstanding that any other Successor Index may previously have been determined under Conditions 12.2(b), 12.2(c) or 12.2(d) below; or
- (b) If a Successor Index has not been determined under Condition 12.2(a) above and a notice has been given or an announcement has been made by the Index Sponsor, specifying that the Index will be superseded by a replacement index specified by the Index Sponsor, and the Determination Agent determines that such replacement index is calculated using the same or substantially similar formula or method of calculation as used in the calculation of the previously applicable Index, such replacement index shall be the Index for purposes of the Warrants or Certificates from the date that such replacement index comes into effect; or
- (c) If a Successor Index has not been determined under Condition 12.2(a) or 12.2(b) above, the Determination Agent shall ask five leading independent dealers to state what the replacement Index for the Index should be. If between four and five responses are received, and of those four or five responses, three or more leading independent dealers state the same Index, this Index will be deemed the "Successor Index". If three responses are received, and two or more leading independent dealers state the same Index, this Index will be deemed the "Successor Index". If fewer than three responses are received, the Determination Agent will proceed to Condition 12.2(d) below;
- (d) If no Successor Inflation Index has been determined under Condition 12.2(a), 12.2(b) or 12.2(c) (*Cessation of Publication*) by the fifth Business Day prior to the next Affected Payment Date, the Determination Agent will determine an appropriate alternative index for such Affected Payment Date, and such index will be deemed a "Successor Inflation Index"; or
- (e) If the Determination Agent determines that there is no appropriate alternative index, the Issuer shall terminate the relevant Warrants or Certificates, which shall cease to be exercisable (or, in the case of any Warrants or Certificates which have been exercised, the entitlements of the respective exercising Securityholders to receive payment of the Cash Settlement Amount pursuant to such exercise shall cease) and the Issuer will pay an amount in respect of each Warrant or Certificate which the

Determination Agent, in its sole and absolute discretion, determines is the fair value to the Securityholder of a Warrant or Certificate with terms that would preserve for the Securityholder the economic equivalent of any payment or delivery (assuming satisfaction of each applicable condition precedent) to which the Securityholder would have been entitled under the relevant Warrant or Certificate after that date but for the occurrence of such termination, less the cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related underlying hedging arrangements, the amount of such cost or loss being as determined by the Determination Agent in its sole and absolute discretion.

The Issuer's obligations under the relevant Warrants or Certificates shall be satisfied in full upon payment of such amount.

12.3 *Rebasing of the Index:*

If the Determination Agent determines that an Index has been or will be rebased at any time, the Index as so rebased (the "**Rebased Index**") will be used for purposes of determining the level of such Index from the date of such rebasing; provided, however, that the Determination Agent shall make such adjustments as are made by the calculation agent of the Related Bond pursuant to the terms and conditions of the Related Bond, if any, to the levels of the Rebased Index so that the Rebased Index levels reflect the same rate of inflation as the Index before it was rebased. If there is no Related Bond, the Determination Agent shall make adjustments to the levels of the Rebased Index so that the Rebased Index levels reflect the same rate of inflation as the Index before it was rebased. Any such rebasing shall not affect any prior payments made under the Warrants or Certificates.

12.4 *Material Modification Prior to Payment Date:*

If, on or prior to the day that is five Business Days before an Exercise Date, an Index Sponsor announces that it will make a material change to an Index then the Determination Agent shall make any such adjustments to the Index consistent with adjustments made to the Related Bond, or, if there is no Related Bond, only those adjustments necessary for the modified Index to continue as the Index.

12.5 *Manifest Error in Publication:*

If, within thirty days of publication and prior to the Expiration Date or payments in respect of any relevant Exercise Date, the Determination Agent determines that the Index Sponsor has corrected the level of the Index to remedy a manifest error in its original publication, the Determination Agent will notify the holders of the Warrants or Certificates in accordance with Condition 24 (*Notices*) of (i) that correction, (ii) the adjusted amount that is then payable under the Warrant or Certificates as a result of that correction and (iii) take such other action as it may deem necessary to give effect to such correction, provided that any amount payable pursuant to (ii) above shall be paid (with no interest accruing thereon) (a) in connection with an Index Sponsor's correction to remedy a manifest error in the level of an Index for a Reference Month for which the Specified Interest Payment Date has occurred, within five Business Days after notice of such amount payable by the Determination Agent, (b) in connection with an Index Sponsor's correction to remedy a manifest error in the level of an Index for a Reference Month for which the Specified Interest Payment Date has not occurred, as an adjustment to the payment obligation on the next Specified Interest Payment Date or (c) if there is no further Specified Interest Payment Date, within five Business Days after notice of such amount payable by the Determination Agent.

12.6 *Additional Disruption Events:*

- (a) Following the occurrence of an Additional Disruption Event, the Issuer will, in its sole and absolute discretion, determine whether or not the relevant Warrants and Certificates shall continue or be redeemed early.
- (b) If the Issuer determines that the relevant Warrants or Certificates shall continue, the Determination Agent may make such adjustment as the Determination Agent, in its sole and absolute discretion, considers appropriate, if any, to any variable relevant to the redemption, settlement, or payment terms of the relevant Warrants or Certificates and/or any other adjustment which change or adjustment shall be effective on such date as the Determination Agent shall determine.

- (c) If the Issuer determines that the relevant Warrants or Certificates shall be terminated, then the Warrants or Certificates shall cease to be exercisable (or, in the case of any Warrants or Certificates which have been exercised, the entitlements of the respective exercising Securityholders to receive payment of the Cash Settlement Amount pursuant to such exercise shall cease) as of such later date and the Issuer will pay an amount which the Determination Agent, in its sole and absolute discretion, determines is the fair value to the Securityholder of a Warrant or Certificate with terms that would preserve for the Securityholder the economic equivalent of any payment or delivery (assuming satisfaction of each applicable condition precedent) to which the Securityholder would have been entitled under the relevant Warrant or Certificate after that date but for the occurrence of such termination, less the cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related underlying hedging arrangements, the amount of such cost or loss being as determined by the Determination Agent in its sole and absolute discretion.
- (d) The Issuer shall as soon as reasonably practicable under the circumstances notify the Principal Securities Agent and the Determination Agent of the occurrence of an Additional Disruption Event.
- (e) For the purposes hereof:

**"Additional Disruption Event"** means with respect to any Series of Warrants or Certificates (unless otherwise specified in the applicable Pricing Supplement) a Change in Law, Hedging Disruption, Increased Cost of Hedging and any further event or events as may be specified in the applicable Pricing Supplement as an Additional Disruption Event with respect to such Warrants or Certificates.

#### 12.7 *Definitions Applicable to Inflation Securities:*

In relation to Inflation Securities the following expressions have the meanings set out below:

**"Affected Exercise Date"** means each Exercise Date in respect of which an Index has not been published or announced;

**"Change in Law"** means that, on or after the Trade Date (A) due to the adoption of or any change in any applicable law or regulation (including, without limitation, any tax law), or (B) due to the promulgation of or any change in the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law or regulation (including any action taken by a taxing authority), the Issuer determines that (x) it has become illegal to hold, acquire or dispose of Hedge Positions or (y) it will incur a materially increased cost in performing its obligations with respect to the Warrants or Certificates (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on its tax position);

**"Fallback Bond"** means a bond selected by the Determination Agent and issued by the government of the country to whose level of inflation the Index relates and which pays a coupon or redemption amount which is calculated by reference to the Index, with a maturity date which falls on (a) the same date as the Settlement Election Date, (b) the next longest maturity after the Settlement Election Date or (c) the next shortest maturity before the Settlement Election Date if no bond is defined in (a) and (b) is selected by the Determination Agent. If the Index relates to the level of inflation across the European Monetary Union, the Determination Agent will select an inflation-linked bond that is a debt obligation of one of the governments (but not any government agency) of France, Italy, Germany or Spain and which pays a coupon or redemption amount which is calculated by reference to the level of inflation in the European Monetary Union. In each case, the Determination Agent will select the Fallback Bond from those inflation-linked bonds issued on or before the Settlement Date and, if there is more than one inflation-linked bond maturing on the same date, the Fallback Bond shall be selected by the Determination Agent from those bonds. If the Fallback Bond redeems the Determination Agent will select a new Fallback Bond on the same basis, but selected from all eligible bonds in issue at the time the original Fallback Bond redeems (including any bond for which the redeemed bond is exchanged);

**"Hedge Positions"** means any purchase, sale, entry into or maintenance of one or more (i) positions or contracts in securities, commodities, options, futures, derivatives or foreign exchange, (ii) stock loan transactions or (iii) other instruments or arrangements (howsoever described) by a party in order to hedge, individually or on a portfolio basis, the Warrants or Certificates;

**"Hedging Disruption"** means that the Issuer is unable, after using commercially reasonable efforts, to (A) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the risk of entering into and performing its obligations under the Warrants or Certificates, or (B) realise, recover or remit the proceeds of any such transactions or asset(s);

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

**"Index"** means any index specified as such in the applicable Pricing Supplement;

**"Index Sponsor"** means, in respect of an Index, the corporation or other entity that (a) is responsible for setting and reviewing the rules and procedures and methods of calculation and adjustments, if any, related to the relevant Index and (b) announces (directly or through an agent) the level of the relevant Index on a regular basis during each Scheduled Trading Day;

**"Reference Month"** means the calendar month for which the level of the relevant Index was reported, regardless of when this information is published or announced. If the period for which the Index level was reported is a period other than a month, the Reference Month will be the period for which the Index level was reported;

**"Related Bond"** means the bond specified in the applicable Pricing Supplement, or if no bond is so specified, the Fallback Bond. If the Related Bond is "Fallback Bond", then for any Related Bond determination under these Conditions, the Determination Agent shall use the Fallback Bond (as that is defined in this Condition 12.7 (*Definitions Applicable to Inflation Securities*) herein). If no bond is specified in the applicable Pricing Supplement as the Related Bond and "Fallback Bond: Not Applicable" is specified in the applicable Pricing Supplement there will be no Related Bond. If a bond is selected as the Related Bond in the applicable Pricing Supplement, and that bond redeems or matures before the relevant Expiration Date, unless "Fallback Bond: Not Applicable" is specified in the applicable Pricing Supplement, the Determination Agent shall use the Fallback Bond for any Related Bond determination;

**"Substitute Index Level"** means an Index level, determined by the Determination Agent pursuant to the provisions of Condition 12.1 (*Delay of Publication*), in respect of an Affected Exercise Date; and

**"Successor Index"** has the meaning specified in Condition 12.2 (*Cessation of Publication*).

### 13. PROPERTY SECURITIES

This Condition 13 (*Property Securities*) is applicable only in relation to Warrants or Certificates specified in the applicable Pricing Supplement as being Property Securities

#### 13.1 *Rebasing of the Property Index:*

If the Determination Agent determines that an Index has been or will be Rebased at any time (the Property Index as so Rebased, the **"Rebased Property Index"**), the Rebased Property Index will be used for the purposes of determining the level of the Property Index from the date of such Rebasing, provided however, that the Determination Agent shall adjust the terms of the Warrants or Certificates so that the use of the Rebased Property Index reflects what would have been the performance of the Index had the Rebasing not occurred save that any such Rebasing shall not affect any prior payments under the Warrants or Certificates.

#### 13.2 *Error in Publication:*

If the Determination Agent determines that an Error in Publication has occurred with respect to the Property Index, the Determination Agent may (a) use the corrected level of the Property Index to make any relevant calculations and/or (b) make any necessary adjustments to the relevant Property Index Level and such other

terms of the Warrants or Certificates as it in its sole and absolute discretion determines to be appropriate to account for such Error in Publication.

For these purposes:

An "**Error in Publication**" will occur if the Property Index Sponsor announces that an error has occurred with respect to the Property Index Level as published on any Publication Date; the Property Index Level for such Publication Date is corrected to remedy such error; and the correction is published by the Index Sponsor at any time prior to the next following Scheduled Publication Date or if earlier any relevant determination date. An Error in Publication will not include a routine revision in the level of the Index in a regularly scheduled republication of the Index.

13.3 *Determination Agent Unable to Perform Actions:*

If it (a) is or would be unlawful at any time under any applicable law or regulation or (b) would contravene any applicable licensing requirements, for the Determination Agent to perform the actions prescribed in Condition 13.2 (*Error in Publication*), then the Issuer shall terminate the relevant Warrants or Certificates, which shall cease to be exercisable (or, in the case of any Warrants or Certificates which have been exercised, the entitlements of the respective exercising Securityholders to receive payment of the Cash Settlement Amount pursuant to such exercise shall cease) and the Issuer will pay an amount in respect of each Warrant or Certificate which the Determination Agent, in its sole and absolute discretion, determines is the fair value to the Securityholder of a Warrant or Certificate with terms that would preserve for the Securityholder the economic equivalent of any payment or delivery (assuming satisfaction of each applicable condition precedent) to which the Securityholder would have been entitled under the relevant Warrant or Certificate after that date but for the occurrence of such termination, less the cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related underlying hedging arrangements, the amount of such cost or loss being as determined by the Determination Agent in its sole and absolute discretion.

The Issuer's obligations under the relevant Warrants or Certificates shall be satisfied in full upon payment of such amount.

13.4 *Notification of Inability to Perform Actions:*

The Determination Agent shall as soon as reasonably practicable under the circumstances notify the Issuer, the Fiscal Agent and the Securityholders of the occurrence of the event described in Condition 13.3 (*Determination Agent Unable to Perform Actions*) and of any action taken as a consequence, provided that any failure to give such notice shall not affect the validity of the foregoing.

13.5 *Property Index Cancellation or Administrator/Benchmark Event Date:*

If, for a Property Index and with respect to a Property Index Level, on or prior to the settlement date or early settlement date of the Warrants or Certificates, either (a) the Property Index Sponsor permanently cancels the Property Index and no Replacement Property Index exists (a "**Property Index Cancellation**") or (b) the applicable Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and an Administrator/Benchmark Event and an Administrator/Benchmark Event Date occurs in respect of such Property Index, then:

- (i) If the applicable Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and if an Alternative Pre-nominated Index has been specified in relation to such Property Index in the applicable Pricing Supplement, then:
  - (A) the Determination Agent shall attempt to determine an Adjustment Payment;
  - (B) if the Determination Agent determines an Adjustment Payment,
    - (1) it shall notify the Issuer of the Adjustment Payment and if the Adjustment Payment is an amount that the Securityholder would (but for Condition 13.5(i)(B)(3)(b)) be required to pay to the Issuer in respect of each Security, request the Issuer to notify the Determination Agent whether it intends to

terminate the Warrants or Certificates pursuant to Condition 13.8 (*Property Index Adjustment Event*). If the Issuer does not intend to terminate the Warrants or Certificates pursuant to Condition 13.8 (*Property Index Adjustment Event*) then the following provisions of this Condition 13.5(i) shall apply;

- (2) the terms of the Warrants or Certificates shall be amended so that references to the Property Index are replaced by references to the Alternative Pre-nominated Index;
- (3) the Conditions shall be adjusted to implement the Adjustment Payment as follows:
  - (a) if the Adjustment Payment is an amount that the Issuer is required to pay in respect of each Security, the Determination Agent shall adjust the Conditions to provide for the payment of the Adjustment Payment on the date on which the Warrants or Certificates are settled in full; or
  - (b) if the Adjustment Payment is an amount that the Securityholder would (but for this Condition 13.5(i)(B)(3)(b)) be required to pay to the Issuer in respect of each Security, the Determination Agent shall adjust the Conditions to provide for the reduction of the amounts due by the Issuer until the aggregate amount of such reductions is equal to the Adjustment Payment, (subject, in the determination of the Determination Agent, to any minimum settlement amount of the Warrants or Certificates which the Determination Agent determines is required pursuant to any applicable law or regulation (including, without limitation, any tax law) and the rules of each listing authority, stock exchange and/or quotation system by which the Warrants or Certificates have then been admitted to listing, trading and/or quotation);
- (4) the Determination Agent shall make such other adjustments to the Conditions as it determines necessary or appropriate in order to account for the effect of the replacement of the Property Index with the Alternative Pre-nominated Index and/or to preserve as nearly as practicable the economic equivalence of the Warrants or Certificates before and after the replacement of the Property Index with the Alternative Pre-nominated Index; and
- (5) the Determination Agent shall notify the Issuer, the Fiscal Agent and the Securityholders of any replacement of the Property Index by the Alternative Pre-nominated Index, the Adjustment Payment and any other adjustments to the Conditions, giving summary details of the adjustment(s), provided that any failure to give such notice shall not affect the validity of the foregoing.
- (C) If the Determination Agent is unable to determine an Adjustment Payment, then a Property Index Disruption Event shall be deemed to have occurred and Condition 13.8 (*Property Index Adjustment Event*) shall apply.
- (ii) If the applicable Pricing Supplement does not specify that the Benchmark Trigger Provisions are applicable or, if the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable but does not specify an Alternative Pre-nominated Index in relation to the Relevant Property Index Benchmark, then a Property Index Disruption Event shall be deemed to have occurred and Condition 13.8 (*Property Index Adjustment Event*) shall apply.

#### 13.6 *Delay in Publication:*

If the Property Index Level has not been announced by the Scheduled Publication Date or if earlier any relevant determination date, the following will apply:

- (a) if the Property Index Sponsor publishes a provisional Property Index Level prior to the next Scheduled Publication Date or if earlier any relevant determination date, such provisional level of the Property Index for that Measurement Period shall apply for the purposes of the Warrants or Certificates; or



- (b) if the Property Index Sponsor fails to publish the Property Index Level prior to the next occurring Scheduled Publication Date or if earlier any relevant determination date, in circumstances other than those described in Condition 13.5 (*Property Index Cancellation or Administrator/Benchmark Event Date*), a Property Index Disruption Event shall be deemed to have occurred and Condition 13.8 (*Property Index Adjustment Event*) shall apply.

13.7 *Methodology Adjustment:*

If the Property Index Sponsor announces that it has changed the methodology in calculating a Property Index and:

- (a) continues publication of a property index based on the original methodology (the "**Replacement Property Index**"), such Replacement Property Index shall apply in lieu of the original Property Index in relation to the Warrants or Certificates; or
- (b) discontinues publication of the Property Index based on the original Computational Methodology, a Property Index Disruption Event shall be deemed to have occurred and the procedure set out in Condition 13.8 (*Property Index Adjustment Event*) shall apply.

13.8 *Property Index Adjustment Event:*

If:

- (a) a Property Index Cancellation occurs and the Pricing Supplement does not specify that the Benchmark Trigger Provisions are applicable;
- (b) a Property Index Cancellation or an Administrator/Benchmark Event Date occurs in respect of a Property Index, the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable but does not specify an Alternative Pre-nominated Index;
- (c) a Property Index Cancellation or an Administrator/Benchmark Event Date occurs in respect of a Property Index, the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and specifies an Alternative Pre-nominated Index but the Determination Agent is unable to determine the Adjustment Payment;
- (d) a Property Index Cancellation or an Administrator/Benchmark Event Date occurs in respect of a Property Index, the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and specifies an Alternative Pre-nominated Index and the Determination Agent determines that the Adjustment Payment would be an amount that the Securityholder would (but for Condition 13.5(i)(B)(3)(b)) be required to pay to the Issuer in respect of each Security; or
- (e) a Property Index Disruption Event occurs,

then the Issuer shall, in its sole and absolute discretion, determine whether or not the relevant Warrants or Certificates shall continue or be terminated early. If the Issuer determines that the relevant Warrants or Certificates shall continue, the Determination Agent may make such adjustment as the Determination Agent, in its sole and absolute discretion, considers appropriate, to preserve the economic value of the Warrants or Certificates. If the Issuer determines that the Warrants or Certificates shall be terminated early, then the relevant Warrants or Certificates shall cease to be exercisable (or, in the case of any Warrants or Certificates which have been exercised, the entitlements of the respective exercising Securityholders to receive payment of the Cash Settlement Amount pursuant to such exercise shall cease) and the Issuer will pay an amount in respect of each Warrant or Certificate which the Determination Agent, in its sole and absolute discretion, determines is the fair value to the Securityholder of a Warrant or Certificate with terms that would preserve for the Securityholder the economic equivalent of any payment or delivery (assuming satisfaction of each applicable condition precedent) to which the Securityholder would have been entitled under the relevant Warrant or Certificate after that date but for the occurrence of such termination, less the cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related underlying hedging arrangements, the amount of such cost or loss being as determined by the Determination Agent in its sole and absolute discretion.

The Issuer's obligations under the relevant Warrants or Certificates shall be satisfied in full upon payment of such amount.

If the Issuer determines that the relevant Warrants or Certificates shall continue, the Determination Agent may make such adjustment as the Determination Agent, in its sole and absolute discretion, considers appropriate, if any, to any variable relevant to the exercise, settlement or payment terms of the relevant Warrants or Certificates and/or any other adjustment, which change or adjustment shall be effective on such date as the Determination Agent shall determine. The Determination Agent shall provide notice to the Securityholders of any such change or adjustment, giving summary details of the relevant change or adjustment, as soon as reasonably practicable provided that any failure to give such notice shall not affect the validity of any such change or adjustment.

13.9 *Notification of Property Index Adjustment Event:*

The Determination Agent shall as soon as reasonably practicable under the circumstances notify the Issuer, the Fiscal Agent and the Securityholders of the occurrence of a Property Index Adjustment Event and of any action taken as a consequence, provided that any failure to give such notice shall not affect the validity of the foregoing.

13.10 *Additional Disruption Events:*

- (a) Following the occurrence of an Additional Disruption Event, the Issuer will, in its sole and absolute discretion, determine whether or not the relevant Warrants and Certificates shall continue or be redeemed early.
- (b) If the Issuer determines that the relevant Warrants or Certificates shall continue, the Determination Agent may make such adjustment as the Determination Agent, in its sole and absolute discretion, considers appropriate, if any, to any variable relevant to the redemption, settlement, or payment terms of the relevant Warrants or Certificates and/or any other adjustment which change or adjustment shall be effective on such date as the Determination Agent shall determine.
- (c) If the Issuer determines that the relevant Warrants or Certificates shall be terminated, then the Warrants or Certificates shall cease to be exercisable (or, in the case of any Warrants or Certificates which have been exercised, the entitlements of the respective exercising Securityholders to receive payment of the Cash Settlement Amount pursuant to such exercise shall cease) as of such later date and the Issuer will pay an amount which the Determination Agent, in its sole and absolute discretion, determines is the fair value to the Securityholder of a Warrant or Certificate with terms that would preserve for the Securityholder the economic equivalent of any payment or delivery (assuming satisfaction of each applicable condition precedent) to which the Securityholder would have been entitled under the relevant Warrant or Certificate after that date but for the occurrence of such termination, less the cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related underlying hedging arrangements, the amount of such cost or loss being as determined by the Determination Agent in its sole and absolute discretion.
- (d) The Issuer shall as soon as reasonably practicable under the circumstances notify the Principal Securities Agent and the Determination Agent of the occurrence of an Additional Disruption Event.
- (e) For the purposes hereof:

**"Additional Disruption Event"** means with respect to any Series of Warrants or Certificates (unless otherwise specified in the applicable Pricing Supplement) a Change in Law, Hedging Disruption, Increased Cost of Hedging and any further event or events as may be specified in the applicable Pricing Supplement as an Additional Disruption Event with respect to such Warrants or Certificates.

13.11 *Definitions Applicable to Property Securities:*

In relation to Property Securities, the following expressions have the meanings set out below:

**"Adjustment Payment"** means, in respect of any Security, the payment (if any) determined by the Determination Agent as is required in order to reduce or eliminate, to the extent reasonably practicable, any

transfer of economic value to or from the Issuer as a result of the replacement of the Property Index by the Alternative Pre-nominated Index;

**"Change in Law"** means that, on or after the Trade Date (A) due to the adoption of or any change in any applicable law or regulation (including, without limitation, any tax law), or (B) due to the promulgation of or any change in the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law or regulation (including any action taken by a taxing authority), the Issuer determines that (x) it has become illegal to hold, acquire or dispose of Hedge Positions or (y) it will incur a materially increased cost in performing its obligations with respect to the Warrants or Certificates (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on its tax position);

**"Data Pool"** means the pool of properties underlying a Property Index.

**"Hedge Positions"** means any purchase, sale, entry into or maintenance of one or more (i) positions or contracts in securities, commodities, options, futures, derivatives or foreign exchange, (ii) stock loan transactions or (iii) other instruments or arrangements (howsoever described) by a party in order to hedge, individually or on a portfolio basis, the Warrants or Certificates;

**"Hedging Disruption"** means that the Issuer is unable, after using commercially reasonable efforts, to (A) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the risk of entering into and performing its obligations under the Warrants or Certificates, or (B) realise, recover or remit the proceeds of any such transactions or asset(s);

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

**"Property Index"** means any index specified as such in the applicable Pricing Supplement;

**"Property Index Adjustment Event"** means, in respect of a Property Index, any of the events listed in Condition 13.8 (*Property Index Adjustment Event*);

**"Property Index Disruption Event"** means, in respect of a Property Index, either of the events described in Condition 13.6(b) (*Delay in Publication*) or Condition 13.7(b) (*Methodology Adjustment*);

**"Property Index Level"** means the final level of the relevant Property Index for a specified period or a specified date (as set out in the Pricing Supplement), as published by the Property Index Sponsor (or otherwise determined as set out in the applicable Pricing Supplement);

**"Publication Date"** means, in respect of an Index, each date on which such Property Index is published by the Property Index Sponsor;

**"Rebasing"** means the revaluation of a Property Index by the Property Index Sponsor by the application of a new Reference Price, without amendment to the formula for or the method of calculating the Index, and "Rebased" will be construed accordingly;

**"Reference Price"** means the historic value of the Data Pool used by the Property Index Sponsor as the benchmark for a Property Index; and

**"Relevant Property Index Benchmark"** means the Property Index;

**"Scheduled Publication Date"** means the date on which the Property Index Level is scheduled to be published.

This Condition 14 (*Fund Securities*) shall apply only to Warrants or Certificates specified in the applicable Pricing Supplement as being Fund Securities or Fund Basket Securities.

14.1 *Reference Dates, Averaging Dates and Market Disruption:*

- (a) If a Reference Date is not a Fund Business Day, the relevant Reference Date shall be the next succeeding Fund Business Day or, if either "Common Fund Business Days and Common Disrupted Days" or "Common Fund Business Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement, the next succeeding Common Fund Business Day.
- (b) The Determination Agent shall as soon as reasonably practicable under the circumstances notify the Issuer of the occurrence of a Disrupted Day on any day that, but for the occurrence or continuance of a Disrupted Day, would have been a Reference Date.
- (c) If any Reference Date is a Disrupted Day, then:
  - (i) in the case of Fund Securities, the relevant Reference Date shall be the next succeeding Fund Business Day that is not in the determination of the Determination Agent a Disrupted Day, unless no Fund Business Day that is not a Disrupted Day has occurred prior to the last Fund Business Day of one Cut-off Period following the Scheduled Reference Date. In that case, (i) the last Fund Business Day of such Cut-off Period shall be deemed to be the Reference Date, notwithstanding the fact that such Fund Business Day is a Disrupted Day, and (ii) the Determination Agent shall determine its good faith estimate of the value for the Fund Interest as of the Valuation Time on that deemed Reference Date; or
  - (ii) in the case of Fund Basket Securities:
    - (A) where "Individual Fund Business Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement, if the Determination Agent determines that any Scheduled Reference Date is a Disrupted Day in respect of any Basket Component, then:
      - (1) the Reference Date for each Basket Component in respect of which the Scheduled Reference Date is not a Disrupted Day shall be the Scheduled Reference Date for such Basket Component; and
      - (2) the Reference Date for any Basket Component in respect of which the Scheduled Reference Date is a Disrupted Day (each an "**Affected Basket Component**") shall be the first Fund Business Day following the relevant Scheduled Reference Date that is not a Disrupted Day in respect of such Affected Basket Component, unless no Fund Business Day that is not a Disrupted Day has occurred prior to the last Fund Business Day of one Cut-off Period following the Scheduled Reference Date. In that case, (i) the last Fund Business Day of such Cut-off Period shall be deemed to be the Reference Date, notwithstanding the fact that such Fund Business Day is a Disrupted Day, and (ii) the Determination Agent shall determine its good faith estimate of the value for that Affected Basket Component as of the Valuation Time on that deemed Reference Date;
    - (B) where "Common Fund Business Days and Common Disrupted Days" is specified to be applicable in the applicable Pricing Supplement, then if the Determination Agent determines that any Scheduled Reference Date is a Disrupted Day in respect of any Basket Component, the Reference Date for each Basket Component shall be the first Common Fund Business Day following the relevant Scheduled Reference Date that is not a Disrupted Day in respect of any Basket Component, unless no Common Fund Business Day that is not a Disrupted Day has occurred prior to the last Fund Business Day of one Cut-off Period following the Scheduled Reference Date. In that case, (i) the last Fund Business Day of such Cut-off Period shall be deemed to be the Reference Date, notwithstanding the fact that such Fund Business Day is a Disrupted Day, and (ii) the Determination Agent shall determine its good

faith estimate of the value for each Basket Component as of the Valuation Time on that deemed Reference Date;

- (C) where "Common Fund Business Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement, if the Determination Agent determines that any Scheduled Reference Date is a Disrupted Day in respect of any Basket Component, then:
  - (1) the Reference Date for each Basket Component in respect of which the Scheduled Reference Date is not a Disrupted Day shall be the Scheduled Reference Date for such Basket Component; and
  - (2) the Reference Date for each Basket Component in respect of which the Scheduled Reference Date is a Disrupted Day (each an "**Affected Basket Component**") shall be the first Fund Business Day following the relevant Scheduled Reference Date that is not a Disrupted Day in respect of such Affected Basket Component, unless no Fund Business Day for such Basket Component that is not a Disrupted Day has occurred prior to the last Fund Business Day of one Cut-off Period following the Scheduled Reference Date. In that case, (i) the last Fund Business Day of such Cut-off Period shall be deemed to be the Reference Date, notwithstanding the fact that such Fund Business Day is a Disrupted Day, and (ii) the Determination Agent shall determine its good faith estimate of the value for that Affected Basket Component as of the Valuation Time on that deemed Reference Date;

In addition, the Determination Agent will account for such occurrence or continuance of a Disrupted Day as it sees fit which may include but is not limited to delaying calculation and payment of the Cash Settlement Amount and/or any other amounts payable under the Warrants or Certificates, and no interest or other amount shall be payable to Securityholders in respect of any such delay, or making the appropriate adjustment to the calculation of the Cash Settlement Amount and/or any such other amounts, all in the determination of the Determination Agent.

- (d) If Averaging Dates are specified in the applicable Pricing Supplement with respect to a Reference Date then, notwithstanding any other provisions of the Conditions, the following provisions will apply to the valuation of the relevant Fund Security or Fund Basket Security in relation to the relevant Reference Date:
  - (i) If, in respect of Fund Securities, any Averaging Date in respect of a Reference Date is a Disrupted Day, then the Averaging Date shall be the first succeeding Valid Date. If the first succeeding Valid Date has not occurred prior to one Cut-off Period following the original date that, but for the occurrence of another Averaging Date or Disrupted Day, would have been the final Averaging Date in respect of the relevant Scheduled Reference Date, then (1) the last day of such Cut-off Period shall be deemed the Averaging Date (irrespective of whether such day is already an Averaging Date), and (2) the Determination Agent shall determine its good faith estimate of the value for the Fund Interest as of the Valuation Time on that deemed Averaging Date; and
  - (ii) If, in the case of Fund Basket Securities, a Scheduled Averaging Date in respect of a Reference Date is determined by the Determination Agent to be a Disrupted Day in respect of any Basket Component, then:
    - (A) where "Individual Fund Business Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement:
      - (1) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is not a Disrupted Day shall be the Scheduled Averaging Date; and
      - (2) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is a Disrupted Day (each such Basket

Component, an "**Affected Basket Component**") shall be the first succeeding Valid Date in relation to such Affected Basket Component. If the first succeeding Valid Date has not occurred prior to one Cut-off Period following the original date that, but for the occurrence of another Averaging Date or Disrupted Day, would have been the final Averaging Date in respect of the relevant Scheduled Reference Date, then (1) the last day of such Cut-off Period shall be deemed the Averaging Date (irrespective of whether such day is already an Averaging Date notwithstanding the fact that such day may not be a Valid Date), and (2) the Determination Agent shall determine its good faith estimate of the value for that Affected Basket Component as of the Valuation Time on that deemed Averaging Date;

- (B) where "Common Fund Business Days and Common Disrupted Days" is specified to be applicable in the applicable Pricing Supplement, then the Averaging Date for each Basket Component shall be the first succeeding Common Valid Date. If the first succeeding Common Valid Date has not occurred prior to one Cut-off Period following the original date that, but for the occurrence of another Averaging Date or Disrupted Day, would have been the final Averaging Date in respect of the relevant Scheduled Reference Date, then (1) the last day of such Cut-off Period shall be deemed the Averaging Date (irrespective of whether such day is already an Averaging Date and notwithstanding the fact that such day may not be a Common Valid Date), and (2) the Determination Agent shall determine its good faith estimate of the value for each Basket Component as of the Valuation Time on that deemed Averaging Date;
- (C) where "Common Fund Business Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement:
  - (1) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is not a Disrupted Day shall be the Scheduled Averaging Date; and
  - (2) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is a Disrupted Day (each such Basket Component, an "**Affected Basket Component**") shall be the first succeeding Valid Date in relation to such Affected Basket Component. If the first succeeding Valid Date has not occurred prior to one Cut-off Period following the original date that, but for the occurrence of another Averaging Date or Disrupted Day, would have been the final Averaging Date in respect of the relevant Scheduled Reference Date, then (1) the last day of such Cut-off Period shall be deemed the Averaging Date (irrespective of whether such day is already an Averaging Date and notwithstanding the fact that such day may not be a Valid Date), and (2) the Determination Agent shall determine its good faith estimate of the value for that Affected Basket Component as of the Valuation Time on that deemed Averaging Date.

In addition, the Determination Agent will account for such occurrence or continuance of a Disrupted Day as it sees fit which may include but is not limited to delaying calculation and payment of the Cash Settlement Amount and/or any other amounts payable under the Warrants or Certificates, and no interest or other amount shall be payable to Securityholders in respect of any such delay, or making the appropriate adjustment to the calculation of the Cash Settlement Amount and/or any such other amounts, all in the determination of the Determination Agent.

#### 14.2 *Postponement of Settlement:*

- (a) Unless otherwise specified in the applicable Pricing Supplement, if the Determination Agent determines on the date which is not later than 3 Business Days prior to any date on which the Cash Settlement Amount or any other amounts would otherwise be due to be paid (each a "**Scheduled Settlement Date**") that a Settlement Postponement Event has occurred, then the Determination Agent shall make such adjustment to account for such Settlement Postponement Event and such

adjustment shall include the postponement of the obligation of the Issuer to pay the Cash Settlement Amount or any such other amounts, as applicable, until the Postponed Settlement Date and no interest or other amount shall be payable to Securityholders in respect of such postponement.

- (b) If the Postponed Settlement Date is the Postponed Settlement Long Stop Date, for the purposes of determining the Cash Settlement Amount or any other relevant amounts, as applicable, whether determined by reference to the Reference Price or otherwise, each Fund Interest Unit will be deemed to have a value equal to the redemption proceeds (if any) that a Hypothetical Investor which had submitted a Final Redemption Notice in respect of such Fund Interest Unit would have received in respect of such redemption on or before the Postponed Settlement Long Stop Date (in the case of Fund Securities) or each Long Stop Date Fund Interest Unit (if any) comprising the Basket of Funds will be deemed to have a value equal to the redemption proceeds (if any) that a Hypothetical Investor which had submitted a Final Redemption Notice in respect of such Long Stop Date Fund Interest Unit would have received in respect of such redemption on or before the Postponed Settlement Long Stop Date.
- (c) For the purposes hereof:
  - (i) a "**Settlement Postponement Event**" shall be deemed to occur if, as determined by the Determination Agent, a Hypothetical Investor which had submitted a Final Redemption Notice in respect of the Fund Interest Units (in the case of a Fund Security) or each Fund Interest Unit comprised in the Basket of Funds (in the case of a Fund Basket Security) would not have received in full the redemption proceeds in respect of such redemptions on or before the date which is 4 Business Days prior to the Scheduled Settlement Date;
  - (ii) the "**Postponed Settlement Date**" means, unless otherwise specified in the applicable Pricing Supplement, the earlier of (x) the date which is 3 Business Days after the date on which, as determined by the Determination Agent, such Hypothetical Investor would have received such redemption proceeds in full and (y) the Postponed Settlement Long Stop Date;
  - (iii) the "**Postponed Settlement Long Stop Date**" means, unless otherwise specified in the applicable Pricing Supplement, the date which is 3 months after the Scheduled Settlement Date;
  - (iv) "**Long Stop Date Fund Interest Unit**" means, in relation to a Basket of Funds, any Fund Interest Unit in respect of which, if a Hypothetical Investor had submitted a Final Redemption Notice in respect of such Fund Interest Unit, such Hypothetical Investor would not have received in full the redemption proceeds in respect of such redemption on or before the Postponed Settlement Long Stop Date; and
  - (v) a "**Final Redemption Notice**" means, in respect of a Fund Interest Unit, a valid redemption notice submitted on the last date permitted pursuant to the Fund Documents of the related Fund for a redemption notice that would be timely for redemption prior to the Scheduled Settlement Date.

#### 14.3 *Potential Adjustment Events:*

Following the declaration by any Fund or Fund Service Provider of the terms of any Potential Adjustment Event, the Determination Agent will determine whether such Potential Adjustment Event has a diluting or concentrative effect on the theoretical value of the relevant Fund Interest Units or amount of Fund Interest and, if so, will (i) make the corresponding adjustment(s), if any, to any one or more of the Cash Settlement Amount and/or any such other amounts payable under the Warrants or Certificates, the Reference Price, any Relevant Fund Interest Unit Price and, in any case, any other variable relevant to the calculation, valuation, payment or other terms of Warrants or Certificates as the Determination Agent determines appropriate to account for that diluting or concentrative effect (provided that no adjustments will be made to account solely for changes in volatility, expected dividends or liquidity relative to the relevant Fund Interest) and (ii) determine the effective date(s) of the adjustment(s).

#### 14.4 *Corrections and Adjustment:*

With the exception of any Adjustments (as defined below) made after the day which is 5 Business Days, unless otherwise specified in the applicable Pricing Supplement, prior to a due date for any payment under the Warrants or Certificates calculated by reference to the price or level of any Fund Interest Unit, if the Determination Agent determines that a Fund adjusts the Redemption Proceeds that would have been paid to a Hypothetical Investor redeeming the number of Fund Interest Units that are subject to valuation and such adjustment would be reflected in either an additional payment to such Hypothetical Investor or a claim for repayment of excess Redemption Proceeds made against such Hypothetical Investor (each an "**Adjustment**"), then the price or level to be used shall be the price or level of the relevant Fund Interest Units as so adjusted.

14.5 *Fund Events:*

- (a) If at any time the Determination Agent determines that a Fund Event has occurred and/or is continuing then the Determination Agent shall provide written notice thereof to the Issuer (a "**Fund Event Notice**"). The Determination Agent shall not have any obligation to monitor the occurrence of a Fund Event nor shall it have any obligation to make a determination that a Fund Event has occurred or is continuing.
- (b) The Issuer will, in its sole and absolute discretion, determine whether the relevant Warrants or Certificates shall continue or shall be terminated and the mechanics for determining and calculating the valuation of any Affected Fund Interest and any payments under the Warrants or Certificates shall be suspended, subject to Condition 14.5(c) and Condition 14.5(d) below.
- (c) If the Issuer determines that the relevant Warrants or Certificates shall continue then, the Issuer may direct the Determination Agent:
  - (i) to substitute any Affected Fund Interest with the Successor Fund Interest relating to such Affected Fund Interest, provided that if no Successor Fund has been identified in the manner set forth below within 10 Business Days of the Fund Event Notice, then Condition 14.5(c)(ii) below shall apply; or
  - (ii) to make such adjustment to account for such Fund Event as it considers appropriate which may include, without limitation, delaying the calculation and payment of the Cash Settlement Amount and/or any such other amounts payable under the Warrants or Certificates, and no interest or other amount shall be payable to Securityholders in respect of any such delay, or making an adjustment to the calculation of the Cash Settlement Amount and/or any such other amounts due under the Warrants or Certificates, all in the determination of the Determination Agent.

For the purposes of this Condition 14.5(c):

- (A) "**Successor Fund Interest**" means, in respect of any Affected Fund Interest, the related Eligible Fund Interest or, if the applicable Pricing Supplement do not specify any Eligible Fund Interest relating to such Affected Fund Interest, then the Determination Agent will use commercially reasonable efforts to identify a Successor Fund Interest based on the eligibility criteria specified in the applicable Pricing Supplement or, if the applicable Pricing Supplement do not specify any such eligibility criteria, with characteristics, investment objectives and policies similar to those in effect for the Affected Fund Interest immediately prior to the occurrence of the relevant Fund Event; and
- (B) any substitution of the Successor Fund Interest for the Affected Fund Interest shall be effected at such time and in such manner as specified in the applicable Pricing Supplement or, if the time and manner for substitution of the Successor Fund Interest is not specified in the applicable Pricing Supplement, then the Affected Fund Interest shall be replaced by a number of Fund Interest Units of the Successor Fund Interest with a combined value (as determined by the Determination Agent) equal to the relevant Removal Value of the applicable number of Fund Interest Units of the Affected Fund Interest. Such replacement shall be effected, from time to time whenever the Removal Value changes, on the date, as determined by the Determination Agent, on which the Fund issuing the Successor Fund Interest would admit a Hypothetical Investor who, on the Fund



Business Day next following the date on which any Removal Value not previously applied toward any Successor Fund Interest would be received by such Hypothetical Investor redeeming out of the relevant amount of Affected Fund Interest, had submitted a valid order to purchase such amount of the Successor Fund Interest; and

- (C) if necessary, the Determination Agent will adjust any relevant terms, including, but not limited to adjustments to account for changes in volatility, investment strategy or liquidity relevant to such Fund Interests or the Warrants or Certificates.
- (d) If the Issuer determines that the relevant Warrants or Certificates shall be terminated, then the Issuer shall redeem each Warrant or Certificate at its Fund-Linked Cash Settlement Amount on such date as the Issuer may notify to Securityholders in accordance with Condition 24 (*Notices*).

#### 14.6 *Notice of Fund Event:*

Notice of the consequences of a Fund Event shall be given to the Securityholders in accordance with Condition 24 (*Notices*). Such notice shall (i) identify the Affected Fund Interest (if applicable) and the relevant Fund Event and contain a summary of the facts constituting such event, (ii) if applicable, identify the Successor Fund Interest and specify the effective date of such substitution, (iii) if applicable, specify adjustments made or expected to be made by the Determination Agent and (iv) if applicable, specify the date on which the Warrants or Certificates are to be redeemed.

#### 14.7 *Definitions applicable to Fund Securities and Fund Basket Securities:*

In relation to Fund Securities and Fund Basket Securities, the following expressions shall have the meanings set out below:

**"Additional Fund Service Provider"** means, in respect of any Fund, any person or entity (if any) specified as such in the applicable Pricing Supplement;

**"Affected Fund Interest"** means, at any time, any Fund Interest in respect of which the Determination Agent has determined that a Fund Event has occurred;

**"Affiliate"** means, in relation to any person, any entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person (for such purposes, "control" of any entity or person means ownership of a majority of the voting power of the entity or person);

**"Aggregate NAV Trigger Period"** means the period (if any) specified as such in the applicable Pricing Supplement;

**"Aggregate NAV Trigger Value"** means the value (if any) specified as such in the applicable Pricing Supplement;

**"Averaging Date"** means, in respect of each Reference Date, either:

- (a) in the case of (i) a Fund Security; or (ii) a Fund Basket Security, where the applicable Pricing Supplement provides that "Individual Fund Business Days and Individual Disrupted Days" shall be applicable, each date specified as such in the applicable Pricing Supplement, or, if such date is not a Fund Business Day, the next following Fund Business Day for such Fund or Basket Component (as the case may be); or
- (b) in the case of a Fund Basket Security, where the applicable Pricing Supplement provides that "Common Fund Business Days and Common Disrupted Days" or "Common Fund Business Days and Individual Disrupted Days" shall be applicable, each date specified as such in the applicable Pricing Supplement, or if any such date is not a Common Fund Business Day, the next following Common Fund Business Day for such Basket of Funds,

provided that if any such day is a Disrupted Day, the Averaging Date shall be determined in accordance with the provisions of Condition 14.1 (*Reference Dates, Averaging Dates and Market Disruption*);

**"Basket Component"** means, in relation to a particular Series of Fund Basket Securities, each Fund Interest comprised in the relevant Basket of Funds;

**"Basket of Funds"** means a basket composed of such Fund Interests in such Funds specified in the applicable Pricing Supplement in the relative proportions or number of Fund Interest Units of each Fund Interest specified in the applicable Pricing Supplement, subject to the provisions of Condition 14.5 (*Fund Events*);

**"Common Fund Business Day"** means, in respect of a Fund Basket Security, each day which is a Fund Business Day for all the Basket Components;

**"Common Valid Date"** means, in respect of a Fund Basket Security, a Fund Business Day that is not a Disrupted Day for any Basket Component and on which another Averaging Date in respect of the relevant Reference Date does not or is deemed not to occur;

**"Company"** means, in respect of a Fund Interest and the related Fund, the entity (if any) specified as such in the applicable Pricing Supplement (if any);

**"Cut-off Period"** means, in respect of any date, the period specified in the applicable Pricing Supplement, or if no such period is specified, a period of one calendar year; provided that if a "Final Cut-off Date" is specified in the applicable Pricing Supplement, then any Cut-off Period that would otherwise end after such Final Cut-off Date shall end on such Final Cut-off Date;

**"Determination Date"** means, in relation to any determination, each date specified as such in the applicable Pricing Supplement, provided that if any such date is (i) not a Fund Business Day and/or (ii) a Disrupted Day, the relevant Determination Date shall be determined in accordance with the provisions of Condition 14.1 (*Reference Dates, Averaging Dates and Market Disruption*);

**"Disrupted Day"** means any day on which a Market Disruption Event has occurred or is continuing;

**"Eligible Fund Interest"** means, in respect of any Affected Fund Interest, the interest issued to or held by an investor in a fund, pooled investment vehicle or any other interest (if any) specified as such in the applicable Pricing Supplement;

**"Extraordinary Dividend"** means an amount per relevant Fund Interest Unit or other amount of Fund Interest specified or otherwise determined as provided in the applicable Pricing Supplement provided that if no Extraordinary Dividend is specified in or otherwise determined as provided in the applicable Pricing Supplement, the characterisation of a dividend or portion thereof as an Extraordinary Dividend shall be determined by the Determination Agent;

**"Final Cut-off Date"** means the date specified as such in the applicable Pricing Supplement;

**"Final Valuation Date"** means, if there is more than one Valuation Date, the last Valuation Date or, if there is only one Valuation Date, the Valuation Date;

**"Final Valuation Time"** means, if there are more than one Valuation Date, the Valuation Time in relation to the last Valuation Date or, if there is only one Valuation Date, the Valuation Time;

**"Fund"** means, in respect of any Fund Interest, unless otherwise specified in the applicable Pricing Supplement, the issuer of, or other legal arrangement (including, if applicable, any relevant class or series) giving rise to, the relevant Fund Interest;

**"Fund Administrator"** means, in respect of any Fund, any person specified as such in the applicable Pricing Supplement or, if no person is so specified, the fund administrator, manager, trustee or similar person with the primary administrative responsibilities to such Fund according to the Fund Documents;

**"Fund Adviser"** means, in respect of any Fund, any person specified as such in the applicable Pricing Supplement, or if no person is so specified, any person appointed in the role of discretionary investment

manager or non-discretionary investment adviser (including a non-discretionary investment adviser to a discretionary investment manager or to another non-discretionary investment adviser) for such Fund;

**"Fund Business Day"** means, in respect of any Fund Interest and the related Fund, any day specified as such in the applicable Pricing Supplement or, if no day is so specified, any day on which the Fund or the primary Fund Administrator acting on behalf of the Fund is open for business;

**"Fund Custodian"** means, in respect of any Fund, any person specified as such in the applicable Pricing Supplement or, if no person is so specified, the fund custodian or similar person with the primary custodial responsibilities in relation to such Fund according to the Fund Documents;

**"Fund Documents"** means, in respect of any Fund Interest, the constitutive and governing documents, subscription agreements and other agreements of the related Fund specifying the terms and conditions relating to such Fund Interest (including, without limitation, the Fund Prospectus) and any additional documents specified in the applicable Pricing Supplement (each an **"Additional Fund Document"**), in each case as amended from time to time;

**"Fund Event"** means, subject as otherwise provided in the applicable Pricing Supplement, the occurrence of any of the following events in the determination of the Determination Agent:

- (a) *Nationalisation*: in respect of a Fund Interest and the related Fund, all the Fund Interests or all or substantially all the assets of the Fund are nationalised, expropriated or are otherwise required to be transferred to any governmental agency, authority, entity or instrumentality thereof;
- (b) *Insolvency Event*: in respect of a Fund Interest and the related Fund (i) the Fund, the related Company and/or any Fund Service Provider (A) is dissolved or has a resolution passed for its dissolution, winding-up, official liquidation (other than pursuant to a consolidation, amalgamation or merger); (B) makes a general assignment or arrangement with or for the benefit of its creditors; (C)(1) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official, or (2) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and such proceeding or petition is instituted or presented by a person or entity not described in (1) above and either (x) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (y) is not dismissed, discharged, stayed or restrained in each case within 14 days of the institution or presentation thereof; (D) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (E) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 14 days thereafter; or (F) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in (A) through (E) above; or (without prejudice to the foregoing) (ii) by reason of the voluntary or involuntary liquidation, bankruptcy, insolvency, dissolution or winding-up of or any analogous proceeding affecting a Fund, (A) all the Fund Interests of that Fund are required to be transferred to a trustee, liquidator or other similar official or (B) holders of the Fund Interests of that Fund become legally prohibited from transferring them;
- (c) *NAV Trigger/Restriction Event*: in respect of any Fund Interest, (A) the Reported Fund Interest Unit Value has decreased by a percentage equal to, or greater than, the NAV Trigger Percentage(s) during the related NAV Trigger Period, each as specified in the applicable Pricing Supplement; or (B) the related Fund has violated any leverage restriction that is applicable to, or affecting, such Fund or its assets by operation of any law, any order or judgment of any court or other agency of government applicable to it or any of its assets, the Fund Documents or any contractual restriction binding on or affecting the Fund or any of its assets;

- (d) **Aggregate NAV Trigger Event:** in the case of Fund Basket Securities, the aggregate of the Reported Fund Interest Unit Values for each Fund Interest comprising the Basket has decreased to an amount equal to, or less than, the Aggregate NAV Trigger Value during the related Aggregate NAV Trigger Period, each as specified in the applicable Pricing Supplement;
- (e) **Changes to Fund or Fund Service Providers:** in respect of any Fund Interest and the related Fund: (i) any change in the organisation of the Fund or of any Fund Service Provider without the prior written consent of the Determination Agent including, without limitation, a change of control of, or a change of the main shareholders, managing directors or Key Personnel (if any) of a Fund Service Provider, (ii) any Fund Service Provider ceasing to act in the relevant capacity in relation to the Fund unless immediately replaced in such capacity by a successor acceptable to the Determination Agent or (iii) any delegation or transfer by the Fund Adviser of any of its powers, duties or obligations under the Fund Documents to a third party without the prior written consent of the Determination Agent;
- (f) **Fund Modification:** in respect of any Fund Interest, any change or modification of the related Fund Documents or of any rights attaching to the related Fund Interest Units (including without limitation any change or modification affecting management policy, provisions as to redemption or the charging of expenses or increasing the existing level of, or introducing any new, fees, commissions or other expenses payable to any person, in each case as determined by the Determination Agent) from those prevailing on the Issue Date (in the case of Fund Securities) or the date on which any Fund Interest issued by such Fund was first included in the Basket of Funds (in the case of Fund Basket Securities) and which could reasonably be expected to affect the value of such Fund Interest;
- (g) **Strategy Breach:** in respect of any Fund Interest, as determined by the Determination Agent, any material breach of or non-compliance with any investment objective, investment restrictions or other strategy or investment guidelines, subscription and redemption provisions (including, without limitation, the days treated as Fund Business Days) or valuation provisions (including, without limitation, the method of determining the net asset value of the relevant Fund), in each case as set out in the Fund Documents as in effect on the Issue Date or, if later, the date on which such Fund Interest was first included in the Basket of Funds (in the case of Fund Basket Securities);
- (h) **Breach by Fund Service Provider:** in respect of any Fund Interest, the breach by any relevant Fund Service Provider of any obligation (including, without limitation, non-compliance with any investment guidelines relating to such Fund Interest), representation or warranties concerning the relevant Fund (including, without limitation, pursuant to any agreement with the Fund), which breach, if capable of remedy, has not been remedied within ten (10) calendar days of its occurrence;
- (i) **General Regulatory Event:** (A) in respect of any Fund Interest, (1) any change in the legal, tax, accounting, or regulatory treatments of the relevant Fund or its Fund Adviser that is reasonably likely to have an adverse impact on the value of such Fund Interest or on any investor therein (as determined by the Determination Agent) or (2) the related Fund or any of its Fund Service Providers becoming subject to any investigation, proceeding or litigation by any relevant governmental, legal or regulatory authority involving the alleged violation of applicable law in relation to any activities relating to or resulting from the operation of such Fund or (B) any event which would have the effect of: (i) imposing on the Issuer and/or any Affiliate or adversely modifying any reserve, special deposit, or similar requirement that would be applicable to the Issuer and/or such Affiliate in relation to the Warrants or Certificates or any related hedging arrangement or (ii) changing the amount of regulatory capital that would have to be maintained by the Issuer and/or any Affiliate in relation to the Warrants or Certificates or any related hedging arrangement;
- (j) **Reporting Disruption:** in respect of any Fund Interest, (A) the occurrence of any event affecting such Fund Interest that, in the determination of the Determination Agent, would make it impossible or impracticable for the Determination Agent to determine the value of such Fund Interest, and such event continues for at least the time period specified in the applicable Pricing Supplement or, if no time period is so specified, the Determination Agent does not expect such event to cease in the foreseeable future; (B) any failure of the related Fund to deliver, or cause to be delivered, (1) information that such Fund has agreed to deliver, or cause to be delivered to the Determination Agent or the Issuer, as applicable, or (2) information that has been previously delivered to the Determination Agent or the Issuer, as applicable, in accordance with such Fund's, or its authorised representative's, normal practice and that the Determination Agent deems necessary for it or the

Issuer, as applicable, to monitor such Fund's compliance with any investment guidelines, asset allocation methodologies or any other similar policies relating to such Fund Interest; or (C) the related Fund ceases, for any reason whatsoever (either directly or through any Fund Service Provider acting on its behalf for this purpose) to provide, publish or make available its net asset value on any Fund Reporting Date and this continues for 10 consecutive Business Days;

- (k) *Compulsory Redemption or Assignment*: in respect of any Fund Interest, (i) the repurchase or redemption by the Fund of all or some of the Fund Interest Units otherwise than at the request of a holder of Fund Interest Units and which the Determination Agent determines could affect a Hypothetical Investor; or (ii) any event or circumstance (whether or not in accordance with the constitutive documents and investment guidelines of the Fund) which would mandatorily oblige a holder of Fund Interest Units to redeem, sell, assign or otherwise dispose of any Fund Interest Units and which the Determination Agent determines could affect a Hypothetical Investor;
- (l) *Closure to Subscriptions; Dealing Restrictions*: in respect of any Fund Interest, (A) the closure of the related Fund to new subscriptions of Fund Interests, or (B) the imposition of any dealing restrictions (including, without limitation, material amendments to relevant documentation, delay (partial or otherwise), suspension or termination (partial or otherwise) of subscription, redemption or settlement) relating to the Fund or transactions in Fund Interests by any Fund Service Provider, any affiliate or agent of any Fund Service Provider, or any intermediary platform through which the Issuer or its Affiliates may contract (via a trading agreement or otherwise) in order to carry out transactions in Fund Interests, which, in either case, remains in effect for five consecutive Business Days;
- (m) *Disposals; Material Change; Merger*: in respect of any Fund Interest, (A) a disposal to any person(s) of all, or a material part, of the assets of (x) the related Fund, or (y) any significant Fund Service Provider; or (B) a material change in the business of the Fund or any significant Fund Service Provider, or (C) the merger, amalgamation or consolidation of (1) the related Fund with (x) any other sub-fund or compartment of the Fund or (y) any other collective investment undertaking (or sub-fund or compartment of such other collective investment undertaking, including another Fund), or (2) the relevant Company with any other collective investment undertaking (including, without limitation, another Fund or Company), which, in either case, may, in the determination of the Determination Agent, have an adverse effect on the Fund;
- (n) *Hedging Disruption*: any of the following:
  - (i) the Determination Agent reasonably determines that the Issuer or any Affiliate (a "**Hedging Party**") is unable (including without limitation by reason of illegality), or that it is impracticable for a Hedging Party, after using commercially reasonable efforts, to (i) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) (each a "**Relevant Hedging Transaction**") such Hedging Party deems necessary or appropriate to hedge its exposure to price variations of the Fund Interest (in the case of Fund Securities) or the Basket of Funds (in the case of Fund Basket Securities) inherent in its obligations, in the case of the Issuer, under the Warrants or Certificates or, in the case of an Affiliate, under any transaction pursuant to which it hedges the Issuer's exposure to the Fund Interest (in the case of Fund Securities) or the Basket of Funds (in the case of Fund Basket Securities) under the Warrants or Certificates, or (ii) realise, recover or remit to any person the proceeds of such transaction or asset; and/or
  - (ii) the Determination Agent reasonably determines that it has become illegal for any Hedging Party to hold, acquire or dispose of Fund Interests relating to the Warrants or Certificates; and/or
  - (iii) the Determination Agent reasonably determines that the Issuer would incur an increased cost in respect of the Relevant Hedging Transactions related to the performance of its obligation under the Warrants or Certificates (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on its tax position); and/or
  - (iv) the Determination Agent reasonably determines that any Hedging Party would incur a materially increased (as compared with circumstances existing on the Issue Date) amount

of tax, duty, expense or fee (other than brokerage commissions) to (A) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any Relevant Hedging Transaction, or (B) realise, recover or remit the proceeds of any such Relevant Hedging Transaction; unless any such materially increased amount is incurred solely due to the deterioration of the creditworthiness of the Hedging Party,

and such determinations by the Determination Agent may include, but are not limited to, the following: (A) any increased illiquidity in the market for the Fund Interest (in the case of Fund Securities) or the Basket of Funds (in the case of Fund Basket Securities) (as compared with circumstances existing on the Issue Date); or (B) a change in any applicable law (including, without limitation, any tax law) or the promulgation of, or change in, the interpretation of any court, tribunal or regulatory authority with competent jurisdiction of any applicable law (including any action taken by a taxing authority); or (C) the general unavailability of market participants who will so enter into a Relevant Hedging Transaction on commercially reasonable terms;

- (o) *Fraud*: in respect of any Fund Interest and the related Fund, the Fund is the object of a material fraud which may, in the determination of the Determination Agent, have an adverse effect on the Fund or the value of Fund Interest Units; or any act or omission of a Fund Service Provider constitutes fraud (including, but not limited to, theft, misappropriation, mispricing of holdings or concealment of trades), bad faith, wilful misconduct or negligence, as determined by the Determination Agent in its reasonable discretion;
- (p) *Special Regulatory Event*: in respect of any Fund Interest and the related Fund (i) the cancellation, suspension or revocation of the registration or approval of such Fund Interest or the related Fund by any governmental, legal or regulatory entity with authority over such Fund Interest or Fund or (ii) the withdrawal, suspension, cancellation or modification of any license, consent, permit, authorisation or clearance required for the Fund or any one or more of its significant Fund Service Providers to carry out their activities as they are or should be carried out in compliance with applicable law or regulation;
- (q) *Force Majeure Event*: in respect of any Fund Interest and the related Fund, any Fund Service Provider fails to perform any of its obligations pursuant to the Fund Documents to the extent that such performance is prevented, hindered or delayed by a Force Majeure Event, where "**Force Majeure Event**" means any event due to any cause beyond the reasonable control of the applicable Fund Service Provider, such as unavailability of communications system, failure of or interruptions in power supply or network computer systems, sabotage, fire, flood, explosion, acts of God, civil commotion, riots, insurrection or war;
- (r) *Value Limitation*: the value of any Fund Interest held by the Issuer and its Affiliates is greater than 10 per cent. of the aggregate net asset value of the relevant Fund (whether or not all of such holding results from hedging transactions entered into in connection with the Warrants or Certificates) and including, where the excess holding results from a reduction in the aggregate net asset value of the relevant Fund; or
- (s) *Additional Fund Event*: any other event(s) specified as Fund Events in the applicable Pricing Supplement;

"**Fund Event Notice**" has the meaning given to that term in Condition 14.5 (*Fund Events*);

"**Fund-Linked Cash Settlement Amount**" means, in respect of any Warrant or Certificate, an amount determined by the Determination Agent in the Specified Currency specified in the applicable Pricing Supplement, to be the fair market value of a Warrant or Certificate based on the market conditions prevailing at the date of determination reduced to account fully for any reasonable expenses and costs of unwinding any underlying and/or related hedging and funding arrangements (including, without limitation, any Fund Interests, options, swaps or other instruments of any type whatsoever hedging the Issuer's obligations under the Warrants or Certificates);

"**Fund Interest**" means an interest issued to or held by an investor in a fund, pooled investment vehicle or any other interest identified as such in the applicable Pricing Supplement, as specified in the applicable Pricing Supplement;

**"Fund Interest Performance"** means, in respect of any Fund Interest and any Reference Date or Averaging Date, a rate determined by the Determination Agent in accordance with the formula specified as such in the applicable Pricing Supplement;

**"Fund Interest Unit"** means, in respect of any Fund Interest and the related Fund, a share in such Fund or, if Fund Interests in such Fund are not denominated as shares, a notional unit of account of ownership in such Fund in the amount specified in the applicable Pricing Supplement;

**"Fund Prospectus"** means, in respect of any Fund Interest and the related Fund, the prospectus or other offering document issued by such Fund in connection with such Fund Interest, as amended or supplemented from time to time;

**"Fund Reporting Date"** means, in respect of any Fund Interest and any Fund Valuation Date, the date on which the Reported Fund Interest Unit Value of such Fund Interest as determined as of such Fund Valuation Date is reported or published;

**"Fund Service Provider"** means, in respect of any Fund, any person who is appointed to provide services, directly or indirectly, to that Fund, whether or not specified in the Fund Documents, including without limitation any Fund Adviser, Fund Administrator, Fund Custodian and Additional Fund Service Provider;

**"Fund Subscription Date"** means, in respect of any Fund Interest, the date specified as such in the applicable Pricing Supplement or, if no such date is specified, the day as of which a request by a Hypothetical Investor for subscription to such Fund Interest that has been submitted on the related Subscription Notice Date and in a form and substance acceptable to the related Fund would be considered effective by such Fund;

**"Fund Valuation Date"** means, in respect of any Fund Interest, the date as of which the related Fund (or its Fund Service Provider that generally determines such value) determines the value of such Fund Interest or, if the related Fund only reports its aggregate net asset value, the date as of which such Fund determines its aggregate net asset value;

**"Hedging Party"** has the meaning given in the definition of "Fund Event" above;

**"Hypothetical Investor"** means, unless otherwise specified in the applicable Pricing Supplement, in respect of any Fund Interest, a hypothetical investor in such Fund Interest located in the Hypothetical Investor Jurisdiction and deemed to have (a) the benefits and obligations, as provided under the Fund Documents, of an investor holding, as of the related Fund Subscription Date, an interest in the relevant Fund in an amount equal to the relevant number of relevant Fund Interest Units or amount of such Fund Interest; (b) in the case of any deemed redemption of such Fund Interest, to have submitted to the relevant Fund on the relevant Redemption Notice Date, a duly completed notice requesting redemption of the relevant number of Fund Interest Units; and (c) in the case of any deemed investment in such Fund Interest, to have submitted, on the Subscription Notice Date, a duly completed notice to the relevant Fund, requesting subscription to the relevant number of Fund Interest Units;

**"Hypothetical Investor Jurisdiction"** means the jurisdiction specified as such in the applicable Pricing Supplement or, if no jurisdiction is so specified, the jurisdiction of incorporation of the Issuer;

**"Market Disruption Event"** means any of the following events as determined by the Determination Agent:

- (a) in respect of any Fund Interest, the failure of a Scheduled Fund Valuation Date to be a Fund Valuation Date or any continued postponement of such Fund Valuation Date; or
- (b) in respect of any Fund Interest, there is a failure by the Fund to pay the full amount (whether expressed as a percentage or otherwise) of the Redemption Proceeds with respect to the relevant number of Fund Interest Units or amount of such Fund Interest scheduled to have been paid on or by such day according to the Fund Documents (without giving effect to any gating, deferral, suspension or other provisions permitting the Reference Fund to delay or refuse redemption of such Fund Interests);
- (c) the inability (including by reason of illegality) of, or the impracticability for, a Hedging Party to (i) unwind or dispose of any transaction it has entered into, or any asset it holds, in either case for the

purpose of hedging its exposure to price variations of the Fund Interest (in the case of Fund Securities) or the Basket of Funds (in the case of Fund Basket Securities) inherent in its obligations, in the case of the Issuer, under the Warrants or Certificates or, in the case of an Affiliate, under any transaction pursuant to which it hedges the Issuer's exposure to the Fund Interest (in the case of Fund Securities) or the Basket of Funds (in the case of the Fund Basket Securities) under the Warrants or Certificates, or (ii) realise, recover or remit to any person the proceeds of any such transaction or asset,

provided that if any event would otherwise be both a Market Disruption Event and Fund Event, such event shall be treated solely as a Fund Event;

**"NAV Trigger Percentage"** means the percentage (if any) specified as such in the applicable Pricing Supplement;

**"NAV Trigger Period"** means the period (if any) specified as such in the applicable Pricing Supplement;

**"Net Present Value"** means, in respect of an amount payable on a future date, the discounted value of such amount as calculated by the Determination Agent in its discretion taking into account the relevant interbank offered rate at the time of such calculation for one month deposits in the relevant currency or such other reference rate as the Determination Agent determines to be appropriate;

**"Observation Date"** means each date specified as such in the applicable Pricing Supplement, provided that if any such date is (i) not a Fund Business Day and/or (ii) a Disrupted Day, the relevant Observation Date shall be determined in accordance with the provisions of Condition 14.1 (*Reference Dates, Averaging Dates and Market Disruption*);

**"Potential Adjustment Event"** means, in respect of any Fund Interest, any of the following events in the determination of the Determination Agent:

- (a) a subdivision, consolidation or reclassification of the relevant amount of Fund Interest, or a free distribution or dividend of any such Fund Interest to existing holders by way of bonus, capitalization or similar issue;
- (b) a distribution, issue or dividend to existing holders of the relevant Fund Interest of (A) an additional amount of such Fund Interest, or (B) other share capital or securities granting the right to payment of dividends and/or the proceeds of liquidation of the Fund equally or proportionately with such payments to holders of such Fund Interest, or (C) share capital or other securities of another issuer acquired or owned (directly or indirectly) by the Fund as a result of a spin-off or other similar transaction, or (D) any other type of securities, rights or warrants or other assets, in any case for payment (cash or other consideration) at less than the prevailing market price as determined by the Determination Agent;
- (c) an Extraordinary Dividend;
- (d) a repurchase by the Fund of relevant Fund Interests whether the consideration for such repurchase is cash, securities or otherwise, other than in respect of a redemption of Fund Interests initiated by an investor in such Fund Interests; or
- (e) any other event that may have a diluting or concentrative effect on the theoretical value of the relevant Fund Interests;

**"Redemption Notice Date"** means, in respect of any Fund Interest and any Reference Date or Averaging Date, the date specified as such in the applicable Pricing Supplement or, if no date is so specified, the last date on which a Hypothetical Investor in such Fund Interest would be permitted, pursuant to the Fund Documents of the related Fund, to submit a redemption notice that would be timely for a redemption as of the Scheduled Redemption Valuation Date for which the Scheduled Redemption Payment Date falls on or immediately prior to such Reference Date or Averaging Date;

**"Redemption Proceeds"** means, in respect of the relevant number of Fund Interest Units or amount of any Fund Interest, the redemption proceeds that in the determination of the Determination Agent would be paid



by the related Fund to a Hypothetical Investor who, as of the relevant Redemption Valuation Date, redeems such number of Fund Interest Units or amount of Fund Interest (for the avoidance of doubt after deduction of any tax, levy, charge, assessment or fee of any nature that, in the determination of the Determination Agent, would (or would be very likely to) be withheld or deducted from such amount); provided that (a) any such proceeds that would be paid in property other than cash shall be deemed to have a value of zero and (b) if the Hypothetical Investor would be entitled to elect payment of such redemption proceeds to be made either in the form of cash or other property, then the Hypothetical Investor shall be deemed to have elected cash payment, except as otherwise specified in the applicable Pricing Supplement;

**"Redemption Valuation Date"** means, in respect of any Fund Interest and any Scheduled Redemption Valuation Date, the date as of which the related Fund (or its Fund Service Provider that generally determines such value) determines the net asset value of such Fund Interest for purposes of calculating the redemption proceeds to be paid to a Hypothetical Investor that has submitted a valid notice for redemption on or before the related Redemption Notice Date;

**"Reference Date"** means, for the purposes of Condition 14.1 (*Reference Dates, Averaging Dates and Market Disruption*), each Valuation Date, Observation Date, Strike Date or Determination Date (as applicable) specified in the applicable Pricing Supplement, or otherwise, any date construed to be a Reference Date in accordance with the Conditions;

**"Reference Price"** means:

- (a) in the case of Fund Securities, the price per Fund Interest Unit determined as provided in the applicable Pricing Supplement as of the Final Valuation Time on the final Reference Date or, if no means of determining such price are so provided, the Relevant Fund Interest Unit Price; and
- (b) in the case of Fund Basket Securities, the price per Basket of Funds determined as provided in the applicable Pricing Supplement as of the Final Valuation Time on the final Reference Date or, if no means of determining such price are so provided, the sum of the values calculated as of the Final Valuation Time on the final Reference Date for each Fund Interest Unit comprising the Basket of Funds as the product of the Relevant Fund Interest Unit Price of such Fund Interest Unit and the relevant number of Fund Interest Units comprised in the Basket of Funds,

provided that when calculating the Relevant Fund Interest Unit Price of any Fund Interest Unit for the purposes of determining the Reference Price, the Valuation Time and the Reference Date will be the Final Valuation Time and the final Reference Date, respectively;

**"Relevant Fund Interest Unit Price"** means, in respect of a Fund Interest and any Reference Date or Averaging Date, the price per related Fund Interest Unit determined by the Determination Agent as provided in the applicable Pricing Supplement as of the Valuation Time on the Reference Date or Averaging Date, as the case may be, or, if no means for determining the Relevant Fund Interest Unit Price are so provided, an amount equal to the Redemption Proceeds relating to such Fund Interest Unit that in the determination of the Determination Agent would be received by a Hypothetical Investor in such Fund Interest in respect of a redemption of Fund Interest Units targeted to be effected as of the Scheduled Redemption Valuation Date relating to such Reference Date or Averaging Date, as the case may be;

**"Removal Value"** means, in respect of any Affected Fund Interest, the value calculated by the Determination Agent in the same manner as would be used in determining the Relevant Fund Interest Unit Price of Fund Interest Units in the related Fund, but assuming a valid notice requesting redemption of Fund Interest Units in such Fund has been submitted to such Fund on the Fund Business Day next following delivery of the relevant Fund Event Notice;

**"Reported Fund Interest Unit Value"** means, in respect of any Fund Interest and a Fund Reporting Date relating to such Fund Interest, the value per Fund Interest Unit as of the related Fund Valuation Date or, if the related Fund reports only its aggregate net asset value, the portion of such Fund's aggregate net asset value relating to one Fund Interest Unit, in each case as reported on such Fund Reporting Date by the Fund Service Provider that generally reports such value on behalf of the Fund to its investors or a publishing service;

**"Scheduled Averaging Date"** means an original date (following any adjustment (if applicable) pursuant to paragraph (a) or (b) in the definition of "Averaging Date") that, but for such day being a Disrupted Day, would have been an Averaging Date;

**"Scheduled Fund Valuation Date"** means, in respect of any Fund Interest, the date as of which the related Fund (or its Fund Service Provider that generally determines such value) is scheduled, according to its Fund Documents (without giving effect to any gating, deferral, suspension or other provisions permitting the Reference Fund to delay or refuse redemption of Fund Interests), to determine the value of such Fund Interest or, if the related Fund only reports its aggregate net asset value, the date as of which such Fund determines its aggregate net asset value;

**"Scheduled Redemption Payment Date"** means, in respect of any Fund Interest and any Scheduled Redemption Valuation Date, the date specified as such in the applicable Pricing Supplement or, if not so specified, the date by which the related Fund is scheduled to have paid, according to its Fund Documents, all or a specified portion of the Redemption Proceeds to an investor that has submitted a timely and valid notice requesting redemption of such Fund Interest as of such Scheduled Redemption Valuation Date;

**"Scheduled Redemption Valuation Date"** means, in respect of any Fund Interest, the date as of which the related Fund (or its Fund Service Provider that generally determines such value) is scheduled, according to its Fund Documents (without giving effect to any gating, deferral, suspension or other provisions permitting the Fund to delay or refuse redemption of Fund Interests), to determine the net asset value of such Fund Interest for the purposes of calculating the redemption proceeds to be paid to an investor that has submitted a valid and timely notice for redemption of Fund Interests based on the value determined as of such date; The Scheduled Redemption Valuation Date relating to any Reference Date or Averaging Date, as the case may be, shall be the date specified as such in the applicable Pricing Supplement or, if no such date is specified, the Scheduled Redemption Valuation Date for which the Scheduled Redemption Payment Date falls on or immediately prior to such Reference Date or Averaging Date, as the case may be;

**"Scheduled Reference Date"** means, for the purposes of Condition 14.1 (*Reference Dates, Averaging Dates and Market Disruption*), any original date that, but for the occurrence of an event causing a Disrupted Day, would have been a Reference Date;

**"Strike Date"** means each date specified as such in the applicable Pricing Supplement, provided that if any such date is (i) not a Fund Business Day and/or (ii) a Disrupted Day, the relevant Strike Date shall be determined in accordance with the provisions of Condition 14.1 (*Reference Dates, Averaging Dates and Market Disruption*);

**"Subscription Notice Date"** means, in respect of any Fund Interest and any Fund Subscription Date, the date specified as such in the applicable Pricing Supplement or, if no date is so specified, the last date on which a notice to subscribe to such Fund Interest may be submitted pursuant to the Fund Documents of the related Fund and be considered effective as of such Fund Subscription Date; If the applicable Pricing Supplement do not specify a Subscription Notice Date or a Fund Subscription Date, the Subscription Notice Date shall be deemed to be the Issue Date;

**"Valid Date"** means a Fund Business Day that is not a Disrupted Day and on which another Averaging Date in respect of the relevant Reference Date does not or is not deemed to occur;

**"Valuation Date"** means each date specified as such in the applicable Pricing Supplement, provided that if any such date is (i) not a Fund Business Day and/or (ii) a Disrupted Day, the relevant Valuation Date shall be determined in accordance with the provisions of Condition 14.1 (*Reference Dates, Averaging Dates and Market Disruption*); and

**"Valuation Time"** means the time on the Reference Date specified as such in the applicable Pricing Supplement or, if no time is so specified, the close of business in the Hypothetical Investor Jurisdiction on the relevant Reference Date.

## 15. PROVISIONS RELATING TO FUTURES CONTRACT SECURITIES

This Condition 15 (*Futures Contract Securities*) shall apply only to Warrants or Certificates specified in the applicable Pricing Supplement as being Single Futures Contract Securities or Futures Contract Basket Securities.

### 15.1 *Reference Dates, Averaging Dates and Market Disruption:*

- (a) If a Reference Date is not a Scheduled Trading Day, the relevant Reference Date shall be the next succeeding Scheduled Trading Day or, if either “Common Scheduled Trading Days and Common Disrupted Days” or “Common Scheduled Trading Days and Individual Disrupted Days” is specified to be applicable in the applicable Pricing Supplement, the next succeeding Common Scheduled Trading Day.
- (b) Subject to Condition 15.1(d) below, if any Scheduled Reference Date is a Disrupted Day, then:
  - (i) in the case of a Single Futures Contract Security, the relevant Reference Date shall be the earlier of (i) the first succeeding Scheduled Trading Day that is not in the determination of the Determination Agent a Disrupted Day and (ii) the Reference Cut-Off Date (notwithstanding that such Scheduled Trading Day is a Disrupted Day).
  - (ii) in the case of a Futures Contract Basket Security:
    - (A) where "Individual Scheduled Trading Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement, if the Determination Agent determines that any Scheduled Reference Date is a Disrupted Day in respect of any Basket Component, then:
      - (1) the Reference Date for each Basket Component in respect of which the Scheduled Reference Date is not a Disrupted Day shall be the Scheduled Reference Date for such Basket Component; and
      - (2) the Reference Date for any Basket Component in respect of which the Scheduled Reference Date is a Disrupted Day (each an "**Affected Basket Component**") shall be the earlier of (A) the first Scheduled Trading Day following the relevant Scheduled Reference Date that is not a Disrupted Day in respect of such Affected Basket Component; and (B) the Reference Cut-Off Date for such Affected Basket Component (notwithstanding that such day may not be a Scheduled Trading Day).
    - (B) where "Common Scheduled Trading Days and Common Disrupted Days" is specified to be applicable in the applicable Pricing Supplement, if the Determination Agent determines that any Scheduled Reference Date is a Disrupted Day in respect of any Basket Component, then the Reference Date for each Basket Component shall be the earlier of (i) the first Common Scheduled Trading Day following the relevant Scheduled Reference Date that is not a Disrupted Day with respect to any Basket Component; and (ii) the Reference Cut-Off Date (notwithstanding that such day may not be a Common Scheduled Trading Day).
    - (C) where "Common Scheduled Trading Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement, if the Determination Agent determines that any Scheduled Reference Date is a Disrupted Day in respect of any Basket Component, then:
      - (1) the Reference Date for each Basket Component in respect of which the Scheduled Reference Date is not a Disrupted Day shall be the Scheduled Reference Date for such Basket Component; and
      - (2) the Reference Date for each Basket Component in respect of which the Scheduled Reference Date is a Disrupted Day (each an "**Affected Basket**

**Component**") shall be the earlier of (A) the first Scheduled Trading Day following the relevant Scheduled Reference Date that is not a Disrupted Day in respect of such Affected Basket Component; and (B) the Reference Cut-Off Date for such Affected Basket Component (notwithstanding that such day may not be a Common Scheduled Trading Day or a Scheduled Trading Day).

- (iii) in the case of any Single Futures Contract Security or Futures Contract Basket Security (as the case may be), where a Reference Date falls on the relevant Reference Cut-Off Date pursuant to Condition 15.1(b)(ii), then:
  - (A) if such Reference Cut-Off Date is not a Disrupted Day for such Single Futures Contract Security or Futures Contract Basket Security (as the case may be), the Determination Agent shall determine the value of such Futures Contract as at the Determination Time on such Reference Cut-Off Date; or
  - (B) if such Reference Cut-Off Date is a Disrupted Day, in respect of Single Futures Contract Security and Futures Contract Basket Security, the Determination Agent shall determine, in its sole and absolute discretion, its good faith estimate of the value for such Futures Contract as of the Determination Time on such Reference Cut-Off Date.
- (c) Subject to Condition 15.1(d) below, if Averaging Dates are specified in the applicable Pricing Supplement as being applicable, then, notwithstanding any other provisions of these Conditions (other than Condition 15.1(d)), the following provisions will apply to the valuation of the relevant Futures Contract in relation to the relevant Reference Date:
  - (i) If, in respect of a Single Futures Contract Security, a Scheduled Averaging Date is determined by the Determination Agent to be a Disrupted Day, then if, in relation to **"Averaging Date Disruption"**, the consequence specified in the applicable Pricing Supplement is:
    - (A) **"Omission"**, then such date will be deemed not to be a relevant Averaging Date in respect of such Reference Date for the purposes of determining the relevant level, price, value or amount provided that, if through the operation of this provision no Averaging Date would occur with respect to the relevant Reference Date, then Condition 15.1(b) will apply for purposes of determining the relevant level, price, value or amount on the final Averaging Date in respect of that Reference Date as if such final Averaging Date were a Reference Date that was a Disrupted Day;
    - (B) **"Postponement"**, then Condition 15.1(b) above will apply for the purposes of determining the relevant level, price, value or amount on that date as if such date were a Reference Date that was a Disrupted Day irrespective of whether, pursuant to such determination, that deferred Averaging Date would fall on a day that already is or is deemed to be an Averaging Date for the relevant Warrants or Certificates; or
    - (C) **"Modified Postponement"**, then the Averaging Date shall be the earlier of (I) the first Valid Date following the Scheduled Averaging Date and (II) the Averaging Cut-Off Date, irrespective of whether it falls on a day that already is or is deemed to be an Averaging Date.
  - (ii) If, in respect of a Futures Contract Basket Security, a Scheduled Averaging Date in respect of a Reference Date is determined by the Determination Agent to be a Disrupted Day in respect of any Basket Component, then:
    - (A) where "Individual Scheduled Trading Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement:
      - (1) if, in relation to **"Averaging Date Disruption"**, the consequence specified in the applicable Pricing Supplement is "Omission":

- (a) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is not a Disrupted Day shall be the Scheduled Averaging Date; and
  - (b) such date shall not be an Averaging Date in respect of such Reference Date for any Basket Component in respect of which the Scheduled Averaging Date is a Disrupted Day (each such Basket Component, an "**Affected Basket Component**"), provided that if through the operation of this provision there would not be any Averaging Date in respect of such Reference Date for the Affected Basket Component, then the sole Averaging Date for such Affected Basket Component shall be the earlier of (I) the first Scheduled Trading Day following the final Scheduled Averaging Date that is not a Disrupted Day in respect of such Affected Basket Component and (II) the Averaging Cut-Off Date for such Affected Basket Component;
- (2) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Postponement":
  - (a) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is not a Disrupted Day shall be the Scheduled Averaging Date; and
  - (b) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is a Disrupted Day (each such Basket Component, an "**Affected Basket Component**") shall be the earlier of (I) the first Scheduled Trading Day following the Scheduled Averaging Date that is not a Disrupted Day in respect of such Affected Basket Component and (II) the Averaging Cut-Off Date for such Affected Basket Component. Any day (including, for the avoidance of doubt, the Averaging Cut-Off Date) determined to be an Averaging Date as a result of the operation of this Condition 15.1(c)(ii)(A)(2)(b) shall be an Averaging Date, irrespective of whether it falls on a day that already is or is deemed to be an Averaging Date; or
- (3) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Modified Postponement":
  - (a) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is not a Disrupted Day shall be the Scheduled Averaging Date; and
  - (b) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is a Disrupted Day (each such Basket Component, an "**Affected Basket Component**") shall be the earlier of (I) the first Valid Date following the Scheduled Averaging Date in respect of such Affected Basket Component and (II) the Averaging Cut-Off Date for such Affected Basket Component, irrespective of whether it falls on a day that already is or is deemed to be an Averaging Date;
- (B) where "Common Scheduled Trading Days and Common Disrupted Days" is specified to be applicable in the applicable Pricing Supplement:
  - (1) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Omission", such date will be deemed not to be a relevant Averaging Date in respect of any Basket Component for the purposes of determining the relevant level, price, value or amount provided that, if through the operation of this provision there would be no Averaging Date in respect of such Reference Date, then the sole Averaging Date for each Basket Component shall be the earlier of (A)

the first Common Scheduled Trading Day following the Scheduled Averaging Date that is not a Disrupted Day for any Basket Component and (B) the Averaging Cut-Off Date (notwithstanding the fact that such Averaging Cut-Off Date may not be a Common Scheduled Trading Day);

- (2) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Postponement", then the Averaging Date shall be the earlier of (A) the first Common Scheduled Trading Day following the Scheduled Averaging Date that is not a Disrupted Day in respect of any Basket Component and (B) the Averaging Cut-Off Date (notwithstanding the fact that such Averaging Cut-Off Date may not be a Common Scheduled Trading Day). Any day (including, for the avoidance of doubt, the Averaging Cut-Off Date) determined to be an Averaging Date as a result of the operation of this Condition 15.1(c)(ii)(B)(2) shall be an Averaging Date, irrespective of whether it falls on a day that already is or is deemed to be an Averaging Date; or
  - (3) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Modified Postponement", then the Averaging Date for each Basket Component shall be the earlier of (I) the first Common Valid Date following the Scheduled Averaging Date and (II) the Averaging Cut-Off Date (notwithstanding the fact that such Averaging Cut-Off Date may not be a Common Scheduled Trading Day), irrespective of whether it falls on a day that already is or is deemed to be an Averaging Date;
- (C) where "Common Scheduled Trading Days and Individual Disrupted Days" is specified to be applicable in the applicable Pricing Supplement:
- (1) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Omission":
    - (a) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is not a Disrupted Day shall be the Scheduled Averaging Date; and
    - (b) such date shall not be an Averaging Date in respect of such Reference Date for any Basket Component in respect of which the Scheduled Averaging Date is a Disrupted Day (each such Basket Component, an "**Affected Basket Component**"), provided that if through the operation of this provision there would not be any Averaging Date in respect of such Reference Date for the Affected Basket Component, then the sole Averaging Date for such Affected Basket Component shall be the earlier of (I) the first Scheduled Trading Day following the final Scheduled Averaging Date that is not a Disrupted Day in respect of such Affected Basket Component and (II) the Averaging Cut-Off Date for such Affected Basket Component (notwithstanding the fact that such day may not be a Common Scheduled Trading Day);
  - (2) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Postponement":
    - (a) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is not a Disrupted Day shall be the Scheduled Averaging Date; and
    - (b) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is a Disrupted Day (each such Basket Component, an "**Affected Basket Component**") shall be the earlier of (I) the first Scheduled Trading Day following the Scheduled Averaging Date that is not a Disrupted

- Day in respect of such Affected Basket Component and (II) the Averaging Cut-Off Date for such Affected Basket Component (notwithstanding the fact that such day not be a Common Scheduled Trading Day). Any day (including, for the avoidance of doubt, the Averaging Cut-Off Date) determined to be an Averaging Date as a result of the operation of this Condition 15.1(c)(ii)(C)(2)(b) shall be an Averaging Date, irrespective of whether it falls on a day that already is or is deemed to be an Averaging Date; or
- (3) if, in relation to "**Averaging Date Disruption**", the consequence specified in the applicable Pricing Supplement is "Modified Postponement":
- (a) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is not a Disrupted Day shall be the Scheduled Averaging Date; and
  - (b) the Averaging Date for each Basket Component in respect of which the Scheduled Averaging Date is a Disrupted Day (each such Basket Component, an "**Affected Basket Component**") shall be the earlier of (I) the first Valid Date (that is a Scheduled Trading Day) following the Scheduled Averaging Date in respect of such Affected Basket Component and (II) the Averaging Cut-Off Date for such Affected Basket Component, irrespective of whether it falls on a day that already is or is deemed to be an Averaging Date;
- (iii) If, in respect of any Single Futures Contract Security or Futures Contract Basket Security (as the case may be), an Averaging Date falls on the relevant Averaging Cut-Off Date pursuant to Condition 15.1(c)(ii):
- (A) if such Averaging Cut-Off Date is not a Disrupted Day for such Single Futures Contract Security or Futures Contract Basket Security (as the case may be), the Determination Agent shall determine the value of such Futures Contract as at the Determination Time on such Averaging Cut-Off Date; or
  - (B) if such Averaging Cut-Off Date is a Disrupted Day in respect of Single Futures Contract Security or Futures Contract Basket Security (as the case may be), the Determination Agent shall determine, in its sole and absolute discretion, its good faith estimate of the value for such Futures Contract as of the Determination Time on such Averaging Cut-Off Date.
- (iv) If any Averaging Dates in relation to a Reference Date occur after that Reference Date as a result of the occurrence of a Disrupted Day, then (i) the relevant Interest Payment Date, Exercise Date or (ii) the occurrence of a Futures Contract Adjustment Event or an Additional Disruption Event shall be determined by reference to the last such Averaging Date as though it were that Reference Date.
- (d) If in respect of a Futures Contract and a Reference Date, a Scheduled Reference Date or Scheduled Averaging Date is specified to be the "Expiry Date" in the applicable Pricing Supplement and due to the Scheduled Reference Date or Scheduled Averaging Date (as the case may be) being a Disrupted Day (or for any other reason), the final settlement price has been announced and published on or prior to the Scheduled Reference Date or Scheduled Averaging Date (as the case may be), then the Reference Date or Averaging Date (as the case may be) for such Futures Contract shall fall on the Expiry Date and the provisions of Conditions 15.1(b) and (c) above shall not apply to such Futures Contract and Scheduled Reference Date or Scheduled Averaging Date (as the case may be).
- (e) If an event or circumstance that would otherwise constitute or give rise to a Disrupted Day also constitutes a Futures Contract Adjustment Event, the Determination Agent shall determine whether such event or circumstance shall be treated as a Disrupted Day or a Futures Contract Adjustment Event.

15.2 *Administrator/Benchmark Event or Disappearance of Futures Contract or Settlement Price:*

If the applicable Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and, on or prior to any Reference Date, (i) an Administrator/Benchmark Event and an Administrator/Benchmark Event Date occurs or (ii) a Disappearance of Futures Contract or Settlement Price occurs, in each case in respect of a relevant Futures Contract, then:

- (a) If the applicable Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and if an Alternative Pre-nominated Futures Contract has been specified in relation to such Futures Contract in the applicable Pricing Supplement, then:
  - (i) the Determination Agent shall attempt to determine an Adjustment Payment;
  - (ii) if the Determination Agent determines an Adjustment Payment,
    - (A) it shall notify the Issuer of the Adjustment Payment and if the Adjustment Payment is an amount that the Securityholder would (but for Condition 15.2(a)(ii)(C)(2)) be required to pay to the Issuer in respect of each Security, request the Issuer to notify the Determination Agent whether it intends to terminate the Warrants or Certificates pursuant to Condition 15.4(b) (*Redemption*). If the Issuer does not intend to terminate the Warrants or Certificates pursuant to Condition 15.4(b) (*Redemption*) then the following provisions of this Condition 15.2(a) shall apply;
    - (B) the terms of the Warrants or Certificates shall be amended so that references to the Futures Contract are replaced by references to the Alternative Pre-nominated Futures Contract;
    - (C) the Conditions shall be adjusted to implement the Adjustment Payment as follows:
      - (1) if the Adjustment Payment is an amount that the Issuer is required to pay in respect of each Security, the Determination Agent shall adjust the Conditions to provide for the payment of the Adjustment Payment on the immediately succeeding Interest Payment Date or if there is no such immediately succeeding Interest Payment Date, on the Exercise Date or other date when the Warrants or Certificates are settled in full; or
      - (2) if the Adjustment Payment is an amount that the Securityholder would (but for this Condition 15.2(a)(ii)(C)(2)) be required to pay to the Issuer in respect of each Security, the Determination Agent shall adjust the Conditions to provide for the reduction of the amounts due by the Issuer until the aggregate amount of such reductions is equal to the Adjustment Payment, (subject, in the determination of the Determination Agent, to any minimum settlement amount of the Warrants or Certificates which the Determination Agent determines is required pursuant to any applicable law or regulation (including, without limitation, any tax law) and the rules of each listing authority, stock exchange and/or quotation system by which the Warrants or Certificates have then been admitted to listing, trading and/or quotation);
    - (D) the Determination Agent shall make such other adjustments to the Conditions as it determines necessary or appropriate in order to account for the effect of the replacement of the Futures Contract with the Alternative Pre-nominated Futures Contract and/or to preserve as nearly as practicable the economic equivalence of the Warrants or Certificates before and after the replacement of the Futures Contract with the Alternative Pre-nominated Futures Contract; and
    - (E) the Determination Agent shall notify the Issuer, the Fiscal Agent and the Securityholders of any the replacement of the Futures Contract by the Alternative Pre-nominated Futures Contract, the Adjustment Payment and any other



adjustments to the Conditions, giving summary details of the adjustment(s), provided that any failure to give such notice shall not affect the validity of the foregoing.

- (iii) If the Determination Agent is unable to determine an Adjustment Payment then Condition 15.4(b) (*Redemption*) shall apply.
- (b) If the applicable Pricing Supplement does not specify that the Benchmark Trigger Provisions are applicable or, if the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable but does not specify an Alternative Pre-nominated Futures Contract in relation to the relevant Futures Contract, then Condition 15.4(b) (*Redemption*) shall apply.
- (c) If it (i) is or would be unlawful at any time under any applicable law or regulation or (ii) would contravene any applicable licensing requirements, in each case for the Issuer, the Determination Agent or the Calculation Agent to perform the actions prescribed in this Condition 15.2 (*Administrator/Benchmark Event or Disappearance of Futures Contract or Settlement Price*) (or it would be unlawful or would contravene those licensing requirements were a determination to be made at such time), then Condition 15.4(b) (*Redemption*) shall apply.

### 15.3 *Futures Contract Adjustment Events:*

If so specified in the Pricing Supplement relating to any Series of Futures Contract Securities, the following shall constitute "**Futures Contract Adjustment Events**" for the purposes of such Series:

- (a) "**Price Source Disruption**", which means (i) the failure of the Futures Contract Sponsor to announce or publish the Settlement Price (or the information necessary for determining the Settlement Price) or (ii) the failure by the relevant Exchange to publish the Settlement Price;
- (b) "**Trading Restriction**", which means the material suspension of, or the material limitation imposed on, trading in (i) the Futures Contract on the Exchange or (ii) any relevant Futures Contract Underlier(s).
- (c) "**Disappearance or Non-commencement of Futures Contract or Settlement Price**", which means (i) the permanent discontinuation of the Futures Contract or of trading in the relevant Futures Contract on the relevant Exchange or (ii) the disappearance or permanent discontinuance or unavailability of a Settlement Price or (iii) trading in the relevant Futures Contract never commenced and, in any such case, no Successor Futures Contract exists provided that the scheduled expiry of a Futures Contract in accordance with the relevant contract specifications shall not constitute the Disappearance or Non-commencement of Futures Contract or Settlement Price;
- (d) "**Material Change in Formula**", which means the occurrence since the Trade Date of a material change or modification in the formula for or method of calculating the settlement price or other price of the relevant Futures Contract;
- (e) "**Material Change in Content**", which means the occurrence since the Trade Date of a material change or modification in the content, composition or constitution of the relevant Futures Contract;
- (f) "**Tax Disruption**", which means the imposition of, change in or removal of an excise, severance, sales, use, value added, transfer, stamp, documentary, recording or similar tax on, or measured by reference to, the relevant Futures Contract (other than a tax on, or measured by reference to, overall gross or net income) by any government or taxation authority after the Trade Date, if the direct effect of such imposition, change or removal is to raise or lower the relevant level, price, value or amount on the day that would otherwise be a Reference Date from what it would have been without that imposition, change or removal.
- (g) "**Change of Exchange**", which means that the Futures Contract is no longer negotiated on the Exchange and/or under a market-standard format as of the Trade Date but is negotiated on an exchange and/or under a format that is not acceptable to the Determination Agent.

- (h) **"Illiquidity Event"**, which means that in the determination of the Determination Agent, the liquidity of the Futures Contract has decreased significantly since the Trade Date, such decrease of liquidity being likely to have a material impact on any hedging arrangements of the Issuer and/or any of its Affiliates in connection with the Warrants or Certificates.

15.4 *Adjustments for Futures Contract Adjustment Events:*

- (a) *Adjustment:*

If a Futures Contract Adjustment Event which is a Price Source Disruption, a Trading Disruption, a Material Change in Formula, a Material Change in Content, a Tax Disruption, a Change of Exchange or an Illiquidity Event occurs, the Determination Agent shall determine if such Futures Contract Adjustment Event has a material effect on the Warrants or Certificates and, if so, subject to Condition 15.4(b) (*Redemption*), shall:

- (i) make such adjustments to the Conditions and/or the applicable Pricing Supplement as the Determination Agent determines necessary or appropriate to account for the effect of such Futures Contract Adjustment Event and determine the effective date of each such adjustment; and/or
- (ii) substitute such Futures Contract with a new Futures Contract selected by the Determination Agent (which shall be a replacement futures contract using, in the determination of the Determination Agent, the same or a substantially similar formula and method of calculation as used in the calculation of the Futures Contract or a replacement futures contract selected by the Determination Agent in accordance with any other criteria specified in the applicable Pricing Supplement) and make such adjustments (if any) to the Conditions and/or the applicable Pricing Supplement as it deems necessary or appropriate in relation to such substitution. Such new futures contract shall be deemed to be a Futures Contract in place of the Futures Contract the subject of the Futures Contract Adjustment Event.

If the Determination Agent determines that no calculation, adjustment and/or substitution can reasonably be made pursuant to the above, Condition 15.4(b) (*Redemption*) shall apply.

- (b) *Redemption:*

If either:

- (i) a Futures Contract Adjustment Event which is a Disappearance of Futures Contract or Settlement Price occurs or an Administrator/Benchmark Event and an Administrator/Benchmark Event Date occurs and:
  - (A) the Pricing Supplement does not specify that the Benchmark Trigger Provisions are applicable;
  - (B) the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable but does not specify an Alternative Pre-nominated Futures Contract;
  - (C) the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and specifies an Alternative Pre-nominated Futures Contract but the Determination Agent is unable to determine the Adjustment Payment;
  - (D) the Pricing Supplement specifies that the Benchmark Trigger Provisions are applicable and specifies an Alternative Pre-nominated Futures Contract and the Determination Agent determines that the Adjustment Payment would be an amount that the Securityholder would (but for Condition 15.2(a)(ii)(C)(2)) be required to pay to the Issuer in respect of each Security; or
  - (E) it (a) would be unlawful at any time under any applicable law or regulation or (b) would contravene any applicable licensing requirements, in each case for the

Determination Agent to calculate the relevant level, price, value or amount in accordance with Condition 15.4(a) (*Adjustment*); or

- (ii) any Futures Contract Adjustment Event (other than a Disappearance of Futures Contract or Settlement Price) occurs and the Determination Agent determines that no calculation, adjustment and/or substitution can reasonably be made pursuant to Condition 15.4(a) (*Adjustment*),

then the Issuer may, at any time thereafter and in its sole and absolute discretion, determine that the Warrants or Certificates shall be terminated as of any later date. If the Issuer so determines that the Warrants or Certificates shall be terminated, then the Warrants or Certificates shall cease to be exercisable (or, in the case of any Warrants or Certificates which have been exercised, the entitlements of the respective exercising Securityholders to receive the Underlying Securities or payment of the Cash Settlement Amount, as the case may be, pursuant to such exercise shall cease) as of such later date and the Issuer will pay an amount which the Determination Agent, in its sole and absolute discretion, determines is the fair value to the Securityholder of a Warrant or Certificate with terms that would preserve for the Securityholder the economic equivalent of any payment or delivery (assuming satisfaction of each applicable condition precedent) to which the Securityholder would have been entitled under the relevant Warrant or Certificate after that date but for the occurrence of such termination, less the cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related underlying hedging arrangements, the amount of such cost or loss being as determined by the Determination Agent in its sole and absolute discretion.

The Issuer's obligations under the relevant Warrants or Certificates shall be satisfied in full upon payment of such amount.

If the Issuer determines that the relevant Warrants or Certificates shall continue, the Determination Agent may make such adjustment as the Determination Agent, in its sole and absolute discretion, considers appropriate, if any, to any variable relevant to the redemption, settlement or payment terms of the relevant Warrants or Certificates and/or any other adjustment, which change or adjustment shall be effective on such date as the Determination Agent shall determine. The Determination Agent shall provide notice to the Securityholders of any such change or adjustment, giving summary details of the relevant change or adjustment, as soon as reasonably practicable provided that any failure to give such notice shall not affect the validity of any such change or adjustment.

#### 15.5 *Correction of Futures Contract Prices:*

If any settlement price announced by the Futures Contract Sponsor or published by the Exchange and which is utilised by the Determination Agent for any calculation or determination (the "**Original Determination**") under the Securities is subsequently corrected and the correction (the "**Corrected Value**") is published by the Futures Contract Sponsor by such time (the "**Correction Cut Off Time**") as may be specified in the applicable Pricing Supplement (or, if none is so specified, at least 3 Business Days prior to the relevant Interest Payment Date, Exercise Date or any early termination date of the Futures Contract Securities or Futures Contract Basket Securities (as applicable)), then the Determination Agent will notify the Issuer and the Fiscal Agent of the Corrected Value as soon as reasonably practicable and shall determine the relevant value (the "**Replacement Determination**") using the Corrected Value. If the result of the Replacement Determination is different from the result of the Original Determination, to the extent that it determines to be necessary and practicable, the Determination Agent may adjust any relevant terms accordingly.

In the event there is any discrepancy between any settlement price published or announced by the Futures Contract Sponsor and the Exchange any which is used by the Determination Agent for any calculation or determination under the Warrants or Certificates and that is not otherwise corrected pursuant to this Condition 15.6, the settlement price selected by the Determination Agent acting in good faith and a commercially reasonable manner shall prevail for the relevant day.

#### 15.6 *Additional Disruption Events:*

- (a) Following the occurrence of an Additional Disruption Event, the Issuer will, in its sole and absolute discretion, determine whether or not the relevant Warrants or Certificates shall continue or shall be terminated early.
- (b) If the Issuer determines that the relevant Warrants or Certificates shall continue, the Determination Agent may make such adjustment as the Determination Agent, in its sole and absolute discretion, considers appropriate, if any, to the formula for the Cash Settlement Amount, any Interest Amount and/or the relevant level, price, value or amount set out in the applicable Pricing Supplement, the number of Futures Contracts to which each Warrant or Certificate relates, the number of Futures Contracts comprised in a Basket of Futures Contracts, the amount, the number of or type of shares, futures contracts or other securities which may be delivered under such Warrants or Certificates and, in any case, any other variable relevant to the termination, settlement, or payment terms of the relevant Warrants or Certificates and/or any other adjustment (including without limitation, in relation to Futures Contract Basket Securities, the cancellation of terms applicable in respect of any Futures Contracts affected by the relevant Additional Disruption Event), to account for the economic effect on the Warrants or Certificates of such Additional Disruption Event, which change or adjustment shall be effective on such date as the Determination Agent shall determine.
- (c) If the Issuer determines that the relevant Warrants or Certificates shall be terminated, then the Warrants or Certificates shall cease to be exercisable (or, in the case of any Warrants or Certificates which have been exercised, the entitlements of the respective exercising Securityholders to receive the Underlying Securities or payment of the Cash Settlement Amount, as the case may be, pursuant to such exercise shall cease) as of such later date and the Issuer will pay an amount which the Determination Agent, in its sole and absolute discretion, determines is the fair value to the Securityholder of a Warrant or Certificate with terms that would preserve for the Securityholder the economic equivalent of any payment or delivery (assuming satisfaction of each applicable condition precedent) to which the Securityholder would have been entitled under the relevant Warrant or Certificate after that date but for the occurrence of such termination, less the cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related underlying hedging arrangements, the amount of such cost or loss being as determined by the Determination Agent in its sole and absolute discretion.
- (d) The Issuer shall as soon as reasonably practicable under the circumstances notify the Fiscal Agent and the Determination Agent of the occurrence of an Additional Disruption Event.
- (e) For the purposes hereof:  
  

**"Additional Disruption Event"** means with respect to any Series of Futures Contract Securities any or all of a Change in Law, a Hedging Disruption and an Increased Cost of Hedging, as have been specified in the applicable Pricing Supplement as an applicable Additional Disruption Event with respect to such Warrants or Certificates.

15.7 *Definitions applicable to Futures Contract Securities and Futures Contract Basket Securities:*

In relation to Futures Contract Securities and Futures Contract Basket Securities, the following expressions have the meanings set out below:

**"Adjustment Payment"** means, in respect of any Warrant or Certificate, the payment (if any) determined by the Determination Agent as is required in order to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value to or from the Issuer as a result of the replacement of a Futures Contract by the Alternative Pre-nominated Futures Contract. The Determination Agent may determine that the Adjustment Payment is zero;

**"Alternative Pre-nominated Futures Contract"** means, in respect of a Futures Contract, the first of the indices, benchmarks or other price sources specified in the applicable Pricing Supplement as an "Alternative Pre-nominated Futures Contract" that is not subject to an Administrator/Benchmark Event;

**"Averaging Cut-Off Date"** means, in the case where Warrants or Certificates relate to a Futures Contract or Basket of Futures Contracts and in respect of a Scheduled Averaging Date for the purposes of Condition 15.1 (*Reference Dates, Averaging Dates and Market Disruption*) the date falling the Specified Number of

Scheduled Trading Days or the Specified Number of Common Scheduled Trading Days (as the case may be) following the Scheduled Averaging Date, or if no such number is specified:

- (a) if "Common Scheduled Trading Days and Common Disrupted Days" in respect of a Basket of Futures Contracts is specified to be applicable in the Pricing Supplement, the eighth Common Scheduled Trading Day following such Scheduled Averaging Date; or
- (b) in any other case, the eighth Scheduled Trading Day following such Scheduled Averaging Date;

**"Averaging Date"** means, in respect of each Reference Date, either:

- (a) in the case of (i) a Single Futures Contract Security or (ii) a Futures Contract Basket Security where the applicable Pricing Supplement provides that "Individual Scheduled Trading Days and Individual Disrupted Days" shall be applicable, each date specified as such in the applicable Pricing Supplement, or, if such date is not a Scheduled Trading Day, the next following Scheduled Trading Day for such (or the relevant) Futures Contract or Basket Component (as the case may be); or
- (b) in the case of a Futures Contract Basket Security, where the applicable Pricing Supplement provides that either "Common Scheduled Trading Days and Common Disrupted Days" or "Common Scheduled Trading Days and Individual Disrupted Days" shall be applicable, each date specified as such in the applicable Pricing Supplement, or if any such date is not a Common Scheduled Trading Day, the next following Common Scheduled Trading Day for such Basket of Futures Contracts,

provided that if any such day is a Disrupted Day, the Averaging Date shall be determined in accordance with the provisions of Condition 15.1 (*Reference Dates, Averaging Dates and Market Disruption*);

**"Basket"** means in relation to any Futures Contract Basket Securities, the Futures Contracts specified in the applicable Pricing Supplement as comprising the Basket, in each case in the relative proportions specified in such Pricing Supplement;

**"Basket Component"** means, in relation to a particular Series of Futures Contract Basket Securities, each Futures Contract comprised in the relevant Basket of Futures Contracts;

**"Basket of Futures Contracts"** means, in relation to a particular Series, a basket comprising the Futures Contracts specified in the applicable Pricing Supplement in the relative proportions specified in such Pricing Supplement;

**"Change in Law"** means that, on or after the Trade Date (A) due to the adoption of or any change in any applicable law or regulation (including, without limitation, any tax law), or (B) due to the promulgation of or any change in the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law or regulation (including any action taken by a taxing authority), the Issuer determines that (x) it has become illegal to hold, acquire or dispose of any relevant Futures Contracts, or (y) it will incur a materially increased cost in performing its obligations with respect to the Warrants or Certificates (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on its tax position);

**"Common Scheduled Trading Day"** means, in respect of a Futures Contract Basket Security, each day which is a Scheduled Trading Day for all the Basket Components;

**"Common Valid Date"** means, in respect of a Futures Contract Basket Security, a Common Scheduled Trading Day that is not a Disrupted Day for any Basket Component and on which another Averaging Date does not or is deemed not to occur;

**"Determination Date"** means, in relation to any determination, each date specified as such in the applicable Pricing Supplement, provided that if any such date is (i) not a Scheduled Trading Day and/or (ii) a Disrupted Day, the relevant Determination Date shall be determined in accordance with the provisions of Condition 15.1 (*Reference Dates, Averaging Dates and Market Disruption*);

**"Determination Time"** means, in respect of a Futures Contract, the time at which the Settlement Price is announced or published (or, in the case of a Disrupted Day, scheduled to be announced or published in accordance with the terms of such Futures Contract);

**"Disrupted Day"** means any Scheduled Trading Day on which a Market Disruption Event has occurred or is continuing;

**"Exchange"** means, in respect of a Futures Contract relating to Single Futures Contract Securities or Futures Contract Basket Securities, each exchange or quotation system specified as such for such Futures Contract in the applicable Pricing Supplement or, if none is specified, the principal exchange or quotation system for trading in such Futures Contract, as determined by the Determination Agent, and (without prejudice to a Futures Contract Adjustment Event that is a Change of Exchange) any successor to such exchange or quotation system or any substitute exchange or quotation system to which trading in the Futures Contract has temporarily relocated, provided that the Determination Agent has determined that there is comparable liquidity relative to such Futures Contract on such temporary substitute exchange or quotation system as on the original Exchange;

**"Exchange Disruption"** means the Exchange fails to open for trading during any regular trading session that the Determination Agent considers material to the determination of the applicable Settlement Price for the relevant Futures Contract or any other event occurs that disrupts or impairs (as determined by the Determination Agent) the ability of market participants in general (i) to effect transactions in, comply with clearing obligations or obtain market values for, the Futures Contract on the Exchange, or (ii) to effect transactions in, comply with clearing obligations or obtain market values for, the Futures Contract Underlier(s), and in each case the Determination Agent determines that such event is material in relation to the Warrants or Certificates;

**"Expiry Date"** means, in respect of a Futures Contract and each day that is a Reference Date or an Averaging Date, the expiry date of such Futures Contract on which the Futures Contract Sponsor announces, and the Exchange publishes, the "final settlement price" of such Futures Contract;

**"Failure to Announce or Publish"** means (a) the failure by the relevant Futures Contract Sponsor to announce or publish the Settlement Price; or (b) the failure by the relevant Exchange to publish the Settlement Price provided that, if either of (a) or (b) occurs and the Determination Agent determines that the failure of the other announcement or publication to occur is not material for the purposes of the Warrants or Certificates, then such circumstances shall not constitute a Failure to Announce or Publish;

**"Futures Contract"** means any futures contract specified in the applicable Pricing Supplement as a Futures Contract;

**"Futures Contract Sponsor"** means, in respect of a Futures Contract, the corporation or other entity which (a) is responsible for setting and reviewing the contract specifications, rules and procedures and methods of calculations and adjustments, if any, related to such Futures Contract; and (b) announces (directly or through an agent) the settlement price of such Futures Contract on a regular basis;

**"Futures Contract Underlier(s)"** means, in respect of a Futures Contract, the or each index, rate, asset or reference item underlying such Futures Contract as specified in the applicable Pricing Supplement;

**"Hedging Disruption"** means that the Issuer is unable, after using commercially reasonable efforts, to (A) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the risk of entering into and performing its obligations under the Warrants or Certificates, or (B) realise, recover or remit the proceeds of any such transactions or asset(s);

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

**"Market Disruption Event"** means in respect of a Futures Contract, the occurrence or existence of (i) a Failure to Announce or Publish, (ii) a Trading Disruption, or (iii) an Exchange Disruption;

**"Observation Date"** means each date specified as such in the applicable Pricing Supplement, provided that if any such date is (i) not a Scheduled Trading Day and/or (ii) a Disrupted Day, the relevant Observation Date shall be determined in accordance with the provisions of Condition 15.1 (*Reference Dates, Averaging Dates and Market Disruption*);

**"Reference Cut-Off Date"** means, in the case where Warrants or Certificates relate to a Futures Contract or a Basket of Futures Contracts and in respect of a Scheduled Reference Date for the purposes of Condition 15.1(b) (*Reference Dates, Averaging Dates and Market Disruption*), the date falling the Specified Number of Scheduled Trading Days or the Specified Number of Common Scheduled Trading Days (as the case may be) following the Scheduled Reference Date, or if no such number is specified:

- (a) if "Common Scheduled Trading Days and Common Disrupted Days" in respect of a Basket of Futures Contracts is specified to be applicable in the Pricing Supplement, the eighth Common Scheduled Trading Day following such Scheduled Reference Date; or
- (b) in any other case, the eighth Scheduled Trading Day, or, in respect of a Basket of Futures Contracts, the eighth Scheduled Trading Day for the Affected Basket Component, following such Scheduled Reference Date;

**"Reference Date"** means, for the purposes of Condition 15.1 (*Reference Dates, Averaging Dates and Market Disruption*), each Valuation Date, Observation Date, Strike Date or Determination Date (as applicable) specified in the applicable Pricing Supplement, or otherwise, any date construed to be a Reference Date in accordance with the Conditions;

**"Relevant Futures Contract Benchmark"** means the Futures Contract or the Futures Underlier;

**"Scheduled Averaging Date"** means an original date (following any adjustment (if applicable) pursuant to paragraph (a) or (b) of the definition of "Averaging Date") that, but for such day being a Disrupted Day, would have been a Reference Date;

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

**"Scheduled Reference Date"** means, for the purposes of Condition 15.1 (*Reference Dates, Averaging Dates and Market Disruption*), any original date that, but for the occurrence of an event causing a Disrupted Day, would have been a Reference Date;

**"Scheduled Trading Day"** means any day on which each Exchange is scheduled to be open for trading for their respective regular trading sessions notwithstanding that any such Exchange may close prior to its Scheduled Closing Time;

**"Settlement Price"** means, in respect of a Futures Contract and any day, the official "daily settlement price" or "final settlement price" on such day (in each case, however defined in the contract specifications of such Futures Contract or the relevant Exchange);

**"Specified Number of Scheduled Trading Days"** means the number specified as such in the applicable Pricing Supplement;

**"Specified Number of Common Scheduled Trading Days"** means the number specified as such in the applicable Pricing Supplement;

**"Strike Date"** means each date specified as such in the applicable Pricing Supplement, provided that if any such date is (i) not a Scheduled Trading Day and/or (ii) a Disrupted Day, the relevant Strike Date shall be determined in accordance with the provisions of Condition 15.1 (*Reference Dates, Averaging Dates and Market Disruption*);

**"Successor Futures Contract"** means, in respect of a Futures Contract, a successor futures contract using, in the determination of the Determination Agent, the same or a substantially similar formula for or method of calculation as used in the calculation of such Futures Contract;

**"Trading Disruption"** means any suspension of or limitation imposed on trading by the Exchange or otherwise and whether by reason of movements in price exceeding limits permitted by the Exchange or otherwise relating to the Futures Contract on the Exchange, which the Determination Agent determines to be material in relation to the Warrants or Certificates;

**"Valid Date"** means a Scheduled Trading Day that is not a Disrupted Day and on which another Averaging Date in respect of the Reference Date does not, or is not deemed to, occur; and

**"Valuation Date"** means each date specified as such in the applicable Pricing Supplement, provided that if any such date is (i) not a Scheduled Trading Day and/or (ii) a Disrupted Day, the relevant Valuation Date shall be determined in accordance with the provisions of Condition 15.1 (*Reference Dates, Averaging Dates and Market Disruption*).

## 16. PROVISIONS RELATING TO AUTOCALLABLE EARLY SETTLEMENT SECURITIES

In respect of any Series of Warrants or Certificates for which the Autocallable Early Settlement provisions are specified as applicable in the applicable Pricing Supplement, the Conditions shall be supplemented and modified by the terms and conditions set out in the applicable Pricing Supplement.

## 17. INCONVERTIBILITY EVENTS

If, in respect of any Series of Warrants or Certificates, the applicable Pricing Supplement specifies that "Inconvertibility Event Provisions" are applicable, this Condition 17 (*Inconvertibility Events*) shall apply in respect of such Warrants or Certificates.

If, at any time during the term of such Series, the Determination Agent determines that an Inconvertibility Event has occurred, it will inform the Issuer of such event. Following the determination of an Inconvertibility Event, the Issuer may, at its sole and absolute discretion, provide a notice of inconvertibility to the holders of the Warrants or Certificates in accordance with this Condition 17 (*Inconvertibility Events*) or the appropriate means electing either:

- (a) If **"Converted Payment"** is specified in the applicable Pricing Supplement: to continue making any payments due under such Warrants or Certificates until the Exercise Date, in which case, any amount due under such Warrants or Certificates shall be converted from the Relevant Currency into the Inconvertibility Specified Currency at the Fallback FX Spot Rate determined by the Determination Agent in its sole and absolute discretion; or
- (b) If **"Early Termination"** is specified in the applicable Pricing Supplement: to early terminate the Warrants or Certificates on a specified date (such date, the **"Inconvertibility Early Termination Date"**), in which case the Warrants or Certificates shall early redeem at the Inconvertibility Early Settlement Amount on such Inconvertibility Early Termination Date. The Issuer's obligations under the Warrants or Certificates shall be satisfied in full upon payment of such amount; or
- (c) If **"Suspended Payment"** is specified in the applicable Pricing Supplement: to suspend the payment until as many Business Days after the Inconvertibility Event has ceased as specified in the notice,

provided that the Issuer may, at any time from and including the Trade Date to and including the Exercise Date, subsequent to the despatch of a notice electing one of the selected options other than "Early Termination", dispatch a second notice electing "Early Termination", provided that such option was specified as applicable in the relevant Pricing Supplement, in which case the Warrants or Certificates will be redeemed in accordance with the terms of "Early Termination" above and the date specified in such notice will be the Inconvertibility Early Termination Date.

For the avoidance of doubt, failure to deliver such notice or the failure of the recipient to receive such notice will not affect the Issuer's ability to make payments according to the option it selected.



For the purpose of this Condition 17 (*Inconvertibility Events*):

**"Fallback FX Spot Rate"** has the meaning given in the applicable Pricing Supplement;

**"Inconvertibility Early Settlement Amount"** means either:

- (a) an amount as specified in the applicable Pricing Supplement;
- (b) if **"Early Settlement Amount"** is specified in the Pricing Supplement, an amount equal to (i), the Early Settlement Amount, (ii) converted from the Relevant Currency into the Inconvertibility Specified Currency at the exchange rate (expressed as a number of the Relevant Currency per one unit of the Inconvertibility Specified Currency) determined by the Determination Agent in its sole and absolute discretion for settlement on or about the relevant payment date and (iii) less the reasonable cost to and/or the loss realised by, the Issuer and/or any Affiliate in respect of break funding costs for the Issuer term financing associated with such early termination of the Warrants or Certificates, in each case as calculated by the Determination Agent in its sole and absolute discretion; or
- (c) if **"Fair Market Value"** is specified in the Pricing Supplement, an amount, in the Inconvertibility Specified Currency, equal to the fair market value of such Warrants or Certificates, on such day as is selected by the Determination Agent in its sole and absolute discretion (provided that such day is not more than 15 days before the Inconvertibility Early Termination Date), less the proportion attributable to that Warrant or Certificate of the reasonable cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related hedging arrangements or in respect of break funding costs for the Issuer's term financing associated with such early termination of the Warrants or Certificates, in each case as calculated by the Determination Agent in its sole and absolute discretion.

An **"Inconvertibility Event"** shall be deemed to have occurred if from (and including) the Trade Date to (and including) the Exercise Date, any event or circumstance occurs that generally makes it, in the sole and absolute discretion of the Determination Agent, impossible, unlawful or impracticable for the Issuer, the Determination Agent or any of its Affiliates for any reason beyond their reasonable control:

- (a) to convert the Relevant Currency into the Inconvertibility Specified Currency or the Inconvertibility Specified Currency into the Relevant Currency (whether directly or through a cross exchange rate) through customary legal channels; or
- (b) to determine the rate of conversion of the Inconvertibility Specified Currency into the Relevant Currency or the Relevant Currency into the Inconvertibility Specified Currency or
- (c) to transfer, or make a payment in, or delivery of, the Relevant Currency from or to, outside, or inside, of the Relevant Jurisdiction, in each case under paragraph (a), (b) or (c), in an amount up to the total amount of payment due to be made by the Issuer under the Warrants or Certificates; or
- (d) to determine a rate at which any Relevant Currency can be lawfully exchanged for U.S. dollars; or
- (e) to convert any Relevant Currency into U.S. dollars; or
- (f) to exchange or repatriate any funds outside of any jurisdiction in which any of the Underlying or the Underlyings, or each of their components, is issued; or
- (g) for the Issuer or any of its Affiliates to hold, purchase, sell or otherwise deal in any Warrants or Certificates, or any other property in order for the Issuer or any of its Affiliates to perform any related hedging arrangement, or for the purposes of the Issuer or the Issuer's obligations in respect of any Warrants or Certificates;

**"Inconvertibility Specified Currency"** means the currency specified in the Pricing Supplement and, if none is indicated, the Specified Currency.

**"Relevant Currency"** means the currency as specified in the Pricing Supplement, and, if none is specified, the currency in which any of the securities which comprise the Index is denominated, or the currency of the Underlying, or any of the Underlyings, or the currency in which any of their underlying components is denominated, or any other currency or currencies as specified in the Pricing Supplement.

**"Relevant Jurisdiction"** means the jurisdiction as specified in the Pricing Supplement.

18. **CNY DISRUPTION EVENTS**

18.1 In the event that a CNY Disruption Event, as determined by the Determination Agent in its sole discretion, occurs on or prior to any date on which a payment is scheduled to be made under a CNY Security and such CNY Disruption Event is continuing on such date (any such CNY Security so affected, an **"Affected CNY Security"**), the following terms will apply:

- (a) first, payments under the Affected CNY Security shall be postponed to two Hong Kong Business Days after the date on which the CNY Disruption Event ceases to exist, unless that CNY Disruption Event continues to exist for 14 consecutive calendar days from the original date that, but for the occurrence of the CNY Disruption Event, would have been the date for such payments. In that case, the provisions of Condition 18.1(b) below will apply on the day immediately following the lapse of such 14 calendar day period; and
- (b) second, the relevant payment obligations under the Affected CNY Security shall be replaced by an obligation to pay an amount equal to the amount that would be due in CNY under the Affected CNY Security converted into an amount in USD as calculated by the Determination Agent in its sole discretion. All the payments hereunder shall be made in USD on the relevant Non-Deliverable Substitute Settlement Date. For the avoidance of doubt, this Condition 18.1(b) shall only apply to any payment which is scheduled to occur on a date that is affected by the CNY Disruption Event and shall not affect any payments falling due on any other dates.

18.2 For the purpose of this Condition 18 (*CNY Disruption Events*):

**"CNY Disruption Event"** means any of CNY Illiquidity, CNY Inconvertibility or CNY Non-Transferability.

**"CNY Illiquidity"** means, as determined by the Determination Agent in its sole discretion, the occurrence of any event that makes it impossible (where it had previously been possible) for the Issuer to obtain a firm quote of an offer price in respect of an amount in CNY equal to the then-current aggregate nominal amount of the relevant Affected CNY Securities, any interest or any other amount to be paid under such Securities (the **"Relevant Disrupted Amount"**), during the term of such Securities, either in one transaction or a commercially reasonable number of transactions that, when taken together, is no less than such Relevant Disrupted Amount, in the general CNY exchange market in each Offshore CNY Center in order to perform its obligations under the Affected CNY Securities.

**"CNY Inconvertibility"** means, as determined by the Determination Agent in its sole discretion, the occurrence of any event that makes it impossible (where it had previously been possible) for the Issuer to convert an amount of CNY no less than the Relevant Disrupted Amount into or from USD in the general CNY exchange market in each Offshore CNY Center.

**"CNY Non-Transferability"** means, as determined by the Determination Agent in its sole discretion, the occurrence in each Offshore CNY Center of any event that makes it impossible (where it had previously been possible) for the Issuer to transfer CNY (A) between accounts inside the Offshore CNY Center, (B) from an account inside the Offshore CNY Center to an account outside such Offshore CNY Center and outside mainland China, or (C) from an account outside an Offshore CNY Center and outside mainland China to an account inside the Offshore CNY Center. For the purpose of CNY Non-Transferability and Hong Kong as an Offshore CNY Center only, a segregated Chinese Renminbi fiduciary cash account with the People's Bank of China and operated by Bank of China (Hong Kong) Limited shall be deemed to be an account inside Hong Kong.

**"Hong Kong Business Day"** means any day, other than a Saturday or Sunday, that is neither a legal holiday nor a day on which banking institutions are authorised or required by law or regulation to close in Hong Kong.

**"Non-Deliverable Substitute Settlement Date"** means, subject to adjustment in accordance with the provisions of Condition 18.1(a) and/or any Business Day Convention applicable to the terms of an Affected CNY Security, the day determined by the Determination Agent which shall be as soon as practicable following the date on which a payment was scheduled to be made in respect of such Affected CNY Security and in respect of which a CNY Disruption Event has occurred and is continuing, and in no event later than two (2) Hong Kong Business Days after the date on which the amount payable in USD in respect of such Affected CNY Security is determined by the Determination Agent pursuant to Condition 18.1(b).

**"Offshore CNY Center"** means Hong Kong, or such other CNY Center as specified in the applicable Pricing Supplement.

For the avoidance of doubt, references to "general CNY exchange market in each Offshore CNY Center" in the definitions of CNY Illiquidity and CNY Inconvertibility refers to purchase, sale, lending or borrowing of CNY for general purpose (including, but not limited to, funding), and therefore any purchase or sale of CNY where such CNY is required by relevant laws or regulations for settlement of any cross-border trade transaction with an entity in mainland China, or any purchase or sale of CNY for personal customers residing in each such Offshore CNY Center, would not be purchase or sale made in such general CNY exchange market.

## 19. PROVISIONS RELATING TO ALL WARRANTS AND CERTIFICATES

### 19.1 *Performance Disruption:*

- (a) If the Determination Agent determines, acting in a commercially reasonable manner, that Performance Disruption has occurred, then the Issuer may determine, in its sole and absolute discretion, that the relevant Warrants or Certificates shall be terminated on the date specified in a notice to the Securityholders and the Issuer will pay an amount which the Determination Agent, in its sole and absolute discretion, determines is the fair value to the Securityholder of a Warrant or Certificate with terms that would preserve for the Securityholder the economic equivalent of any payment or delivery (assuming satisfaction of each applicable condition precedent) to which the Securityholder would have been entitled under the relevant Warrant or Certificate after that date but for the occurrence of such Performance Disruption, less the cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related underlying hedging arrangements, the amount of such cost or loss being as determined by the Determination Agent in its sole and absolute discretion, in which event the Warrant or Certificate shall cease to be exercisable (or, in the case of any Warrants or Certificates which have been exercised, the entitlements of the respective exercising Securityholders to receive the relevant currency or payment of the Settlement Amount, as the case may be, pursuant to such exercise shall cease) and the Issuer's obligations under the Warrants or Certificates shall be satisfied in full upon payment of such amount.
- (b) For the purposes hereof, **"Performance Disruption"** means, in relation to any Warrant or Certificate, the occurrence or existence on any day of any event, circumstance or cause beyond the control of the Issuer that has had or reasonably could be expected to have a material adverse effect upon (i) its ability to perform its obligations under, or hedge its positions with respect to, the relevant Warrant or Certificate; (ii) the ability of any hedging counterparty of the Issuer to perform its obligations under any hedging transaction entered into by the Issuer to hedge all or any of its liabilities in respect of the Warrants or Certificates or any of them; or (iii) the availability of hedging transactions in the market.

### 19.2 *Effects of European Economic and Monetary Union:*

- (a) Following the occurrence of an EMU Event, the Determination Agent may make such adjustment (and determine the effective date of such adjustment) as it, in its sole and absolute discretion, determines appropriate, if any, to the Strike Price (if any), the formula for the Cash Settlement Amount, the Settlement Price, the Settlement Rate, the Relevant Price, the Spot Rate, the number of Underlying Securities to which each Warrant or Certificate relates, the number of Underlying Securities comprised in a Basket, the amount, the number of or type of shares, bonds, other securities or other property which may be delivered in respect of such Warrants or Certificates and/or any other adjustment and, in any case, any other variable relevant to the exercise, settlement, payment or other terms of the relevant Warrants or Certificates which in the sole and absolute discretion of the Determination Agent have been or may be affected by such EMU Event.

- (b) Following the occurrence of an EMU Event, without prejudice to the generality of the foregoing, the Issuer shall be entitled to: (i) make such conversions between amounts denominated in the national currency units (the "**National Currency Units**") of the member states of the European Union that have adopted the single currency in accordance with the EC Treaty and the euro, and the euro and the National Currency Units, in each case, in accordance with the conversion rates and rounding rules established by the Council of the European Union pursuant to the EC Treaty as it, in its sole and absolute discretion, considers appropriate; (ii) make all payments in respect of the Warrants or Certificates solely in euro as though references in the Warrants or Certificates to the relevant National Currency Units were to euro and (iii) make such adjustments as it, in its sole and absolute discretion considers necessary to the Strike Price (if any), the formula for the Cash Settlement Amount, Settlement Rate, Settlement Price, Relevant Price, Spot Rate and any other amount as it determines, in its sole and absolute discretion, to be appropriate.
- (c) None of the Issuer, the Principal Securities Agent or the Determination Agent will be liable to any Securityholder or other person for any commissions, costs, losses or expenses in relation to or resulting from any currency conversion or rounding effected in connection therewith.
- (d) For the purposes hereof, "**EMU Event**" means the occurrence of any of the following, as determined by the Determination Agent, acting in a commercially reasonable manner:
  - (i) the withdrawal from legal tender of any currency that, before the introduction of the euro, was lawful currency in one of the member states;
  - (ii) the redenomination of any Underlying Share into euro;
  - (iii) any change in the currency of denomination of any Index;
  - (iv) any change in the currency in which some or all the securities or other property contained in any Index is denominated;
  - (v) the disappearance or replacement of a relevant rate option or other price source for the national currency of any member state, or the failure of the agreed sponsor (or successor sponsor) to publish or display a relevant rate, index, price, page or screen; or
  - (vi) the change by any organised market, exchange or clearance, payment or settlement system in the unit of account of its operating procedures to the euro.

19.3 *Compliance with securities laws:* If any holder of any Security is determined to be a U.S. Person (as defined in Regulation S and the CEA), the Issuer shall have the right to (i) force such holder to sell its interest in such Security, or sell such interest on behalf of such holder, to a person who is not a U.S. Person (as defined in Regulation S and the CEA) or (ii) terminate and cancel such Security. In the case of any termination and cancellation of a Security as described above no amount shall be payable to the relevant Securityholder and the Issuer shall have no further obligations in respect of the Security.

## 20. **SECURITIES AGENTS. SECURITIES REGISTRAR, SECURITIES TRANSFER AGENTS AND DETERMINATION AGENT**

### 20.1 *Appointment of Agents:*

The Issuer reserves the right at any time to vary or terminate the appointment of any Securities Agent, Securities Registrar, Securities Transfer Agent or the Determination Agent and to appoint substitute or additional Securities Agents, a substitute Securities Registrar, a substitute or additional Securities Transfer Agent or a substitute or additional Determination Agent, **provided that** (i) so long as any Warrant or Certificate is outstanding, it will maintain a Principal Securities Agent, (ii) so long as any Registered Security is outstanding, it will maintain a Securities Registrar and a Securities Transfer Agent and (iii) so long as the Warrants or Certificates are admitted to listing, trading and/or quotation by any listing authority, stock exchange and/or quotation system, there will be a Securities Agent with a specified office in such place as may be required by the rules of such listing agent, stock exchange and/or quotation system. Notice of any termination of appointment and of any change in the specified office of a Securities Agent, Securities Registrar, Securities Transfer Agent or a Determination Agent and of any appointment of a Securities Agent,

Securities Transfer Agent or a Determination Agent will be given to Securityholders in accordance with Condition 24 (*Notices*).

20.2 *Role of Agents:*

- (a) In acting under the Securities Agency Agreement, each Securities Agent, the Securities Registrar, each Securities Transfer Agent and each Determination Agent acts solely as agent of the Issuer and does not assume any obligation or duty to, or any relationship of agency or trust for or with, the Securityholders. All calculation and determination functions required of the Determination Agent or the Principal Securities Agent under these Conditions may be delegated to any such person as the Determination Agent or the Principal Securities Agent, as the case may be, in its absolute discretion, may decide. The Determination Agent shall act as an expert and not as an agent for the Issuer or the Securityholders. All determinations, considerations and decisions made by the Determination Agent shall, in the absence of manifest error, wilful default or bad faith, be final and conclusive and the Determination Agent shall have no liability in relation to such determinations except in the case of its wilful default or bad faith.
- (b) None of the Issuer, the Principal Securities Agent or the Determination Agent shall have any responsibility for any errors or omissions in the calculation and dissemination of any variables used in any calculation made pursuant to these Conditions or in the determination of any Cash Settlement Amount or of any entitlement to a delivery of any Underlying Securities arising from such errors or omissions.

20.3 *Notifications:*

All notifications, opinions, determinations, certificates, calculations, quotations and decisions given, expressed, made or obtained for the purposes of the Warrants or Certificates by the Principal Securities Agent, the Securities Registrar, any Securities Transfer Agent, the Determination Agent or the Issuer shall (in the absence of manifest error or wilful misconduct) be binding on the Issuer and the Securityholders and (subject as aforesaid) no liability to the Securityholders (or any of them) shall attach to the Principal Securities Agent, the Securities Registrar, any Securities Transfer Agent, the Determination Agent or the Issuer in connection with the exercise or non-exercise by any of them of their powers, duties and discretions for such purposes.

21. **TAXES**

- 21.1 A Securityholder subscribing, purchasing or exercising a Warrant or Certificate shall pay all Taxes and securities transfer taxes and any other charges, if any payable in connection with the subscription, issue, purchase or exercise of such Warrant or Certificate and the payment of the Cash Settlement Amount and/or the delivery of any Underlying Securities as a result of such exercise. The Issuer shall have the right, but not the duty, to withhold or deduct from any amounts otherwise payable to a Securityholder such amount as is necessary for the payment of any such taxes, duties or charges or for effecting reimbursement in accordance with Condition 21.2 below.
- 21.2 In any case where the Issuer is obliged to pay any such tax, duty or charge referred to in Condition 21.1 above, the relevant Securityholder shall promptly reimburse the Issuer therefor.
- 21.3 The Issuer shall not be liable for or otherwise be obliged to pay any tax, duty, withholding or other payment which may arise as a result of the ownership, issue, transfer or exercise of any Warrants or Certificates.
- 21.4 If "**Implementation of Financial Transaction Tax**" is specified in the applicable Pricing Supplement to be applicable to any Series of Warrants or Certificates, then upon the occurrence of an Implementation of Financial Transaction Tax, the Issuer may (i) in its sole discretion, with immediate effect amend the Conditions of the Warrants or Certificates by adjusting downward any amount payable and/or any other value or term of the Conditions to account for the economic impact of the Implementation of Financial Transaction Tax on the Issuer and its Affiliates in relation to the Warrants or Certificates, and (ii) to the extent that at any time thereafter the Issuer determines (acting in good faith and in a commercially reasonable manner) that it (including its Affiliates) has incurred additional loss as a result of the Implementation of Financial Transaction Tax that has not been accounted for through the adjustment made pursuant to (i) (such amount, "**Additional Increased Tax**"), it may reduce the amount otherwise payable on the Warrants or Certificates on

the next payment date (and any payment date thereafter) by an amount up to the Additional Increased Tax amount. Any such adjustments shall be notified to Securityholders as soon as reasonably practicable. If an event or circumstance which would otherwise constitute a Change in Law or Increased Cost of Hedging (where applicable) also constitutes an Implementation of Financial Transaction Tax, it will be treated as an Implementation of Financial Transaction Tax.

## 22. EVENTS OF DEFAULT

22.1 If any of the following events (each, an "**Event of Default**") occurs and is continuing:

- (a) *Non-payment:* in the case of Morgan Stanley Securities, Morgan Stanley or, in the case of MSFL Securities, either MSFL or the Guarantor fails to pay any amount due in respect of the Warrants or Certificates within 30 days of the due date for payment thereof; or
- (b) *Insolvency, etc.:*
  - (i) the Issuer becomes insolvent or is unable to pay its debts as they fall due;
  - (ii) an administrator or liquidator of the Issuer or the whole or a substantial part of the undertaking, assets and revenues of the Issuer is appointed (otherwise than for the purposes of or pursuant to an amalgamation, reorganisation or restructuring whilst solvent);
  - (iii) the Issuer takes any action for a composition with or for the benefit of its creditors generally, or
  - (iv) an order is made or an effective resolution is passed for the winding up, liquidation or dissolution of the Issuer (otherwise than for the purposes of or pursuant to an amalgamation, reorganisation or restructuring whilst solvent), and such order or effective resolution has remained in force and has not been rescinded, revoked or set aside for sixty days after the date on which such order is made or effective resolution is passed,

then Securityholders of not less than 25 per cent. in aggregate principal amount of the Securities may, by written notice addressed to the Issuer and delivered to the Issuer or to the Specified Office of the Principal Securities Agent, declare the Securities to be immediately terminated, whereupon the Warrants or Certificates shall cease to be exercisable (or, in the case of any Warrants or Certificates which have been exercised, the entitlements of the respective exercising Securityholders to receive the payment of the Cash Settlement Amount pursuant to such exercise shall cease) as of such later date and the Issuer will pay an amount which the Determination Agent, in its sole and absolute discretion, determines is the fair value to the Securityholder of a Warrant or Certificate with terms that would preserve for the Securityholder the economic equivalent of any payment or delivery (assuming satisfaction of each applicable condition precedent) to which the Securityholder would have been entitled under the relevant Warrant or Certificate after that date but for the occurrence of such termination, less the cost to the Issuer and/or any Affiliate of, or the loss realised by the Issuer and/or any Affiliate on, unwinding any related underlying hedging arrangements, the amount of such cost or loss being as determined by the Determination Agent in its sole and absolute discretion, whereupon the relevant Securityholder will be entitled to receive an amount (or in accordance with any other provisions specified in the applicable Pricing Supplement) without further action or formality. Notice of any such declaration shall promptly be given to the Securityholders.

In the case of MSFL Securities, nothing herein contained shall be deemed to authorise any Securityholder to exercise any remedy against MSFL or the Guarantor solely as a result of, or because it is related directly or indirectly to, the insolvency of the Guarantor or the commencement of any proceedings relative to the Guarantor under Title 11 of the United States Code, or the appointment of a receiver for the Guarantor under Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 or the commencement of any other applicable federal or state bankruptcy, insolvency, resolution or other similar law, or solely as a result of, or because it is related directly or indirectly to, a receiver, assignee or trustee in bankruptcy or reorganization, liquidator, sequestrator or similar official having been appointed for or having taken possession of the Guarantor or its property, or solely as a result of, or because it is related directly or indirectly to, the institution of any other comparable judicial or regulatory proceedings relative to the Guarantor,

or to the creditors or property of the Guarantor. Notwithstanding the foregoing, Securityholders are authorised to exercise any remedy against MSFL as a result of an Event of Default described in this Condition 22.1(b) (*Insolvency, etc.*).

22.2 *Annulment of Acceleration and Waiver of Defaults:*

In some circumstances, if any or all Events of Default have been cured, waived or otherwise remedied, then the holders of a majority in aggregate nominal amount or number of Warrants or Certificates of such Series (voting as one class) may waive past defaults of the Warrants or Certificates. However, any continuing default in payment on those Securities may not be waived.

23. **ILLEGALITY EVENT**

23.1 If this Condition 23 (*Illegality Event*) is specified in the Pricing Supplement to be applicable to the Securities, the Issuer shall have the right to terminate the Securities early (by payment of the amount specified in the applicable Pricing Supplement), if it shall have determined, in its sole and absolute discretion, that its performance thereunder, or, if applicable, the Guarantor's performance of its obligation under the Guarantee, shall have become or will be unlawful in whole or in part as a result of compliance in good faith by the Issuer, or, if applicable, the Guarantor, with any applicable present or future law, rule, regulation, judgment, order or directive of any governmental, administrative, legislative or judicial authority or power ("**applicable law**") (an "**Illegality Event**").

23.2 If this Condition 23 (*Illegality Event*) is specified in the Pricing Supplement to be applicable to the Securities and, subject to the conditions set out in Condition 23.1 above, the Issuer determines that the Securities shall be terminated early in accordance with this Condition 23 (*Illegality Event*), the Issuer shall give not less than five Business Days' notice to the Securityholders informing them that either an Illegality Event has occurred, as a result of which the Securities shall be terminated early on the date specified for redemption in such notice. In such circumstances the Issuer will, if and to the extent permitted by applicable law, pay to each Securityholder in respect of each Security held by such Securityholder an amount determined by the Determination Agent, in its sole and absolute discretion, as representing either: (i) the fair market value of such Security immediately prior to such redemption (ignoring such Illegality Event) less the cost to the Issuer (or its Affiliates) of, or the loss realised by the Issuer (or its Affiliates) on, unwinding any related underlying hedging arrangements, the amount of such cost or loss being as determined by the Determination Agent in its sole and absolute discretion, if "Early Settlement Amount (Illegality Event) – Fair Value Less Costs" is specified in the Pricing Supplement; (ii) the fair market value of such Security immediately prior to such redemption (ignoring such Illegality Event), if "Early Settlement Amount (Illegality Event) – Fair Value" is specified in the Pricing Supplement. The Issuer's obligations under the Securities shall be satisfied in full upon payment in respect of each Security of the amount determined by the Determination Agent to be payable in accordance with the provisions above, based on the elections made in the applicable Pricing Supplement. Payment will be made to the relevant Clearing System in such manner as shall be notified to the Securityholders in accordance with Condition 24 (*Notices*).

23.3 The Issuer shall also, as soon as reasonably practicable under the circumstances, notify the Principal Securities Agent and the Determination Agent of the occurrence of an Illegality Event.

24. **NOTICES**

24.1 *Registered Warrants and Registered Certificates:*

Notices to holders of Registered Warrants and Registered Certificates shall be sent to them by first class mail (or its equivalent) or (if posted to an overseas address) by airmail at their respective addresses on the Register and, if the Registered Warrants and Registered Certificates are admitted to the Official List of Euronext Dublin or admitted to the Official List of the Luxembourg Stock Exchange will also be published in accordance with Conditions 24.2 (*Warrants and Certificates admitted to the Official List of Euronext Dublin and trading on its Global Exchange Market*), 24.3 (*Warrants and Certificates admitted to the Official List of the Luxembourg Stock Exchange and trading on the Euro MTF market*) and 24.4 (*Unlisted Warrants and Certificates*) below. Any such notice shall be deemed to have been given on the fourth day after the date of mailing.

24.2 *Warrants and Certificates admitted to the Official List of Euronext Dublin and trading on its Global Exchange Market:*

In relation to Warrants and Certificates admitted to the Official List of Euronext Dublin and trading on its Global Exchange Market, notices to Securityholders will be published in accordance with the rules of Euronext Dublin.

24.3 *Warrants and Certificates admitted to the Official List of the Luxembourg Stock Exchange and trading on the Euro MTF market:*

In relation to warrants or certificates admitted to the Official List of the Luxembourg Stock Exchange and trading on the Euro MTF market, notices will be valid if published on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)). Any such notice will be deemed to have been given on the date of the first publication or, where required to be published in more than one newspaper, on the date of the first publication in all required newspapers.

24.4 *Unlisted Warrants and Certificates:*

Notices to Securityholders of non-listed Warrants and Certificates may be published, as specified in the applicable Pricing Supplement, in newspapers, on a website or otherwise.

25. **LOSSES**

In no event shall the Issuer or the Agents have any liability for indirect, incidental, consequential or other damages (whether or not it may have been advised of the possibility of such damages) other than interest until the date of payment on sums not paid when due in respect of any Warrants, Certificates or assets not delivered when due. Securityholders are entitled to damages only and are not entitled to the remedy of specific performance in respect of a Warrant or Certificate.

26. **PRESCRIPTION**

Claims of payment or delivery in respect of Registered Warrants and Registered Certificates shall become void unless the relevant Individual Registered Securities are surrendered for payment or delivery within ten years of the appropriate relevant due date for payment or delivery.

27. **REPLACEMENT OF SECURITIES**

If any Security is lost, stolen, mutilated, defaced or destroyed, it may be replaced at the Specified Office of the Securities Registrar during normal business hours (and, if the Securities are then admitted to listing, trading and/or quotation by any listing authority, stock exchange and/or quotation system which requires the appointment of a Securities Agent or a Securities Transfer Agent in any particular place, the Securities Agent or Securities Transfer Agent having its Specified Office in the place required by such listing authority, stock exchange and/or quotation system), subject to all applicable laws and stock exchange requirements, upon payment by the claimant of the expenses incurred in connection with such replacement and on such terms as to evidence, security, indemnity and otherwise as the Issuer may reasonably require. Mutilated or defaced forms must be surrendered before replacements will be issued.

28. **SEVERANCE, MEETINGS OF SECURITYHOLDERS AND MODIFICATION OF CONDITIONS**

28.1 *Meetings of Securityholders:*

The Securities Agency Agreement contains provisions for convening meetings of Securityholders to consider matters relating to the Securities, including the modification of any provision of these Conditions. Any such modification may be made if sanctioned by an Extraordinary Resolution. Such a meeting may be convened by the Issuer and shall be convened by it upon the request in writing of Securityholders holding not less than one tenth of the aggregate nominal amount or number of the outstanding Warrants or Certificates. The quorum at any meeting convened to vote on an Extraordinary Resolution will be two or more Persons holding or representing one more than half of the aggregate amount or number, as applicable, of the outstanding Warrants or Certificates or, at any adjourned meeting, two or more Persons being or representing Securityholders whatever the amount or number of the Warrants or Certificates held or represented, provided,



however, that Reserved Matters may only be sanctioned by an Extraordinary Resolution passed at a meeting of Securityholders at which two or more Persons holding or representing not less than three quarters or, at any adjourned meeting, one quarter of the aggregate amount or number, as applicable of the outstanding Warrants or Certificates form a quorum. Any Extraordinary Resolution duly passed at any such meeting shall be binding on all the Securityholders, whether present or not.

In addition, a resolution in writing signed by or on behalf of all Securityholders who for the time being are entitled to receive notice of a meeting of Securityholders will take effect as if it were an Extraordinary Resolution. Such a resolution in writing may be contained in one document or several documents in the same form, each signed by or on behalf of one or more Securityholders.

28.2 *Severance:*

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

28.3 *Modification:*

The Issuer may modify the Conditions, the Securities Agency Agreement and the Deed of Covenant without the consent of the Securityholders for the purposes of curing any ambiguity or correcting or supplementing any provision contained herein in any manner which the Issuer may deem necessary or desirable, **provided that** such modification is not materially prejudicial to the interests of the Securityholders. Notice of any such modification will be given to the Securityholders in accordance with Condition 24 (*Notices*) but failure to give, or non-receipt of, such notice will not affect the validity of such modification.

29. **FURTHER ISSUES**

The Issuer is at liberty from time to time without the consent of the Securityholders to create and issue further Warrants or Certificates of any particular Series so as to form a single series with the Warrants or Certificates of such Series, but upon such terms as to issue price and otherwise as the Issuer may determine in its sole and absolute discretion.

30. **PURCHASE OF WARRANTS AND CERTIFICATES BY ISSUER OR AFFILIATE**

The Issuer or an Affiliate may at any time and from time to time purchase Warrants or Certificates at any price in the open market or otherwise. Such Warrants or Certificates may, at the option of the Issuer or, as the case may be, the relevant Affiliate, be held, resold, reissued or cancelled or otherwise dealt with. No Warrant or Certificate which has been exercised, or purchased and cancelled, may be re-issued.

31. **SUBSTITUTION**

31.1 *Substitution of Issuer with Morgan Stanley Group entities:*

Subject to the conditions set out in this Condition 31 (*Substitution*), but without the consent of Securityholders, the Issuer may, where the Issuer is:

- (a) Morgan Stanley, substitute a subsidiary of Morgan Stanley in place of Morgan Stanley as principal debtor under the Securities, provided that any Securities in respect of which such a substitution is effected will be fully, unconditionally and irrevocably guaranteed pursuant to a guarantee of Morgan Stanley as to the payment of principal of, premium, interest and supplemental amounts, if any, and any Additional Amounts on those Securities when and as the same will become due and payable, whether at maturity or otherwise, and provided further that under the terms of the guarantee, Securityholders will not be required to exercise their remedies against the substitute prior to proceeding directly against Morgan Stanley (as guarantor); and
- (b) MSFL, substitute Morgan Stanley or a subsidiary of Morgan Stanley in place of MSFL as principal debtor under the Securities, provided that, unless Morgan Stanley is the substitute issuer, any Securities in respect of which such a substitution is effected will be fully, unconditionally and irrevocably guaranteed pursuant to a guarantee of Morgan Stanley as to the payment of principal of, premium, interest and supplemental amounts, if any, and any Additional Amounts on those

Securities when and as the same will become due and payable, whether at maturity or otherwise, and provided further that under the terms of the guarantee, Securityholders will not be required to exercise their remedies against the substitute prior to proceeding directly against Morgan Stanley (as guarantor).

31.2 *Substitution of Issuer or Guarantor with non Morgan Stanley Group entities:*

Subject to the conditions set out in this Condition 31 (*Substitution*), including the rights of Securityholders under Condition 31.6 (*Right to Termination in respect of substitutions with non Morgan Stanley Group entities*), but without the consent of Securityholders, the Issuer or the Guarantor (if applicable) may, in the event that the Issuer or the Guarantor (as the case may be) has determined that any of the following events has occurred in respect of the Issuer or the Guarantor (as the case may be): an insolvency, receivership or equivalent event under the jurisdiction of the Issuer or the Guarantor (as the case may be); a divestment mandated for regulatory reasons; any action being required to satisfy any regulatory licensing requirements; or a change of control (each a “**Substitution Event**”), substitute for itself any entity which is not a Morgan Stanley Group entity, provided that such entity has a long term credit rating from at least one rating agency of standard application on the international capital markets (including but not limited to Standard & Poor’s, Moody’s Investors Services and Fitch Ratings) which is at least as high as the long term credit rating of the relevant Issuer or Guarantor (as the case may be) being substituted immediately prior to the occurrence of the relevant Substitution Event. Notwithstanding the foregoing, for any Series of Securities in respect of which Morgan Stanley is the Issuer, Morgan Stanley may not be substituted as Issuer with any entity which is not a Morgan Stanley Group entity within one year of the Issue Date of such Securities.

31.3 *Conditions to substitution:*

Substitution of an Issuer or Guarantor for another entity (the “**Substitute**”) as provided in Condition 31.1 (*Substitution of Issuer with Morgan Stanley Group entities*) or 31.2 (*Substitution of Issuer or Guarantor with non Morgan Stanley Group entities*) above (as applicable) are subject to the following conditions:

- (a) the Substitute becoming party to the Securities Agency Agreement with any appropriate consequential amendments, as if it had been an original party to it in place of the relevant Issuer or the Guarantor (as the case may be);
- (b) the Substitute is validly existing under the laws under which it is established or incorporated, has capacity to assume all rights, obligations and liabilities under the Securities and Guarantee, (as applicable), and has obtained all necessary corporate authorisations to assume all such rights, obligations and liabilities under the Securities or Guarantee (as applicable);
- (c) the Substitute has obtained all necessary governmental or regulatory approvals and consents for the performance by it of its obligations in connection with the Securities or Guarantee, as applicable, and that all such approvals and consents are in full force and effect and that the Substitute and the Securities comply with all applicable requirements of the Securities Act ;
- (d) in the case of substitution of an Issuer or Guarantor pursuant to Condition 31.2 (*Substitution of Issuer or Guarantor with non Morgan Stanley Group entities*) above only:
  - (i) the Substitute and the relevant Issuer having obtained (a) legal opinions from independent legal advisers of recognised standing in the country of incorporation of the Substitute and in England that the obligations of the Substitute, in the case of a substitution of an Issuer, under the Securities and the relevant Deed of Covenant, or, in New York, in the case of a substitution of the Guarantor under the Deed of Guarantee, are legal, valid and binding obligations of the Substitute and (b) in the case of the substitution of the Issuer which is MSFL (or any substitute thereof), a legal opinion from an independent legal adviser in New York of recognised standing, that the Deed of Guarantee will apply to the Substitute mutatis mutandis as it applies to the Issuer prior to the substitution and will constitute legal, valid and binding obligations of the Guarantor, in respect of the Substitute (provided that no opinion as referred to in this Condition 31.3(d) shall be required where the Substitute is the Guarantor with respect to MSFL Securities); and

- (ii) if the relevant Securities are rated at the relevant time, the Substitute has obtained, prior to the substitution date, an acknowledgement from the relevant rating agencies that the substitution will not result in whole or in part in a withdrawal, downgrading, placement in creditwatch or negative outlook of the Securities;
- (e) the Principal Securities Agent has confirmed to the relevant Issuer or Guarantor (as the case may be) that it has completed its relevant "know your customer" requirements on the proposed Substitute;
- (f) such substitution being permitted by the rules of any stock exchange on which the Securities are listed and each such stock exchange confirming that, following the proposed substitution of the Substitute, the Securities will continue to be listed on such stock exchange;
- (g) no payment in respect of the Securities is overdue at the relevant time;
- (h) at the time of any such substitution, the Substitute is in a position to fulfil all payment obligations arising from or in connection with the Securities in freely convertible and transferable lawful money without the necessity of any taxes or duties to be withheld at source, and to transfer all amounts which are required therefor to the Principal Securities Agent without any restrictions; and
- (i) if appropriate, the Substitute appointing a process agent as its agent in England to receive service of process on its behalf in relation to any legal action or proceedings arising out of or in connection with the Securities; and
- (j) in respect of Securities which benefit from the Guarantee, such Securities shall continue to benefit from the Guarantee following substitution of the Issuer and/or the Guarantor (as the case may be), pursuant to this Condition 31 (*Substitution*).

31.4 *Reference in the Conditions to the Issuer or the Guarantor (as the case may be):*

In the event of a substitution pursuant to this Condition 31 (*Substitution*), any reference in the Conditions to the relevant Issuer or the Guarantor (as the case may be) shall be construed as a reference to the entity substituted.

31.5 *Notification to Securityholders:*

The relevant Issuer shall as soon as reasonably practicable, and in any event not more than 15 Business Days after the date on which a substitution pursuant to Condition 31.1 (*Substitution of Issuer with Morgan Stanley Group entities*) has taken place, notify Securityholders of such substitution in accordance with Condition 24 (*Notices*).

31.6 *Right to Termination in respect of substitutions with non Morgan Stanley Group entities:*

- (a) With respect to the right of substitution referred to in Condition 31.2 (*Substitution of Issuer or Guarantor with non Morgan Stanley Group entities*), the Issuer shall provide 60 calendar days' notice of any substitution under such Condition to Securityholders in accordance with Condition 24 (*Notices*). Securityholders who object to the substitution will have the right to require the Issuer to redeem their Securities at a price determined in accordance with the provisions of this Condition 31.6 (*Right to Termination in respect of substitutions with non Morgan Stanley Group entities*), by providing notice of their intention to exercise such right in the manner set out in this Condition 31.6 (*Right to Termination in respect of substitutions with non Morgan Stanley Group entities*) (the "**Right to Termination**").
- (b) The termination of any Securities in respect of which the Right to Termination has been exercised by Securityholders shall take place 10 Business Days prior to the relevant substitution becoming effective (the "**Substitution Termination Date**"). The Issuer shall terminate any Securities in respect of which the Right to Termination has been exercised at the fair market value of such Securities on the day on which the relevant Right to Termination Notice is deposited, in accordance with the provisions of this Condition 31.6 (*Right to Termination in respect of substitutions with non Morgan Stanley Group entities*), as determined by the Determination Agent in its reasonable discretion.

- (c) In order to exercise the option contained in this Condition 31.6 (*Right to Termination in respect of substitutions with non Morgan Stanley Group entities*) the holder of a Security (other than a Nordic Security) must, not less than 15 Business Days before the date on which the substitution is due to take place (the “**Substitution Date**”), deposit such Security with the Registrar, and a duly completed Right to Termination Notice in the form obtainable from any Paying Agent. The Paying Agent with which a Security is so deposited shall deliver a duly completed Right to Termination Receipt to the depositing Securityholder. No Security, once deposited with a duly completed Right to Termination Notice in accordance with this Condition 31.6 (*Right to Termination in respect of substitutions with non Morgan Stanley Group entities*), may be withdrawn; provided, however, that if, prior to the relevant Substitution Termination Date, any such Security becomes due and payable or, upon due presentation of any such Security on the relevant Substitution Termination Date, payment of the termination moneys is improperly withheld or refused, the relevant Paying Agent shall mail notification thereof to the depositing Securityholder at such address as may have been given by such Securityholder in the relevant Right to Termination Notice and shall hold such Security at its Specified Office for collection by the depositing Securityholder against surrender of the relevant Right to Termination Receipt. For so long as any outstanding Security is held by a Paying Agent in accordance with this Condition 31.6 (*Right to Termination in respect of substitutions with non Morgan Stanley Group entities*), the depositor of such Security and not such Paying Agent shall be deemed to be the holder of such Security for all purposes.
- (d) Notwithstanding the foregoing, in respect of any Series of Securities for which Morgan Stanley is the Issuer, Securityholders shall only have the right to submit a Right to Termination Notice from the date which is one calendar year after the Issue Date of such Securities.
- (e) Any payments made to Securityholders in accordance with this Condition 31.6 (*Right to Termination in respect of substitutions with non Morgan Stanley Group entities*) shall be made in accordance with the provisions of Condition 5.7 (*Payment and delivery – Registered Securities*).

## 32. **RIGHTS OF THIRD PARTIES**

No person shall have any right to enforce any term or condition of the Warrants or Certificates under the Contracts (Rights of Third Parties) Act 1999.

## 33. **REPRESENTATIONS AND ACKNOWLEDGEMENTS BY SECURITYHOLDERS**

Each Securityholder shall be deemed to represent and acknowledge to the Issuer on acquiring any Warrants or Certificates that:

- (a) neither the Issuer nor any Affiliate or any of their agents is acting as a fiduciary for it or provides investment, tax, accounting, legal or other advice in respect of the Warrants or Certificates and that such Securityholder and its advisors are not relying on any communication (written or oral and including, without limitation, opinions of third party advisors) of the Issuer or any Affiliate as (i) legal, regulatory, tax, business, investment, financial, accounting or other advice, (ii) a recommendation to invest in any Warrants or Certificates or (iii) an assurance or guarantee as to the expected results of an investment in the Warrants or Certificates (it being understood that information and explanations related to the terms and conditions of the Warrants or Certificates shall not be considered to be any such advice, recommendation, assurance or guarantee and should be independently confirmed by the recipient and its advisors prior to making any such investment);
- (b) such Securityholder (i) has consulted with its own legal, regulatory, tax, business, investments, financial and accounting advisors to the extent that it has deemed necessary, and has made its own investment, hedging, and trading decisions based upon its own judgement and upon any advice from such advisors as it has deemed necessary and not upon any view expressed by the Issuer or any Affiliate or any of their agents and (ii) is acquiring Warrants or Certificates with a full understanding of the terms, conditions and risks thereof and it is capable of and willing to assume those risks; and
- (c) the Issuer and/or any Affiliates may have banking or other commercial relationships with issuers of any securities to which the Warrants or Certificates relate and may engage in proprietary trading in any securities, indices, futures contracts, commodities or other property to which the Warrants or Certificates relate or options, futures, derivatives or other instruments relating thereto (including such trading as the Issuer and/or any Affiliate deem appropriate in their sole discretion to hedge the

market risk on the Warrants or Certificates and other transactions between the Issuer and/or any Affiliates and any third parties), and that such trading (i) may affect the price or level thereof and consequently the amounts payable under the Warrants or Certificates and (ii) may be effected at any time, including on or near any Valuation or Averaging Date.

34. **GOVERNING LAW AND PROCEEDINGS**

- 34.1 The Warrants and Certificates and any non-contractual obligations arising out of or in connection with them shall be governed by and construed in accordance with English law.
- 34.2 Each of Morgan Stanley and MSFL agrees for the benefit of each Securityholder that the courts of England shall have jurisdiction to hear and determine any suit, action or proceedings, and to settle any disputes, which may arise out of or in connection with the Warrants or Certificates (respectively, "**Proceedings**" and "**Disputes**") and, for such purposes, irrevocably submits to the jurisdiction of such courts.
- 34.3 Each of Morgan Stanley and MSFL agrees irrevocably waives any objection which it might now or hereafter have to the courts of England being nominated as the forum to hear and determine any Proceedings and to settle any Disputes, and agrees not to claim that any such court is not a convenient or appropriate forum.
- 34.4 Each of Morgan Stanley and MSFL agrees that process in connection with Proceedings in the courts of England will be validly served on it if served upon Morgan Stanley & Co. International plc, 25 Cabot Square, Canary Wharf, London E14 4QW or, if different, its registered office for the time being or at any address of the Issuer in the Great Britain at which process may be served on it in accordance with Part 34 of the Companies Act 2006. If such person is not or ceases to be effectively appointed to accept service of process on the Issuer's behalf, the Issuer shall, on the written demand of any Securityholder addressed to the Issuer and delivered to the Issuer or to the Specified Office of the Principal Securities Agent, appoint a further person in England to accept service of process on its behalf and, failing such appointment within 15 days, any Securityholder shall be entitled to appoint such a person by written notice addressed to the Issuer and delivered to the Issuer or to the Specified Office of the Principal Securities Agent. Nothing in this Condition 34.4 (*Governing Law and Proceedings*) shall affect the right of any Securityholder to serve process in any other manner permitted by law.

**PRO FORMA PRICING SUPPLEMENT FOR WARRANTS AND CERTIFICATES**

**PRICING SUPPLEMENT DATED [●]**

(TO OFFERING CIRCULAR FOR NON-PRINCIPAL PROTECTED SECURITIES DATED 28 JUNE 2019)

Series Number: [●]

Tranche: [●]

**[Morgan Stanley / Morgan Stanley Finance LLC]**  
as Issuer

**Legal Entity Identifier (LEI): [IGJSJL3JD5P30I6NJZ34 / 5493003FCPSE9RKT4B56]**

**REGULATION S PROGRAM FOR THE ISSUANCE OF NOTES, SERIES A AND B, WARRANTS AND CERTIFICATES**

**Issue of [Aggregate Nominal Amount or Number of Tranche] [Title of Warrants/Certificates]**

(the "[Warrants/Certificates]" or "Securities")

[Guaranteed by Morgan Stanley]

THE OFFERING CIRCULAR REFERRED TO BELOW (AS COMPLETED BY THIS PRICING SUPPLEMENT) HAS BEEN PREPARED ON THE BASIS THAT ANY OFFER OF THE SECURITIES IN ANY MEMBER STATE OF THE EUROPEAN ECONOMIC AREA WHICH HAS IMPLEMENTED THE PROSPECTUS DIRECTIVE (2003/71/EC) (AS AMENDED, INCLUDING BY DIRECTIVE 2010/73/EU) (TOGETHER, THE "**PROSPECTIVE DIRECTIVE**") (EACH, A "**RELEVANT MEMBER STATE**") WILL BE MADE PURSUANT TO AN EXEMPTION UNDER THE PROSPECTUS DIRECTIVE, AS IMPLEMENTED IN THAT RELEVANT MEMBER STATE, FROM THE REQUIREMENT TO PUBLISH A PROSPECTUS FOR OFFERS OF THE SECURITIES. ACCORDINGLY ANY PERSON MAKING OR INTENDING TO MAKE AN OFFER IN THAT RELEVANT MEMBER STATE OF THE SECURITIES MAY ONLY DO SO IN CIRCUMSTANCES IN WHICH NO OBLIGATION ARISES FOR THE ISSUER OR ANY DISTRIBUTION AGENT TO PUBLISH A PROSPECTUS PURSUANT TO ARTICLE 3 OF THE PROSPECTUS DIRECTIVE OR SUPPLEMENT A PROSPECTUS PURSUANT TO ARTICLE 16 OF THE PROSPECTUS DIRECTIVE, IN EACH CASE, IN RELATION TO SUCH OFFER. NEITHER THE ISSUER NOR ANY DISTRIBUTION AGENT HAS AUTHORISED, NOR DO THEY AUTHORISE, THE MAKING OF ANY OFFER OF SECURITIES IN ANY OTHER CIRCUMSTANCES.

WARNING: NEITHER THIS PRICING SUPPLEMENT NOR THE OFFERING CIRCULAR REFERRED TO BELOW CONSTITUTES A "PROSPECTUS" FOR THE PURPOSES OF ARTICLE 5.4 OF DIRECTIVE 2003/71/EC (AS AMENDED, INCLUDING BY DIRECTIVE 2010/73/EU, THE "**PROSPECTUS DIRECTIVE**"), AND THE PRICING SUPPLEMENT AND THE OFFERING CIRCULAR HAVE BEEN PREPARED ON THE BASIS THAT NO PROSPECTUS SHALL BE REQUIRED UNDER THE PROSPECTUS DIRECTIVE IN RELATION TO ANY SECURITIES BE OFFERED AND SOLD UNDER HEREBY.

THE [WARRANTS/CERTIFICATES] DESCRIBED HEREIN [AND ANY GUARANTEE IN RESPECT THEREOF,] AND THE SECURITIES TO BE DELIVERED ON EXERCISE OR REDEMPTION OF THE [WARRANTS/CERTIFICATES] (IF ANY), HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "**SECURITIES ACT**"), OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION OF THE UNITED STATES. [THE ISSUER IS NOT REGISTERED AND WILL NOT REGISTER][NEITHER THE ISSUER NOR THE GUARANTOR IS REGISTERED, OR WILL REGISTER,] UNDER THE U.S. INVESTMENT COMPANY ACT OF 1940, AS AMENDED. TRADING IN THE [WARRANTS/CERTIFICATES] HAS NOT BEEN APPROVED BY THE U.S. COMMODITY FUTURES TRADING COMMISSION UNDER THE U.S. COMMODITY EXCHANGE ACT OF 1936, AS AMENDED (THE "**CEA**").

THE [WARRANTS/CERTIFICATES] DESCRIBED HEREIN, ANY INTEREST THEREIN [AND ANY GUARANTEE IN RESPECT THEREOF,] AND THE SECURITIES TO BE DELIVERED ON EXERCISE OR REDEMPTION OF THE [WARRANTS/CERTIFICATES] (IF ANY), MAY NOT BE OFFERED, SOLD, PLEDGED, ASSIGNED, DELIVERED OR OTHERWISE TRANSFERRED, EXERCISED OR REDEEMED AT ANY TIME, DIRECTLY OR INDIRECTLY, WITHIN THE UNITED STATES OR TO, OR FOR THE ACCOUNT

OR BENEFIT OF, U.S. PERSONS (AS DEFINED IN REGULATION S UNDER THE SECURITIES ACT). HEDGING TRANSACTIONS INVOLVING ANY "**EQUITY SECURITIES**" OF "DOMESTIC ISSUERS" (AS SUCH TERMS ARE DEFINED IN THE SECURITIES ACT AND REGULATIONS THEREUNDER) MAY ONLY BE CONDUCTED IN ACCORDANCE WITH THE SECURITIES ACT. SEE "*SUBSCRIPTION AND SALE*" AND "*NO OWNERSHIP BY U.S. PERSONS*" IN THE OFFERING CIRCULAR DATED 28 JUNE 2019. IN PURCHASING THE [WARRANTS/CERTIFICATES], PURCHASERS WILL BE DEEMED TO REPRESENT AND WARRANT THAT THEY ARE NEITHER LOCATED IN THE UNITED STATES NOR A U.S. PERSON AND THAT THEY ARE NOT PURCHASING ON BEHALF OF, OR FOR THE ACCOUNT OR BENEFIT OF, ANY U.S. PERSON.

[THE SECURITIES ARE NOT RATED.]

**[PROHIBITION OF SALES TO EEA RETAIL INVESTORS:**

THE [WARRANTS/CERTIFICATES] ARE NOT INTENDED TO BE OFFERED, SOLD OR OTHERWISE MADE AVAILABLE TO AND SHOULD NOT BE OFFERED, SOLD OR OTHERWISE MADE AVAILABLE TO ANY RETAIL INVESTOR IN THE EUROPEAN ECONOMIC AREA (THE "**EEA**"). FOR THESE PURPOSES, A RETAIL INVESTOR MEANS A PERSON WHO IS ONE (OR MORE) OF:

- (A) A RETAIL CLIENT AS DEFINED IN POINT (11) OF ARTICLE 4(1) OF DIRECTIVE 2014/65/EU, AS AMENDED ("**MIFID II**");
- (B) A CUSTOMER WITHIN THE MEANING OF DIRECTIVE 2002/92/EC, AS AMENDED OR SUPERSEDED (THE "**INSURANCE MEDIATION DIRECTIVE**"), WHERE THAT CUSTOMER WOULD NOT QUALIFY AS A PROFESSIONAL CLIENT AS DEFINED IN POINT (10) OF ARTICLE 4(1) OF MIFID II; OR
- (C) NOT A QUALIFIED INVESTOR AS DEFINED IN DIRECTIVE 2003/71/EC, AS AMENDED OR SUPERSEDED.

CONSEQUENTLY NO KEY INFORMATION DOCUMENT REQUIRED BY REGULATION (EU) NO 1286/2014, AS AMENDED (THE "**PRIIPS REGULATION**") FOR OFFERING OR SELLING THE [WARRANTS/CERTIFICATES] OR OTHERWISE MAKING THEM AVAILABLE TO RETAIL INVESTORS IN THE EEA HAS BEEN PREPARED AND THEREFORE OFFERING OR SELLING THE [WARRANTS/CERTIFICATES] OR OTHERWISE MAKING THEM AVAILABLE TO ANY RETAIL INVESTOR IN THE EEA MAY BE UNLAWFUL UNDER THE PRIIPS REGULATION.]

**[MIFID II PRODUCT GOVERNANCE / PROFESSIONAL INVESTORS AND ECPS ONLY TARGET MARKET:**

SOLELY FOR THE PURPOSES OF [THE/EACH] MANUFACTURER'S PRODUCT APPROVAL PROCESS, THE TARGET MARKET ASSESSMENT IN RESPECT OF THE [WARRANTS/CERTIFICATES] HAS LED TO THE CONCLUSION THAT:

- (A) THE TARGET MARKET FOR THE [WARRANTS/CERTIFICATES] IS ELIGIBLE COUNTERPARTIES AND PROFESSIONAL CLIENTS ONLY, EACH AS DEFINED IN MIFID II; AND
- (B) ALL CHANNELS FOR DISTRIBUTION OF THE [WARRANTS/CERTIFICATES] TO ELIGIBLE COUNTERPARTIES AND PROFESSIONAL CLIENTS ARE APPROPRIATE.

ANY PERSON SUBSEQUENTLY OFFERING, SELLING OR RECOMMENDING THE [WARRANTS/CERTIFICATES] (A **DISTRIBUTOR**) SHOULD TAKE INTO CONSIDERATION THE MANUFACTURER['S/S'] TARGET MARKET ASSESSMENT; HOWEVER, A DISTRIBUTOR SUBJECT TO MIFID II IS RESPONSIBLE FOR UNDERTAKING ITS OWN TARGET MARKET ASSESSMENT IN RESPECT OF THE [WARRANTS/CERTIFICATES] (BY EITHER ADOPTING OR REFINING THE MANUFACTURER['S/S'] TARGET MARKET ASSESSMENT) AND DETERMINING APPROPRIATE DISTRIBUTION CHANNELS.]

This document constitutes the Pricing Supplement relating to the issue of the Securities described herein.

[Terms used herein shall be deemed to be defined as such for the purposes of the Terms and Conditions of the Warrants and Certificates set forth in the Offering Circular dated 28 June 2019 [and the supplemental Offering Circular[s] dated [●]] (together, the "**Offering Circular**").]<sup>1</sup>/[Terms used herein shall be deemed to be defined as such for the purposes of the Terms and Conditions of the Warrants and Certificates set forth in the Offering Circular dated 28 June 2019 [and the supplemental Offering Circular[s] dated [●]] which are incorporated by reference in the Offering Circular dated 28 June 2019 (together, the "**Offering Circular**").]<sup>2</sup>

The Securities shall constitute Securities for the purposes of the Conditions. This Pricing Supplement must be read in conjunction with such Offering Circular [as so supplemented]. Full information on the Issuer and the offer of the Securities is only available on the basis of the combination of this Pricing Supplement and the Offering Circular. Copies of the Offering Circular are available from the office of Morgan Stanley & Co. International plc at 25 Cabot Square, Canary Wharf, London E14 4QA. The Offering Circular has also been published on the website of Euronext Dublin ([www.ise.ie](http://www.ise.ie)) and the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)).

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

[Terms used herein shall be deemed to be defined as such for the purposes of the Terms and Conditions of the Warrants and Certificates set forth in the offering circular dated [●] [and the supplements dated [●] to the offering circular ([as so supplemented,] the "**Original Offering Circular**"). This document constitutes the Pricing Supplement of the Warrants and Certificates described herein and must be read in conjunction with the Offering Circular, save in respect of the Terms and Conditions of the Warrants and Certificates which are extracted from the Original Offering Circular and which are incorporated by reference into the Offering Circular. Full information on the Issuer, the Guarantor and the offer of the Warrants and Certificates is only available on the basis of the combination of this Pricing Supplement, the Offering Circular and the Original Offering Circular incorporated by reference therein. Copies of the Offering Circular are available from the offices of Morgan Stanley & Co. International plc at 25 Cabot Square, Canary Wharf, London, E14 4Q and [copies of the Offering Circular and Pricing Supplement are also available on the website of Euronext Dublin ([www.ise.ie](http://www.ise.ie)) and the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu))].

*[Include whichever of the following apply or specify as "Not Applicable". Note that the numbering should either (i) remain as set out below, even if "Not Applicable" is indicated for individual paragraphs or sub-paragraphs, or (ii) be revised based on the deletion of all individual paragraphs that are "Not Applicable". Italics denote guidance for completing the Pricing Supplement.]*

**Warning:** None of this Pricing Supplement or the Offering Circular referred to above constitutes a "prospectus" for the purposes of the Prospectus Directive, and the Pricing Supplement and the Offering Circular have been prepared on the basis that no prospectus shall be required under the Prospectus Directive in relation to any Securities being offered and sold hereby.

## Information Concerning Investment Risk

Potential investors should be aware that the [Warrant/Certificate] creates an option exercisable by the Securityholder and that in the absence of such exercise, there is no obligation upon the Issuer to indemnify such Securityholder.

[●]

### General

- |    |      |              |   |
|----|------|--------------|---|
| 1. | (i)  | Issuer:      | [Morgan Stanley] / [Morgan Stanley Finance LLC] |
|    | (ii) | [Guarantor:] | [Morgan Stanley]                                |

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<sup>1</sup> Use if not a fungible issuance.

<sup>2</sup> Only include this language where it is a fungible issue and the original tranche was issued under an Offering Circular with a different date.



2. (i) Aggregate Number/ Nominal Amount of Securities in the Series: [•]
- (ii) Aggregate Number/ Nominal Amount of Securities in the Tranche: [•]
3. Issue Date: [•]
4. Issue Price: [currency] [amount] per Security
5. Form of Securities: [Registered Securities:
- [Global Registered Security registered in the name of a nominee for a common depositary for Euroclear and Clearstream, Luxembourg, exchangeable for Individual Registered Securities on the expiry of 30 days' notice period/in the limited circumstances described in the Global Registered Security]
- [Individual Registered Securities]]
6. Security Style: (Condition 4) [American/European/Bermudan] Style Securities
- (i) [Exercise Period:] [As defined in Condition 1]
- (ii) [Potential Exercise Dates:] [Each day from and including the Commencement Date to and including the Latest Exercise Time on the Expiration Date]
- (iii) [Commencement Date:] [•]
7. Type: The Securities are [Index / Index Basket / Share / Share Basket / ETF / ETF Basket / Bond / Currency / Commodity / Inflation / Property / Fund / Fund Basket / Futures Contract / Futures Contract Basket] Securities
- For Share and Share Basket Securities only*
- (i) Underlying Share: [•]
- (ii) Relevant Issuer: [•]
- (if Share Securities, delete sub paragraph below)*
- Scheduled Trading Days and Disrupted Days: [Common Scheduled Trading Days and Common Disrupted Days: Applicable]
- [Individual Scheduled Trading Days and Individual Disrupted Days: Applicable]
- [Common Scheduled Trading Days and Individual Disrupted Days: Applicable]
- (select one as appropriate and delete other two)*
- (iii) Exchange(s): [•]
- (iv) Related Exchange: [•] [All Exchanges]

- (v) Exchange Business Day: [•]
- (vi) Initial Date: [•]
- (vii) Additional Disruption Events: Change in Law, Hedging Disruption, Loss of Stock Borrow and Increased Cost of Hedging shall apply (*specify if any are not applicable, or any further Additional Disruption Events*)
- (viii) Observation Date(s): [•]
- (ix) Valuation Date(s): [•]
- (x) Averaging Date(s): [•]
- (xi) Averaging Date Disruption: [Omission/Postponement/Modified Postponement]
- (xii) Determination Date(s): [•]
- (xiii) Determination Time: [•]

*For Index and Index Basket Securities only*

- (i) Index/Indices: [•]

*(if Index Securities, delete sub paragraph below)*

Scheduled Trading Days and Disrupted Days:

[Common Scheduled Trading Days and Common Disrupted Days: Applicable]

[Individual Scheduled Trading Days and Individual Disrupted Days: Applicable]

[Common Scheduled Trading Days and Individual Disrupted Days: Applicable]

*(select one as appropriate and delete other two)*

- (ii) Exchange(s): [•] (*specify whether Multi-Exchange Index*)
- (iii) Related Exchange(s): [•] [All Exchanges]
- (iv) Exchange Business Day: [•]
- (v) Initial Date: [•]
- (vi) Additional Disruption Events: Change in Law, Hedging Disruption and Increased Cost of Hedging shall apply (*specify if any are not applicable, or any further Additional Disruption Events*)
- (vii) Benchmark Trigger Provisions: [Applicable][Not Applicable]
- (viii) Alternative Pre-nominated Index: [None][Specify] (*specify in respect of each Relevant Equity Index Benchmark*)
- (ix) Observation Date(s): [•]
- (x) Valuation Date(s): [•]

- (xi) Averaging Date(s): [•]
- (xii) Averaging Date Disruption: [Omission/Postponement/Modified Postponement]
- (xiii) Determination Date(s): [•]
- (xiv) Determination Time: [•]

*For ETF and ETF Basket Securities only*

- (i) ETF Interest: [•]
- (ii) ETF: [•]

*(if ETF Securities, delete sub paragraph below)*

Scheduled Trading Days and  
Disrupted Days:

[Common Scheduled Trading Days and Common Disrupted  
Days: Applicable]

[Individual Scheduled Trading Days and Individual Disrupted  
Days: Applicable]

[Common Scheduled Trading Days and Individual Disrupted  
Days: Applicable]

*(select one as appropriate and delete other two)*

- (iii) Exchange(s): [•]
- (iv) Related Exchange: [•] [All Exchanges]
- (v) Exchange Business Day: [•]
- (vi) Initial Date: [•]
- (vii) Eligible ETF Interest: [•] *(specify if applicable or delete if not applicable or fallback  
provisions in Condition 7.5 to apply)*
- (viii) Additional Extraordinary ETF  
Event(s): [•] *(specify if applicable)*
- (ix) Additional Disruption Events: Change in Law, Hedging Disruption, Loss of Stock Borrow and  
Increased Cost of Hedging shall apply *[specify if any are not  
applicable, or any further Additional Disruption Events]*

- (x) Observation Date(s): [•]
- (xi) Valuation Date(s): [•]
- (xii) Averaging Date(s): [•]
- (xiii) Averaging Date Disruption: [Omission/Postponement/Modified Postponement]
- (xiv) Determination Date(s): [•]
- (xv) Determination Time: [•]

*For Commodity Securities only*

- |        |  |   |
|--------|--|---|
| (i)    | Commodity/Commodity Basket/<br>Commodity Index:  | [•] (if applicable, specify whether Non Metal, Base Metal or Precious Metal)  |
| (ii)   | Commodity Reference Price:   | [•]   |
| (iii)  | Specified Price:   | [[high][low][average of high and low][closing price][opening price][bid] [asked] [average of high and low prices][settlement price][official settlement price][official price][morning fixing][afternoon fixing][spot price][Other (specify)]   |
| (iv)   | Exchange:  | [•]   |
| (v)    | Delivery Date:   | [•]   |
| (vi)   | Pricing Date:  | [•]   |
| (vii)  | Commodity Disruption Events:   | <p>[Price Source Disruption [ - Price Materiality Percentage: [•]]</p> <p>[Trading Disruption]</p> <p>[Disappearance of Commodity Reference Price]</p> <p>[Material Change in Formula]</p> <p>[Material Change in Content]</p> <p>[Tax Disruption]</p> <p>[Trading Limitation]</p> <p>[•] (specify any applicable additional Commodity Disruption Events)</p> <p>[Not Applicable]</p> |
| (viii) | Commodity Disruption<br>Fallback:  | [Determination Agent Determination as defined in Condition 10.3/Other (specify)]  |
| (ix)   | Physical Hedging Fallback  | [Applicable] [Not Applicable]   |
| (x)    | Commodity Disruption<br>Fallback for<br>Administrator/Benchmark<br>Event (Condition 10.4): | [Determination Agent Determination as defined in Condition 10.3/Other (specify)]  |
| (xi)   | Common Pricing:  | [Applicable/Not Applicable] (where Commodity Basket only)   |
| (xii)  | Additional Disruption Events:  | Change in Law, Hedging Disruption and Increased Cost of Hedging shall apply [specify if any are not applicable, or any further Additional Disruption Events]  |
| (xiii) | Benchmark Trigger Provisions:  | [Applicable][Not Applicable]  |
| (xiv)  | Alternative Pre-nominated<br>Index:  | [None][Specify] (specify in respect of each Relevant Commodity Benchmark)   |

(xv) Other Relevant Commodity [None][Specify] (specify in respect of each Relevant Commodity Benchmark: Benchmark)

*For Currency Securities only*

(i) Settlement Currency: [•]

(ii) Reference Currency: [•]

(iii) Specified Amount: [•]

(iv) Specified Time: [•]

(v) Settlement Rate: [•]

(vi) Valuation Date(s): [•]

(vii) Averaging Dates: [[•]/Not Applicable]

(viii) Currency Disruption Events: [Price Source Disruption]

[Additional Price Source Disruption]: (If not applicable, delete the remaining subparagraph of this paragraph)

Reference Source: [•]

[Price Materiality Event:] (If not applicable, delete the remaining subparagraphs of this paragraph)

Price Materiality Percentage: [•]

Primary Rate: [•]

Secondary Rate: [•]

[Other (specify)]

(viii)(A) Currency Disruption Fallbacks: [Determination Agent Determination of Settlement Rate];

[Fallback Reference Price];

[Currency Reference Dealers]

Specified Rate: Specify one of:

Reference Currency bid exchange rate;

Reference Currency offer exchange rate;

Average of Reference Currency bid and offer exchange rates;

Settlement Currency bid exchange rate;

Settlement Currency offer exchange rate;

Average of Settlement Currency bid and offer exchange rates;

	Official fixing rate;
	[Other ( <i>specify</i> )]]
	[Other ( <i>specify</i> )]
	<i>(where applicable, specify which Currency Disruption Fallback applies to which Currency Disruption Event, and if more than one Currency Disruption Fallback may apply to a Currency Disruption Event, the order in which such Currency Disruption Fallbacks will apply)</i>
(viii)(B) Currency Disruption Fallbacks for Administrator/Benchmark Event (Condition 9.5):	[Determination Agent Determination of Settlement Rate];
	[Fallback Reference Price];
	[Currency Reference Dealers]
	[Specified Rate:
	<i>(Specify one of:)</i>
	Reference Currency bid exchange rate;
	Reference Currency offer exchange rate;
	Average of Reference Currency bid and offer exchange rates;
	Settlement Currency bid exchange rate;
	Settlement Currency offer exchange rate;
	Average of Settlement Currency bid and offer exchange rates;
	Official fixing rate;]
	[Other ( <i>specify</i> )]]
	[Other ( <i>specify</i> )]
	<i>(where applicable, specify which Currency Disruption Fallback applies to which Currency Disruption Event, and if more than one Currency Disruption Fallback may apply to a Currency Disruption Event, the order in which such Currency Disruption Fallbacks will apply)</i>
(ix) Additional Disruption Events:	Change in Law, Hedging Disruption and Increased Cost of Hedging shall apply [ <i>specify if any are not applicable, or any further Additional Disruption Events</i> ]
(x) Other special terms and conditions	[•]
(xi) Benchmark Trigger Provisions:	[Applicable][Not Applicable] ( <i>if not applicable, delete the remainder of this sub-paragraph</i> )
- Other Relevant FX Benchmark:	[None][Specify] ( <i>specify in respect of each Relevant FX Benchmark</i> )"

*For Inflation Securities only*

*(Delete if not applicable)*

- (i) Index/Indices: [•]  
[•], sponsored by [•]  
(Bloomberg® code: [•])  
*(specify Index/Indices/Index Sponsors (including place of publication))*
- (ii) Determination Agent responsible for calculating the Cash Settlement Amount: [•]
- (iii) Provisions for determining Cash Settlement Amount: [•]
- (iv) Provisions for determining Cash Settlement Amount where calculation by reference to Index and/or other variable is impossible or impracticable or otherwise disrupted: [•]
- (v) Related Bond: [•]/[Fallback Bond]
- (vi) Fallback Bond: [Applicable/Not Applicable]
- (vii) Index Sponsor: [•]
- (viii) Additional Disruption Events: Change in Law, Hedging Disruption and Increased Cost of Hedging shall apply *[specify if any are not applicable, or any further Additional Disruption Events]*
- (ix) Other special terms and conditions: [•]
- For Property Securities only (Insert the relevant applicable terms and conditions)*
- (i) Benchmark Trigger Provisions: [Applicable][Not Applicable]
- (ii) Alternative Pre-nominated Index: [None][Specify] *(specify in respect of each Relevant Property Index Benchmark)*
- For Fund and Fund Basket Securities only (Delete if not applicable)*
- (i) Fund: [•] *(specify or delete if not applicable)*
- (ii) Fund Interest: [•] *(specify or delete if not applicable or if fallback is applicable)*
- (iii) Fund Interest Unit: [•] *(specify or delete if not applicable or if fallback is applicable)*
- (iv) Basket of Funds: [•] *(specify or delete if not applicable, including relevant weightings of each Fund)*  
*(if Basket of Funds is Not Applicable, delete sub paragraph below)*

- |         |   |   |
|---------|---|---|
|         | Fund Business Days and Disrupted Days:    | <p>[Common Fund Business Days and Common Disrupted Days: Applicable]</p> <p>[Individual Fund Business Days and Individual Disrupted Days: Applicable]</p> <p>[Common Fund Business Days and Individual Disrupted Days: Applicable]</p> <p><i>(select one as appropriate and delete other two)</i></p> |
| (v)     | Company:                                  | [•] <i>(specify or delete if not applicable)</i>  |
| (vi)    | Fund Business Day:                        | [•] <i>(specify or delete if not applicable or if fallback is applicable)</i>   |
| (vii)   | Market of Listing for Fund                | [•]/[Not Applicable] <sup>3</sup>   |
| (viii)  | Fund Adviser:                             | [•] <i>(specify or delete if not applicable or if fallback is applicable)</i>   |
| (ix)    | Fund Administrator:                       | [•] <i>(specify or delete if not applicable or if fallback is applicable)</i>   |
| (x)     | Fund Custodian:                           | [•] <i>[specify or delete if not applicable or if fallback is applicable]</i>   |
| (xi)    | Additional Fund Service Provider          | [•] <i>(specify or delete if not applicable)</i>  |
| (xii)   | Additional Fund Documents:                | [•] <i>(specify or delete if not applicable)</i>  |
| (xiii)  | Cut-off Period:<br>(Condition 14.1)       | [•] <i>(specify or delete if not applicable or if fallback is applicable)</i>   |
| (xiv)   | Final Cut-off Date:<br>(Condition 14.1)   | [•] <i>(specify)</i>  |
| (xv)    | Valuation Date(s):<br>(Condition 14.1(c)) | [•] <i>(specify or delete if not applicable or if fallback is applicable)</i>   |
| (xvi)   | Valuation Time:                           | [•] <i>(specify or delete if not applicable or if fallback is applicable)</i>   |
| (xvii)  | Averaging Dates:<br>(Condition 14.1(d))   | [•] <i>(specify or delete if not applicable or if fallback is applicable)</i>   |
| (xviii) | Observation Date(s):<br>(Condition 14.1)  | [•] <i>(specify or delete if not applicable or if fallback is applicable)</i>   |
| (xix)   | Determination Date(s):                    | [•] <i>(specify or delete if not applicable or if fallback is applicable)</i>   |

<sup>3</sup> Where the Fund is not listed, these Notes shall not be listed on Euronext Dublin.



(Condition 14.1)

- (xx) Provisions for determining Cash Settlement Amount: [•] (*specify*)

(Condition 14.1)

- (xxi) Provisions for determining Cash Settlement Amount where calculation by reference to Fund is impossible or impracticable or otherwise disrupted: [•] (*specify*)

(Condition 14.1)

- (xxii) Scheduled Fund Valuation Date(s): [•] (*specify or delete if not applicable or if fallback is applicable*)

- (xxiii) Extraordinary Dividend: [•] (*specify or delete if not applicable or if fallback is applicable*)

(Condition 14.3)

- (xxiv) Adjustment: [•] [Condition 14.2 (*Postponement of Settlement*) applies/specify if other period applies]

(Condition 14.1)

- (xxv) Fund Interest Performance: [•] (*specify or amend Conditions as applicable*)

- (xxvi) Fund Subscription Date: [•] (*specify or delete if not applicable or if fallback is applicable*)

- (xxvii) Hypothetical Investor: [•] (*specify or delete if not applicable or if fallback is applicable*)

- (xxviii) Hypothetical Investor Jurisdiction: [•] (*specify or delete if not applicable or if fallback is applicable*)

- (xxix) Scheduled Redemption Payment Date: [•] (*specify or delete if not applicable or if fallback is applicable*)

- (xxx) Scheduled Redemption Valuation Date: [•] (*specify or delete if not applicable or if fallback is applicable*)

- (xxxi) Subscription Notice Date: [•] (*specify or delete if not applicable or if fallback is applicable*)

- (xxxii) Redemption Notice Date: [•] (*specify or delete if not applicable or if fallback is applicable*)

- (xxxiii) Reference Price: [•] (*specify or delete if not applicable or if fallback is applicable*)

- (xxxiv) Eligible Fund Interest: [•] (*specify or delete, as applicable*)

- (xxxv) Fund Event(s): [•] (*specify if any Fund Events are not applicable and/or amend conditions, as applicable*)

- (a) NAV Trigger Percentage: [•] *(if Fund Event (c) (NAV Trigger/ Restriction Event) is applicable, specify the applicable percentage or delete if not applicable)*
- (b) NAV Trigger Period: [•] *(if Fund Event (c) (NAV Trigger/ Restriction Event) is applicable, specify the applicable period or delete if not applicable)*
- (c) Aggregate NAV Trigger Value: [•] *(if Fund Event (d) (Aggregate NAV Trigger Event) is applicable and in relation to Fund Basket Securities only, specify the relevant value or delete if not applicable)*
- (d) Aggregate NAV Trigger Period: [•] *(if Fund Event (d) Aggregate NAV Trigger Event) is applicable and in relation to Fund Basket Securities only, specify the applicable period or delete if not applicable)*
- (xxxvi) NAV Source [•] *(specify where the NAV of any Fund will be published)*
- (xxxvii) Additional Fund Event(s): [•] *(specify or delete if not applicable)*
- (xxxviii) Other terms: [•] *(insert any other relevant terms)*
- For Futures Contract and Futures Contract Basket Securities only (Delete if not applicable)*
- (i) Futures Contract(s): [Specify name of futures contract] [having an Expiry Date scheduled to fall [on] [immediately before] [immediately after] [•] [specify date]]
- (In respect of each Scheduled Reference Date and Scheduled Averaging Date, where the final settlement price is being referenced, the Scheduled Reference Date or Scheduled Averaging Date (as applicable) should be expressed as "The Expiry Date")*
- (if Single Futures Contract Securities, delete sub paragraph below)*
- Scheduled Trading Days and Disrupted Days: [Common Scheduled Trading Days and Common Disrupted Days: Applicable]
- [Individual Scheduled Trading Days and Individual Disrupted Days: Applicable]
- [Common Scheduled Trading Days and Individual Disrupted Days: Applicable]
- (select one as appropriate and delete other two)*
- (ii) Futures Contract Underlier(s): [•] [None specified]
- (iii) Exchange: [•]
- (iv) Benchmark Trigger Provisions: [Applicable] [Not Applicable]
- (v) Alternative Pre-nominated Futures Contract[s]: [•] [None][Specify] *(specify in respect of each Relevant Futures Contract Benchmark)*
- (vi) Determination Agent responsible for calculating the Interest Amount and the Cash Settlement [•]

Amount:

- (vii) Provisions for determining Cash Settlement Amount: [•]
- (viii) Provisions for determining Cash Settlement Amount where calculation by reference to Futures Contract and/or other variable is impossible or impracticable or otherwise disrupted: [•]
- (ix) Specified Number of Scheduled Trading Days: [•] [As per Condition 15.7]
- (x) Specified Number of Common Scheduled Trading Days: [•] [As per Condition 15.7]
- (xi) Futures Contract Adjustment Events: [Price Source Disruption] [Trading Restriction] [Disappearance of Futures Contract or Settlement Price] [Material Change in Formula] [Material Change in Content] [Tax Disruption] [Change of Exchange] [Illiquidity Event]
- (xii) Adjustments for Futures Contract Adjustment Events: *(Specify criteria for replacement of futures contract contemplated by Condition 15.4(a)(ii), if any)*
- (xiii) Additional Disruption Events: [Change in Law] [Hedging Disruption] [Increased Cost of Hedging]
- (xiv) Correction Cut-Off Time: [•]
- (xv) Weighting for each Futures Contract comprising the Basket of Futures Contracts: *[Insert details]* [N/A]
- (xvi) Averaging Date(s): [•]
- (xvii) Averaging Date Disruption: [Omission/Postponement/Modified Postponement]
- (xviii) Observation Date(s): [•]
- (xix) Valuation Date(s): [•]
- (xx) Determination Date(s): [•]
- (xxi) Determination Time: [•]
- 8. Minimum Transfer Amount: (Condition 2.3) [•]

**Exercise**

- 9. Expiration Date: [•]
- 10. Latest Exercise Time: [•] *[(local time in the place of the Specified Office of the*

[Securities Agent/Securities Registrar]]

11. Minimum Exercise Number: (Condition 5.9) [[●]/Not Applicable]
12. Permitted Multiple: (Condition 5.9) [[●]/Not Applicable]
13. Deemed Exercise: (Condition 5.9) [[●]/Applicable/Not Applicable]<sup>4</sup>

#### Issuer Call Option

14. Call Option [Applicable/Not Applicable]
- (Condition 6) *(If not applicable, delete the remaining subparagraphs of this paragraph)*
- (i) Optional Settlement Date(s) [●]  
(Call):
- (ii) Optional Settlement Amount(s) [●]  
(Call) of each Security and method, if any, of calculation of such amount(s):
- (iii) Maximum Call Notice Number [●] [calendar day[s]] / [Business Day[s]]  
of Day(s):
- (iv) Minimum Call Notice Number [●] [calendar day[s]] / [Business Day[s]]  
of Day(s):

#### Autocallable Early Settlement

15. Autocallable Early Settlement [Applicable/Not Applicable]
- (Condition 16) *(If not applicable, delete the remaining subparagraphs of this paragraph)*
- (i) Autocallable Early Settlement [●]  
Observation Date(s):
- (ii) Autocallable Early Settlement [●]  
Amount(s) of each Security and method and calculation of such amount(s):
- (iii) Autocallable Early Settlement [●]  
Date:

#### Settlement

16. Settlement Basis: (Condition 4) The Securities are [Physical/Cash] Settlement Securities.
17. Physical Settlement Securities: [Applicable/Not Applicable]
- (If not applicable, delete the remaining subparagraphs of this paragraph)*

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<sup>4</sup> Optional.

- (i) Strike Price Payment Date: [•]
- (ii) Strike Price: [•]
- (iii) Settlement Price: [[•] Not Applicable]
- (iv) Physical Settlement Date: [As defined in Condition 1]
18. Cash Settlement Securities [Applicable/Not Applicable]
- (If not applicable, delete the remaining subparagraphs of this paragraph)*
- (i) Cash Settlement Amount: [•]
- (ii) Strike Price: [•]
- (iii) Settlement Price: [•]
19. Valuation Time: [•]
20. Valuation Date: [•]
- [In the event an Exercise Notice is sent by the holder of the Securities, the Business Day immediately following the date on which such Exercise Notice is effectively given]
- [•] / [In the event an Exercise Notice is sent by the holder of the Securities, the Exercise Date]
21. Averaging Dates: [•]
- [Averaging Date Disruption: [Omission/Postponement/Modified Postponement]]
22. (i) Observation Date(s): [•]
- (ii) Observation Period: [•]
23. Strike Date: [•]
24. Settlement Currency: [•]
25. Cash Settlement Payment Date: [•]
26. Additional Financial Centre(s) or other special provisions relating to Payment Business Days: [Not Applicable/[•] *(specify Additional Financial Centre(s)).*]
27. Record Date: [The Record Date is [one<sup>5</sup>] [Business Day/day/clearing system business day] before the relevant due date for payment/Not Applicable]
- Additional details**
28. Reference Dealers: [•]

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<sup>5</sup> This reflects the ICSMA standard of the clearing systems.

29. Determination Agent: [Morgan Stanley & Co. International plc/[•]]
30. Clearing Systems: [Euroclear and Clearstream, Luxembourg]/ [•]
31. Additional Selling Restrictions: [•]
32. Inconvertibility Event Provisions: [Applicable][Not Applicable]  
[Converted Payment][, Early Termination][, Suspended Payment]
- (i) Inconvertibility Early Settlement Amount Options: [*insert amount*][Early Settlement Amount][Fair Market Value]
- (ii) Fallback FX Spot Rate: [•]
- (iii) Specified Currency: [•]
- (iv) Inconvertibility Specified Currency: [•]
- (v) Relevant Currency/ies: [•]
- (vi) Relevant Jurisdiction: [•]
33. CNY Center: [•]
34. **Illegality Event:**  
(Condition 23)
- (i) Illegality Event (Condition 23.1): Applicable
- (ii) Early Settlement Amount (Illegality Event) [[Early Settlement Amount (Illegality Event) – Fair Value Less Costs] / [Early Settlement Amount (Illegality Event) – Fair Value] / [Early Settlement Amount (Illegality Event) – Par] shall apply]
35. **Substitution of Issuer or Guarantor with non Morgan Stanley Group entities:**  
(Condition 31) Applicable
36. **Other special terms and conditions:** [•] [•]

## DISTRIBUTION

37. (i) If syndicated, names and addresses of Managers and underwriting commitments: and names and addresses of the entities agreeing to place the issue without a firm commitment or on a "best efforts" basis if such entities are not the same as the Managers.) [Not Applicable/give names[, addresses and underwriting commitments]] [(Include names and addresses of entities agreeing to underwrite the issue on a firm commitment basis.)]
- (ii) [Date of [Subscription] [•]]

Agreement:

- (iii) Stabilising Manager(s) (if any): [Not Applicable/give name]
38. **If non-syndicated, name and address of Dealer:** [Not Applicable/give name and address]
39. **U.S. Selling Restrictions:** Regulation S
40. [Total commission and concession: [•] per cent. of the Aggregate Nominal Amount]<sup>6</sup>
41. **Additional selling restrictions:** [Not Applicable/give details]

**Taxation**

**This discussion is limited to the U.S. federal tax issues addressed below. Additional issues may exist that are not addressed in this discussion and that could affect the federal tax treatment of an investment in the [Warrants/Certificates]. Holders should seek their own advice based upon their particular circumstances from an independent tax advisor.**

A Non-U.S. Holder (as defined in the Offering Circular) should review carefully the section entitled "*United States Federal Taxation*" in the Offering Circular.

**Potential Section 871(m) Transaction**

Please see paragraph 7 of Part B – Other Information to this Pricing Supplement for additional information regarding withholding under Section 871(m) of the Code.

**[PURPOSE OF PRICING SUPPLEMENT]**

This Pricing Supplement comprises the pricing supplement required to list and have admitted to trading on [*specify relevant market*] the issue of Securities described herein pursuant to the Regulation S Program for the Issuance of Notes, Series A and B, Warrants and Certificates.]

**[NO MATERIAL ADVERSE CHANGE]**

Except as disclosed in the Pricing Supplement and the [•], there has been no significant change in the financial or trading position of the Issuer and no material adverse change in the prospects of the Issuer's consolidated group since [•].]<sup>7</sup>

**RESPONSIBILITY**

The Issuer accepts responsibility for the information contained in this Pricing Supplement. [(Relevant third party information) has been extracted from [•] (specify source)]. The Issuer confirms that such information has been accurately reproduced and that, so far as it is aware, and is able to ascertain from information published by[•]no facts have been omitted which would render the reproduced information inaccurate or misleading.]

Signed on behalf of the Issuer:

By: .....  
Duly authorised

---

<sup>6</sup> Optional.

<sup>7</sup> Do not include for Securities to be listed on any market in the EEA.

## PART B – OTHER INFORMATION

### 1. LISTING

Listing and admission to Trading: [Application [has been made/is expected to be made] by the Issuer (or on its behalf) for the Securities to be admitted to the Official List of Euronext Dublin and trading on its Global Exchange Market with effect from [•].]

[Application [has been made/is expected to be] made by the Issuer (or on its behalf) for the Securities to be admitted to listing on the Official List of the Luxembourg Stock Exchange and to trading on the Luxembourg Stock Exchange's Euro MTF Market with effect from [•].]

[No assurances can be given that such application for listing and/or admission to trading will be granted (or, if granted, will be granted by [•] [the Issue Date]).] [The Issuer has no duty to maintain the listing (if any) of the Securities on the relevant stock exchange(s) over their entire lifetime.]

[Not Applicable.]

*(Where documenting a fungible issue, indicate that original Securities are already admitted to trading)*

[Last day of Trading: [•]]

[Estimate of total expenses related to admission to trading: [•]]<sup>8</sup>

### 2. RATINGS

Ratings: [The Securities to be issued have been rated:

[S & P: [•]]

[Moody's: [•]]

[Fitch: [•]]

[[Other]: [•]]

*(The above disclosure should reflect the rating allocated to Securities of the type being issued under the Program generally or, where the issue has been specifically rated, that rating.)*

[The Warrants/Certificates have not been rated.]]

### 3. [INTERESTS OF NATURAL AND LEGAL PERSONS INVOLVED IN THE [ISSUE/OFFER]]<sup>9</sup>

Need to include a description of any interest, including conflicting ones, that is material to the issue/offer, detailing the persons involved and the nature of the interest. May be satisfied by the inclusion of the

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<sup>8</sup> Only applicable where the Securities are to be admitted to the Official List of Euronext Dublin and trading on its Global Exchange Market and are "debt securities" under the rules of Euronext Dublin.

<sup>9</sup> Only applicable where the Securities are to be admitted to the Official List of Euronext Dublin and trading on its Global Exchange Market and are "derivative securities" under the rules of Euronext Dublin



following statement:

"Save as discussed in ["*Subscription and Sale*"], so far as the Issuer is aware, no person involved in the offer of the Securities has an interest material to the offer."

**4. REASONS FOR THE OFFER, ESTIMATED NET PROCEEDS AND TOTAL EXPENSES**

[(i) Reasons for the offer: [•]

*(If reasons for offer different from making profit and/or hedging certain risks, include those reasons here.)*

[(ii) Estimated net proceeds: [•]

*(it is only necessary to include disclosure of net proceeds where disclosure is included at (i) above.)*

[(iii) Estimated total expenses: [•] [Include breakdown of expenses.]

*(it is only necessary to include disclosure of total expenses where disclosure is included at (i) above.)*

**5. [PERFORMANCE OF EQUITY/INDEX/COMMODITY/CURRENCY/FUND/FUTURES CONTRACT/FORMULA/OTHER VARIABLE AND OTHER INFORMATION CONCERNING THE UNDERLYING <sup>10</sup>**

*[Include details of where past and future performance and volatility of the index/equity/currency/fund/formula/other variable can be obtained. [Where the underlying is an index, include the name of the index and a description if composed by the Issuer and if the index is not composed by the Issuer, include details of where the information about the index can be obtained. Where the underlying is a commodity please specify the market where the commodity regularly trades, where the relevant prices are published and how often such publication is made available. Where the underlying is neither an index nor a commodity, include equivalent information.]*

The Issuer does not intend to provide post-issuance information with regard to the underlying unless required to do so by applicable laws and regulations.

**6. OPERATIONAL INFORMATION**

ISIN: [•]

Common Code: [•]

CFI: [[•]/Not Applicable]

FISN: [[•]/Not Applicable]

Any clearing system(s) other than Euroclear Bank S.A./N.V. and Clearstream Banking société anonyme and the relevant identification number(s): [Not Applicable/give name(s) and number(s)]

Delivery: Delivery [against/free of] payment

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<sup>10</sup> Only applicable where the Securities are to be admitted to the Official List of Euronext Dublin and trading on its Global Exchange Market and are "derivative securities" under the rules of Euronext Dublin.

Names and addresses of initial  
Securities Agent(s)/Securities  
Transfer Agent(s): [•]

Names and addresses of additional  
Securities Agent(s) and/or  
Securities Transfer Agent(s) (if  
any): [•]

Prohibition of Sales to EEA [Applicable]/[Not Applicable]  
Retail Investors:

7. **POTENTIAL SECTION 871(M) TRANSACTION** [Not Applicable] / [The Issuer has determined that the [Warrants/Certificates] should not be subject to withholding under Section 871(m) of the Code[, and hereby instructs its agents and withholding agents that no withholding is required, unless such agent or withholding agent knows or has reason to know otherwise].] / [The Issuer has determined that the [Warrants/Certificates] should not be subject to withholding under Section 871(m) of the Code because the Relevant Underlying is a “qualified index” under the applicable U.S. Treasury Regulations[, and hereby instructs its agents and withholding agents that no withholding is required, unless such agent or withholding agent knows or has reason to know otherwise].] / [The [Warrants/Certificates] are U.S. equity linked [Warrants/Certificates] subject to withholding under Section 871(m) of the Code.] [For further information please [call [•]] / [visit our website at [•]] / [write to [•]].]
8. **DETAILS OF BENCHMARKS ADMINISTRATORS AND REGISTRATION UNDER BENCHMARKS REGULATION:** [Applicable]/[Not Applicable]  
[[*specify benchmark*] is administered by [*insert legal name of administrator*], who as at the Issue Date, appears on the register of administrators and benchmarks established and maintained by the European Securities and Markets Authority pursuant to Article 36 of the Benchmarks (Regulation (EU) 2016/2011) (the “**Benchmarks Regulation**”).]/[[*specify benchmark*] is administered by [*insert legal name of administrator*], who as at the Issue Date, does not appear on the register of administrators and benchmarks established and maintained by the European Securities and Markets Authority pursuant to Article 36 of the Benchmarks (Regulation (EU) 2016/1011) (the “**Benchmarks Regulation**”). As far as the Issuer is aware, the transitional provisions in Article 51 of the Benchmarks Regulation apply, such that [*insert legal name of administrator*] is not currently required to obtain authorisation or registration (or if located outside the European Union, recognition, endorsement or equivalence).] (*repeat as appropriate*)

## FORM OF WARRANTS AND CERTIFICATES

Morgan Stanley may issue Warrants and Certificates and MSFL may issue Warrants in registered form ("**Registered Warrants**" and "**Registered Certificates**", together, the "**Registered Securities**"). Registered Warrants and Registered Certificates may be in either individual certificate form or in global registered form.

### Registered Securities

Registered Securities will be in global registered form ("**Global Registered Securities**") or individual registered form ("**Individual Registered Securities**"), in each case as specified in the applicable Pricing Supplement. Each Global Registered Security will be registered in the name of a common depositary (or its nominee) for the Relevant Clearing System and will be deposited on or about the issue date with the common depositary and will be exchangeable for Individual Registered Securities in accordance with its terms.

If the applicable Pricing Supplement specifies the form of Warrants or Certificates as being "**Individual Registered Securities**", then the Registered Securities will at all times be in the form of Individual Registered Securities issued to each Securityholder in respect of their respective holdings.

If the applicable Pricing Supplement specifies the form of Warrants or Certificates as being "**Global Registered Securities exchangeable for Individual Registered Securities**", then the Registered Securities will initially be in the form of a Global Registered Security which will be exchangeable in whole, but not in part, for Individual Registered Securities:

- (a) on the expiry of such period of notice as may be specified in the applicable Pricing Supplement; or
- (b) if the applicable Pricing Supplement specifies "in the limited circumstances described in the Global Registered Security", then (i) if the Relevant Clearing System is closed for business for a continuous period of 14 days (other than by reason of legal holidays) or announces an intention permanently to cease business or (ii) an Event of Default occurs with respect to any Warrant or Certificate in accordance with the Terms and Conditions of the Warrants and Certificates.

Whenever a Global Registered Security is to be exchanged for Individual Registered Securities, the Issuer shall procure that Individual Registered Securities will be issued in an aggregate nominal amount or number of Registered Securities equal to the nominal amount or number of Registered Securities represented by the Global Registered Security within five business days of the delivery, by or on behalf of the holder of the Global Registered Security to the Securities Registrar of such information as is required to complete and deliver such Individual Registered Securities (including, without limitation, the names and addresses of the persons in whose names the Individual Registered Securities are to be registered and the quantity of each such person's holding) against the surrender of the Global Registered Security at the specified office of the Securities Registrar such Individual Registered Securities will be issued within five business days of the delivery to the Registrar of the information and any required certification described in the preceding paragraph against the surrender of the relevant Global Registered Security at the Specified Office of the Registrar.

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

### Terms and Conditions applicable to the Registered Securities

The terms and conditions applicable to any Individual Registered Security will be endorsed on that Individual Registered Security and will consist of the terms and conditions set out under "*Terms and Conditions of the Warrants and Certificates*" above and the provisions of the applicable Pricing Supplement which supplement, modify and/or replace those terms and conditions.

The terms and conditions applicable to any Global Registered Security will differ from those terms and conditions which would apply to the Registered Security were it in individual form to the extent described under "*Summary of Provisions Relating to the Warrants and Certificates while in Global Form*" below.

## SUMMARY OF PROVISIONS RELATING TO THE WARRANTS AND CERTIFICATES WHILE IN GLOBAL FORM

### Clearing System Accountholders

In relation to any Registered Warrants and Registered Certificates (together, the "**Registered Securities**") (or any Tranche thereof) represented by a Global Registered Security, references in the "*Terms and Conditions of the Warrants and Certificates*" to "**Securityholder**" are references to the person in whose name such Global Registered Security is for the time being registered which, for so long as the Global Registered Security is held by or on behalf of a depositary or common depositary for the Relevant Clearing System, will be that depositary or common depositary.

Each of the persons shown in the records of the Relevant Clearing System as being entitled to an interest in a Global Registered Security (each an "**Accountholder**") must look solely to the Relevant Clearing System (as the case may be) for such Accountholder's share of each payment made by the Issuer to the holder of such Global Registered Security and in relation to all other rights arising under such Global Registered Security, including any right to exchange any exchangeable Warrants or Certificates or any right to require the Issuer to repurchase such Warrants or Certificates. The respective rules and procedures of the Relevant Clearing System from time to time will determine the extent to which, and the manner in which, Accountholders may exercise any rights arising under the Global Registered Security and the timing requirements for meeting any deadlines for the exercise of those rights. For so long as the relevant Warrants or Certificates are represented by a Global Registered Security, Accountholders shall have no claim directly against the Issuer in respect of payments due under the Warrants or Certificates and such obligations of the Issuer will be discharged by payment to the holder of the Global Registered Security, as the case may be, in respect of each amount so paid.

So long as the Relevant Clearing System or its nominee is the holder of a Global Registered Security, the Relevant Clearing System or such nominee, as the case may be, will be considered the sole owner of the Securities represented by such Global Registered Security for all purposes under the Securities Agency Agreement and such Warrants or Certificates, except to the extent that in accordance with the Relevant Clearing System's published rules and procedures any ownership rights may be exercised by its participants or beneficial owners through participants.

### Exchange of Global Registered Securities

Whenever a Global Registered Securities is to be exchanged for Individual Registered Securities, the Issuer shall procure that the relevant quantity of Individual Registered Securities will be issued within five business days of the delivery, by or on behalf of the holder of the Global Registered Security to the Securities Registrar of such information as is required to complete and deliver such Individual Registered Securities (including, without limitation, the names and addresses of the persons in whose names the Individual Registered Securities are to be registered and the quantity of each such person's holding) against the surrender of the Global Registered Security at the specified office of the Securities Registrar. Such exchange will be effected in accordance with the provisions of the Securities Agency Agreement and the regulations concerning the transfer and registration of Registered Securities scheduled thereto and, in particular, shall be effected without charge to any holder, but against such indemnity as the Securities Registrar may require in respect of any tax or other duty of whatsoever nature which may be levied or imposed in connection with such exchange.

If:

- (a) Individual Registered Securities have not been delivered by 5.00 p.m. (London time) on the thirtieth day after they are due to be issued and delivered in accordance with the terms of the Global Registered Security; or
- (b) any of the Warrants and Certificates represented by a Global Registered Security (or any part of it) has become due and payable in accordance with the Terms and Conditions of the Warrants and Certificates, payment or delivery (as applicable) in full has not been made to the holder of the Global Registered Security in accordance with the terms of the Global Registered Security on the due date for payment or delivery (as applicable),

then 5.00 p.m. (London time) on such thirtieth day (in the case of (a) above) or at 5.00 p.m. (London time) on such due date (in the case of (b) above), each person shown in the records of the Relevant Clearing System as being entitled to interest in the Warrants or the Certificates (each an "**Accountholder**"), shall acquire rights under the Deed of Covenant to enforce against the Issuer, the Issuer's obligations to the Securityholder in respect of the Warrants and Certificates represented by the Global Registered Security, including the obligation of the Issuer to make all payments

and deliveries when due at any time in respect of such Warrants or Certificates as if such Warrants or Certificates had been duly presented and (where required by the Conditions) surrendered on the due date in accordance with the Conditions. Each Accountholder shall acquire such right without prejudice to any other rights which the Securityholder may have under the Global Registered Security and the Deed of Covenant. Notwithstanding the rights that each Accountholder may acquire under the Deed of Covenant, payment to the Securityholder in respect of any Warrants or Certificates represented by the Global Registered Security shall constitute a discharge of the Issuer's obligations to the extent of any such payment or delivery and nothing in the Deed of Covenant shall oblige the Issuer to make any payment or delivery under the Warrants or Certificates to or to the order of any person other than the Securityholder.

### Conditions Applicable to Global Registered Securities

Each Global Registered Security will contain provisions which modify the terms and conditions set out in "*Terms and Conditions of the Warrants and Certificates*" as they apply to the Global Registered Security. The following is a summary of certain of those provisions:

*Transfers of interests in the Warrants and Certificates:* Any transfers of the interest of an Accountholder in any Warrants or Certificates that are represented by a Global Registered Security must be effected through the relevant Accountholder's account with Euroclear and/or Clearstream, Luxembourg and/or any other relevant clearing system (each a "**Clearing System**" or "**Relevant Clearing System**") and in accordance with the rules of the relevant Clearing System.

*Exercise procedures:* Subject to Condition 4.9 (*Warrants and Certificates void on expiry*) of the "*Terms and Conditions of the Warrants and Certificates*" and to prior termination of the Warrants and Certificates as provided in the Conditions, Warrants and Certificates may be exercised by an Accountholder (at his own expense) at such time and on such day(s) as provided in Conditions 4.1 (*American Style Securities*), 4.2 (*European Style Securities*) or 4.3 (*Bermudan Style Securities*) of the "*Terms and Conditions of the Warrants and Certificates*" by delivery of a duly completed and signed Exercise Notice to (i) the Relevant Clearing System and (ii) the relevant Securities Agent or Securities Registrar, with a copy to the Determination Agent. Any such exercise shall be subject to the rules and procedures of the relevant Clearing System and any Exercise Notice will be irrevocable and may not be withdrawn by the Accountholder. The holder of the Global Registered Security (upon the exercise of the Warrant or Certificate in full) must, within the period specified therein for the deposit of the relevant Warrant or Certificate, deposit such Global Registered Security with the Securities Registrar.

Subject to Condition 4.9 (*Warrants and Certificate void on expiry*) of the "*Terms and Conditions of the Warrants and Certificates*", any Exercise Notice delivered after the Latest Exercise Time on any day shall: (a) in the case of Bermudan Style Securities and European Style Securities, be void and (b) in the case of American Style Securities, be deemed to have been delivered on the next following day on which such Securities are exercisable (unless no such day occurs on or prior to the Expiration Date, in which case that Exercise Notice shall be void).

*Exercise dates and times:* Exercise of Warrants and Certificates represented by a Global Registered Security may only be effected on a day on which the relevant Clearing System is open for business in addition to any other relevant day as provided in the Conditions. Such Registered Security must be exercised as provided in the "*Terms and Conditions of the Warrants and Certificates*" (as modified as set out below) by 10 a.m. in the place where the Relevant Clearing System through which the relevant Registered Securities are exercised (unless otherwise specified in the applicable Pricing Supplement).

*Form of Exercise Notice:* Each Exercise Notice shall be in the form (for the time being current) available from each Securities Agent or the Securities Registrar and must:

- (a) specify the name, address, telephone, facsimile and telex details of the Accountholder in respect of the Registered Securities being exercised;
- (b) specify the number of Registered Securities of the relevant Series being exercised by the Accountholder (which must not be less than the Minimum Exercise Number);
- (c) specify the number of the Accountholder's account at the relevant Clearing System to be debited with the Registered Securities being exercised and irrevocably instruct, or, as the case may be, confirm that the Accountholder has irrevocably instructed, the relevant Clearing System to debit the Accountholder's account

with the Registered Securities being exercised and credit the same to the account of the Principal Securities Agent (for the account of the Issuer);

- (d) where applicable, specify the number of the Accountholder's account at the relevant Clearing System to be credited with the Cash Settlement Amount or the relevant Underlying Securities (as applicable) for the Registered Securities being exercised;
- (e) include an irrevocable undertaking to pay any applicable Taxes due by reason of exercise of and an authority to the Issuer and the relevant Clearing System to deduct an amount in respect thereof from any Cash Settlement Amount due to such Accountholder or otherwise (on, or at any time after, the Cash Settlement Payment Date) and to debit a specified account of the Accountholder at the relevant Clearing System with an amount or amounts in respect thereof;
- (f) in the case of Full Physical Settlement Securities, include an irrevocable instruction to the relevant Clearing System to debit the specified account of the Accountholder with an amount equal to the aggregate Strike Price in respect of the Registered Securities being exercised (and in the case of Bond Securities, any accrued interest, as specified in Condition 4.5(a) (*Full Physical Settlement Securities*)) on the Strike Price Payment Date and to credit such amount to the account of the Principal Securities Agent (for the account of the Issuer); and
- (g) authorise the production of such certification in any applicable administrative or legal proceedings.

*Verification of Accountholder:* To exercise any Registered Securities, the relevant Accountholder must duly complete an Exercise Notice. The relevant Clearing System shall, in accordance with its normal operating procedures, verify that each person exercising Registered Securities is the Accountholder thereof according to the records of such Clearing System and that such Accountholder has an account at the relevant Clearing System which contains Registered Securities in an amount being exercised and funds equal to any applicable Taxes in respect of the Registered Securities being exercised.

If, in the determination of the relevant Clearing System, the relevant Securities Agent or the Securities Registrar:

- (a) the Exercise Notice is not complete or not in proper form;
- (b) the person submitting an Exercise Notice is not validly entitled to exercise the relevant Registered Securities or not validly entitled to deliver such Exercise Notice; or
- (c) sufficient Registered Securities and sufficient funds equal to any applicable Taxes are not available in the specified account(s) with the relevant Clearing System on the Exercise Date,

that Exercise Notice will be treated as void and a new duly completed Exercise Notice must be submitted if exercise of the Accountholder's Registered Securities is still desired.

Any determination by the relevant Clearing System, the relevant Securities Agent or the Securities Registrar as to any of the matters set out above shall, in the absence of manifest error, be conclusive and binding upon the Issuer, the Accountholder and the beneficial owner of the Registered Securities exercised.

*Notification to the relevant Securities Agent or the Securities Registrar:* Subject to the verification set out above, the relevant Clearing System will:

- (a) confirm to the Securities Registrar (copied to the Issuer and the Determination Agent) the number of Registered Securities being exercised and the number of the account to be credited with the Cash Settlement Amount; and
- (b) promptly notify the common depositary of receipt of the Exercise Notice and the number of the Registered Securities to be exercised.

Upon exercise of less than all of the Registered Securities represented by the Global Registered Security, the Securities Registrar will note such exercise in the Register relating to such Global Registered Security and the aggregate nominal amount or number of Registered Securities so exercised as represented by the Global Registered Security shall be cancelled pro tanto.

*Debit of Accountholder's Account:* The relevant Clearing System will on or before the Cash Settlement Payment Date debit the relevant account of the Accountholder and credit the relevant account of the Principal Securities Agent (in favour of the Issuer) with: (i) the Registered Securities being exercised, (ii) any applicable Taxes (if any) in respect of the Registered Securities being exercised and (iii) any other amounts as may be specified in the applicable Pricing Supplement.

If any of the items set out in the paragraph above are not so credited to the relevant account of the Principal Securities Agent (in favour of the Issuer), then the Issuer shall be under no obligation to make any payment of any nature to the relevant Accountholder in respect of the Registered Securities being exercised, and the Exercise Notice delivered in respect of such Registered Securities shall thereafter be void for all purposes.

*Effect of Exercise Notice:* Delivery of an Exercise Notice shall constitute an irrevocable election and undertaking by the Accountholder to exercise the Registered Securities specified therein, provided that the person exercising and delivering such Exercise Notice is the person then appearing in the records of the relevant Clearing System as the holder of the relevant Registered Securities. If the person exercising and delivering the Exercise Notice is not the person so appearing, such Exercise Notice shall for all purposes become void and shall be deemed not to have been so delivered.

After the delivery of an Exercise Notice (other than an Exercise Notice which shall become void) by an Accountholder, such Accountholder shall not be permitted to transfer either legal or beneficial ownership of the Registered Securities exercised thereby. Notwithstanding this, if any Accountholder does so transfer or attempt to transfer such Registered Securities, the Accountholder will be liable to the Issuer for any losses, costs and expenses suffered or incurred by the Issuer including those suffered or incurred as a consequence of it having terminated any related hedging operations in reliance on the relevant Exercise Notice and subsequently: (i) entering into replacement hedging operations in respect of such Securities; or (ii) paying any amount on the subsequent exercise of such Registered Securities without having entered into any replacement hedging operations.

*Payments:* All payments in respect of a Global Registered Security which, in accordance with the "*Terms and Conditions of the Warrants and Certificates*", require presentation and/or surrender of an Individual Registered Security will be made against presentation and (in the case of payment in full) and/or surrender of the Global Registered Security at the Specified Office of the Principal Securities Agent and will be effective to satisfy and discharge the corresponding liabilities of the Issuer in respect of the Warrants and Certificates. On each occasion on which a payment is made in respect of a Global Registered Security, the Issuer shall procure that the same is entered *pro rata* in the records of the Relevant Clearing System. Any payments shall be made in accordance with the rules and procedures of the relevant Clearing System and the Issuer. The Securities Agents, the Securities Registrar and the Securities Transfer Agent, shall not be liable, under any circumstance, for any acts or defaults of any Clearing System in the performance of the Clearing System's duties in relation to the Warrants and the Certificates.

*Payment Record Date:* Each payment in respect of a Global Registered Security will be made to the person shown as the holder in the Register at the close of business (in the relevant clearing system) on the Clearing System Business Day before the due date for such payment (the "**Record Date**") where "**Clearing System Business Day**" means a day on which each relevant Clearing System for which the Global Registered Security is being held is open for business.

*Notices:* Notwithstanding Condition 24 (*Notices*) of the "*Terms and Conditions of the Warrants and Certificates*", while all the Registered Securities are represented by a Global Registered Security and the Global Registered Security is deposited with a Clearing System, notices to Accountholders may be given by delivery of the relevant notice to the Relevant Clearing System and, in any case, such notices shall be deemed to have been given to the Accountholders in accordance with Condition 24 (*Notices*) of the "*Terms and Conditions of the Warrants and Certificates*", as applicable, on the date of delivery to the Relevant Clearing System.

### **BENEFIT PLAN INVESTORS**

The Program Securities may not be acquired or held by, or acquired with the assets of, any employee benefit plan subject to Title I of the United States Employee Retirement Income Security Act of 1974, as amended ("**ERISA**"), or any individual retirement account or plan subject to Section 4975 of the Code or any entity whose underlying assets include "plan assets" within the meaning of Section 3(42) of ERISA by reason of any such employee benefit plan's, account's or plan's investment therein.

The Global Notes, Warrants and Certificates and the Definitive Notes, Warrants and Certificates will bear a legend to the following effect:

THE INVESTOR SHALL BE DEEMED TO REPRESENT BY ITS ACQUISITION AND HOLDING OF AN INTEREST HEREIN THAT IT IS NOT ACQUIRING THE SECURITIES WITH THE ASSETS OF ANY EMPLOYEE BENEFIT PLAN SUBJECT TO TITLE I OF THE UNITED STATES EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED ("**ERISA**"), ANY INDIVIDUAL RETIREMENT ACCOUNT OR PLAN SUBJECT TO SECTION 4975 OF THE UNITED STATES INTERNAL REVENUE CODE OF 1986, AS AMENDED, OR ANY ENTITY WHOSE UNDERLYING ASSETS INCLUDE "PLAN ASSETS" WITHIN THE MEANING OF SECTION 3(42) OF ERISA BY REASON OF ANY SUCH EMPLOYEE BENEFIT PLAN'S, ACCOUNT'S OR PLAN'S INVESTMENT THEREIN.



## UNITED STATES FEDERAL TAXATION

**This discussion is limited to the U.S. federal tax issues addressed below. Additional issues may exist that are not addressed in this discussion and that could affect the U.S. federal tax treatment of the Program Securities. Investors should seek their own advice based upon their particular circumstances from an independent tax advisor.**

The following are certain of the U.S. federal income and estate tax consequences of ownership and disposition of the Program Securities by Non-U.S. Holders (as defined below). This summary is based on the Internal Revenue Code of 1986, as amended (the "**Code**"), administrative pronouncements, judicial decisions and final, temporary and proposed Treasury regulations, all as of the date hereof, changes to any of which subsequent to the date of this Offering Circular may affect the tax consequences described herein. This summary does not discuss the consequences of the Medicare tax on investment income. As used herein, the term "Non-U.S. Holder" means a beneficial owner of a Program Security that is for U.S. federal income tax purposes:

- an individual who is a nonresident alien;
- a foreign corporation; or
- a foreign estate or trust.

The term "Non-U.S. Holder" does not include any of the following persons:

- an individual present in the United States for 183 days or more in the taxable year of disposition;
- certain former citizens or residents of the United States; or
- a person for whom income or gain in respect of the Program Securities is effectively connected with the conduct of a trade or business in the United States.

Special rules may also apply to corporations that for U.S. federal income tax purposes are treated as personal holding companies, controlled foreign corporations, or passive foreign investment companies. Such holders are urged to consult their own tax advisors regarding the U.S. federal income tax consequences of the ownership and disposition of a Program Security.

If an entity that is classified as a partnership holds a Program Security, the tax treatment of a partner generally will depend upon the status of the partner and the activities of the partnership. Partners of partnerships holding Program Securities should consult their tax advisors regarding the U.S. federal tax consequences of owning and disposing of a Program Security.

The discussion below assumes that all Program Securities will be issued in registered form for U.S. federal income tax purposes. This discussion further assumes that any Relevant Underlying with respect to a Program Security will be actively traded within the meaning of Section 871(h)(4)(C)(v).

The relevant Pricing Supplement, which a Non-U.S. Holder should review carefully before making a decision to invest in the Program Securities to which it pertains, may indicate other issues or differing consequences applicable to a particular offering of Program Securities.

### **Taxation of Notes**

#### ***Withholding on Coupon Payments (If Applicable)***

The U.S. federal tax treatment of the Notes is unclear due to the absence of statutory, judicial or administrative authorities that directly address such Notes or similar securities, and no ruling is being requested from the Internal Revenue Service (the "**IRS**") with respect to the Notes. Significant aspects of the U.S. federal income tax consequences of an investment in the Notes are uncertain, and no assurance can be given that the IRS or a court will agree with the tax treatment described herein. Accordingly, investors should consult their tax adviser regarding the U.S. federal income tax consequences of an investment in the Notes (including possible alternative treatment of the Notes).

Subject to the discussions below regarding the potential application of Section 871(m) of the Code, FATCA, and the backup withholding rules, a Non-U.S. Holder should expect that a withholding agent will not treat any coupon payments as subject to U.S. federal withholding tax, provided that the Non-U.S. Holder qualifies for an exemption under the "other income" provision of a Qualifying Treaty (as defined below) or, to the extent that any portion of a coupon payment is treated as interest for U.S. federal income tax purposes, an exemption under the "portfolio interest exemption" rules as described below.

For Notes that do not pay coupons at an unconditional fixed rate, or that provide for a possible payment upon maturity or early settlement that is greater than their par value without counting any coupon payment, coupon payments on such Notes should generally not be subject to withholding provided the Non-U.S. Holder qualifies for an exemption under the "other income" provision of a Qualifying Treaty. An income tax treaty between a non-U.S. jurisdiction and the United States is a **"Qualifying Treaty"** if it provides for a 0 per cent. rate of tax on "other income" earned by a resident of the non-U.S. jurisdiction from sources within the United States. For example, under current law, the United States' tax treaties with Japan, Germany and the United Kingdom are Qualifying Treaties. Accordingly, if the Non-U.S. Holder is a resident of a non-U.S. jurisdiction that qualifies for benefits under such a Qualifying Treaty, the Non-U.S. Holder should generally be eligible for an exemption under the "other income" provision referred to above if such Non-U.S. Holder complies with the certification requirement described below. However, because most income tax treaties contain complex eligibility rules and limitations, a Non-U.S. Holder should consult its tax advisor about its eligibility for this exemption.

To demonstrate its eligibility for the "other income" exemption to the Issuer or an applicable withholding agent, a Non-U.S. Holder generally will be required to provide a properly completed appropriate Internal Revenue Service ("**IRS**") Form W-8BEN or W-8BEN-E certifying that it is not a U.S. person and that it is eligible for the benefits of a Qualifying Treaty (or, if the Non-U.S. Holder holds its Notes through certain qualified intermediaries, it may be permitted to provide alternative documentation in lieu of the appropriate IRS Form W-8BEN or W-8BEN-E to establish that it is not a U.S. person and that it is eligible for the benefits of a Qualifying Treaty). A Non-U.S. Holder providing a properly completed appropriate IRS Form W-8BEN or W-8BEN-E as discussed in this paragraph may provide its foreign taxpayer identifying number issued by its country of residence in lieu of its U.S. taxpayer identifying number.

Notwithstanding the discussion above, because the U.S. federal income tax treatment of the Notes is unclear, any coupon payments on such Notes could alternatively be treated in whole or part as payments of interest. Nonetheless, even if the coupon payments are treated in whole or in part as interest and thus not eligible for the "other income" exemption described above, under current law and administrative practice a Non-U.S. Holder generally will qualify for the "portfolio interest exemption" with respect to the coupon payments so long as:

- the Non-U.S. Holder has provided the certifications required to establish that the Non-U.S. Holder is not a U.S. person as described above;
- the Non-U.S. Holder does not own (directly or by attribution) 10 per cent. or more of the total combined voting power of all classes of stock of Morgan Stanley entitled to vote;
- the Non-U.S. Holder is not a controlled foreign corporation related, directly or indirectly, to Morgan Stanley through stock ownership; and
- the Non-U.S. Holder is not a bank receiving interest under Section 881(c)(3)(A) of the Code.

Non-U.S. Holders should consult their tax advisors regarding their eligibility for the "portfolio interest exemption" or any reduced treaty rate in light of their particular circumstances.

For Notes that pay coupons at an unconditional fixed rate of interest and do not provide for a possible payment on maturity or early settlement that is greater than their par value without counting any coupon payment, such Notes may be treated as a combination of:

- (i) a put right written by the investor to the Issuer that, if exercised, requires the investor to pay the Issuer an amount equal to the issue price in exchange for a cash amount based on the performance of the Relevant Underlying; and
- (ii) a deposit with the Issuer of a fixed amount of cash, also equal to the issue price, to secure the investor's obligation under the put right that pays interest based on the Issuer's cost of borrowing

at the time of issuance.

Subject to the discussions below regarding the potential application of Section 871(m) of the Code, FATCA, and the backup withholding rules, and assuming the bifurcated treatment described immediately above is respected, a portion of the coupon payments on such Notes will be attributable to the interest on the deposit and should not be subject to withholding, provided that a Non-U.S. Holder meets the conditions described above with respect to the “portfolio interest exemption” (including the certification requirements, as described below). The remainder of the coupon will be attributable to the premium on the put right and will be exempt from U.S. withholding tax. However, because the U.S. federal income tax treatment of such Notes is unclear, the IRS could seek to treat the entire amount of the coupon payments as gross income that is not interest. If the IRS were successful in asserting this treatment, coupon payments made to a Non-U.S. Holder may be subject to withholding at a rate of 30% unless the Non-U.S. Holder demonstrates that it qualifies for a full exemption under the “other income” provision of a qualifying income tax treaty, as described above.

*Certification Requirement.* The certification requirement referred to in the discussion above regarding the “portfolio interest exemption” will be fulfilled if the beneficial owner of a Note (or a financial institution holding a Note on behalf of the beneficial owner) furnishes to the applicable withholding agent an IRS Form W-8BEN or W-8BEN-E (or other appropriate form), on which the beneficial owner certifies under penalties of perjury that it is not a U.S. person.

It is possible that any future Treasury regulations or other guidance could materially and adversely affect the withholding tax consequences of ownership and disposition of the Notes, possibly with retroactive effect, and that in the event of a change of law or any formal or informal guidance by the IRS, the U.S. Treasury Department or Congress, we or a withholding agent may decide to withhold on a portion or the entire amount of payments made with respect to the Notes to Non-U.S. Holders. Prospective investors should consult their tax advisers regarding all aspects of the U.S. federal income tax consequences of an investment in the Notes.

### ***Tax Treatment Upon Sale or Other Taxable Disposition***

Except as discussed below, a Non-U.S. Holder should generally not be subject to United States federal income tax, including withholding tax, on proceeds (other than to the extent attributable to coupon payments, if any, on the Program Securities, which should be treated as discussed above) from the sale or other taxable disposition of a Program Security (including at maturity or upon an early redemption). However, depending on certain characteristics of a Program Security, alternative treatments of the Program Securities are possible under U.S. federal income tax law. For example, if all or any portion of a Program Security were recharacterized as a debt instrument, payments made to a Non-U.S. Holder on the taxable disposition of a Program Security could be subject to U.S. federal withholding tax unless the Non-U.S. Holder qualifies for the “portfolio interest exemption” as described above.

Non-U.S. Holders should consult their tax advisers regarding all aspects of the U.S. federal income tax consequences of an investment in the Program Securities, including possible alternative treatments and the possibility of obtaining a refund if U.S. federal withholding tax is imposed on the Program Securities.

### **Dividend Equivalent Amounts**

Section 871(m) of the Code and Treasury regulations promulgated thereunder (“**Section 871(m)**”) impose a withholding tax of 30 per cent. (or lower treaty rate applicable to dividends) on certain “dividend equivalents” paid or deemed paid to Non-U.S. Holders with respect to certain financial instruments linked to U.S. equities or indices that include U.S. equities. Subject to the discussion below concerning Program Securities issued before January 1, 2021, a Program Security linked to U.S. equities or indices that include U.S. equities (a “**U.S. equity linked Program Security**”) will generally be subject to the Section 871(m) withholding regime if at issuance it (i) has a “delta” of 0.80 or higher with respect to the underlying U.S. equity or (ii) substantially replicates the economic performance of the underlying U.S. equity, as determined by a “substantial equivalence” test that, among other factors, takes into account the initial number of shares of the underlying U.S. equity needed to hedge the transaction fully. The tests described above are set forth in the regulations, and the applicable test will depend on the terms of the relevant U.S. equity linked Program Security. Under these rules, withholding may apply even where the relevant U.S. equity linked Program Security does not provide for any payment that is explicitly linked to a dividend. The regulations provide for certain exceptions to the withholding requirements, in particular for instruments linked to certain broad-based indices (a “**qualified index**”) that meet standards set forth in the regulations, as well as certain securities that track a qualified index.

Pursuant to an IRS notice, Section 871(m) will not apply to Program Securities issued before January 1, 2021 that do not have a “delta” of one with respect to any U.S. equity. If the terms of a U.S. equity linked Program Security are significantly modified (including in the event that a “benchmark” is substituted in accordance with the terms of the Offering Circular) or if the relevant Issuer is substituted, and in either case such modification or substitution results in a deemed exchange of the Program Security for U.S. federal income tax purposes, the U.S. equity linked Program Security will generally be treated as reissued at the time of the significant modification.

The calculations of “delta” are generally made at the “calculation date,” which is the earlier of (i) the time of pricing of the Program Security, i.e., when all material terms have been agreed on, and (ii) the issuance of the Program Security. However, if the time of pricing is more than 14 calendar days before the issuance of the Program Security, the calculation date is the date of the issuance of the Program Security. In those circumstances, information regarding the Issuer’s final determinations for purposes of Section 871(m) may be available only after the issuance of the Program Security. As a result, a Non-U.S. Holder should acquire such a Program Security only if it is willing to accept the risk that the Program Security is treated as subject to withholding.

The amount of a “dividend equivalent” is equal to, for a “simple” contract, the product of (a) the per-share dividend amount, (b) the number of shares of the underlying U.S. equity referenced in the U.S. equity linked Program Security and (c) the delta, and, for a “complex” contract, the product of (a) the per-share dividend amount and (b) the initial hedge.

The dividend equivalent amount will be determined on the earlier of (a) the record date of the dividend and (b) the day prior to the ex-dividend date. The dividend equivalent amount will include the amount of any actual or, under certain circumstances, estimated dividend. If a Program Security is subject to withholding in respect of dividend equivalents, withholding will, depending on the applicable withholding agents’ circumstances, generally be required either (i) on the underlying dividend payment date or (ii) when cash payments are made on the relevant U.S. equity linked Program Security or upon the date of maturity, lapse or other disposition thereof by the Non-U.S. Holder.

**The relevant Issuer will determine whether a U.S. equity linked Program Security is subject to withholding under Section 871(m). If the Issuer has determined, as specified in the Pricing Supplement, that a U.S. equity linked Program Security should not be subject to withholding under Section 871(m), the Issuer will be deemed to instruct its agents and withholding agents that no withholding is required, unless such agent or withholding agent knows or has reason to know otherwise. If withholding is required, the relevant Issuer will not be required to pay any additional amounts with respect to the amounts so withheld.**

The relevant Issuer’s determination is not binding on the IRS, and the IRS may disagree with this determination. Section 871(m) is complex and its application may depend on the Non-U.S. Holder’s particular circumstances. For example, the application of Section 871(m) may be affected if a Non-U.S. Holder enters into another transaction in connection with the acquisition of a U.S. equity linked Program Security. Accordingly, Non-U.S. Holders should consult their tax advisors regarding the potential application of Section 871(m) to the Program Securities in their particular circumstances.

## Estate Tax

Subject to benefits provided by an applicable estate tax treaty, a Program Security may be treated as U.S. situs property subject to U.S. federal estate tax. Non-U.S. Holders should consult their own tax advisors regarding the U.S. federal estate tax consequences of an investment in the Program Securities and the availability of benefits provided by an applicable estate tax treaty, if any.

## FATCA

Legislation commonly referred to as “FATCA” generally imposes a withholding tax of 30 per cent. on payments to certain non-U.S. entities (including financial intermediaries) with respect to certain financial instruments, unless various U.S. information reporting and due diligence requirements have been satisfied. An intergovernmental agreement between the United States and the non-U.S. entity’s jurisdiction may modify these requirements. FATCA generally applies to certain financial instruments that are treated as paying U.S.-source interest or dividends (including “dividend equivalents”) or other U.S.-source “fixed or determinable annual or periodical” income (“**FDAP income**”) and to payments of gross proceeds of the disposition (including upon retirement) of certain financial instruments treated as providing for U.S.-source interest or dividends. However, under recently proposed regulations (the preamble to which specifies that taxpayers are permitted to rely on them pending finalization) no withholding will apply to payments of gross proceeds. While the treatment of the Program Securities is unclear, you should assume that any coupon payment on the Program Securities will be treated as subject to the FATCA rules. If withholding under current

or future law applies to the Program Securities, the relevant Issuer will not be required to pay any additional amounts with respect to amounts withheld under FATCA. Non-U.S. Holders should consult their tax advisors regarding the potential application of FATCA to the Program Securities.

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

Information returns will be filed with the IRS in connection with payments on a Program Security and may be filed in connection with the proceeds from a sale, exchange or other disposition. A Non-U.S. Holder may be subject to backup withholding in respect of amounts paid to the Non-U.S. Holder, unless such Non-U.S. Holder complies with applicable certification procedures to establish that it is not a United States person for U.S. federal income tax purposes or otherwise establishes an exemption. Compliance with the certification procedures required to obtain an exemption from U.S. withholding on coupon payments, as described in “*Taxation of Notes*” above, will satisfy the certification requirements necessary to avoid backup withholding. The amount of any backup withholding from a payment to a Non-U.S. Holder will be allowed as a credit against the Non-U.S. Holder’s U.S. federal income tax liability and may entitle the Non-U.S. Holder to a refund, provided that the required information is timely furnished to the IRS.

## AUSTRIAN TAXATION

*This section on taxation contains a brief summary of the Issuer's understanding with regard to certain important principles which may be of significance in connection with the purchase, holding or sale of the Program Securities in the Republic of Austria. This summary does not purport to exhaustively describe all possible tax aspects and does not deal with specific situations which may be of relevance for certain potential investors. The following comments are rather of a general nature and included herein solely for information purposes. These comments are not intended to be, nor should they be construed to be, legal or tax advice. This summary furthermore only refers to investors which are subject to unlimited (corporate) income tax liability in Austria. It is based on the currently valid tax legislation, case law and regulations of the tax authorities, as well as their respective interpretation, all of which may be amended from time to time. Such amendments may possibly also be effected with retroactive effect and may negatively impact on the tax consequences described. Potential purchasers should be aware that the tax authorities generally have a critical attitude towards structured financial products that may result in a beneficial tax treatment. It is recommended that potential purchasers of the Program Securities consult with their legal and tax advisors as to the tax consequences of the purchase, holding or sale of the Program Securities. Tax risks resulting from the Program Securities (in particular from a potential qualification as a foreign investment fund within the meaning of sec. 188 of the Austrian Investment Funds Act (Investmentfondsgesetz) shall in any case be borne by the purchaser. For the purposes of the following it is assumed that the Program Securities qualify as bonds (Forderungswertpapiere) thereby securitising the investor's debt claim and are legally and factually publicly offered to an indefinite number of persons. In addition, the following information is based on the assumption that the Issuer neither has its seat nor its place of management in Austria.*

### **The Issuer assumes no responsibility with respect to taxes withheld at source.**

#### **General remarks**

Individuals having a permanent domicile (*Wohnsitz*) and/or their habitual abode (*gewöhnlicher Aufenthalt*), both as defined in sec. 26 of the Austrian Federal Fiscal Procedures Act (*Bundesabgabenordnung*), in Austria are subject to income tax (*Einkommensteuer*) in Austria on their worldwide income (unlimited income tax liability; *unbeschränkte Einkommensteuerpflicht*). Individuals having neither a permanent domicile nor their habitual abode in Austria are subject to income tax only on income from certain Austrian sources (limited income tax liability; *beschränkte Einkommensteuerpflicht*).

Corporations having their place of effective management (*Ort der Geschäftsleitung*) and/or their legal seat (*Sitz*), both as defined in sec. 27 of the Austrian Federal Fiscal Procedures Act, in Austria are subject to corporate income tax (*Körperschaftsteuer*) in Austria on their worldwide income (unlimited corporate income tax liability; *unbeschränkte Körperschaftsteuerpflicht*). Corporations having neither their place of effective management nor their legal seat in Austria are subject to corporate income tax only on income from certain Austrian sources (limited corporate income tax liability; *beschränkte Körperschaftsteuerpflicht*).

Both in case of unlimited and limited (corporate) income tax liability Austria's right to tax may be restricted by double taxation treaties.

#### **Income taxation of the Program Securities**

Pursuant to sec. 27(1) of the Austrian Income Tax Act, the term investment income (*Einkünfte aus Kapitalvermögen*) comprises:

- income from the letting of capital (*Einkünfte aus der Überlassung von Kapital*) pursuant to sec. 27(2) of the Austrian Income Tax Act, including dividends and interest;
- income from realised increases in value (*Einkünfte aus realisierten Wertsteigerungen*) pursuant to sec. 27(3) of the Austrian Income Tax Act, including gains from the sale, alienation, redemption and other realisation of assets that lead to income from the letting of capital, including income from zero coupon bonds and also accrued interest; and
- income from derivatives (*Einkünfte aus Derivaten*) pursuant to sec. 27(4) of the Austrian Income Tax Act, including cash settlements, option premiums received and income from the sale, the settlement or other realisation event of forward contracts like options, futures and swaps and other derivatives such as index certificates.

According to the interpretation of the Austrian Ministry of Finance, sec. 27(4) of the Austrian Income Tax Act comprises all kind of certificates, including for example index certificates, alpha certificates, leverage

certificates or so-called sport certificates (Income Tax Act Guidelines 2000, "EStR 2000", para 6173). The underlying may be shares, indices, commodities, currencies, bonds, metals, etc. In case of certificates, income from derivatives results from the difference between the acquisition costs and the sales prices or redemption value or settlement amount (all of the latter depending on the development in value of the underlying). Indexed bonds (*indexierte Anleihen*) or bonds with index-linked yield (*Anleihen mit indexorientierter Verzinsung*) are not deemed to be derivatives for purposes of sec. 27(4) of the Austrian Income Tax Act. Interest resulting from these bonds is treated as income from the letting of capital pursuant to sec. 27(2) of the Austrian Income Tax Act; the sale or redemption of these bonds is deemed to lead to income from increases in value pursuant to sec. 27(3) of the Austrian Income Tax Act (EStR 2000, para 6195 et seq.).

In case the Issuer may choose whether to redeem a bond either by handing out cash or by way of transferring (own or third party) shares (so-called cash or share bonds), interest paid on these bonds is deemed to be income from the letting of capital pursuant to sec. 27(2) of the Austrian Income Tax Act. The exercise of the option by the Issuer is not deemed to be an exchange of bonds for stock and does therefore not result in a sale of the bond with a subsequent acquisition of the shares (EStR 2000, para 6183 et seq.). Income from the sale or redemption of cash or share bonds constitutes income from realised increases in value.

Income from securitised or non-securitised options/warrants (*Optionen, Optionsscheine*) is treated as income from derivatives. This includes income from cash settlements, option premiums, the sale of the derivative or any other event resulting in a settlement or set-off of positions. The mere exercise of options or the delivery of the underlying does not trigger a taxable event under sec. 27(4) of the Austrian Income Tax Act but may result in increased acquisition costs, reduced capital gains or reduced interest. In case of an actual delivery of the underlying, option premiums increase the acquisition costs of the underlying received. Any underlying received is deemed to be acquired upon the option's exercise (for a consideration). In this case a realisation event that may – depending on the respective underlying – lead to the taxation of hidden reserves does commonly not take place before the subsequent sale of the underlying.

In addition, the withdrawal of the Program Securities from a bank deposit (*Depotentnahme*) would generally be considered as a sale. In case certain notification requirements are met, no taxation is triggered. Furthermore, circumstances leading to a restriction of Austria's taxation right regarding the Program Securities vis-à-vis other countries, e.g. a relocation from Austria (*Wegzug*) are in general deemed to constitute a sale (cf. sec. 27(6)(1) of the Austrian Income Tax Act). In case of relocation of an individual to a Member State of the European Union or Member States of the European Economic Area, a deferral of taxation may be available.

### Individuals holding the Program Securities as non-business assets

Individuals subject to unlimited income tax liability in Austria holding the Program Securities as a non-business asset (*Privatvermögen*) are subject to income tax on all resulting investment income pursuant to sec. 27(1) of the Austrian Income Tax Act. The mere exercise of options or the delivery of the underlying in case of derivatives in the sense of sec. 27(4) of the Austrian Income Tax Act does not (yet) trigger taxation pursuant to sec. 27(4) of the Austrian Income Tax Act, but may result in increased acquisition costs, reduced capital gains or reduced interest.

In case of investment income with an Austrian nexus (*inländische Einkünfte aus Kapitalvermögen*), basically meaning income paid by an Austrian paying agent (*auszahlende Stelle*) or an Austrian custodian agent (*depotführende Stelle*), the income is subject to a withholding tax of 27.5%; no additional income tax is levied over and above the amount of tax withheld (final taxation pursuant to sec. 97(1) of the Austrian Income Tax Act). Pursuant to the interpretation of the Austrian Ministry of Finance, the special tax rate of 27.5% only applies to income from derivatives pursuant to sec. 27(4) of the Austrian Income Tax Act, if the derivatives are securitised and are offered in a public placement or if the Austrian custodian or paying agent voluntarily withholds 27.5% tax pursuant to sec. 27a(2)(7) of the Austrian Income Tax Act (EStR 2000, para 6225a). In case of investment income without an Austrian nexus, the income must be included in the annual income tax return of the Individual holding the Program Securities and is subject to a flat income tax rate of 27.5%. In both cases upon application the option exists to tax all income subject to income tax at the flat rate of 27.5% at the lower personal progressive income tax rate (option to regular taxation pursuant to sec. 27a(5) of the Austrian Income Tax Act). Whether the exercise of such option is beneficial for the Individual holding the Program Securities must be clarified with the personal tax adviser.

Sec. 27(8) of the Austrian Income Tax Act, inter alia, provides for the following restrictions on the set-off of losses: negative income from realised increases in value and from derivatives (inter alia, if being in the form of securities) may be neither set off vis-à-vis interest and other claims against credit institutions nor against certain income pursuant to sec. 27(5)(7) of the Austrian Income Tax Act. Income subject to income tax at the flat rate of 25% or 27.5% may not be set-off against income subject to the progressive income tax rate (this equally applies in case of an exercise of

the option to regular taxation); negative investment income not already set-off against positive investment income may not be set-off against other types of income.

### **Individuals holding the Program Securities as business assets**

Individuals subject to unlimited income tax liability in Austria holding the Program Securities as a business asset (*Betriebsvermögen*) are subject to income tax on all resulting investment income pursuant to sec. 27(1) of the Austrian Income Tax Act. In case of investment income with an Austrian nexus the income is subject to a with-holding tax of 27.5%. While this withholding tax has the effect of final taxation for income from the letting of capital, income from realised increases in value and income from derivatives if in the form of securities must be included in the annual income tax return of the Individual holding the Program Securities (nevertheless the flat income tax rate of 27.5% applies). Reference is made to the Austrian Ministry of Finance's view as regards the application of the special tax rate of 27.5% for income from derivatives in the sense of sec. 27(4) of the Austrian Income Tax Act. In case of investment income without an Austrian nexus, the income must always be included in the annual income tax return of the Individual holding the Program Securities (the flat income tax rate of 27.5% applies). In both cases upon application the option exists to tax all income subject to income tax at the flat rate of 27.5% at the lower personal progressive income tax rate (option to regular taxation pursuant to sec. 27a(5) of the Austrian Income Tax Act). Whether the exercise of such option is beneficial for the Individual holding the Program Securities must be clarified with the personal tax adviser. Pursuant to sec. 6(2)(c) of the Austrian Income Tax Act, depreciations to the lower fair market value and losses from the sale, redemption and other realisation of financial assets and derivatives in the sense of sec. 27(3) and (4) of the Austrian Income Tax Act, which are subject to special tax rates of 25% or 27.5%, are primarily to be set off against income from realised increases in value of such financial assets and derivatives and with appreciations in value of such assets within the same business unit (*Wirtschaftsgüter desselben Betriebes*); only 55% of the remaining negative difference may be set off against other types of income (and carried forward).

### **Corporations and Private Foundations**

Corporations subject to unlimited corporate income tax liability in Austria are subject to corporate income tax on income in the sense of sec. 27(1) of the Austrian Income Tax Act from the Program Securities at a rate of 25%. In case of income in the sense of sec. 27(1) of the Austrian Income Tax Act with an Austrian nexus the income is subject to a withholding tax of 27.5%, which may be reduced to 25% in case a corporation is the beneficial recipient of such income. Such withholding tax can be credited against the corporate income tax liability. However, under the conditions set forth in sec. 94(5) of the Austrian Income Tax Act no withholding tax is levied in the first place. Losses from the sale of the Program Securities can be set off against other income (and carried forward under general conditions).

Pursuant to sec. 13(3)(1) in connection with sec. 22(2) of the Austrian Corporate Income Tax Act, private foundations (*Privatstiftungen*) pursuant to the Austrian Private Foundations Act (*Privatstiftungsgesetz*) fulfilling the prerequisites contained in sec. 13(3) and (6) of the Austrian Corporate Income Tax Act and holding the Program Securities as a non-business asset are subject to interim taxation at a rate of 25% on interest income, income from realised increases in value and income from derivatives (inter alia, if the latter are in the form of securities; or in case of non-securitised derivatives if the Austrian custodian or paying agent voluntarily withholds 25% at source pursuant to sec. 27a(2)(7) of the Austrian Income Tax Act). Interim tax does not fall due insofar as distributions subject to withholding tax are made to beneficiaries in the same tax period. In case of investment income with an Austrian nexus (as described above) the income is generally subject to a withholding tax of 27.5%, which may be reduced to 25% in case a corporation is the beneficial recipient of such income. Such withholding tax can be credited against the tax falling due. Under the conditions set forth in sec. 94(12) of the Austrian Income Tax Act no withholding tax is levied.

### **Set off of losses by an Austrian custodian agent**

Pursuant to sec. 93(6) of the Austrian Income Tax Act, the Austrian custodian agent is obliged to automatically set-off negative investment income against positive investment income, taking into account all of a taxpayer's bank deposits with the same custodian agent. If negative and at the same time or later in the same calendar year positive income is earned, then the negative income is to be set-off against the positive income. If positive and later in the same calendar year negative income is earned, then withholding tax on the positive income is to be credited, with such tax credit being limited to 27.5% of the negative income. In certain cases the set-off is not permissible. The custodian agent has to issue a written confirmation on each set off of losses for each bank deposit.

### **Risk of qualification as units in a non-Austrian investment fund**

Pursuant to sec. 188 of the Austrian Investment Funds Act prior to its amendment by the Austrian Alternative Investment Funds Manager Act (BGBl I 135/2013), a non-Austrian investment fund was defined as any assets subject to a foreign jurisdiction which, irrespective of the legal form they are organised in, are invested according to the



principles of risk diversification on the basis either of a statute, of the entity's articles or of customary exercise. Certain collective investment vehicles investing in real estate are exempt. The Austrian tax authorities commented upon the distinction between index certificates of foreign issuers on the one hand and foreign investment funds on the other hand in the Austrian Investment Funds Act Guidelines (*Investmentfondsrichtlinien*). Pursuant thereto, no foreign investment fund may be assumed if for purposes of the issuance no predominant actual purchase of the underlying assets by the issuer or a trustee of the issuer, if any, is made and no actively managed assets exist. Directly held bonds should not be considered as foreign investment funds if the performance of the bonds depends on an index, notwithstanding the fact of whether the index is a well-known one, an individually constructed "fixed" index or an index which is changeable at any time. Special rules apply with respect to hedge-index funds.

In the course of the implementation of the Alternative Investment Funds Managers Directive (EC Directive 2011/61/EU) into domestic law, the definition of the term non-Austrian investment fund was significantly changed and now comprises (i) any Undertakings for Collective Investments in Transferable Securities (UCITS), the country of origin of which is not Austria, (ii) any Alternative Investment Fund in the sense of the Austrian Alternative Investment Funds Managers Act – other than Alternative Investment Funds (AIF) in real estate –, the country of origin of which is not Austria, and (iii) unless such vehicle is neither a UCITS fund or an AIF as de-scribed above, any organism subject to a foreign jurisdiction, irrespective of its legal form, the assets of which are invested according to the principles of risk diversification on the basis of a statute, of the entity's articles or of customary exercise provided that one of the following criteria is given: (a) the vehicle is in its residence state effectively neither directly nor indirectly subject to tax which is comparable to Austrian corporate income tax; (b) although the foreign vehicle is in its residence state subject to tax which is comparable to Austrian corporate income tax such foreign tax is lower than Austrian corporate income tax (25%) by more than 10 basis points; or (c) the vehicle is subject to a comprehensive individual or factual tax exemption in its residence state.

Pursuant to sec. 2(1)(1) of the Austrian Alternative Investment Funds Manager Act, an alternative investment fund is defined as any collective investment undertaking, including investment compartments thereof which (i) raises capital from a number of investors with a view to investing it in accordance with a defined investment policy for the benefit of those investors without the capital raised serving active operating activities and (ii) does not require an authorisation pursuant to art 5 of Directive 2009/65/EC. The amended definition of the term non-Austrian investment fund became legally effective for business years of investment funds starting after 21 July 2013. Due to the lack of any updated guidelines by the Austrian Ministry of Finance so far, it is currently unclear whether the distinction described above between index certificates offered by foreign issuers on the one hand and foreign investment funds on the other hand still applies. The risk of the qualification of the Program Securities as units in a non-Austrian investment fund must be assessed on a case-by-case basis.

### **Non-Austrian resident Individuals and corporations**

Individuals and corporations subject to limited (corporate) income tax liability in Austria are taxable on income from the Program Securities if they have a permanent establishment in Austria and the Program Securities are attributable to such permanent establishment (sec. 98(1)(3) of the Austrian Income Tax Act, sec. 21(1)(1) of the Austrian Corporate Income Tax Act). In addition, individuals subject to limited income tax liability in Austria are also taxable on interest in the sense of sec. 27(2)(2) of the Austrian Income Tax Act and accrued interest (including from zero coupon bonds) in the sense of sec. 27(6)(5) of the Austrian Income Tax Act from the Program if the (accrued) interest has an Austrian nexus and if withholding tax is levied on such (accrued) interest. This does not apply to individuals being resident in a state with which automatic exchange of information exists. Interest with an Austrian nexus is interest from a debtor, which has its place of management or its legal seat in Austria or is an Austrian branch of a non-Austrian credit institution; accrued interest with an Austrian nexus is accrued interest from securities issued by an Austrian issuer (sec. 98(1)(5)(b) of the Austrian Income Tax Act). Relief from Austrian income tax might be available under applicable double tax treaties.

### **Austrian inheritance and gift tax**

Austria does not levy an inheritance and gift tax anymore.

However, it should be noted that certain gratuitous transfers of assets to (Austrian or foreign) private law foundations and comparable legal estates (*privatrechtliche Stiftungen und damit vergleichbare Vermögensmassen*) are subject to foundation transfer tax (*Stiftungseingangssteuer*) pursuant to the Austrian Foundation Transfer Tax Act (*Stiftungseingangssteuergesetz*). Such tax is triggered if the transferor and/or the transferee at the time of transfer have a domicile, their habitual abode, their legal seat or their place of effective management in Austria. Certain exemptions apply in case of a transfer mortis causa of financial assets within the meaning of sec. 27(3) and (4) of the Austrian Income Tax Act (except for participations in Austrian and non-Austrian corporations) if income from such financial assets is subject to income tax at a flat rate. The tax basis is the fair market value of the assets transferred minus any

debts, calculated at the time of transfer. The tax rate is in general 2.5%, with a higher rate of 25% applying in special cases.

In addition, a special notification obligation exists for gifts of money, receivables, shares in corporations, participations in partnerships, businesses, movable tangible assets and intangibles. The notification obligation applies if the donor and/or the donee have a domicile, their habitual abode, their legal seat or their place of effective management in Austria. Not all gifts are covered by the notification obligation: In case of gifts to certain related parties, a threshold of EUR 50,000 per year applies; in all other cases, a notification is obligatory if the value of gifts made exceeds an amount of EUR 15,000 during a period of five years. Furthermore, gratuitous transfers to foundations falling under the Austrian Foundation Transfer Tax Act described above are also exempt from the notification obligation. Intentional violation of the notification obligation may lead to the levying of fines of up to 10% of the fair market value of the assets transferred.

Further, it should be noted that pursuant to sec. 27(6)(2) of the Austrian Income Tax Act the withdrawal of financial assets and derivatives in the sense of sec. 27(3) and (4) of the Austrian Income Tax Act is considered a sale. Also gratuitous transfers of the Program Securities can trigger income tax on the level of the transferor (see above).

## BELGIAN TAXATION

*The following summary describes the principal Belgian tax considerations with respect to the holding of Program Securities obtained by an investor in Belgium. This information is of a general nature and does not purport to be a comprehensive description of all Belgian tax considerations that may be relevant to a decision to acquire, to hold or to dispose of the Program Securities. This summary is based on Belgian tax legislation, treaties, rules, and administrative interpretations and similar documentation, in force as of the date of the publication of this Base Prospectus, without prejudice to any amendments introduced at a later date, even if implemented with retroactive effect. This summary does not describe the tax consequences for a holder of Program Securities that are redeemable in exchange for, or convertible into assets, of the exercise, settlement or redemption of such Program Securities or any tax consequences after the moment of exercise, settlement or redemption.*

*Each prospective holder of Program Securities should consult a professional adviser with respect to the tax consequences of an investment in the Program Securities, taking into account the influence of each regional, local or national law.*

### Belgian Withholding Tax

#### Notes

Under Belgian tax law, “interest” income includes: (i) periodic interest income, (ii) any amount paid by the Issuer in excess of the issue price (whether or not on the maturity date), and (iii) if the Notes qualify as “fixed income securities” (in the meaning of article 2, §1, 8° Belgian Income Tax Code), in the case of a realisation of the Notes between two interest payment dates, the interest accrued during the detention period (i.e the period during which the investor held the relevant Program Security). “Fixed income securities” include Notes where there is a causal link between the amount of interest income and the detention period of the Notes, on the basis of which it is possible to calculate the amount of pro rata interest income at the moment of the sale of the Notes during their lifetime. Further, on 25 January 2013, the Belgian tax authorities issued a circular letter on the tax treatment of income from structured products the return of which is linked to an underlying value (share basket, index, etc.) and the terms and conditions of which include one or more of the following features: (a) a (conditional) minimum return; (b) capital protection; (c) a periodic coupon payment; and (d) determination of income at an intermediary stage using a “ratchet” system. The circular letter takes the position that such structured products qualify as “fixed income securities” and sets out a (somewhat unclear) formula to calculate the pro rata of accrued interest. It is debatable whether the general statements made in the circular letter are in line with Belgian tax legislation.

Payments of interest on the Notes made through a paying agent in Belgium will in principle be subject to a 30 per cent. withholding tax in Belgium (calculated on the interest received after deduction of any non-Belgian withholding taxes) subject to such reductions or exemptions as may be available under Belgian domestic or treaty law.

#### Certificates

Payments under the Certificates will in principle be subject to a 30 per cent. withholding tax in Belgium (calculated on the interest received after deduction of any non-Belgian withholding taxes), provided these payments are considered as interest payments for Belgian income tax purposes (as defined in the section entitled “Belgian Withholding Tax - Notes”) and if made through a paying agent in Belgium, subject to such reductions or exemptions as may be available under Belgian domestic or treaty law.

#### Warrants

Payments under the Warrants would not be subject to Belgian interest withholding tax, unless such payments would qualify as income from movable property and capital -and more particularly as interest- for Belgian income tax purposes and would be made through a paying agent in Belgium.

Income from movable property and capital is defined in the Belgian Income Tax Code 1992 as “any revenue of movable property employed in any way whatsoever”. In order to qualify as such income, the revenue must find its legal cause in the use or employment (“aanwending” / “affectation”) of movable property. Interest is one of the categories of income from movable property and capital. Interest is defined as “interest, premiums, and any other revenue from loans, including collateral transactions with regard to financial instruments, from deposits and from any other receivable” and is further described above in the section entitled “Belgian Withholding Tax - Notes”.

### Belgian Income Tax rules applicable to natural persons resident in Belgium

For Belgian resident individuals, the 30 per cent. Belgian withholding tax constitutes the final income tax. This means that they do not have to declare any interest obtained on the Program Securities in their personal income tax return,

provided withholding tax was levied on these interest payments. Nevertheless, Belgian resident individuals may elect to declare any interest received on Program Securities in their personal income tax return. Also, if no Belgian withholding tax has been withheld (e.g. because the interest is paid outside Belgium without the intervention of a Belgian paying agent or because it concerns the pro rata of accrued interest in the case of a sale of the Program Securities), any interest received (after deduction of any non-Belgian withholding tax) must be declared in the personal income tax return. Interest income which is declared in this way will in principle be taxed at a flat rate of 30 per cent. (or at the relevant progressive personal income tax rate(s), taking into account the taxpayer's other declared income, if this results in lower taxation) and no local surcharges will be due. The Belgian withholding tax levied may be credited against the income tax liability.

Capital gains realised upon the sale of the Program Securities are in principle tax exempt, except if the capital gains are realised outside the scope of the management of one's private estate or except to the extent that the capital gains qualify as interest (as defined above in the section entitled "Belgian Withholding Tax"). Capital losses are in principle not tax deductible.

Other tax rules apply to Belgian resident individuals holding the Program Securities not as a private investment but in the framework of their professional activity or when the transactions with respect to the Program Securities fall outside the scope of the normal management of their own private estate.

### **Belgian resident corporations**

Interest derived by Belgian corporate investors (i.e. corporations subject to Belgian Corporate Income Tax) on the Program Securities and capital gains realised on the disposal or settlement of the Program Securities will in principle be subject to Belgian corporate income tax at the rate of in principle 29.58 per cent. (for financial years starting on or after 1 January 2018) or 25 per cent. (for financial years starting on or after 1 January 2020). In certain circumstances, a reduced corporate income tax rate may apply.

If non-Belgian withholding tax has been levied on the interest, a foreign tax credit may be applied against the Belgian tax due. The foreign tax credit is determined by reference to a fraction where the numerator is equal to the rate of the foreign tax with a maximum of 15 and the denominator is equal to 100 minus the amount of the numerator (with a number of additional limitations). Capital losses on the Program Securities are in principle tax deductible.

For Belgian resident corporations, interest payments on the Program Securities (except for Program Securities which are zero coupon notes or which provide for the capitalisation of interest) made through a paying agent in Belgium may under certain specific circumstances be exempt from withholding tax, provided a special affidavit is delivered. The Belgian withholding tax that has been levied is creditable and refundable in accordance with the applicable legal provisions.

Other tax rules apply to investment companies within the meaning of Article 185*bis* of the Belgian Income Tax Code 1992.

### **Organisation for financing pensions**

Interest derived on the Program Securities and capital gains realised on the Program Securities will not be subject to Belgian Corporate Income Tax in the hands of Belgian Organisations for Financing Pensions ("OFPs"). Capital losses incurred by OFPs on the Program Securities will not be tax deductible. Subject to certain conditions, any Belgian withholding tax that has been levied is creditable and refundable in accordance with the applicable legal provisions.

### **Other Belgian legal entities**

Legal entities that are Belgian residents for tax purposes, i.e. that are subject to Belgian tax on legal entities (*Rechtspersonenbelasting / impôt des personnes morales*), are subject to the following tax treatment in Belgium with respect to the Program Securities.

Payments of interest (as defined in the section entitled "Belgian Withholding Tax - Notes") on the Program Securities made through a paying agent in Belgium will in principle be subject to a 30 per cent. withholding tax in Belgium and no further tax on legal entities will be due on the interest. However, if no Belgian withholding tax has been withheld (e.g. because the interest is paid outside Belgium without the intervention of a Belgian paying agent or because it concerns the pro rata of accrued interest in the case of a sale of the Program Securities), the legal entity itself is liable to declare the interest to the Belgian tax administration and to pay the 30 per cent. withholding tax to the Belgian treasury.

Capital gains realised on the Program Securities are in principle tax exempt, except to the extent the capital gain qualifies as interest (as defined in the section entitled “Belgian Withholding Tax - Notes”). Capital losses on the Notes are in principle not tax deductible.

### Non-residents of Belgium

The interest income (as defined in the section entitled “Belgian Withholding Tax - Notes”) on the Program Securities paid to a Belgian non-resident outside of Belgium, i.e. without the intervention of a professional intermediary in Belgium, is not subject to Belgian withholding tax. Interest income on the Program Securities paid through a Belgian professional intermediary will in principle be subject to a 30 per cent. Belgian withholding tax, unless the holder is resident in a country with which Belgium has concluded a double taxation agreement and delivers the requested affidavit. Non-resident holders that have not allocated the Program Securities to business activities in Belgium can also obtain an exemption of Belgian withholding tax on interest if the interest is paid through a Belgian credit institution, a Belgian stock market company or a Belgian clearing or settlement institution and provided that the non-resident (i) is the owner or usufruct holder of the Program Securities, (ii) has not allocated the Program Securities to business activities in Belgium and (iii) delivers an affidavit confirming his non-resident status and the fulfilment of conditions (i) and (ii).

Non-resident holders using the Program Securities to exercise a professional activity in Belgium through a permanent establishment are subject to the same tax rules as the Belgian resident corporations (see above).

Non-resident holders who do not allocate the Program Securities to a professional activity in Belgium are not subject to Belgian income tax, save, as the case may be, in the form of withholding tax.

### Belgian Implementing Legislation of Council Directive 2011/16/EU on administrative cooperation in the field of taxation, as amended by Council Directive 2014/107/EU (the “DAC”)

The Council of the European Union has adopted the DAC, pursuant to which Austria is required to apply new measures on mandatory automatic exchange of information as of 1 January 2017 and all the other Member States as of 1 January 2016. The DAC is generally broader in scope than the Savings Directive, although it does not impose withholding taxes.

Belgium has implemented the amended Directive 2014/107/EU as per the Law of 16 December 2015.

### Belgian tax on stock exchange transactions and tax on repurchase transactions

A tax on stock exchange transactions (“*taks op de beursverrichtingen*”/“*taxe sur les operations de bourse*”) will be levied on the purchase and sale of the Program Securities on a secondary market through a professional intermediary in Belgium. The tax is generally due at a rate 0.12 per cent. for transactions in debt instruments and at a rate of 0.35 per cent. for transactions in other securities which are not capitalisation shares, with a maximum amount per transaction and per party of €1,300 for debt instruments and €1,600 for other securities which are not capitalisation shares. The tax is due separately from each of the seller/transferor and the purchaser/transferee and is collected by the professional intermediary.

Pursuant to the Law of 25 December 2016 on access to the activity of investment services and on the legal status and supervision of portfolio management and investment advice companies, the scope of application of the tax on stock exchange transactions has been extended as of 1 January 2017 to secondary market transactions of which the order is directly or indirectly made to a professional intermediary established outside of Belgium by (i) a private individual with habitual residence in Belgium or (ii) a legal entity for the account of its seat or establishment in Belgium (both referred to as a “**Belgian Investor**”). In such case, the tax on stock exchange transactions is due by the ordering private individual or legal entity (who will be responsible for the filing of a stock exchange tax return and for the timely payment of the amount of stock exchange tax due) unless that individual or entity can demonstrate that the tax on stock exchange transactions due has already been paid by the professional intermediary established outside Belgium. In the latter case, the foreign professional intermediary also has to provide each client (which gives such intermediary an order) with a qualifying order statement (*borderel/bordereau*), at the latest on the business day after the day on which the relevant transaction was realised. The qualifying order statements must be numbered in series and duplicates must be retained by the financial intermediary. A duplicate can be replaced by a qualifying agent day-today listing, numbered in series. Alternatively, professional intermediaries established outside Belgium have the possibility to appoint a stock exchange tax representative in Belgium, subject to certain conditions and formalities (a “**Stock Exchange Tax Representative**”). Such Stock Exchange Tax Representative will then be liable toward the Belgian Treasury for the tax on stock exchange transactions on behalf of clients that fall within one of the aforementioned categories (provided that these clients do not qualify as exempt persons for stock exchange tax purposes – see below) and to comply with the reporting obligations and the obligations relating to the order statement (*borderel/bordereau*) in that respect. If such a Stock Exchange Tax Representative would have paid the tax on stock

exchange transactions due, the Belgian Investor will, as per the above, no longer be the debtor of the tax on stock exchange transactions.

A request for annulment has been introduced with the Constitutional Court in order to annul the application of the tax on stock exchange transactions to transactions carried out with professional intermediaries established outside of Belgium (as described above). The Constitutional Court has asked a preliminary question in that regard to the Court of Justice of the European Union. If the Constitutional Court were to annul said application of the tax on stock exchange transactions without upholding its effects, restitution could be claimed of the tax already paid.

A tax on repurchase transactions ("*taks op de reporten*" / "*taxe sur les reports*") at the rate of 0.085 per cent. will be due from each party to any such transaction entered into or settled in Belgium in which a stockbroker acts for either party, with a maximum amount of €1,300 per transaction and per party.

However, the taxes referred to above will not be payable by exempt persons acting for their own account, including investors who are Belgian non-residents provided they deliver an affidavit to the financial intermediary in Belgium confirming their non-resident status, and certain Belgian institutional investors as defined in Articles 126.1 2° and 139 of the Code of various duties and taxes ("*Code des droits et taxes divers*" / "*Wetboek diverse rechten en taksen*").

As indicated in the section relating to the 'Proposed Financial Transactions Tax', the European Commission has published a proposal for a FTT. This proposal currently stipulates that once the FTT enters into force, the participating Member States shall not maintain or introduce taxes on financial transactions other than the FTT (or value added tax as provided in the Council Directive 2006/112/EC of November 28, 2006 on the common system of value added tax). For Belgium, the tax on stock exchange transactions should thus be abolished once the FTT enters into force. The proposal is still subject to negotiation between the participating Member States and therefore may be changed at any time.

### **Tax on Securities Accounts**

Pursuant to the law of 7 February 2018 introducing a tax on securities accounts, a tax of 0.15% is levied on Belgian resident and non-resident individuals on their share in the average value of the qualifying financial instruments (including but not limited to shares, bonds and units of undertakings for collective investment) held on one or more securities accounts during a reference period of twelve consecutive months starting on 1 October and ending on 30 September of the subsequent year (the "**Tax on Securities Accounts**").

No Tax on Securities Accounts is due provided the holder's share in the average value of the qualifying financial instruments on those accounts amounts to less than EUR 500,000. If, however, the holder's share in the average value of the qualifying financial instruments on those accounts amounts to EUR 500,000 or more, the Tax on Securities Accounts will be due on the entire share of the holder in the average value of the qualifying financial instruments on those accounts (and, hence, not only on the part which exceeds the EUR 500,000 threshold).

Qualifying financial instruments held by non-resident individuals only fall within the scope of the Tax on Securities Accounts provided they are held on securities accounts with a financial intermediary established or located in Belgium. Note that pursuant to certain double tax treaties, Belgium has no right to tax capital. Hence, to the extent the Tax on Securities Accounts is viewed as a tax on capital within the meaning of these double tax treaties, treaty protection may, subject to certain conditions, be claimed.

A financial intermediary is defined as (i) a credit institution or a stockbroking firm as defined by Article 1, §2 and §3 of the Law of 25 April 2014 on the status and supervision of credit institutions and investment companies and (ii) the investment companies as defined by Article 3, §1 of the Law of 25 October 2016 on access to the activity of investment services and on the legal status and supervision of portfolio management and investment advice companies, which are, pursuant to national law, admitted to hold financial instruments for the account of customers.

The Tax on Securities Accounts is in principle due by the financial intermediary established or located in Belgium if (i) the holder's share in the average value of the qualifying financial instruments held on one or more securities accounts with said intermediary amounts to EUR 500,000 or more or (ii) the holder instructed the financial intermediary to levy the Tax on Securities Accounts due (e.g. in case such holder holds qualifying financial instruments on several securities accounts held with multiple intermediaries of which the average value does not amount to EUR 500,000 or more, but of which the holder's share in the total average value of these accounts amounts to at least EUR 500,000). Otherwise, the Tax on Securities Accounts would have to be declared and would be due by the holder itself unless the holder provides evidence that the Tax on Securities Accounts has already been withheld, declared and paid by an intermediary which is not established or located in Belgium. In that respect, intermediaries located or established outside of Belgium could appoint a Tax on the Securities Accounts representative in Belgium, subject to certain conditions and formalities ("**Tax on Securities Accounts Representative**"). Such a Tax on Securities Accounts Representative will then be liable towards the Belgian Treasury for the Tax on Securities Accounts due and for complying with certain reporting obligations in that respect.

Non-resident individuals have to report in their annual Belgian non-resident income tax return various securities accounts held with one or more financial intermediaries established or located in Belgium of which they are considered as a holder within the meaning of the Tax on Securities Accounts.

Several requests for annulment have been introduced with the Constitutional Court in order to annul the Tax on Securities Accounts. If the Constitutional Court were to annul the Tax on Securities Accounts without upholding its effects, all taxpayers will be authorised to claim restitution of the tax already paid.

Prospective investors are strongly advised to seek their own professional advice in relation to the Tax on Securities Accounts.

## FINNISH TAXATION

*The following is a general description of certain Finnish tax considerations relating to the Program Securities. As each Tranche of the Program Securities may be subject to different tax treatment in Finland due to the specific terms and conditions of such Tranche, the following is only a generic overview of Finnish tax aspects that may be of relevance with respect to the possible tax treatment of Program Securities. The following description relates only to payments by the relevant Issuer or Guarantor to beneficial owners of the Program Securities and may not apply to certain classes of investors, such as tax exempt entities, entities deemed as controlled foreign companies, individuals holding their Program Securities as business assets and general or limited partnerships. It does not purport to be a complete analysis of all tax considerations relating to the Program Securities, whether in Finland or elsewhere. Prospective purchasers of Program Securities should consult their own tax advisors as to which countries' tax laws could be relevant to acquiring, holding and disposing of Program Securities and receiving payments of interest, principal and/or other amounts under the Program Securities and the consequences of such actions under the tax laws of those countries. This description is based upon the law as in effect and applied on the date of this Base Prospectus, as well as on the current tax practice, and is subject to any changes in laws and their interpretation that may take effect after such date, including changes with retroactive effect.*

For the purpose of the Finnish tax consequences described herein, it is assumed that the relevant Issuer or Guarantor is neither a resident nor deemed to be a resident of Finland for Finnish tax purposes and that the relevant Issuer or Guarantor is not deemed to have a permanent establishment in Finland for Finnish tax purposes.

### General

The scope of taxation in Finland is defined by the tax liability position of a taxpayer. Finnish residents are subject to taxation in Finland on their worldwide income. Persons that are not resident in Finland and do not have a permanent establishment in Finland for taxation purposes are subject to taxation in Finland solely in respect of their Finnish source income.

Generally, an individual is deemed to be a Finnish resident for taxation purposes if the individual continuously stays in Finland for more than six consecutive months or if the permanent home and abode of the individual is in Finland. A citizen of Finland who has moved abroad is regarded as resident for Finnish taxation purposes until three years have passed after the end of the year of emigration, even if the individual would not stay in Finland for six consecutive months and the permanent home and abode would not be located in Finland, if the individual cannot prove that they have not had any essential ties to Finland in the tax year in question.

Legal entities established under the laws of Finland are regarded as residents of Finland in accordance with domestic tax law.

Double tax treaties may restrict the authority of the Finnish state to tax the foreign source income of an individual or entity deemed as resident of Finland pursuant to Finnish domestic tax law.

Earned income is taxed at progressive tax rates, while capital income up to EUR 30,000 is taxed at a rate of 30 per cent and capital income exceeding EUR 30,000 at a rate of 34 per cent. Corporate entities established under the laws of Finland are regarded as residents of Finland and thus subject to corporate income tax on their worldwide income. The current corporate income tax rate is 20 per cent.

This summary describes the Finnish taxation of certain types of income and is general by nature. The tax treatment applicable to an investor depends on the individual circumstances of such investor. Thus, prospective investors are advised to consult their own tax advisors concerning the overall tax consequences of their ownership of the Program Securities.

### Taxation of Finnish Resident Individuals

#### *Taxation of Capital Gains*

Any income from the sale or other disposal of securities that is considered capital gains in the Finnish taxation is taxed as capital income in accordance with the Finnish Income Tax Act (Tuloverolaki (1535/1992)), as amended. The capital income tax rate is currently 30 per cent for capital income of up to EUR 30,000 and 34 per cent for capital income exceeding EUR 30,000. However, capital gains are exempted from tax if the total amount of the transfer prices of the person's sold assets does not exceed EUR 1,000 in a tax year. Correspondingly, any loss arising from the sale or other disposal of securities by an individual is deductible from capital gains and generally also from other capital income arising in the same year or during the subsequent five years. Capital losses will not, however, be tax deductible



if the total amount of the acquisition costs of the assets sold by the individual does not exceed EUR 1,000 in a tax year.

Capital gains and losses are calculated as the difference between the transfer price and the aggregate of the actual acquisition cost and sales-related expenses. Generally, individuals may alternatively choose to apply the presumptive acquisition cost instead of the actual acquisition cost for the assets. The presumptive acquisition cost of 20 per cent is deducted from the transfer price but, if the shareholder has held the assets for at least ten years, the presumptive acquisition cost is 40 per cent of the transfer price. If the presumptive acquisition cost is applied instead of the actual acquisition cost, all expenses arising from acquiring the gains are deemed to be included in the presumptive acquisition cost and, therefore, cannot be deducted separately from the transfer price.

According to a ruling by the Finnish Supreme Administrative Court, the income from the sale or exercise of non-listed cash-settled Warrants that are transferable securities and that, even if non-listed, have such qualities that they could be listed, is subject to taxation in Finland as a capital gain. The same tax treatment should apply to listed Warrants. It would, furthermore, seem that the income from the sale or exercise of non-listed cash-settled Warrants that do not fulfil the criteria discussed in the above Supreme Administrative Court ruling, would be taxable as other capital income of the Finnish resident individual investor, and not as a capital gain (see below for the taxation of other capital income).

According to the above-mentioned ruling, losses arising from the sale or exercise of non-listed cash-settled Warrants, in cases where the Warrants do not qualify for capital gains taxation as discussed above, are non-deductible altogether in the taxation of a Finnish resident individual investor.

The principles of the above-discussed ruling should as a starting point apply also with respect to Certificates.

#### ***Taxation of Other Capital Income and Withholding Obligations***

Other capital income than income classified as capital gains (e.g. interest income, so called secondary market compensation and index compensation) paid to individuals and estates of a deceased person is subject to Finnish capital income tax in accordance with the Finnish Income Tax Act. The capital income tax rate is currently 30 per cent (34 per cent of the capital income exceeding EUR 30,000).

Assuming that the Issuer (or the Guarantor, as the case may be) is not a Finnish resident for tax purposes and is not deemed to have a permanent establishment in Finland for Finnish tax purposes, it is not under the obligation to perform withholding for any income tax payable in Finland in respect of payments made under the issued securities. Instead, a paying agent or intermediary resident in Finland for tax purposes, when effecting a payment to an individual or estate resident in Finland, is generally under the obligation to withhold tax prepayment from any interest and secondary market compensation (but not from capital gains) paid to individuals resident in Finland for tax purposes and estates of deceased Finnish resident persons, where such payment is made through such paying agent or intermediary. However, if the paying agent or intermediary is considered as a substitute payer of the issuer for Finnish tax purposes, such agent or intermediary is also obliged to withhold the tax prepayment for other capital income payments than interest payments or secondary market compensation. The current rate of tax prepayment is 30 per cent and the withholding shall be made in accordance with the Finnish Prepayment Act (Ennakkoperintälaki (1118/1996)), as amended. The Act on Source Tax on Interest Income (Laki korkotulon lähdeverosta (1341/1990)), as amended, is not applicable provided the Issuer does not have a branch in Finland.

#### **Taxation of Finnish Corporate Entities**

Finnish corporations are subject to a national corporate income tax on their worldwide income. Interest and other capital income as well as capital gains from the sale or other disposal of any assets are generally regarded as taxable income arising from business activities or other activities of Finnish resident corporations (it should, however, be noted that the concept of business activities will be extended with effect from tax year 2020). The taxable income of a Finnish corporation is determined separately for business activities and for other activities. Income from both sources is taxed according to a fixed tax rate which currently is 20 per cent. No tax prepayment is withheld from the interest or other payments made to corporate entities residing in Finland.

The capital gain (as well as the capital loss) is calculated by deducting the total sum of the actual acquisition cost and selling cost from the transfer price. The acquisition cost of the assets is thus deductible from the income of the basket to which the assets transferred belonged. Any capital loss arising from the sale, redemption or other disposal of the Program Securities attributable to business activities is initially deductible from income in the business income basket. Confirmed losses from business activities can be carried forward and deducted from the taxable income from business activities for ten years following the loss-making year. Capital losses attributable to other income can only be offset

against capital gains arising in the same income basket and can be carried forward only for the subsequent five tax years.

### **Taxation of Non-Finnish Residents**

Non-Finnish tax residents who do not conduct business through a permanent establishment in Finland, are not subject to Finnish taxation either on payments under securities or gains realized on the sale or other disposal of securities.

### **Reporting and Compliance**

A Finnish paying agent or intermediary is generally obliged to report to the Finnish tax administration any interest payments and comparable yield payments, secondary market compensations and index compensations paid to and received under securities by a Finnish tax resident individual or an estate of a deceased resident individual, or a non-resident recipient of such payment, and any preliminary tax withheld from such payments. Resident individuals and estates are required to review the tax information contained in their pre-completed annual tax return and, if necessary, correct or complete the information in the tax return.

### **Transfer Taxation and Value-Added Taxation**

Redemption by way of a cash settlement or a transfer of the Program Securities should not be subject to Finnish transfer taxation or VAT. Investors should note that Finnish transfer tax considerations may arise in connection with securities that are settled or redeemed by way of a physical delivery of Finnish shares or other instruments deemed as securities under the Finnish Transfer Tax Act (Varainsiirtoverolaki (931/1996)), as amended, and that Finnish VAT considerations may arise in connection with securities that are settled or redeemed by way of a physical delivery of commodities.

## FRENCH TAXATION

*The following is limited to a general description of certain French tax considerations relating to the Program Securities, on the assumption that they are treated as interest-generating debt securities for French tax purposes. The following disclosure applies only in respect of Program Securities issued by Morgan Stanley and MSFL each in their capacity as Issuer. It does not deal with payments made by Morgan Stanley in its capacity as Guarantor pursuant to the Guarantee. It does not purport to be a description of general French tax considerations relating to the Program Securities. Prospective investors are advised to consult their own professional advisors to obtain information about the tax consequences of transactions involving the Program Securities, including any purchase or disposal of, or other dealings in, the Program Securities. Only personal advisors are in a position to adequately take into account special tax aspects of the particular Program Securities in question as well as the investor's personal circumstances and any special tax treatment applicable to the investor. This summary is based on French law as in force when drawing up this Offering Circular. The laws and their interpretation by the tax authorities may change and such changes may have retroactive effect.*

### **Withholding tax**

Payments of interest and principal by the Issuer (acting out of its head office or one of its non-French branches) under the Program Securities will not be subject to withholding tax in France, in accordance with applicable French tax laws.

### **Individual resident Program Securities holders**

#### ***Taxation of interest***

Interest paid to an individual having its tax residence in France is subject to personal income tax at a flat tax rate of 12.8% or, upon global election of the taxpayer for all its savings income and capital gains, at the standard progressive rate, whose maximum applicable rate is currently 45%.

Interest and other similar revenues received by French tax resident individuals are subject to a 12.8% non-definitive prepayment, which can be offset from their personal income tax liability in respect of the year in which the payment has been made (prepayment is refunded if in excess of the final personal income tax liability).

Taxpayers whose "reference income" of the penultimate year is less than EUR 25,000 (or EUR 50,000 for a couple taxed on a joint basis) may be exempt from this mandatory payment.

Social contributions (CSG of 9.2%, the CRDS of 0.5%, and the *prélèvement de solidarité* of 7.5%) are also levied by way of withholding tax at an aggregate rate of 17.2% (6.8% being deductible from the taxable income of the year of payment of these contributions in case of election for the progressive rate) on interest and other similar revenues paid to French tax resident individuals.

The social contributions and the income tax prepayment must be withheld and reported by the Paying Agent if such agent is established in France. If the Paying Agent is established outside of France, the taxpayer is responsible for paying the social contributions and the income tax prepayment directly to the French tax authorities no later than the 15<sup>th</sup> day of the month following the payment of interest and other similar revenues. If the Paying Agent is established in an EU or EEA member state, it can however be appointed by the taxpayer to do so.

#### ***Taxation of capital gains***

Capital gains derived from the disposal of Program Securities by French tax resident Program Securities holders should be subject to personal income tax at flat tax rate of 12.8% or, upon global election of the taxpayer for all its savings income and capital gains, at the standard progressive rate, whose maximum applicable rate is currently 45%.

In addition, social contributions (as set out above) should be applicable, at a total rate of 17.2%.

If the French tax resident Program Securities holder disposes of the Program Securities at a loss, such loss may be offset against capital gains of the same nature made during the year of the loss or the 10 following years.

#### ***Exceptional contribution on high income (« Contribution exceptionnelle sur les hauts revenus »)***

An exceptional contribution on high income may be applicable to French tax resident Program Securities holders where their "reference income" exceeds EUR 250,000 for a single person or EUR 500,000 for a couple taxed on a joint basis. The "reference income" for the relevant fiscal year would notably include income and gains realised in relation to the Program Securities.

This contribution is equal to 3% of the fraction of the "reference income" between EUR 250,000 and EUR 500,000 for a single person (or between EUR 500,000 and EUR 1 million for a couple) and 4% on the "reference income" over EUR 500,000 for a single person (or EUR 1 million for a couple).

### ***Gift and inheritance taxes***

Subject to the provisions of the applicable bilateral tax treaty, French gift or inheritance taxes would be levied on the transfer of the Program Securities by way of gift by, or on the death of, a French tax resident Program Securities holder, if:

- the Program Securities holder is a resident in France; or
- the beneficiary is resident in France at the time of the transfer and has been so resident for at least six years over the 10 preceding years; or
- in case both the Program Securities holder and the beneficiary are non-French residents, the transferred assets are located in France.

Assets considered as located in France would include receivables over a debtor which is established in France.

The amount of tax depends, in particular, on the relationships between the concerned individuals.

### **Corporate resident Program Securities holders**

#### ***Corporate income tax and additional contributions***

Income or capital gains in relation to the Program Securities earned by French resident corporate Program Securities holders (not holding their Program Securities through a non-French permanent establishment) are subject to French corporate income tax at the standard rate (or at a reduced rate applicable to small and medium companies meeting certain requirements).

The standard rate of French corporate income tax will progressively decrease, in order to reach 25% in 2022. For 2019, the French corporate income tax rate is 31% for the portion of taxable profits exceeding EUR 500,000 (28% below). However, such rate is likely to remain set at 33.33% for fiscal year 2019 for companies whose turnover (aggregated with that of the members of its tax group – if any) is at least of EUR 250 million, pursuant to a draft bill dated 6 March 2019 currently being discussed by the French Parliament. An additional surtax of 3.3% of the standard corporate income tax rate will also apply to the part of the profits exceeding EUR 763,000 (except for certain small and medium companies).

#### **Non-resident Noteholders**

Income and capital gains derived from the Program Securities, received by individuals who are not residents for tax purposes in France or corporate investors who have neither their corporate seat nor their effective place of management in France, are not taxable in France unless the Program Securities form part of the business property of a permanent establishment in France.

### **Financial Transaction Tax (“FTT”)**

Please note that the following may be relevant in connection with Program Securities which are settled, redeemed or otherwise repaid by way of physical delivery of certain French listed shares, or certain assimilated securities as convertible bonds.

Pursuant to Article 235 ter ZD of the French tax code (“FTC”), the FTT applies to any acquisition for consideration, resulting in a transfer of ownership, of an equity security within the meaning of Article L.212-1 A of the French financial and monetary code, or of an assimilated equity security (such as convertible bonds in equity, convertible bonds redeemable in equity, shares warrants, etc.), within the meaning of Article L.211-41 of the French financial and monetary code, admitted to trading on a recognised stock exchange when the said security is issued by a company whose registered office is situated in France and whose market capitalisation exceeds €1 billion on 1<sup>st</sup> December of the year preceding the year in which the acquisition occurs.

For the transactions realised as from 1<sup>st</sup> January 2017, the rate of the FTT is 0.3% of the acquisition value of the securities.

There are a number of exemptions from the FTT and investors shall revert to their counsel to identify whether they can benefit from them.

### **Transfer Tax**

No transfer tax (stamp duties, or any similar taxes) is applicable in France by reason of the subscription or transfer of the Program Securities.

With respect to listed shares, the French tax administrative doctrine has specified that the conversion of bonds into existing shares shall be subject to the 0.1% transfer tax under the conditions provided by Article 726 of the FTC, when evidenced by a deed (BOI-ENR-DMTOM-40-10-10-20120912, n°50).

According to Article 726 of the FTC, transfer tax generally applies at a rate of 0.1% to the sale of shares issued by a company whose registered office is located in France, provided that in case of shares listed on a recognised stock exchange, transfer tax is only due if the transfer is evidenced by a written deed or agreement.

However, if the FTT applies to an acquisition of shares or convertible bonds, this transaction is exempt from transfer tax.

## GERMAN TAXATION

*The following is a general discussion of certain German tax consequences of the acquisition, ownership and disposal of the Program Securities. As each Tranche of the Program Securities may be subject to a different tax treatment due to the specific terms of each Tranche, the following section shall only be regarded as generic overview with regard to the possible tax treatment in Germany. It does not purport to be a comprehensive description of all tax considerations that may be relevant to a decision to purchase the Program Securities, and, in particular, does not consider any specific facts or circumstances that may apply to a particular purchaser. This summary is based on the laws of Germany currently in force and as applied on the date of this Offering Circular, which are subject to change, possibly with retroactive or retrospective effect.*

*Prospective purchasers of Program Securities are advised to consult their own tax advisors as to the tax consequences of the purchase, ownership and disposition of Program Securities, including the effect of any state or local taxes, under the tax laws of Germany and each country of which they are residents.*

To the extent the following information describes the taxation in the case of a disposal of the Program Securities, such description applies accordingly to cases of a call, exercise, assignment or redemption of the Program Securities as well as a transfer of Program Securities into a corporation by way of a hidden contribution (*verdeckte Einlage in eine Kapitalgesellschaft*).

### German tax residents

German tax resident are persons (individuals and corporate entities) who are tax resident in Germany (in particular, persons having a residence, habitual abode, seat or place of management in Germany).

### Program Securities held as private assets

If Program Securities are held by an investor as private assets (*Privatvermögen*), payments of interest qualify as taxable savings income (*Einkünfte aus Kapitalvermögen*) pursuant to section 20 para 1 no 7 German Income Tax Act ("**ITA**" – *Einkommensteuergesetz*). Capital gains / capital losses realised upon disposal of the Program Securities (in particular being Notes and Certificates), computed as the difference between the acquisition costs and the sales proceeds reduced by expenses directly and factually related to the sale, qualify as (negative) savings income pursuant to section 20 para 2 sentence 1 no 7 ITA. If such disposal results in a loss, such loss can only be offset against other taxable savings income. If the investor does not have enough other taxable savings income in the respective assessment period, the losses can be carried forward; a loss carry back is not possible.

Pursuant to a tax decree issued by the German Federal Ministry of Finance dated 9 October 2012 as amended on 18 January 2016 ("**Tax Decree 2016**"), a bad debt loss (*Forderungsausfall*) and a waiver of a receivable (*Forderungsverzicht*), to the extent the waiver does not qualify as a hidden contribution, shall not be treated like a sale, so that losses suffered upon such bad debt loss or waiver shall not be deductible for tax purposes. However, in contrast to such tax decree according to a decision of the Federal Tax Court dated 24 October 2017 a final bad debt loss shall be treated as tax-deductible and, therefore, can be offset against other taxable savings income, while the Federal Tax Court did not decide regarding a waiver of a receivable. Another lower German fiscal court rejected the jurisdiction of the German Federal Fiscal Court with respect to the tax deductibility of a bad debt loss. Two further decisions in this context are currently still pending with the German Federal Fiscal Court. According to the decision of the Federal Fiscal Court in 2017, the Issuers take the view that at least losses suffered upon a final bad debt loss shall be tax-deductible. Furthermore, the Issuers take the view that losses suffered for other reasons (e.g. because the Program Securities are linked to a reference value and such reference value decreases in value) should be tax-deductible, subject to the ring-fencing rules described above and subject to the following paragraph. Investors should note that such view of the Issuers must not be understood as a guarantee that the German tax authorities and/or courts will follow such view. Further, according to the Tax Decree 2016, where full risk certificates (*Vollrisikozertifikate*) provide for instalment payments, such instalment payments shall always qualify as taxable savings income (*Einkünfte aus Kapitalvermögen*) in the sense of section 20 para 1 no 7 ITA, unless the terms and conditions of the certificates provide explicit information regarding redemption or partial redemption during the term of the certificates and the contractual parties comply with these terms and conditions. It is further stated in the Tax Decree 2016 that, if, in the case of certificates with instalment payments, there is no final payment at maturity, the expiry of such certificates shall not qualify as a sale-like transaction, which means that any remaining acquisition costs could not be deducted for tax purposes. Similarly, any remaining acquisition costs of certificates with instalment payments shall not be tax-deductible if the certificates do not provide for a final payment or are terminated early without a redemption payment because the respective underlying has left the defined corridor or has broken certain barriers (e.g. in knock-out structures). However, in a recently published decision by the German Federal Tax Court (*Bundesfinanzhof*) with

regard to losses incurred in connection with knock-out certificates due to the fact of exceeding the knock-out threshold the German Federal Fiscal Court (*Bundesfinanzhof*) took the view that such a case (i.e. no payments on the day of exceeding the knock-out threshold) shall be treated similar to a bad debt loss as a sale at the value zero, so that losses suffered shall also be deductible for tax purposes. Although, the Tax Decree 2016 only refers to full risk certificates with instalment payments, it cannot be excluded that the tax authorities apply the above principles also to other kinds of full risk securities.

While the German tax authorities previously took the position that a disposal (and, as a consequence, a tax loss resulting from such disposal) shall not be recognized if the Program Securities are sold at a market price, which is lower than the transaction costs or if the level of transaction costs is restricted because of a mutual agreement that the transaction costs are calculated by subtracting a certain amount from the sales price, the German tax authorities have recently concluded in an amendment from 10 May 2019 to the Tax Decree 2016 that the recognition as disposal shall not depend on the amount of any consideration or the amount of the transaction costs.

If Program Securities (e.g. in case of Warrants) qualify as contracts for differences (*Termingeschäfte*), disposal proceeds and other benefits from the Program Securities qualify as (negative) savings income pursuant to section 20 para 2 sentence 1 no 3 ITA. In such a case, if the Program Securities expire worthless, losses may not be tax-deductible at all. However, according to decisions of the Federal Tax Court from January 2016 loss stemming from the worthless expiry of options also qualify as negative savings income. The latter view has been accepted by the German tax administration in the Tax Decree 2016.

According to the recently published draft bill of the German federal ministry of finance (*Referentenentwurf des Bundesministeriums der Finanzen*) for an annual Tax Act 2019 (*Jahressteuergesetz 2019*) dated 8 May 2019 the view of the German tax authorities on the non-deductibility of capital losses for tax purposes in the scenarios described above shall largely be codified in the German Income Tax. The same applies for the tax deductibility of losses from the worthless expiry of option in section 20 para. 2 sentence 1 no 3 sentence 2 ITA. Hence, in such scenarios capital losses from the Program Securities may not be tax-deductible if the Annual Tax Act 2019 is passed by the German legislator.

Program Securities providing for a physical delivery of, e.g., bonds or shares, may qualify as convertible, exchangeable or similar instruments, subject to the relevant Terms and Conditions of such Program Securities. In such a case, the sales proceeds from the Program Securities and the acquisition costs of the received securities may be deemed to be equal to the initial acquisition costs of the Program Securities (section 20 para 4a sentence 3 ITA) so that no taxable capital gains would be realised due to the conversion. However, capital gains realised upon an on-sale of the received securities would qualify as taxable income. Losses from the disposal of shares or stock received may be subject to further limitations.

Savings income is, in general, subject to German income tax at a special (flat) tax rate of 26.375% (including solidarity surcharge) plus, if applicable, church tax.

With regard to savings income, the savers lump sum amount (*Sparer-Pauschbetrag*) in the amount of 801 EUR (respectively 1,602 EUR in the case of jointly assessed investors) will be deducted; a deduction of the actual income-related expenses is, in general, excluded.

The coalition agreement between the German Christdemocratic Party, the German Cristian Social Union and the German Socialdemocratic Party for the formation of the current German federal government provides that the flat tax regime shall be partially abolished for certain capital investment income, in particular interest income. The coalition agreement further provides that the solidarity surcharge shall be abolished in stages provided that the individual income does not exceed certain thresholds. There is however no draft bill available yet and a lot of details are hence still unclear. That means however that income received by investors holding the Notes as private assets may be taxed at individual progressive income tax rates of up to 45% in the future (plus a 5.5% solidarity surcharge thereon, unless abolished or reduced in the future, and church tax, if applicable to the individual investor).

### **Program Securities held as business assets**

If Program Securities are held by an investor (individuals and corporate entities) as business assets (*Betriebsvermögen*), interest payments and capital gains from the disposal of the Program Securities are subject to corporate income tax (in the case of an incorporated investor) at a tax rate of 15% or income tax at an individual progressive tax rate of up to 45%, as the case may be (each plus 5.5% solidarity surcharge thereon). In addition, trade tax may apply, the rate of which depends on the municipality in which the business is located (rates vary between 7 and approx. 17%). Further, in the case of individuals, church tax may be levied. In the case of a loss, such loss may be

subject to ring-fence rules and, if so, may only be offset against other derivative income. In case the income of the investor is determined based on accrual accounting, interest and capital gains may be taxable before actual payments are received.

### German withholding tax

With regard to savings income (*Kapitalerträge*), e.g. interest or capital gains, German withholding tax will be levied at a flat withholding tax rate of 26.375% (including solidarity surcharge) if, inter alia, the Program Securities are registered in a foreign registry, have been issued in a global note in terms of section 9a of the German Securities Deposit Act (*Depotgesetz*) or qualify as partial debentures (*Teilschuldverschreibungen*) and are held in a custodial account maintained with a German branch of a German or non-German credit or financial services institution (*Kredit- oder Finanzdienstleistungsinstitut*) or with a securities trading business (*Wertpapierhandelsunternehmen*) or securities trading bank (*Wertpapierhandelsbank*) (a "**German Disbursing Agent**"). If the Program Securities are not held in a custodial account, German withholding tax will nevertheless be levied if the Program Securities are issued in definitive form and the savings earnings are paid by a German Disbursing Agent against presentation of the Program Securities (so-called over-the-counter transaction – *Tafelgeschäft*).

For German resident private individuals who are subject to church tax an electronic information system for church withholding tax purposes applies in relation to income derived from capital investments, with the effect that church tax will be collected by the German Disbursing Agent by way of withholding unless the private investor has filed a blocking notice (*Sperrvermerk*) with the German Federal Central Tax Office (*Bundeszentralamt für Steuern*) in which case the private individual will be assessed to church tax and the private individual has to include the savings income in his tax return.

The tax base is, in principle, equal to the taxable gross income as set out above (i.e. prior to withholding). However, in the case of capital gains, the tax deduction is calculated on the basis of the capital gain only if the Program Securities have been kept in a custodial account with such German Disbursing Agent since the time of issuance and acquisition, respectively; if that is not the case, the investor may prove the acquisition costs to the German Disbursing Agent only in a specific form required by law. Otherwise, the tax deduction is calculated on the basis of 30% of the proceeds from the disposal of the Program Securities.

In general, no withholding tax will be levied if an investor holding the Program Securities as private assets has filed a withholding tax exemption certificate (*Freistellungsauftrag*) with the German Disbursing Agent, but only to the extent the interest income and other taxable savings income do not exceed the amount shown on the filed withholding tax exemption certificate. Similarly, no withholding tax will be deducted if an investor has submitted to the German Disbursing Agent a certificate of non-assessment (*Nichtveranlagungs-Bescheinigung*) issued by the relevant local tax office.

In the case of individuals holding the Program Securities as private assets, if German withholding tax is levied, such withholding tax will, in general, become definitive and replace the investor's income taxation (flat withholding tax - *Abgeltungssteuer*); in such a case, the filing of a tax return for savings income is not required. If no tax is withheld, then the investor is obliged to file a tax return and the savings income will then be taxed within the assessment procedure. However, the special tax rate for savings income applies, in principle, also in the assessment procedure. Further, an investor may alternatively request that all savings income of a given year is taxed at his/her individual income tax rate (if lower than the withholding tax rate) based on an assessment to tax with any amount overwithheld being refunded.

If the Program Securities form part of a trade or business, the withholding tax will not settle the income tax liability.

Investors holding the Program Securities as business assets cannot file a withholding tax exemption certificate with the German Disbursing Agent. Instead, no withholding tax will be levied on capital gains from the redemption, sale or assignment of the Program Securities if, for example, (a) the Program Securities are held by a company satisfying the requirements of section 43 para 2 sentence 3 no 1 German Income Tax Act or (b) the proceeds from the Program Securities qualify as income of a domestic business and the investor notifies this to the German Disbursing Agent by use of the officially required form. The investor is obliged to report income and related expenses in the (annual) tax return, and the balance will be taxed at the investor's applicable tax rate. Withholding tax levied, if any, will be credited against the personal or corporate income tax of the investor. If the tax withheld exceeds the respective (corporate) income tax amount, the difference will be refunded within the tax assessment procedure.



## **Non-residents**

In general, a Noteholder or Securityholder that is not tax resident in Germany is subject to German payments of consideration or taxation on gains from the disposition of Program Securities and potentially withholding tax only under certain circumstances, e.g. (i) if the Program Securities are held as business assets of a permanent establishment, including a permanent representative, maintained in Germany by the Noteholder or Securityholder or (ii) the income qualifies for other reasons as taxable German source income (such as income from the letting and leasing of property). In such a case, a tax regime similar to that explained above for German tax residents will apply.

## **Substitution of the Issuer**

If the Issuer exercises the right to substitute the debtor of the Notes, the substitution might, for German tax purposes, be treated as an exchange of the Notes for new notes issued by the new issuer and subject to similar taxation rules like the Notes. In particular, such a substitution could result in the recognition of a taxable gain or loss for any investor of a Note.

## **Inheritance and Gift Tax**

No inheritance or gift taxes with respect to the Program Securities will arise under the laws of Germany if, in the case of inheritance tax, neither the decedent nor the beneficiary or, in the case of gift tax, neither the donor nor the donee is a resident of Germany and the Program Securities are not attributable to a German trade or business for which a permanent establishment is maintained, or a permanent representative has been appointed, in Germany. Exceptions from this rule apply to certain German expatriates.

## **Other Taxes**

No stamp, issue, registration or similar taxes or duties will be payable in Germany in connection with the issuance, delivery or execution of the Program Securities. Currently, net assets tax (Vermögensteuer) is not levied in Germany.

## **No gross-up for German withholding tax (Kapitalertragsteuer)**

Purchasers of the Program Securities should note that in accordance with the terms and conditions of the Program Securities, unless specified in the applicable Pricing Supplement, the Issuer, in principle, will neither assume any liability for German withholding taxes (*Kapitalertragsteuer*) withheld from payments under the Program Securities, nor make any additional payments in regard of these taxes, i.e. no gross-up will apply in case a withholding tax is imposed.

**IRISH TAXATION**

*The following disclosure applies only in respect of Program Securities issued by Morgan Stanley and MSFL each in their capacity as Issuer. It does not deal with payments made by Morgan Stanley in its capacity as Guarantor pursuant to the Guarantee. References in this section on Irish taxation to "Notes", "Certificates" and "Warrants" (Certificates and Warrants being collectively, the "Securities") and references to "Noteholders," "Securityholders", "Certificateholders" and "Warrantholders" (if any) should be construed accordingly.*

The following is a summary of the Irish withholding taxation treatment at the date hereof in relation to payments of principal and interest in respect of the Program Securities. The comments do not deal with other Irish tax aspects of acquiring, holding, disposing or, abandoning Program Securities. Transactions involving Program Securities, including the issue and subscription of Program Securities, any purchase or disposal or settlement of Program Securities, may have Irish tax consequences for potential purchasers (including but not limited to, transfer taxes and possible withholding or deduction for or on account of Irish tax from payments made by the Issuers in respect of the Program Securities). The tax consequences may depend, amongst other things, on the status of the potential investor and the terms and conditions of a particular Program Security as specified in the Pricing Supplement. It is based on current law and practice of the Irish Revenue Commissioners, which may be subject to change, sometimes with retrospective effect. The comments relate only to the position of persons who are absolute beneficial owners of the Program Securities. Prospective Securityholders and Noteholders should be aware that the particular terms of issue of any series of Program Securities as specified in the applicable Pricing Supplement may affect the tax treatment of that and other series of Program Securities. The following is a general guide and should be treated with appropriate caution. It is not intended as tax advice and it does not purport to describe all of the tax considerations that may be relevant to a prospective purchaser. Prospective Securityholders and Noteholders who are in any doubt as to their tax position should consult their professional advisors about tax implications of purchasing and holding a Program Security, any transaction involving a Program Security, and any transaction involved in the exercise and settlement of a Program Security. Securityholders and Noteholders who may be liable to taxation in jurisdictions other than Ireland are particularly advised to consult their professional advisors as to whether they are so liable (and if so under the laws of which jurisdictions), since the following comments relate only to certain Irish withholding tax aspects of payments in respect of the Program Securities. In particular, Securityholders and Noteholders should be aware that they may be liable to taxation under the laws of other jurisdictions in relation to payments in respect of the Program Securities even if such payments may be made without withholding or deduction for or on account of taxation under the laws of Ireland.

**Withholding Tax**

Tax at the standard rate of income tax (currently 20 per cent.) is required to be withheld from payments of Irish source interest. The Issuers will not be obliged to withhold Irish income tax from payments of interest on the Program Securities so long as such payments do not constitute Irish source interest. Interest paid on the Program Securities may be treated as having an Irish source if:

- (a) the relevant Issuer is resident in Ireland for tax purposes; or
- (b) the relevant Issuer has a branch or permanent establishment in Ireland, the assets or income of which are used to fund the payments on the Program Securities; or
- (c) the relevant Issuer is not resident in Ireland for tax purposes but the register for the Program Securities is maintained in Ireland or (if the Program Securities are in bearer form) the Program Securities are physically held in Ireland.

It is anticipated that, (i) the Issuers are not and will not be resident in Ireland for tax purposes; (ii) the Issuers do not and will not have a branch or permanent establishment in Ireland; and (iii) Program Securities will not be issued in bearer form and the Issuers will not maintain a register of any registered Program Securities in Ireland. For so long as this remains the case, interest payable on the Program Securities should not be regarded as Irish source interest.

If payments of interest on the Program Securities are found to constitute Irish source interest, the relevant Issuer will not be obliged to make a withholding or deduction for or on account of Irish income tax from a payment of interest on a Program Security so long as the interest paid on the relevant Program Security falls within the following category and meets the relevant conditions:

***Interest paid on a quoted Eurobond:***

A quoted Eurobond is a security which is issued by a company (such as the Issuers), is listed on a recognised stock exchange (such as Euronext Dublin) and carries a right to interest. Provided that the Program Securities (i) carry an amount in respect of interest and (ii) are listed on Euronext Dublin (or any other recognised stock exchange), interest paid on them can be paid free of withholding tax provided the person by or through whom the payment is made is not in Ireland, or if such person is in Ireland, either:

- (A) the Program Security is held in a clearing system recognised by the Irish Revenue Commissioners; (DTC, Euroclear and Clearstream, Luxembourg are, amongst others, so recognised); or
- (B) the person who is the beneficial owner of the Program Security and who is beneficially entitled to the interest is not resident in Ireland and has made a declaration to a relevant person (such as a paying agent located in Ireland) in the prescribed form.

Thus, if interest payable on the Program Securities is found to have an Irish source, so long as the Program Securities are interest bearing, continue to be quoted on Euronext Dublin (or any other recognised stock exchange) and are held in a recognised clearing system, interest on the Program Securities can be paid by any paying agent acting on behalf of the Issuer without any withholding or deduction for or on account of Irish income tax. If the Program Securities continue to be quoted but cease to be held in a recognised clearing system, interest on the Program Securities may be paid without any withholding or deduction for or on account of Irish income tax provided such payment is made through a paying agent outside Ireland.

**Encashment Tax**

In certain circumstances (e.g. quoted Eurobonds), Irish tax will be required to be withheld at the standard rate of income tax (currently 20 per cent.) from interest on any Program Security, where such interest is collected or realised by a bank or encashment agent in Ireland on behalf of any Noteholder or Securityholder. There is an exemption from encashment tax where the beneficial owner of the interest is not resident in Ireland and has made a declaration to this effect in the prescribed form to the encashment agent or bank.

## ITALIAN TAXATION

*The following is a summary of certain Italian tax consequences of the purchase, the ownership and the disposal of the Program Securities. The statements herein are based on the laws in force in Italy as at the date of this Offering Circular and are subject to any changes in law occurring after such date, which changes could be made on a retroactive basis. The Issuers will not update this summary to reflect changes in law and/or practice. If any such change should occur, the information in this summary could become obsolete.*

*The following summary does not purport to be a comprehensive description of all the tax considerations which may be relevant to a decision to subscribe for, purchase, own or dispose of the Program Securities and does not purport to deal with the tax consequences applicable to all categories of investors, some of which (such as dealers in securities or commodities) may be subject to special rules.*

*Prospective investors are advised to consult their own tax advisors concerning the overall tax consequences of their interest in the Program Securities.*

### **Tax treatment of the Program Securities**

The Program Securities may be subject to different tax regimes depending on whether:

- a) they represent derivative financial instruments or bundles of derivative financial instruments, through which the Noteholders or Securityholders purchase indirectly underlying financial instruments; or
- b) they represent a debt instrument implying a "use of capital" (impiego di capitale), through which the Noteholders or Securityholders transfer to the Issuer a certain amount of capital, for the economic exploitation of the same, subject to the right to obtain a (partial or entire) reimbursement of such amount at maturity.

### **Program Securities representing derivative financial instruments or bundles of derivative financial instruments**

With regard to certain innovative or structured financial instruments, there is currently no case law as to the tax treatment of such financial instruments. Accordingly, it cannot be excluded that the Italian tax authorities will change their current view, as specified below, and courts will adopt a view different from that outlined below. All of the following is subject to change, which change could apply retroactively and could affect the continued validity of this summary. Because it is a general description, it does not purport to be a complete analysis of all tax considerations that may be relevant to the decision to purchase, own or dispose of the Notes, nor does it purport to deal with the tax consequences applicable to all categories of prospective beneficial owners of the Notes, some of which may be subject to special rules. Noteholders should consult their own tax advisers as to the Italian or other tax consequences of the purchase, holding and disposition of the Notes, including, in particular, the application to their specific situations of the tax consequences discussed below.

### ***Italian resident Noteholders or Securityholders***

Where the Italian resident Noteholder or Securityholder is (i) an individual not engaged in an entrepreneurial activity to which the Program Securities are connected, (ii) a partnership (other than a *società in nome collettivo* or *società in accomandita semplice* or similar partnership) or a *de facto* partnership not carrying out commercial activities or professional associations, or (iii) a private or public entity other than company, trust not carrying out mainly or exclusively commercial activities, the Italian State and public and territorial entities, payments in respect of Program Securities qualifying as securitised derivative financial instruments as well as capital gains realised on any sale or transfer for consideration or exercise or redemption thereof are subject to a 26 per cent. substitute tax (*imposta sostitutiva*). Said recipients may opt for one of the following three taxation regimes:

- a) Under the "regime della dichiarazione" (the "**Tax Declaration Regime**"), which is the standard regime for taxation of capital gains, the 26 per cent. *imposta sostitutiva* on capital gains will be chargeable, on a cumulative basis, on all payments in respect of Program Securities and all capital gains, net of any incurred capital loss, realised pursuant to all disposals of the Program Securities carried out during any given tax year. The overall capital gains realised in any tax year, net of any relevant incurred capital loss, must be reported in the annual tax return and the *imposta sostitutiva* must be paid on such gains together with any balance income tax due for such year. Capital losses in excess of capital gains may be carried forward against capital gains realised in any of the four succeeding tax years.

- b) As an alternative to the tax declaration regime, Noteholders or Securityholders as listed above may elect to pay under the "*risparmio amministrato*" regime provided for by Art. 6 of Legislative Decree 21 November 1997 No. 461 ("**Decree 461**") (the "**Administrative Savings Regime**") the *imposta sostitutiva* separately on payments received in respect of Program Securities and capital gains realised on each sale or redemption of the Program Securities. Such separate taxation of capital gains is allowed subject to (i) the Program Securities being deposited with Italian banks, "*società di intermediazione mobiliare*" ("**SIMs**") or certain authorised financial intermediaries and (ii) an express election for the Administrative Savings Regime being timely made in writing by the relevant Noteholder or Securityholder. The depository is responsible for accounting for *imposta sostitutiva* in respect of capital gains realised on each sale or redemption of the Program Securities (as well as in respect of capital gains realised upon the revocation of its mandate), net of any incurred capital loss, and is required to pay the relevant amount to the Italian tax authorities on behalf of the taxpayer, deducting a corresponding amount from the proceeds to be credited to the Noteholder or Securityholder or using funds provided by the Noteholder or Securityholder for this purpose. Under the Administrative Savings Regime, where a sale or redemption of the Program Securities results in a capital loss, such loss may be deducted from capital gains subsequently realised, within the same securities management, in the same tax year or in the following tax years up to the fourth. Under the *risparmio amministrato* regime, the Noteholder or Securityholder is not required to declare the capital gains in the annual tax return.
- c) Any payments received and any capital gains accrued by the Noteholder or Securityholder as listed above who have entrusted the management of their financial assets, including the Program Securities, to an authorised intermediary and have opted for the so-called "*risparmio gestito*" regime provided for by Art. 7 of Decree 461 (the "**Asset Management Regime**") will be included in the computation of the annual increase in value of the managed assets accrued, even if not realised, at year end, subject to a 26 per cent. substitute tax, to be paid by the managing authorised intermediary. Under the Asset Management Regime, any depreciation of the managed assets accrued at year end may be carried forward against increase in value of the managed assets accrued in any of the four succeeding tax years. Under the Asset Management Regime, the Noteholder or Securityholder is not required to declare the capital gains realised in the annual tax return.

Any gain obtained from the sale or redemption of the Program Securities would be treated as part of the taxable income subject to the general Italian corporate tax regime (corporate income tax, "**TRES**", is currently applicable at 24 per cent. with a 3,5 per cent. surcharge for banks) or to personal income taxation (as business income), as the case may be, according to the ordinary rules (and, in certain circumstances, depending on the tax "status" of the Noteholder or Securityholder, also as part of the net value of production for purposes of regional tax on productive activities - "**IRAP**" currently applicable at the basic rate of 3.9 per cent. which may be varied up to 0.92 per cent. by certain Italian regions and depending on the nature of the activities carried out by the taxpayer) if realised by: (i) an Italian resident company; (ii) an Italian resident commercial partnership or similar commercial entity; (iii) the Italian permanent establishment of foreign entities to which the Program Securities are effectively connected; or (iv) Italian resident individuals engaged in an entrepreneurial activity to which the Program Securities are connected. The IRAP rate has also been increased by article 23(5) of Italian Law Decree no. 98 of 6 July 2011 to 4.65 per cent. for banks and other financial institutions and to 5.9 per cent. for the insurance companies as indicated, respectively, under article 6 and article 7 of Italian Legislative Decree no. 446 of 15 December 1997).

Any capital gains realized by a Noteholder or Securityholder which is an Italian resident real estate investment fund or an Italian real estate SICAF, to which the provisions of Law Decree No. 351 of 25th September, 2001, Law Decree No. 78 of 31 May 2010, converted into Law No. 122 of 30 July 2010, and Legislative Decree No. 44 of 4 March 2014, all as amended, apply are subject neither to substitute tax nor to any other income tax in the hands of a real estate investment fund or the real estate SICAF. The income of the real estate investment fund or of the real estate SICAF is subject to tax, in the hands of the unitholder, depending on the status and percentage of participation, or, when earned by the fund, through distribution and/or upon redemption or disposal of the units.

Any capital gains realised by a Noteholders or Securityholders which are Italian resident open-ended or closed-ended collective investment funds ("**Funds**"), SICAVs and SICAFs will neither be subject to *imposta sostitutiva* nor to any form of taxation in the hands of the Funds or of the SICAVs and SICAFs. A withholding tax may apply in certain circumstances at the rate of 26 per cent. on distributions made by the Funds, SICAVs and SICAFs to certain categories of Noteholders or Securityholders.

Any capital gains realised by a Noteholder or Securityholder which is an Italian pension fund (subject to the regime provided for by Article 17 of the Legislative Decree No. 252 of 5 December 2005, as subsequently amended, "**Decree 252**") will be included in the result of the relevant portfolio accrued at the end of the tax period, to be subject to a 20 per cent. annual substitute tax (the "**Pension Fund Tax**").

### ***Non-Italian resident Noteholders or Securityholders***

Capital gains realised by non-Italian resident Noteholders or Securityholders without a permanent establishment in Italy to which the Program Securities are effectively connected from the sale or redemption of the Program Securities are not subject to Italian taxation, provided that the Program Securities (i) are transferred on regulated markets, or (ii) if not transferred on regulated markets, are held outside Italy. In such a case, in order to benefit from this exemption from Italian taxation on capital gains, non-Italian resident Noteholders or Securityholders who hold the Program Securities with an Italian authorized financial intermediary and elect to be subject to the Asset Management Regime or are subject to the Administrative Savings Regime, may be required to file in due time to the Italian authorized financial intermediary an appropriate statement (*autocertificazione*) that they are not resident in Italy for tax purposes.

Moreover, even if the Program Securities are held in Italy, no Italian *imposta sostitutiva* applies if the non-Italian resident investor is resident for tax purposes in a state or territory which allows an adequate exchange of information with the Italian tax authorities and listed in the Italian Ministerial Decree dated 4 September, 1996 as amended and supplemented from time to time (last amendment being made by Italian Ministerial Decree dated 23 March, 2017) (the "**White List**"). According to Article 11, par. 4, let. c) of Decree 239 the White List will be updated every six months period. The same exemption applies where the beneficial owners of the Program Securities are (i) international entities or organizations established in accordance with international agreements ratified by Italy; (ii) certain foreign institutional investors established in countries included in the White List, even if they do not have the status of taxpayers in their own country of residence; or (iii) Central Banks or entities which manage, inter alia, the official reserves of a foreign State. Under these circumstances, if non-Italian residents without a permanent establishment in Italy to which the Program Securities are effectively connected elect for the Asset Management Regime or are subject to the Administrative Savings Regime, exemption from Italian capital gains tax will apply upon condition that they provide in time with the authorised financial intermediary an appropriate self-declaration (*autocertificazione*) stating that they meet the requirement indicated above. Additional statements may be required for non-Italian resident Securityholders who are institutional investors.

Non-Italian resident individuals or entities without a permanent establishment in Italy to which the Program Securities are connected that may benefit from a double taxation treaty with the Republic of Italy providing that capital gains realised upon the sale or redemption of Program Securities are to be taxed only in the country of tax residence of the recipient, will not be subject to the substitute tax in the Republic of Italy on any capital gains realised upon the sale or redemption of Program Securities. In such a case, in order to benefit from this exemption from Italian taxation on capital gains, non-Italian resident Noteholders or Securityholders who hold the Program Securities with an Italian authorised financial intermediary and elect to be subject to the Asset Management Regime or are subject to the Administrative Savings Regime, may be required to produce in due time to the Italian authorised financial intermediary appropriate documents which include, *inter alia*, a statement from the competent tax authorities of the country of residence.

Please note that for a non-Italian resident, the Administrative Savings Regime shall automatically apply, unless it is expressly waived this regime, where the Program Securities are deposited in custody or administration with an Italian resident authorised financial intermediary or permanent establishment in the Republic of Italy of a foreign intermediary.

### **Program Securities representing debt instruments implying a "use of capital"; Program Securities having 100 per cent. capital protection guaranteed by the Issuer**

#### **Taxation of interest**

### ***Italian resident Noteholders and Securityholders***

Legislative Decree April 1st, 1996, No. 239 ("**Decree No. 239**") regulates the tax treatment of interest, premiums and other income (including the difference between the redemption amount and the issue price) (hereinafter collectively referred to as "**Interest**") from Program Securities issued, inter alia, by non-Italian resident entities. The provisions of Decree No. 239 only apply to those Program Securities which qualify as *obbligazioni or titoli similari alle obbligazioni* pursuant to Article 44 of Presidential Decree 22nd December 1986, No. 917 ("**Decree No. 917**"). In accordance with Article 44 of Decree No. 917, for securities to qualify as *titoli similari alle obbligazioni* (securities similar to bonds), they must (i) incorporate an unconditional obligation to pay at maturity an amount not less than that indicated therein, and (ii) attribute to the holders no direct or indirect right to control or participate to the management of the Issuer.

Where the Italian resident Noteholder or Securityholder is (i) an individual holding Program Securities otherwise than in connection with entrepreneurial activity, or (ii) a partnership (other than a *società in nome collettivo* or *società in accomandita semplice* or similar partnership) or a *de facto* partnership not carrying out commercial activities or professional associations, (iii) a private or public entity other than company, trust not carrying out mainly or exclusively commercial activities, the Italian State and public and territorial entities, or (iv) an investors exempt from Italian corporate income taxation, interest payments relating to the Program Securities are subject to a tax, referred to as *imposta sostitutiva*, levied at the rate of 26 per cent. (either when Interest is paid or when payment thereof is obtained by the holder on a sale of the Program Securities). Such investors are qualified as "net recipients" (unless the Noteholders or Securityholders referred to under (i), (ii) and (iii) above have entrusted the management of their financial assets, including the Program Securities, to an authorised intermediary and have opted for the Asset Management Regime.

Where the resident holders of the Program Securities described above under (i), (ii) and (iii) above are engaged in an entrepreneurial activity to which the Program Securities are connected, the *imposta sostitutiva* applies as a provisional income tax. Interest will be included in the relevant beneficial owner's Italian income tax return and will be subject to Italian ordinary income taxation and the *imposta sostitutiva* may be recovered as a deduction from Italian income tax due.

Subject to certain conditions, Interest in respect of Program Securities issued by the Issuer that qualify as *obbligazioni* or *titoli similari alle obbligazioni*, received by Italian resident individuals holding the aforesaid Program Securities not in connection with an entrepreneurial activity may be exempt from taxation, including the 26 per cent. *imposta sostitutiva*, if such Program Securities are included in a long-term savings account (*piano individuale di risparmio a lungo termine*) pursuant Article 1, paragraph 100 – 114, of Law No. 232 of 11th December 2016 ("**Law No. 232**").

Pursuant to Decree No. 239, the 26 per cent. *imposta sostitutiva* is applied by banks, SIMs, fiduciary companies, *società di gestione del risparmio* ("SGRs") stock brokers and other qualified entities identified by a decree of the Ministry of Finance ("**Intermediaries**" and each an "**Intermediary**") resident in Italy, or by permanent establishments in Italy of a non Italian resident Intermediary, that intervene, in any way, in the collection of Interest or, also as transferees, in transfers or disposals of the Program Securities. For the purpose of the application of the *imposta sostitutiva*, a transfer of securities includes any assignment or other act, either with or without consideration, which results in a change of the ownership of the relevant securities or in a change of the Intermediary with which the securities are deposited.

Where the Program Securities are not deposited with an authorised Italian Intermediary (or with a permanent establishment in Italy of a foreign Intermediary), the *imposta sostitutiva* is applied and withheld by any Italian Intermediary paying Interest to the Noteholder or Securityholder.

Where an Italian resident Noteholder or Securityholder is a company or similar commercial entity pursuant to Article 73 of Decree No. 917 or a permanent establishment in Italy of a foreign company to which the Program Securities are effectively connected and the Program Securities are deposited with an authorised intermediary, interest, premium and other income from the Program Securities will not be subject to the *imposta sostitutiva*, but must be included in the relevant Noteholder's or Securityholder's income tax return and are therefore subject to IRES and IRAP taxation.

Italian resident individuals, non-commercial partnerships or entities holding Notes not in connection with entrepreneurial activity who have opted for the Asset Management Regime are subject to the 26 per cent. annual substitute tax on the increase in value of the managed assets accrued at the end of each tax year (which increase would include Interest accrued on the Program Securities). The 26 per cent. annual substitute tax is applied on behalf of the taxpayer by the managing authorised Intermediary.

Where a Noteholder or Securityholder is an Italian resident real estate investment fund or an Italian real estate SICAF, to which the provisions of Law Decree No. 351 of 25th September, 2001, Law Decree No. 78 of 31 May 2010, converted into Law No. 122 of 30 July 2010, and Legislative Decree No. 44 of 4 March 2014, all as amended, apply, Interest accrued on the Program Securities are subject neither to the *imposta sostitutiva* nor to any other income tax in the hands of a real estate investment fund or SICAF. The income of the Italian real estate fund or SICAF is subject to tax in the hands of the unitholder, depending on *status* and percentage of participation, or, when earned by the fund, through distribution and/or upon redemption or disposal of the units. If a Noteholders or Securityholders are resident in Italy and are Funds, SICAVs and SICAFs and the Program Securities are deposited with an authorised intermediary, interest, premium and other income accrued during the holding period will not be subject to the *imposta sostitutiva* but must be included in the management result of the Fund, SICAVs and SICAFs. A withholding tax may apply in certain circumstances at the rate of 26 per cent. on distributions made by the Funds, SICAVs and SICAFs to certain categories of Noteholder or Securityholder.

Where an Italian resident Noteholder or Securityholder is a pension fund pursuant to Decree 252 and the Program Securities are deposited with an authorised intermediary, interest (including the difference between the redemption amount and the issue price), premium and other income relating to the Program Securities and accrued during the holding period will not be subject to the *imposta sostitutiva*, but must be included in the result of the relevant portfolio accrued at the end of the tax period, to be subject to the Pension Fund Tax. Subject to certain conditions, Interest in respect to the Program Securities may be excluded from the taxable base of the Pension Fund Tax pursuant to Article 1, paragraph 92, of Law No. 232 if Program Securities that qualify as *obbligazioni* or *titoli similari alle obbligazioni* are included in a long-term savings account (*piano individuale di risparmio a lungo termine*) pursuant to Article 1, paragraph 100 – 114, of Law No. 232.

### ***Non-Italian resident Noteholders and Securityholders***

No Italian *imposta sostitutiva* is applied on payments to a non-Italian resident Noteholder or Securityholder of interest or premium relating to the Program Securities provided that, if the Program Securities are held in Italy, the non-Italian resident Noteholder or Securityholder declares itself to be a non-Italian resident according to Italian tax regulations.

### ***Program Securities not having 100 per cent. capital protection guaranteed by the Issuer***

In case Program Securities representing debt instruments implying a "use of capital" do not guarantee the total reimbursement of the principal, under Italian tax law they should qualify as "atypical securities" pursuant to Law Decree No. 512 of 30th September 1983 and payments in respect of such Program Securities received by Italian resident individual Noteholders or Securityholders would be subject to the following regime:

- a) if the Program Securities are placed (*collocati*) in Italy, payments made to individual investors holding the Program Securities not in connection with an entrepreneurial activity will be subject to a 26 per cent. final withholding tax. This withholding tax is levied by the entrusted Italian resident bank or financial intermediary, if any, that is involved in the collection of payments on the Program Securities, in the repurchase or in the transfer of the Program Securities;
- b) if the Program Securities are not placed (*collocati*) in Italy or in any case where payments on the Program Securities are not received through an entrusted Italian resident bank or financial intermediary (that is involved in the collection of payments on the Program Securities, in the repurchase or in the transfer thereof) and no withholding tax is levied, the individual beneficial owners will be required to declare the payments in their income tax return and subject them to a final substitute tax at a rate of 26 per cent. The Italian individual Noteholder or Securityholder may elect instead to pay ordinary IRPEF at the progressive rates applicable to them in respect of the payments; if so, the Italian individual Noteholder or Securityholder should generally benefit from a tax credit for withholding taxes applied outside Italy, if any.

The 26 per cent. withholding tax does not apply to payments made to an Italian resident Noteholder or Securityholder which is (i) an Italian resident commercial partnership, (ii) an Italian resident company or a similar Italian resident commercial entity (including the Italian permanent establishment of foreign entities to which the Program Securities are effectively connected) and (iii) a commercial private or public institution. In particular, in such cases, payments must be included in the relevant Noteholder's and Securityholder's annual income tax return to be therefore subject to ordinary Italian business income taxation (and, in certain circumstances, depending on the *status* of the Noteholder, also to IRAP) and the beneficial owners should be generally entitled to a tax credit for any withholding tax applied outside Italy.

Subject to certain limitations and requirements (including a minimum holding period), Italian resident individuals not acting in connection with an entrepreneurial activity may be exempt from any income taxation, including the withholding tax on interest, premium and other income relating to the Program Securities not falling within the category of bonds (*obbligazioni*) or securities similar to bonds (*titoli similari alle obbligazioni*) and qualify as *titoli atipici* ("atypical securities") pursuant to Article 5 of Law Decree No. 512 of 30 September 1983 if Program Securities are included in a long-term individual savings account (*piano individuale di risparmio a lungo termine*) pursuant to Article 1, paragraph 100 -114 of Law No. 232.



## Capital gains tax

### *Italian resident Noteholders or Securityholders*

The relevant capital gains regime applies under similar rules to those described above under the caption "*Program Securities representing derivative financial instruments or bundles of derivative financial instruments – Italian resident Noteholders or Securityholders*".

Subject to certain conditions, capital gains in respect of the Program Securities issued by the Issuer that qualify as *obbligazioni* or *titoli similari alle obbligazioni* realized upon sale, transfer or redemption by Italian resident Noteholder or Securityholder holding the Program Securities not in connection with an entrepreneurial activity may be exempt from taxation, including the 26 per cent. *imposta sostitutiva*, if the Program Securities are included in a long-term savings account (*piano individuale di risparmio a lungo termine*) pursuant Article 1, paragraph 100 – 114, of Law No. 232.

### *Non-Italian resident Noteholders or Securityholders*

The relevant capital gains regime applies under similar rules to those described above under the caption "*Program Securities representing derivative financial instruments or bundles of derivative financial instruments – Non-Italian resident Noteholders or Securityholders*".

## Inheritance and gift tax

Pursuant to Law Decree no. 262 of the 3rd October 2006, as subsequently amended, transfers of any valuable assets (including the Program Securities) as a result of death or *inter vivos* gift (or other transfers for no consideration) and the creation of liens on such assets for a specific purpose (*vincoli di destinazione*) are taxed as follows:

- a) four per cent. if the transfer is made to spouses and direct descendants or ancestors; in this case, the transfer is subject to tax on that part of the value that exceeds EUR 1,000,000 (per beneficiary);
- b) six per cent. if the transfer is made to brothers and sisters; in this case, the transfer is subject to the tax on that part of the value that exceeds EUR 100,000 (per beneficiary);
- c) six per cent. if the transfer is made to relatives up to the fourth degree (*parenti fino al quarto grado*), to persons related by direct affinity as well as to persons related by collateral affinity up to the third degree (*affini in linea retta nonché affini in linea collaterale fino al terzo grado*); and
- d) eight per cent. in all other cases.

If the transfer is made in favour of persons with severe disabilities, the tax applies on that part of the value that exceeds EUR 1,500,000.

Moreover, an anti-avoidance rule is provided by Law No. 383 of 18th October 2001 in the case of a gift of assets, such as the Securities, whose sale for consideration would give rise to capital gains to be subject to the *imposta sostitutiva* provided for by Decree No. 461, as subsequently amended. In particular, if the donee sells the Program Securities for consideration within five years from their receipt as a gift, the latter is required to pay the relevant *imposta sostitutiva* as if the gift had never taken place.

## Stamp Duty

Pursuant to Article 13 par. 2/ter of the tariff Part I attached to Presidential Decree No. 642 of 26 October 1972, as amended by Article 1 par. 581 of Law No. 147 of 27 December 2013, a proportional stamp duty applies on an annual basis to the periodic reporting communications sent by financial intermediaries to their clients and relating to securities and financial instruments. The stamp duty applies at a rate of 0.20 per cent.; this stamp duty is determined on the basis of the market value or – if no market value is available – the nominal value or redemption amount of the securities held. The stamp duty cannot exceed the amount of Euro 14,000 if the recipient of the periodic reporting communications is an entity (i.e., not an individual).

The statement is considered to be sent at least once a year, even for instruments for which is not mandatory nor the deposit nor the release or the drafting of the statement. In case of reporting periods of less than 12 months, the stamp duty is payable pro-rata.

Based on the wording of the law and the implementing decree issued by the Italian Ministry of Economy on 24 May 2012, the stamp duty applies to any investor who is a client (as defined in the regulations issued by the Bank of Italy on 20 June 2012) of an entity that exercises in any form a banking, financial or insurance activity within the Italian territory.

It may be understood that the stamp duty applies both to Italian resident and non-Italian resident investors, to the extent that the Program Securities are held with an Italian-based financial intermediary.

### Wealth Tax

Pursuant to Law Decree No. 201 of 6 December 2011, as subsequently amended, Italian resident individuals holding the Program Securities abroad are required to pay in its own annual tax returns a wealth tax (“IVAFE”) at a rate of 0.20 per cent. for each year. This tax is calculated on an annual basis on the market value of the notes at the end of the relevant year or – if no market value is available – the nominal value or the redemption value of such financial assets held abroad. Taxpayers are entitled to an Italian tax credit equivalent to the amount of any wealth tax paid in the State where the financial assets are held (up to an amount equal to the IVAFE due). The financial assets held abroad are excluded from the scope of the wealth tax, if such financial assets are administered by Italian financial intermediaries pursuant to an administration agreement.

### Financial Transaction Tax (FTT) depending on the features of the Program Securities

Pursuant to Law No. 228 of 24 December 2012, a FTT applies to (a) transfer of ownership of shares and other participating securities issued by Italian resident companies or of financial instruments representing the just mentioned shares and/or participating securities (irrespective of whether issued by Italian resident issuers or not) (the Relevant Securities), (b) transactions on financial derivatives (i) the main underlying assets of which are the Relevant Securities, or (ii) whose value depends mainly on one or more Relevant Securities, as well as to (c) any transaction on certain securities (i) which allow to mainly purchase or sell one or more Relevant Securities or (ii) implying a cash payment determined with main reference to one or more Relevant Securities.

Program Securities could be included in the scope of application of the FTT if they meet the requirements set out above. On the other hand, Program Securities falling within the category of bonds (*obbligazioni*) or debentures similar to bonds (*titoli similari alle obbligazioni*) are not included in the scope of the FTT.

The FTT on derivative instruments is levied at a fixed amount that varies depending on the nature of the relevant instrument and the notional value of the transaction, and ranges between Euro 0.01875 and Euro 200 per transaction. The amount of FTT payable is reduced to 1/5 of the standard rate in case the transaction is performed on regulated markets or multilateral trading facilities of certain EU and EEA member States. The FTT on derivatives is due by each of the parties to the transactions. FTT exemptions and exclusions are provided for certain transactions and entities.

The FTT is levied and paid by the subject (generally a financial intermediary) that is involved, in any way, in the execution of the transaction. Intermediaries which are not resident in Italy but are liable to apply the FTT can appoint an Italian tax representative for the purposes of the FTT. If no intermediary is involved in the execution of the transaction, the FTT must be paid by the taxpayers.

Investors are advised to consult their own tax advisors also on the possible impact of the FTT.

### Tax monitoring obligations

Pursuant to Italian Law Decree No. 167 of 28 June 1990, as amended by Law No. 97 of 6 August 2013 and by Law No. 50 of 28 March 2014, individuals, non-profit entities and certain partnerships (in particular, società semplici or similar partnerships in accordance with Article 5 of Decree No. 917) resident in Italy are required to report in their yearly income tax declaration, for tax monitoring purposes, the amount of Notes held abroad during each tax year.

The requirement applies also where the persons above, being not the direct holder of the financial instruments, are the beneficial owner of the instrument for anti-money laundering purposes. The above reporting is not required to be complied with respect to Notes deposited for management with qualified Italian intermediaries and with respect to

contracts entered into through their intervention, provided that the financial flows and income derived from the Notes are subject to tax by the same intermediaries.

#### **EU Directive on Administrative Cooperation in the field of Taxation**

On 9 July 2015, the Italian Parliament adopted Law No. 114 delegating the Italian Government to implement in Italy certain EU Council Directives, including Council Directive 2011/16/EU on Administrative Cooperation in the field of Taxation (as amended by Council Directive 2014/107/EU). Such Directive is aimed at broadening the scope of the operational mechanism of intra-EU automatic exchange of information in order to fight cross-border tax fraud and evasion. The Italian government implemented the above-mentioned Council Directive 2014/107/EU in the Ministerial Decree issued by the Ministry of Finance on 28 December 2015, as amended by the Ministerial Decree of 17 January 2017. Following the Ministerial Decree quoted, the Italian tax authorities may communicate to other EU Member States information about interest and other categories of financial income of Italian source, including income from the Notes.

Furthermore, the Italian Government implemented the later changes to the Council Directive 2011/16/EU, including the changes introduced by the Council Directive 2376/2015/EU on the mandatory automatic exchange of information on advance cross-border rulings and advance pricing arrangements, through the issue of the Legislative Decree 15 March 2017, no. 32, and by the Council Directive 2016/2258/EU as regards access to anti-money-laundering information by tax authorities, through the issue of the Legislative Decree 18 May 2018, no. 60.

## LUXEMBOURG TAXATION

*The following is a general description of certain Luxembourg tax considerations relating to the Program Securities. It does not purport to be a complete analysis of all tax considerations relating to the Program Securities, whether in Luxembourg or elsewhere. Prospective purchasers of the Program Securities should consult their own tax advisers as to which countries' tax laws could be relevant to acquiring, holding and disposing of the Program Securities payments of interest, principal and/or other amounts under the Program Securities and the consequences of such actions under the tax laws of Luxembourg. The following is based upon the law as in effect on the date of this Base Prospectus. Prospective investors in the Program Securities should not apply any information set out below to other areas, including (but not limited to) the legality of transactions involving the Program Securities. Please be aware that the residence concept used under the respective headings below applies for Luxembourg income tax assessment purposes only. Any reference in the present section to a withholding tax or other taxes refers to Luxembourg tax law and/or concepts only.*

### **Luxembourg tax regime regarding Program Securities**

Program Securities holders (the “**Securities Holders**”) do not become resident or deemed to be resident of the Grand-Duchy of Luxembourg by merely subscribing, acquiring or holding Program Securities. However, they may be taxed in Luxembourg if the Program Securities income is effectively connected with a permanent establishment, a permanent representative or a fixed place of business they have in the Grand-Duchy of Luxembourg.

### **Withholding tax**

#### ***Non-resident Securities Holders***

Under Luxembourg general tax laws currently in force, there is no withholding tax on payments of principal, premium or interest made to non-resident Securities Holders, nor on accrued but unpaid interest in respect of the Program Securities which are not profit participating, nor is any withholding tax payable upon redemption or repurchase of the Program Securities held by non-resident Securities Holders.

#### ***Resident Securities Holders***

### ***RELIBI***

Pursuant to the Luxembourg law of 23 December 2005 introducing final withholding tax on certain interest deriving from savings income, as amended (the “**RELIBI Law**”), a 20% withholding tax is levied on payments of interest or similar income made by Luxembourg paying agents (i.e. under the Relibi Law, any economic operator which pays interest or allocates the payment of interest to the immediate benefit of the beneficial owner) to (or for the benefit of) Luxembourg resident individuals Security Holders. This withholding tax also applies on accrued interest received upon sale, disposal, redemption or repurchase of the Program Securities (if any). If applied, such withholding tax is in full discharge of income tax if the beneficial owner is an individual acting in the course of the management of his/her private wealth who does not hold the Program Securities as business assets.

Responsibility for the withholding of tax in application of the above-mentioned RELIBI Law is assumed by the Luxembourg paying agent within the meaning of the RELIBI Law.

Luxembourg resident individuals beneficial owners of interest payments or similar income made by a paying agent established outside Luxembourg in a Member State of the European Union or a State of the European Economic Area (other than an EU Member State) may opt for a final 20 % withholding tax. In such case, the 20 % withholding tax is calculated on the same amounts as for the payments made by Luxembourg paying agents. The option for the 20 % final withholding tax must cover all interest payments made by paying agents to the beneficial owner during the entire civil year.

In case the beneficial owner opts for the final 20 % withholding tax, responsibility for the declaration and the payment of such withholding tax is assumed by the Luxembourg resident individual Securities Holder who is the beneficial owner of the relevant interest.

## **Income Taxation**

### ***Non-resident Securities Holders***

A non-resident Securities Holder, not having a permanent establishment or permanent representative in Luxembourg to which or to whom such Program Securities are attributable, is not subject to Luxembourg income tax on interest accrued or received, redemption premiums or issue discounts, or any other income under the Program Securities. A gain realised by such non-resident Securities Holder on the sale or disposal, in any form whatsoever, of the Program Securities is further not subject to Luxembourg income tax.

A non-resident Securities Holder acting in the course of the management of professional or business undertaking, who has a permanent establishment or permanent representative in Luxembourg to which or to whom such Program Securities are attributable, is subject to Luxembourg income tax on interest accrued or received, redemption premiums or issue discounts, or other income under the Program Securities, and on any gains realised upon the sale or disposal, in any form whatsoever of the Program Securities.

### ***Resident Securities Holders***

Securities Holders who/which are resident of Luxembourg will not be liable for any Luxembourg income tax on repayment of principal.

#### ***Luxembourg resident corporate Securities Holders***

A corporate Securities Holder must include any interest accrued or received, any redemption premium or issue discount, as well as any gain realized on the sale or disposal, in any form whatsoever, of the Program Securities, in its taxable income for Luxembourg income tax assessment purposes.

Luxembourg Securities Holders which are companies benefiting from a special tax regime such as (i) family wealth management companies subject to the Luxembourg law of 11 May 2007 on family estate management companies, as amended; (ii) undertakings for collective investment subject to the Luxembourg law of 17 December 2010 on undertakings for collective investment (replacing the Luxembourg law of 20 December 2002), as amended; (iii) specialised investment funds subject to the Luxembourg law of 13 February 2007 on specialised investment funds, as amended; or (iv) a company regulated by the Luxembourg law of 23 July 2016 on reserved alternative investment funds, not investing in risk capital, are not subject to any Luxembourg income tax.

#### ***Luxembourg resident individual Securities Holders***

An individual Securities Holder, who acts in the course of the management of his private wealth and who is a resident of Luxembourg for tax purposes, has further to include the portion of the gain corresponding to accrued but unpaid interest in respect of the Securities Holders in his taxable income, except if (i) withholding tax has been levied on such payments in accordance with the RELIBI Law, or (ii) the individual Securities Holder has opted for the application of a 20 % withholding tax in full discharge of income tax in accordance with the RELIBI Law, which applies if a payment of interest has been made or ascribed by a paying agent established outside Luxembourg in an EU Member State, or in a State of the European Economic Area.

The above 20 % withholding tax represents the final tax liability on interest received for the Luxembourg resident individuals receiving the interest payments in the course of their private wealth and can be refunded in consideration of foreign withholding tax, based on double tax treaties concluded by Luxembourg.

Under Luxembourg domestic tax law, gains realised by an individual Securities Holder, who acts in the course of the management of his private wealth and who is a resident of Luxembourg for tax purposes, on the sale or disposal, in any form whatsoever, of Program Securities are not subject to Luxembourg income tax, provided this sale or disposal took place six months after the acquisition of the Program Securities.

An individual Securities Holder acting in the course of the management of professional or business undertaking must include any income under the Program Securities in its taxable basis. In that event, such 20 % withholding tax levied will be credited against their final income tax liability.

***Net wealth tax***

A corporate Securities Holder, whether it is a resident of Luxembourg for tax purposes or, if not, it maintains a permanent establishment or a permanent representative in Luxembourg to which such Program Securities are attributable, is subject to Luxembourg net wealth tax on such Program Securities, except if the Securities Holder is governed by (i) the Luxembourg law of 11 May 2007 on family estate management companies, as amended; (ii) the Luxembourg law of 17 December 2010 on undertakings for collective investment (replacing the law of 20 December 2002), as amended; (iii) the Luxembourg law of 13 February 2007 on specialised investment funds, as amended; (iv) the Luxembourg law of 22 March 2004 on securitisation, as amended; (v) the Luxembourg law of 15 June 2004 on venture capital vehicles; or (vi) it is a company that is subject to the law of 23 July 2016 on reserved alternative investment funds.

Nevertheless, further to the Luxembourg law of 18 December 2015 on net wealth tax aspects, as amended (i) securitisation companies governed by the Luxembourg law of 22 March 2004, as amended; (ii) risk capital companies governed by the Luxembourg law of 15 June 2004 relating to the investment company in risk capital, as amended; (iii) professional pension institutions in the form of variable capital companies (*sociétés d'épargne-pension à capital variable* - SEPCAVs) or associations (*associations d'épargne-pension* - ASSEPs) governed by Luxembourg the law of 13 July 2005 on institutions for occupational retirement provision in the form of pension savings companies with variable capital and pension savings associations, as amended; and (iv) reserved alternative investment funds under the form of corporations which invest in risk capital, subject to the Luxembourg law of 23 July 2016 on reserved alternative investment funds, should be in the scope of the minimum net wealth tax, which may vary depending on the total amount of their balance sheet as well as the type of assets held, and should either amount to EUR 4,815 or range from EUR 535 to EUR 32,100.

An individual Securities Holder, whether he/she is resident of Luxembourg or not, is not subject to Luxembourg net wealth tax on Program Securities.

***Other taxes***

Under present Luxembourg tax law, in the case where a Securities Holder is a resident for tax purposes of Luxembourg at the time of his death, the Program Securities should be included in his taxable estate.

Gift tax may be due on a gift or donation of Program Securities, if the gift or donation is recorded in a Luxembourg deed.

## NETHERLANDS TAXATION

### Introduction

The following summary is intended for general information and does not purport to be a comprehensive description of all Netherlands tax consequences that could be relevant to holders of Program Securities. Each prospective holder should consult a professional tax adviser with respect to the tax consequences of an investment in the Program Securities. This summary is based on Netherlands tax legislation and published case law in force as of the date of this document. It does not take into account any developments or amendments thereof after that date, regardless of whether or not such developments or amendments have retroactive effect. For the purposes of this summary, “the Netherlands” shall mean that part of the Kingdom of the Netherlands that is in Europe.

### Scope

Regardless of whether or not a holder of Program Securities is, or is treated as being, a resident of the Netherlands, with the exception of the section on withholding tax below, this summary does not address the Netherlands tax consequences for a holder:

- (a) having a substantial interest (*aanmerkelijk belang*) in the Issuer (such a substantial interest is generally present if an equity stake of at least 5 per cent, or a right to acquire such a stake, is held, in each case by reference to the Issuer’s total issued share capital, or the issued capital of a certain class of shares);
- (b) who is a private individual and who may be taxed in box 1 for the purposes of Netherlands income tax (*inkomstenbelasting*) as an entrepreneur (*ondernemer*) having an enterprise (*onderneming*) to which the Program Securities are attributable, or who may otherwise be taxed in box 1 with respect to benefits derived from the Program Securities;
- (c) which is a corporate entity and a taxpayer for the purposes of Netherlands corporate income tax (*vennootschapsbelasting*), having a participation (*deelneming*) in the Issuer (such a participation is generally present in the case of an interest of at least 5 per cent. of the Issuer’s nominal paid-up share capital);
- (d) which is a corporate entity or a person taxable as a corporate entity and an exempt investment institution (*vrijgestelde beleggingsinstelling*) or investment institution (*beleggingsinstelling*) for the purposes of Netherlands corporate income tax, a pension fund, or otherwise not a taxpayer or exempt for tax purposes;
- (e) which is a corporate entity or a person taxable as a corporate entity and a resident of Aruba, Curaçao or Sint Maarten;
- (f) which is not considered the beneficial owner (*uiteindelijk gerechtigde*) of the Program Securities and/or the benefits derived from the Program Securities; or
- (g) which is a person to whom the Program Securities are attributed on the basis of the separated private assets provisions (*afgezonderd particulier vermogen*) in the Netherlands Income Tax Act 2001 (*Wet inkomstenbelasting 2001*) and/or the Netherlands Gift and Inheritance Tax Act 1956 (*Successiewet 1956*).

### Withholding tax

All payments made by the Issuer under the Program Securities may be made free of withholding or deduction for any taxes of whatsoever nature imposed, levied, withheld or assessed by the Netherlands or any political subdivision or taxing authority thereof or therein.

### Income tax

#### *Resident holders*

A holder who is a private individual and a resident, or treated as being a resident of the Netherlands for Netherlands income tax purposes, must record the Program Securities as assets that are held in box 3. Taxable income with regard to the Program Securities is then determined on the basis of a certain deemed return on the holder’s yield basis (*rendementsgrondslag*) at the beginning of the calendar year insofar the yield basis exceeds a €30,360 threshold (*heffingvrij vermogen*), rather than on the basis of income actually received or gains actually realised. Such yield basis

is determined as the fair market value of certain qualifying assets held by the holder of the Program Securities, less the fair market value of certain qualifying liabilities at the beginning of the calendar year. The fair market value of the Program Securities will be included as an asset in the holder's yield basis. The holder's yield basis is allocated to up to three brackets for which different deemed returns apply. The first bracket includes amounts up to and including €71,650, which amount is split into a 67 per cent. low-return part and a 33 per cent. high-return part. The second bracket includes amounts in excess of €71,650 and up to and including €989,736, which amount is split into a 21 per cent. low-return part and a 79 per cent. high-return part. The third bracket includes amounts in excess of €989,736, which is considered high-return in full. For 2019 the deemed return on the low-return parts is 0.13 per cent. and on the high-return parts is 5.60 per cent. The deemed return percentages are reassessed every year. The deemed return on the holder's yield basis is taxed at a rate of 30 per cent.

#### ***Non-resident holders***

A holder who is a private individual and neither a resident, nor treated as being a resident, of the Netherlands for Netherlands income tax purposes, will not be subject to such tax in respect of benefits derived from the Program Securities, unless such holder has an enterprise or an interest in an enterprise that is, in whole or in part, carried on through a permanent establishment or a permanent representative in the Netherlands to which permanent establishment or permanent representative the Program Securities are attributable, or is (other than by way of securities) entitled to a share in the profits of an enterprise which is effectively managed in the Netherlands and to which enterprise the Program Securities are attributable.

#### **Corporate income tax**

##### ***Resident holders***

A holder which is a corporate entity or a person taxable as a corporate entity and, for Netherlands corporate income tax purposes, a resident, or treated as being a resident, of the Netherlands, is taxed in respect of benefits derived from the Program Securities at rates of up to 25 per cent.

##### ***Non-resident holders***

A holder which is a corporate entity or a person taxable as a corporate entity and, for Netherlands corporate income tax purposes, neither a resident, nor treated as being a resident, of the Netherlands, will not be subject to corporate income tax, unless such holder has an interest in an enterprise that is, in whole or in part, carried on through a permanent establishment or a permanent representative in the Netherlands, a Netherlands Enterprise (*Nederlandse onderneming*), to which Netherlands Enterprise the Program Securities are attributable, or such holder is (other than by way of securities) entitled to a share in the profits of an enterprise or a co-entitlement to the net worth of an enterprise, which is effectively managed in the Netherlands and to which enterprise the Program Securities are attributable. Such holder is taxed in respect of benefits derived from the Program Securities at rates of up to 25 per cent.

#### **Gift and inheritance tax**

##### ***Resident holders***

Netherlands gift tax or inheritance tax (*schenk- of erfbelasting*) will arise in respect of an acquisition (or deemed acquisition) of Program Securities by way of a gift by, or on the death of, a holder of Program Securities who is a resident, or treated as being a resident, of the Netherlands for Netherlands gift and inheritance tax purposes.

##### ***Non-resident holders***

No Netherlands gift tax or inheritance tax will arise in respect of an acquisition (or deemed acquisition) of Program Securities by way of a gift by, or on the death of, a holder of Program Securities who is neither a resident, nor treated as being a resident, of the Netherlands for Netherlands gift and inheritance tax purposes.

#### **Other taxes**

No Netherlands registration tax, capital tax, transfer tax or stamp duty (nor any other similar tax or duty) will be payable in connection with the issue or acquisition of Program Securities.



**Residency**

A holder will not become a resident, or a deemed resident, of the Netherlands for Netherlands tax purposes by reason only of holding Program Securities.

## SPANISH TAXATION

*The information provided below does not purport to be a complete summary of tax law and practice currently applicable in the Kingdom of Spain and is subject to any changes in law and the interpretation and application thereof, which could be made with retroactive effect. Furthermore, it is not a comprehensive description of all the tax considerations that may be relevant to a decision to acquire, hold or dispose of the Program Securities, and does not describe the tax consequences for certain categories of taxpayers including, but not limited to entities falling under the attribution of income regime, financial institutions, Collective Investment Institutions, Cooperatives, which may be subject to specific rules. Prospective investors who are in any doubts as to their position should consult with their own professional advisors.*

*The summary set out below is based upon Spanish state law in force and is subject to any changes in the laws of Spain that may take effect after such date. This summary does not take into account any regional or local legislation that could be of application.*

This information has been prepared in accordance with the following Spanish tax legislation:

- for individuals resident for tax purposes in Spain which are subject to Personal Income Tax, Law 35/2006, of 28 November 2006, on Personal Income Tax ("**PIT Law**") and partial amendment of Corporate Income Tax Law, Non Residents Income Tax Law and Wealth Tax Law, as amended; Royal Decree 439/2007, of 30 March 2007 promulgating the Personal Income Tax Regulations, as amended; Law 19/1991, of 6 June 1991 on Net Wealth Tax, as amended, and Law 29/1987, of 18 December 1987, on Inheritance and Gift Tax, as amended.
- for legal entities resident for tax purposes in Spain which are subject to Corporate Income Tax, Law 27/2014, of 27 November 2014, of the Corporate Income Tax ("**CIT Law**"), as amended, and Royal Decree 634/2015, of 10 July 2015, promulgating the Corporate Income Tax Regulations, as amended ("**CIT Regulations**").
- for individuals and entities who are not resident in Spain, Royal Legislative Decree 5/2004, of 5 March 2004, promulgating the Consolidated Text of the Non-Residents Income Tax Law ("**NRIT Law**"), as amended; Royal Decree 1776/2004, of 30 July 2004, promulgating the Non-Residents Income Tax Regulations, as amended, Law 19/1991, of 6 June 1991 on Net Wealth Tax, as amended, and Law 29/1987, of 18 December 1987, on Inheritance and Gift Tax, as amended.

### Taxes on Income and Capital Gains

#### Notes:

#### ***Individuals with tax residency in Spain subject to Personal Income Tax (Impuesto sobre la Renta de las Personas Físicas)***

The taxation of income from the Notes under the Personal Income Tax is not expressly foreseen in the legislation. This leads to the need for applying the general principles under said tax, as well as to try to infer, from the Tax Authorities' doctrine, a line of interpretation in order to ascertain what the tax treatment should be.

Under this scenario, and following an interpretation of the general principles governing the Personal Income Tax, as well as the doctrine issued by the Spanish Tax Authorities on financial products, it can be said that, in principle, interest from the Notes obtained by individuals who have the status of taxpayers for the purposes of Spanish Personal Income Tax, and also income from the transfer, reimbursement, redemption, exchange or conversion of the Notes should, in general terms, be considered income from movable capital obtained due to the supply of funds to third parties upon the terms of Article 25.2 of PIT Law. Such income would be included in the savings tax base and, in cases of losses, their integration on the savings tax base and their offsetting will be subject to the rules foreseen in that respect in the PIT Law.

Income included in the savings taxable base will be taxed in 2019 at a flat rate of 19 per cent (applicable to the first Euros 6,000), 21 per cent. (applicable to the following Euros 50,000) and 23 per cent. (applicable to any excess over Euros 50,000).

Income derived from the Notes will be subject to withholding tax currently at a rate of 19 per cent., in case there is any person or entity obliged to levy said withholding tax in accordance with the general rules of the levying of withholding

taxes (i.e. in the event that an entity based in Spain is the custodian of the securities, or is in charge of the collection of the income from them in favour of the holders, or is in charge of the redemption of the securities, or receives from the holder the order to transfer the security, as the case may be).

***Legal Entities with tax residency in Spain subject to Corporate Income Tax (Impuesto sobre Sociedades)***

The tax regime for Spanish-resident entities holders of Notes is included in CIT Law and CIT Regulations.

The taxable income derived from the payment of the interest generated by the Notes and also from the transfer, reimbursement, redemption, exchange or conversion of the Notes will be calculated in accordance with the accounting treatment of such income by the relevant entity. The tax adjustments to the accounting treatment which may be of application should be taken into account when calculating the taxable base. In principle, the general rate in force for 2019 is twenty five per cent. (25 per cent.).

Any income derived from the Notes could be subject to withholding tax of 19 per cent. on account of the Corporate Income Tax of the holder in case there is any person or entity obliged to levy said withholding tax in accordance with the general rules of the levying of withholding taxes (i.e. in the event that an entity based in Spain is the custodian of the securities, or is in charge of the collection of the income from them in favor of the holders, or is in charge of the redemption of the securities, or receives from the holder the order to transfer the security, as the case may be).

In any case, income derived from the Notes obtained by entities which are considered taxable persons for Corporate Income Tax purposes will not be subject to withholding tax on account of Corporate Income Tax, in accordance with the provisions of Article 61.s) of CIT Regulations, provided that the Notes were securities traded on an organised market of an OECD country.

***Individuals and Legal Entities with no tax residency in Spain subject to Non-Resident Income Tax (Impuesto sobre la Renta de no Residentes)***

Interest generated by the Notes or from the transfer, reimbursement, redemption, exchange or conversion of the Notes obtained by individuals and legal entities not resident for tax purposes in Spain will be taxed pursuant to the NRIT Law.

*Income obtained through a permanent establishment*

Income from the Notes obtained through a permanent establishment in Spain will be taxed in accordance with the rules of Chapter III of the NRIT Law, subject to the provisions of any relevant double tax treaties.

The aforementioned tax rules for taxable persons under Spanish Corporate Income Tax (entities resident in Spain) will apply for persons or legal entities not resident in Spain with a permanent establishment in such territory.

*Income obtained without a permanent establishment*

Income realised by investors residing outside Spain and without a permanent establishment within the Spanish territory (individuals and legal entities) would not be considered, in general terms, as Spanish-source income and, therefore, would not be subject to taxation and withholding tax in Spain under the NRIT Law.

**Warrants/Certificates:**

***Individuals with tax residency in Spain subject to Personal Income Tax (Impuesto sobre la Renta de las Personas Físicas)***

According to what has been the traditional doctrine of the Spanish Tax Authorities, income from the Warrants/Certificates, under the Personal Income Tax, will be classified as capital gains or losses provided that, basically (i) the premium paid will not be taken into consideration in calculating the amounts corresponding to the payout on maturity date or during the life of the warrant/certificate (therefore, income from the warrants/certificates will only be linked to the evolution of the underlying assets), (ii) the warrant/certificate is not a financial asset that gives the holder an explicit and regular return and (iii) the amount of the premium paid is substantially lower than the amount that should have been paid if the underlying asset would have been purchased spot.

The transfer of Warrants/Certificates will qualify as a capital gain (or loss), calculated as the excess of the transfer price (after deduction of the expenses and commissions paid by the Warrant/Certificate holder inherent to the transfer) over the acquisition value (i.e. the original acquisition or purchase price of the Warrant/Certificate by the holder, increased by the costs paid by him/her inherent to said acquisition).

Upon the exercise or maturity of a Warrant/Certificate, the capital gain or loss will be calculated as the difference between (i) the settlement amount (after deduction of the expenses and commissions inherent paid by the Warrant/Certificate holder) and (ii) the acquisition value (as above defined).

Any of the above capital gains or losses would be included in the savings income taxable base. As above commented, income included in the savings taxable base will be taxed in 2019 at a flat rate of 19 per cent (applicable to the first Euros 6,000), 21 per cent (applicable to the following Euros 50,000) and 23 per cent (applicable to any excess over Euros 50,000).

The capital gains derived from the transfer or the exercise of a Warrant/Certificate will not be subject to withholding tax on account of the Personal Income Tax.

#### ***Legal Entities with tax residency in Spain subject to Corporate Income Tax (Impuesto sobre Sociedades)***

In principle, the taxable income will be calculated by correcting, by application of the rules contained in CIT Law, the accounting result determined in accordance with the applicable accounting legislation. As a consequence, investors would be taxed depending on the specific accounting of the Warrants/Certificates.

As a general rule, gains or losses realised by the tax payer subject to Corporate Income Tax either through the sale or the exercise of the warrant/certificate will be included in their taxable income under the general provisions of CIT Law. Nevertheless, taxable income could arise before the sale or the exercise of the Warrant/Certificate if its accounting implies the registration of profits prior to sale or exercise.

#### ***Individuals and Legal Entities with no tax residency in Spain subject to Non-Resident Income Tax (Impuesto sobre la Renta de no Residentes)***

The income derived from the transfer or the exercise of a warrant/certificate obtained by individuals or legal entities taxpayers not resident for tax purposes in Spain will be taxed pursuant to the NRIT Law.

##### ***Income obtained through a permanent establishment***

The income from the Warrants/Certificates obtained through a permanent establishment in Spain will be taxed in accordance with the rules of Chapter III of the NRIT Law, subject to the provisions of any relevant double tax treaties.

Such income will be taxed and will not be subject to withholding tax on account of the Non-Residents Income Tax upon the same terms set out above for taxable persons under Spanish Corporate Income Tax (entities resident in Spain).

##### ***Income obtained without a permanent establishment***

Income realised by investors residing outside Spain and without a permanent establishment within the Spanish territory (individuals and legal entities) would not be considered as Spanish-source income and, therefore, would not be subject to taxation and withholding tax in Spain under the NRIT Law.

#### ***Wealth Tax (Impuesto sobre el Patrimonio)***

The ownership of Program Securities as of 31 December 2019 would be subject to the Net Wealth Tax pursuant to Spanish Net Wealth Tax regulated by Law 19/1991, of June 6, as amended ("**Net Wealth Tax Law**"), subject to the application of any relevant double tax treaties.

According to article 3 of the royal Decree Law 27/2018, of 28 December, Net Wealth Tax should apply in 2019 but it is scheduled to be removed by means of a full relief (*bonificación del 100%*) from 1 January 2020 onwards (unless such relief is revoked or postponed again).

Only individuals holders of Program Securities would be subject to the Net Wealth Tax. Legal entities are not taxable persons under the Spanish Net Wealth Tax.

#### ***Individuals with tax residency in Spain***

Under article 5 of the Net Wealth Tax Law, the relevant taxpayers will be those individuals who have their habitual residence in Spain regardless of the place where their assets or rights are located or could be exercised and to the extent that their net wealth exceeds Euros 700,000.

Consequently, the ownership of the Program Securities by individuals resident for tax purposes in Spain will be subject to taxation under the Net Wealth Tax at a progressive rate scale from 0.2 per cent. to 2.5 per cent.

However, it is necessary to take into account that the power to implement the Net Wealth Tax (including certain tax benefits) has been transferred to the Spanish regions. Therefore, an analysis must be made in each specific case to determine to what extent any regional legislation might be applicable, since there might be differences in respect of the final taxation under Net Wealth Tax depending on the region in which an investor resides which could even eliminate the taxation.

#### ***Individuals with no tax residency in Spain***

Non-Spanish residents would not be subject to the Net Wealth Tax on the holding of the Program Securities, provided that the Program Securities are not located in Spain and the rights deriving from them cannot be exercised within the Spanish territory.

### **Inheritance and Gift Tax (Impuesto sobre Sucesiones y Donaciones)**

#### ***Individuals with tax residency in Spain***

Individuals resident in Spain for tax purposes who acquire ownership or other rights over any Program Securities by inheritance, gift or legacy will be subject to the Spanish Inheritance and Gift Tax in accordance with the applicable Spanish regional and State rules. The applicable effective tax rates range between 7.65% and 81.6%, depending on several factors. However, it is necessary to take into account that the Spanish Inheritance and Gift Tax (including certain tax benefits) have been transferred to the Spanish regions.

Therefore, an analysis must be made in each specific case to determine to what extent any regional legislation might be applicable, since there might be differences in respect of the final taxation under Spanish Inheritance and Gift Tax depending on the region in which an investor resides that could even eliminate the taxation.

#### ***Legal Entities with tax residency in Spain***

Legal entities resident in Spain for tax purposes which acquire ownership or other rights over the Program Securities by inheritance, gift or legacy are not subject to the Spanish Inheritance and Gift Tax. Instead, income obtained will be subject to the Corporate Income Tax.

#### ***Individuals and Legal Entities with no tax residency in Spain***

Non-Spanish resident individuals that acquire ownership or other rights over the Program Securities by inheritance, gift or legacy, will not be subject to the Spanish Inheritance and Gift Tax provided that the Program Securities are not located in Spain and the rights deriving from them cannot be exercised within the Spanish territory. No taxation would arise in Spain on the acquisition of the Program Securities by non-Spanish entities without a permanent establishment in the Spanish territory.

Non-Spanish resident entities with a permanent establishment within the Spanish territory which acquire the ownership or other rights over the Program Securities by inheritance, gift or legacy are not subject to the Spanish Inheritance and Gift Tax. Instead, income obtained will be subject to the Non-resident Income Tax, subject to the application of any relevant double taxation treaty.

### **Value Added Tax, Transfer Tax and Stamp Duty**

The issuance, acquisition and transfer of Program Securities is neither taxable under the Transfer Tax and Stamp Duty Tax, in accordance with the Consolidated Text of such tax promulgated by Royal Legislative Decree 1/1993, of 24 September, nor under the Value Added Tax, in accordance with Law 37/1992, of 28 December, regulating such tax.

### **Disclosure obligations in connection with assets held abroad by Spanish resident natural and legal persons (Form 720)**

According to Law 7/2012, of 29 October, Spanish resident natural or legal persons holding certain categories of assets abroad (including inter alia the Program Securities) may be potentially liable to report them to the Spanish tax authorities on a yearly basis (filing in respect of Securities held as of 31 December 2019 will be due by 31 March 2020) in certain circumstances. Accordingly, any Spanish resident individual and corporate investors using a non-Spanish resident custodian to hold the Program Securities may be potentially liable to comply with such reporting obligations in respect of the Program Securities, if certain conditions are met. Failure to meet this new reporting obligation may trigger significant tax penalties and other tax implications.

## SWEDISH TAXATION

There is no Swedish withholding tax at source (*källskatt*) applicable on payments made by the Issuer in respect of the Program Securities. Sweden operates a system of preliminary tax (*preliminärskatt*) to secure payment of taxes. In the context of the Program Securities a preliminary tax of 30 per cent. will be deducted from all payments of interest (including any compensation deemed to constitute interest for tax purposes) in respect of the Program Securities made to any individuals or estates that are resident in Sweden for tax purposes, provided the paying entity is subject to reporting obligations. A preliminary tax of 30 per cent. will also be deducted from any other payments in respect of the Program Securities not treated as capital gains, if such payments are paid out together with payments treated as interest. Depending on the relevant holder's overall tax liability for the relevant fiscal year, the preliminary tax may contribute towards, equal or exceed the holder's overall tax liability with any balance subsequently to be paid by or to the relevant holder, as applicable.

## SWISS TAXATION

*The following summary does not purport to be a comprehensive description of all Swiss tax considerations that may be relevant to a decision to purchase, own or dispose of the Program Securities and, in particular, does not consider specific facts or circumstances that may apply to a particular purchaser. It is for general information only and does not discuss all tax consequences of an investment in Program Securities under the tax laws of Switzerland. This summary is based on the tax laws of Switzerland currently in force and as applied on the date of this Offering Circular which are subject to changes (or changes in interpretation) which may have retroactive effect. Prospective purchasers are advised to consult their own tax advisors as to the tax consequences of the purchase, ownership and, lapse or exercise, disposition or redemption of Program Securities in the light of their particular circumstances.*

### Income Tax

#### **Swiss Resident Noteholders and Securityholders**

##### *Dividend and Interest Payments or Redemption of Program Securities*

Swiss residents receiving dividend payments or periodic interest payments during the investment or at redemption as one-time-interest generally must include these payments in their financial statements and/or in their income tax returns and owe individual income tax or corporate income tax on the relevant amounts.

Program Securities which are not straight derivatives for tax purposes or straight debt instruments but have components of debt instruments and derivatives intertwined generally qualify as combined instruments. The tax treatment of such Program Securities depends on whether the Program Securities are considered as transparent or not for Swiss income tax purposes.

If the Program Security is considered as not transparent for Swiss income tax purposes, any amount received by the Noteholder or Securityholder (upon sale, lapse or exercise or redemption) in excess of the amount invested (at issue or upon purchase) is treated as taxable income in the hands of the Noteholder or Securityholder if the Program Security qualifies as a note with predominant one-time interest payment. If the Program Security does not qualify as a note with predominant one-time interest payment, the Noteholder or Securityholder is subject to tax on the periodic interest payments and (at redemption) on the difference between initial issuance price and the redemption price. For the purpose of determining whether the Program Security is a note with predominant one-time interest payment the difference between initial issuance price and the redemption price is treated as one-time interest.

If the Program Security is considered as transparent for Swiss income tax purposes, it will be split notionally in a debt instrument and a derivative instrument component. Gains or losses on the derivative instrument component are treated as capital gains or losses (see below). Interest payments received during the investment, at lapse or exercise or at redemption as one-time interest related to the debt instrument component are treated as taxable income in the hands of the Noteholder or Securityholder. Such a treatment is also applicable for the purpose of determining whether the Program Security is a note with predominant one-time interest payment.

The Program Security is generally considered as transparent if the debt and the derivative components are traded separately or if the different elements of the Program Security (such as the guaranteed redemption amount, the issuance price of the debt component, the interest rates determining the issuance price of the debt component) are separately stated in the sales documentation as well as in the offering circular and if each one of such components is separately evaluated. Such evaluation has to be performed through calculations of financial mathematics determining the intrinsic value of the debt instrument and the derivative instrument components contained in the Program Security. In particular, the calculations have to determine the notional issuance price of the debt instrument, based on the interest rate taken into account by the issuer which has to be at market value. The Swiss Federal Tax Administration has to approve such calculations. Such calculations have to be reviewed on a quarterly basis in order take into account the evolution of the interest rates. If the tax authorities are not provided with sufficient information the Program Securities may be treated as not transparent.

Program Securities which are linked to underlying assets, such as bonds, shares, or baskets of such assets may also be treated, under certain circumstances, as direct investments in bonds, shares or in an investment fund. Program Securities linked to a basket of investment funds may be treated as an investment in an investment fund.



## Capital Gains

### Swiss Resident Private Noteholders and Securityholders

Swiss resident Noteholders and Securityholders who do not qualify as so-called professional securities dealer for income tax purposes ("*gewerbsmässiger Wertschriftenhändler*") and who hold the Program Securities as part of their private (as opposed to business) assets are hereby defined as Swiss Resident Private Noteholders and Securityholders.

Swiss Resident Private Noteholders and Securityholders realise a tax free capital gain upon the disposal of Program Securities which are straight derivatives for tax purposes or do not qualify as notes with predominant one-time interest payment and realise a taxable income if the Program Securities qualify as notes with one-time predominant interest payment.

The tax treatment of capital gains on Program Securities which qualify as combined instruments (see above) depends on whether the Program Security qualifies as tax transparent or not. Program Securities which are not transparent for Swiss income tax purposes (see above) generally qualify as notes with predominant one-time interest payment and are treated as such. Program Securities which qualify as tax transparent are notionally split into a debt instrument and a derivative instrument component. The debt instrument component follows the usual tax treatment either as note with predominant one-time interest payment or as note with no predominant one-time interest payment as applicable. Capital gains arising from the derivative instrument component of transparent Program Securities are generally not subject to income tax in the hands of Swiss Resident Private Noteholders and Securityholders.

With respect to capital gains arising from Program Securities linked to underlying assets, such as investment funds, bonds, shares or baskets of any of them see above under "*Dividend and Interest Payments or Redemption of Program Securities*".

### Swiss Resident Business Noteholders and Securityholders

Gains realised on the sale of Program Securities, by Swiss resident individual Noteholders and Securityholders holding the Program Securities as part of their business assets as well as by Swiss resident legal entity Noteholders and Securityholders, are part of their business profit subject to individual income tax or corporate income taxes, respectively. The same applies to Swiss Resident Private Noteholders and Securityholders who qualify as so-called professional securities dealer ("*gewerbsmässiger Wertschriftenhändler*").

### Non-Swiss Resident Noteholders and Securityholders

Under present Swiss tax regulation, a Noteholder or Securityholder who is a non-resident of Switzerland and who, during the taxable year has not engaged in trade or business through a permanent establishment or a fixed place of business within Switzerland and who is not subject to taxation in Switzerland for any other reason, will not be subject to any Swiss federal, cantonal or municipal income tax on interest or gains realised on sale, lapse or exercise or redemption of the Program Securities.

## Stamp Duties

### Swiss Issuance Stamp Duty

The issuance of the Program Securities by a non-Swiss resident Issuer is not subject to Swiss issuance stamp duty.

### Swiss Transfer Stamp Duty

Straight derivatives like options and futures do not qualify as taxable securities in the meaning of the Swiss Stamp Tax Act and are therefore not subject to Swiss transfer stamp duty.

The sale or transfer of the Program Securities may be subject to Swiss transfer stamp duty at the current rate of 0.3 per cent. if such sale or transfer is made by or through the intermediary of a Swiss bank or other Swiss securities dealer as defined in the Swiss Stamp Tax Act and no exemption applies. The same applies in case of physical delivery of the underlying being a taxable security in the meaning of the Swiss Stamp Tax Act at exercise or redemption.

## **Withholding Tax**

All payments in respect of the Program Securities by a non-Swiss resident Issuer are currently not subject to Swiss withholding tax ("*Verrechnungssteuer*").

## **Automatic Exchange of Information in Tax Matters**

On 19 November 2014, Switzerland signed the Multilateral Competent Authority Agreement (the "**MCAA**"). The MCAA is based on article 6 of the OECD/Council of Europe administrative assistance convention and is intended to ensure the uniform implementation of Automatic Exchange of Information (the "**AEOI**"). The Federal Act on the International Automatic Exchange of Information in Tax Matters (the "**AEOI Act**") entered into force on 1 January 2017. The AEOI Act is the legal basis for the implementation of the AEOI standard in Switzerland.

The AEOI is being introduced in Switzerland through bilateral agreements or multilateral agreements. The agreements have, and will be, concluded on the basis of guaranteed reciprocity, compliance with the principle of speciality (i.e. the information exchanged may only be used to assess and levy taxes (and for criminal tax proceedings)) and adequate data protection.

Switzerland has concluded a multilateral AEOI agreement with the EU (replacing the EU savings tax agreement) and has concluded bilateral AEOI agreements with several non-EU countries.

Based on such multilateral agreements and bilateral agreements and the implementing laws of Switzerland, Switzerland began and will begin to collect data in respect of financial assets, including, as the case may be, Securities, held in, and income derived thereon and credited to, accounts or deposits with a paying agent in Switzerland for the benefit of individuals resident in a EU member state or in a treaty state from, depending on the effectiveness date of the agreement, 2017 or 2018, as the case may be, and begin to exchange it from 2018 or 2019.

## UNITED KINGDOM TAXATION

*The comments below are of a general nature and are not intended to be exhaustive. They assume that there will be no substitution of the Issuer and do not address the consequences of any such substitution (notwithstanding that such substitution is permitted by the relevant terms and conditions of the Program Securities). Any holders of Program Securities who are in doubt as to their own tax position should consult their professional advisers. In particular, holders of Program Securities should be aware that the tax legislation of any jurisdiction where such holder is resident or otherwise subject to taxation (as well as the jurisdictions discussed in this section) may have an impact on the tax consequences of an investment in the Program Securities including in respect of any income received from the Program Securities.*

*The comments in this part are based on current United Kingdom tax law as applied in England and Wales and HM Revenue & Customs practice (which may not be binding on HM Revenue & Customs), in each case as at the latest practicable date before the date of this Offering Circular.*

*References in this part to "interest" shall mean "interest" as understood in United Kingdom tax law. Such references do not take any account of any different definitions of "interest" or "principal" which may prevail under any other law or which may be created by the terms and conditions of the Program Securities or any related documentation.*

### **Interest on the Program Securities**

To the extent that interest payments are made by the Issuer in respect of the Program Securities and those payments of interest have a United Kingdom source, such payments may be subject to deduction of United Kingdom income tax at the basic rate (currently 20 per cent.), subject to the availability of other reliefs under domestic law or to any direction to the contrary from HM Revenue & Customs in respect of such relief as may be available pursuant to the provisions of any applicable double taxation treaty.

However, while the Program Securities are and continue to be listed on a recognised stock exchange, within the meaning of Section 1005 Income Tax Act 2007, payments of interest by the Issuer may be made without withholding or deduction for or on account of United Kingdom income tax.

Both the Luxembourg Stock Exchange and Euronext Dublin are recognised stock exchanges for these purposes. Securities will be treated as listed on the Luxembourg Stock Exchange if they are both admitted to trading on the Luxembourg Stock Exchange and are officially listed in Luxembourg in accordance with provisions corresponding to those generally applicable in countries in the European Economic Area. Securities will likewise be treated as listed on Euronext Dublin if they are both admitted to trading on Euronext Dublin and are officially listed in Ireland in accordance with provisions corresponding to those generally applicable in countries in the European Economic Area.

Program Securities may be issued at an issue price of less than 100 per cent. of their principal amount. Whether any discount element on such Program Securities will be subject to any United Kingdom withholding tax pursuant to the provisions mentioned above, will depend on the precise terms of the Program Securities.

Where Program Securities are to be, or may fall to be, redeemed at a premium, as opposed to being issued at a discount, then any such element of premium may constitute a payment of interest. Payments of interest are subject to United Kingdom withholding tax and reporting requirements as outlined above.

Where interest has been paid under deduction of United Kingdom income tax, Program Securities who are not resident in the United Kingdom may be able to recover all or part of the tax deducted if there is an appropriate provision in any applicable double taxation treaty.

### **Payments in respect of the Guarantee**

The United Kingdom withholding tax treatment of payments by the Guarantor under the terms of the Guarantee, to the extent such payments have a United Kingdom source, in respect of interest on the Notes (or other amounts due under the Program Securities other than the repayment of amounts subscribed for the Program Securities) is uncertain. In particular, such payments by the Guarantor may not be eligible for the exemption in respect of securities listed on a recognised stock exchange described above in relation to payments of interest by the Issuer. Accordingly, if the Guarantor makes any such payments, these may be subject to United Kingdom withholding tax at the basic rate (currently 20 per cent.).

## THE PROPOSED FINANCIAL TRANSACTIONS TAX

On 14 February 2013, the European Commission published a proposal (the "**Commission's Proposal**") for a Directive for a common financial transactions tax ("**FTT**") in Belgium, Germany, Estonia, Greece, Spain, France, Italy, Austria, Portugal, Slovenia and Slovakia (the "**participating Member States**"). However, Estonia has since stated that it will not participate.

The Commission's Proposal has very broad scope and could, if introduced, apply to certain dealings in the Program Securities (including secondary market transactions) in certain circumstances.

Under the Commission's Proposal the FTT could apply in certain circumstances to persons both within and outside of the participating Member States. Generally, it would apply to certain dealings in the Program Securities where at least one party is a financial institution, and at least one party is established in a participating Member State. A financial institution may be, or be deemed to be, "established" in a participating Member State in a broad range of circumstances, including (a) by transacting with a person established in a participating Member State or (b) where the financial instrument which is subject to the dealings is issued in a participating Member State.

However, the FTT proposal remains subject to negotiation between the participating Member States. It may therefore be altered prior to any implementation, the timing of which remains unclear. Additional EU Member States may decide to participate.

Prospective holders of the Program Securities are advised to seek their own professional advice in relation to the FTT.

If, on or after the Trade Date, due to the implementation of the proposed Financial Transaction Tax or otherwise by the adoption of or any change in any applicable law or regulation (including, without limitation, any law or regulation implementing a system of financial transaction tax in any jurisdiction, including the European Union, relating to any tax payable in respect of the transfer of, or entry into or modification or unwind of, any financial instruments), the Issuer determines that it (directly or through an Affiliate) would incur or has incurred a materially increased amount of tax, transfer tax, duty, stamp duty, stamp duty reserve tax, expense or fee (other than brokerage commissions) in relation to its obligations under the Program Securities or its related hedge positions ("**Additional Tax**"), the Issuer may (if the Conditions of the Program Securities so allow) adjust the Conditions of the Program Securities to reduce the amount otherwise payable under the Program Securities to holders of such Program Securities in order to pass on to the holders of such Program Securities the full amount of such Additional Tax incurred by the Issuer directly or through such Affiliate.

## SUBSCRIPTION AND SALE

The Issuer is offering the Program Securities on a continuing basis through Morgan Stanley & Co. International plc of 25 Cabot Square, Canary Wharf, London E14 4QA and Morgan Stanley & Co. LLC whose principal executive office is at 1585 Broadway, New York, New York 10036, U.S.A., (the "**Distribution Agents**"), who have agreed to use reasonable efforts to solicit, directly or through an affiliate, offers to purchase the Program Securities. The Issuer will have the sole right to accept offers to purchase Program Securities and may reject any offer in whole or in part. The Distribution Agents will have the right to reject any offer to purchase Program Securities solicited by it in whole or in part. The Issuer may pay the Distribution Agents, in connection with sales of the Program Securities resulting from a solicitation the Distribution Agents made or an offer to purchase received by the Distribution Agents, a commission, which may be in the form of a discount from the purchase price if the Distribution Agents are purchasing the Program Securities for their own account.

The Issuer may also sell Program Securities to a Distribution Agent as principal for its own account at a price to be agreed upon at the time of sale. The Distribution Agents may resell any Program Securities they purchase as principal at prevailing market prices, or at other prices, as the Distribution Agents determine.

The arrangements for the offer and sale of the Program Securities from time to time are set out in the Distribution Agreement dated on 29 June 2018 (as supplemented and/or amended and/or restated and/or replaced from time to time, the "**Distribution Agreement**") among Morgan Stanley, MSFL, Morgan Stanley & Co. International plc, Morgan Stanley B.V., Morgan Stanley MUFG Securities Co., Ltd and the Distribution Agents. Pursuant to the Distribution Agreement, Morgan Stanley and the Distribution Agents have agreed to indemnify each other against certain liabilities, or to contribute payments made in respect thereof. Morgan Stanley and MSFL have also agreed to reimburse the Distribution Agents for certain expenses. The Distribution Agreement makes provision for the appointment of additional Distribution Agents who may agree to become bound by its terms (either in relation to the Program generally or in relation to a particular Series of Program Securities) in an accession letter provided by such additional Distribution Agent to the Issuers. MSFL acceded to the Distribution Agreement by way of an Accession Agreement dated 29 April 2016.

In order to facilitate the offering of the Program Securities, the Distribution Agents may engage in transactions that stabilise, maintain or otherwise affect the price of the Program Securities or any other securities the prices of which may be used to determine payments on those Program Securities. Specifically, the Distribution Agents may over allot in connection with any offering of the Program Securities, creating a short position in the Program Securities for their own accounts. In addition, to cover overallocments or to stabilise the price of the Program Securities or of any other securities, the Distribution Agents may bid for, and purchase, Program Securities or any other securities in the open market. Finally, in any offering of the Program Securities through a syndicate of underwriters, the underwriting syndicate may reclaim selling concessions allowed to an underwriter or a dealer for distributing the Program Securities in the offering if the syndicate repurchases previously distributed Program Securities in transactions to cover syndicate short positions, in stabilisation transactions or otherwise. Any of these activities may stabilise or maintain the market price of the Program Securities above independent market levels. The Distribution Agents are not required to engage in these activities and may end any of these activities at any time.

### United States of America

The Program Securities, any Guarantee in respect thereof and the securities to be delivered on exercise or redemption of the Program Securities (if any), have not been and will not be registered under the Securities Act or the securities laws of any state or other jurisdiction of the United States and may not be offered, sold, pledged, assigned, delivered or otherwise transferred, exercised or redeemed, at any time, within the United States or to, or for the account or benefit of, U.S. Persons (as defined in Regulation S under the Securities Act). Each Distribution Agent (1) has acknowledged that the Program Securities, any Guarantee in respect thereof and the securities to be delivered on exercise or redemption of the Program Securities (if any), have not been and will not be registered under the Securities Act, or the securities laws of any state or other jurisdiction of the United States, and the Program Securities are not being offered, sold or delivered and may not be offered, sold or delivered at any time, directly or indirectly, within the United States or to, or for the account or benefit of, U.S. Persons; (2) has represented, as a condition to acquiring any interest in the Program Securities, that neither it nor any persons on whose behalf or for whose account or benefit the Program Securities are being acquired is a U.S. Person, that it is not located in the United States, and was not solicited to purchase Program Securities while present in the United States; (3) has agreed not to offer, sell or deliver any of the Program Securities, at any time, directly or indirectly, in the United States or to, or for the account or benefit of, any U.S. Person and that hedging transactions involving any "equity securities" of "domestic issuers" (as such terms are defined in the Securities Act and regulations thereunder) may only be conducted in accordance with the Securities Act; and (4) has agreed that, at or prior to confirmation of sale of any Program Securities (whether upon original

issuance or in any secondary transaction), it will have sent to each distributor, dealer or person receiving a selling concession, fee or other remuneration that purchases Program Securities from it a written notice containing language substantially the same as the foregoing. As used herein, "**United States**" means the United States of America (including the states and the District of Columbia), its territories and possessions.

In addition, the Distribution Agents have represented and agreed that they have not offered or sold Program Securities and any Guarantee in respect thereof and will not offer or sell Program Securities and any Guarantee in respect thereof at any time except in accordance with Rule 903 of Regulation S under the Securities Act. Accordingly, the Distribution Agents have represented and agreed that neither they, their affiliates (if any) nor any person acting on its or their behalf has engaged or will engage in any directed selling efforts with respect to Program Securities and any Guarantee in respect thereof, and it and they have complied and will comply with the offering restrictions requirements of Regulation S. Terms used in this paragraph have the meanings given to them by Regulation S.

An offer or sale of Program Securities within the United States by any dealer (whether or not participating in the offering of such Program Securities) may violate the registration requirements of the Securities Act.

Each issuance of Index Basket Notes, Index Notes, Index Basket Securities and Index Securities may be subject to such additional U.S. selling restrictions as the Issuer and the relevant Distribution Agent may agree as to the terms of such issuance, which additional selling restrictions shall be set out in the applicable Pricing Supplement.

### **European Economic Area**

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a "**Relevant Member State**"), each Distribution Agent has represented and agreed, and each further Distribution Agent appointed under the Program will be required to represent and agree, in relation to each Tranche of Program Securities, that with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State (the "**Relevant Implementation Date**") it has not made and will not make an offer of Program Securities which are the subject of the offering contemplated by this Offering Circular as completed by the Pricing Supplement in relation thereto to the public in that Relevant Member State except that it may, with effect from and including the Relevant Implementation Date, make an offer of such Program Securities to the public in that Relevant Member State:

- (a) at any time to any legal entity which is a qualified investor as defined in the Prospectus Directive; or
- (b) at any time to fewer than 150 natural or legal persons (other than qualified investors as defined in the Prospectus Directive), subject to obtaining the prior consent of the relevant Distribution Agent or Distribution Agents nominated by the Issuer for any such offer; or
- (c) at any time in any other circumstances falling within Article 3(2) of the Prospectus Directive,

**provided that** no such offer of Program Securities referred to in (a) to (c) above shall require the Issuer or any Distribution Agent to publish a prospectus pursuant to Article 3 of the Prospectus Directive, or supplement a prospectus pursuant to Article 16 of the Prospectus Directive.

For the purposes of this provision, the expression:

- an "**offer of Program Securities to the public**" in relation to any Program Securities in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the Program Securities to be offered so as to enable an investor to decide to purchase or subscribe the Program Securities, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State;
- the expression "**Prospectus Directive**" means Directive 2003/71/EC (and amended including by Directive 2010/73/EU), and includes any relevant implementing measure in the Relevant Member State.

### **Prohibition of Sales to EEA Retail Investors**

Unless the Pricing Supplement in respect of any Program Securities specifies the "Prohibition of Sales to EEA Retail Investors" as "Not Applicable", each Distribution Agent has represented and agreed, and each further Distribution Agent appointed under the Program will be required to represent and agree, that it has not offered, sold or otherwise

made available and will not offer, sell or otherwise make available any Program Securities which are the subject of the offering contemplated by this Offering Circular as completed by the Pricing Supplement in relation thereto to any retail investor in the EEA. For the purposes of this provision:

- (a) the expression “retail investor” means a person who is one (or more) of the following:
  - (i) a retail client as defined in point (11) of Article 4(1) of MiFID II; or
  - (ii) a customer within the meaning of the Insurance Mediation Directive, where that customer would not qualify as a professional client as defined in point (10) of Article 4(1) of MiFID II; or
  - (iii) not a qualified investor as defined in the Prospectus Directive; and
- (b) the expression an “offer” includes the communication in any form and by any means of sufficient information on the terms of the offer and the Program Securities to be offered so as to enable an investor to decide to purchase or subscribe the Program Securities.

### United Kingdom

In relation to each Tranche of Program Securities, each Distribution Agent has represented and agreed, subscribing for or purchasing such Program Securities, and each further Distribution Agent appointed under the Program will be required to represent and agree with the relevant Issuer and if the Program Securities are issued by MSFL, the Guarantor that:

- (a) *Program Securities with maturities of less than one year*: in relation to any Program Securities which have a maturity of less than one year, (i) it is a person whose ordinary activities involve it in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of its business and (ii) it has not offered or sold and will not offer or sell any Program Securities other than to persons whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or as agent) for the purposes of their businesses or who it is reasonable to expect will acquire, hold, manage or dispose of investments (as principal or agent) for the purposes of their businesses where the issue of the Program Securities would otherwise constitute a contravention of Section 19 of the Financial Services and Markets Act 2000 (“FSMA”) by the Issuer or the Guarantor, if applicable;
- (b) *Financial promotion*: it has only communicated or caused to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of Section 21 of the FSMA) received by it in connection with the issue or sale of any Program Securities in circumstances in which Section 21(1) of the FSMA does not apply to the Issuer or the Guarantor, if applicable;
- (c) *General compliance*: it has complied and will comply with all applicable provisions of the FSMA and the Financial Conduct Authority Handbook with respect to anything done by it in relation to any Program Securities in, from or otherwise involving the United Kingdom; and
- (d) *Commissions and fees*:
  - (i) if it is distributing Program Securities that are “retail investment products” (as such term is defined in the Financial Conduct Authority Handbook) into the United Kingdom and it is entitled to receive any commission or fee from the Issuer, it will not transfer any part of that commission or fee to any third party who may advise retail investors to purchase a Program Security that is a retail investment product; and
  - (ii) if it is authorised and regulated by the Financial Conduct Authority to provide investment advice to retail investors in the United Kingdom and it is providing advice to retail investors in respect of a Program Security that is a retail investment product, it undertakes not to request any commission or fee from the Issuer and to otherwise reject any such payment offered to it other than the circumstances where the Issuer has agreed to facilitate the payment of an advisory fee and has the express consent of the retail investor to do so.

## **Austria**

In addition to the representations set out in section "European Economic Area" and "Prohibition of sales to EEA Retail Investors" above, each Distribution Agent has represented and agreed, and each further Distribution Agent appointed under the Program will be required to represent and agree, that it will only offer, sell or otherwise make available any Program Securities which are the subject of the offering contemplated by this Offering Circular as completed by the Pricing Supplement in relation thereto in the Republic of Austria in compliance with all laws, regulations and guidelines applicable in or promulgated by the relevant Austrian governmental and regulatory authorities and in effect at the relevant time, including the Austrian Securities Supervision Act 2018 (*Wertpapieraufsichtsgesetz 2018*), the Austrian Capital Market Act (*Kapitalmarktgesetz*) as well as the Austrian Alternative Investment Fund Managers Act 2011 (*Alternative Investmentfonds Manager-Gesetz 2011*) as amended and supplemented from time to time.

## **Belgium**

The Program Securities are not intended to be offered, sold or otherwise made available and will not be offered, sold or otherwise made available to "consumers" (*consumenten/consommateurs*) within the meaning of the Belgian Code of Economic Law (*Wetboek economisch recht/Code de droit économique*).

Each Distribution Agent has represented and agreed, and each further Distribution Agent appointed under the Program will be required to represent and agree, that it has not offered or sold or otherwise made available and it that will not offer or sell or otherwise make available the Program Securities to consumers (*consumenten/consommateurs*) within the meaning of the Belgian Code of Economic Law (*Wetboek van economisch recht/Code de droit économique*).

## **Finland**

This Offering Circular does not constitute a prospectus under the Finnish Securities Market Act (746/2012), the Prospectus Directive (2003/71/EC, as amended) or the Prospectus Regulation (2017/1129/EU), as applicable, and shall not be construed as an offer to the public in Finland. The Program Securities cannot be offered or sold in Finland to any persons other than "qualified investors" as defined by the Finnish Securities Market Act. No action has been taken to authorise an offering of the Program Securities to the public in Finland and the distribution of this Offering Circular is not authorised by the Finnish Financial Supervisory Authority. This Offering Circular is strictly for private use by its holder and may not be passed on to third parties or otherwise publicly distributed. Subscriptions will not be accepted from any persons other than qualified investors. This Offering Circular may not include all the information that is required to be included in a Prospectus in connection with an offering to the public.

The Distribution Agents have confirmed and agreed and each further Distribution Agent appointed by the Issuers under the Program will be required to confirm and agree that it will not, directly or indirectly, offer for subscription or purchase or issue invitations to subscribe for or buy Program Securities or distribute any draft or final document in relation to any such offer, invitation or sale except in circumstances that will not result in a requirement to prepare a Prospectus pursuant to the provisions of the Finnish Securities Market Act, the Prospectus Directive or the Prospectus Regulation, as applicable.

## **France**

Neither this Offering Circular nor any other offering material relating to the Program Securities has been submitted to the clearance procedures of the *Autorité des marchés financiers* ("AMF") or to the competent authority of another member state of the European Economic Area and subsequently notified to the AMF.

Each of the Distribution Agents has represented and agreed that, the Program Securities have not been offered or sold and will not be offered or sold, directly or indirectly, to the public in France and neither this Offering Circular nor any other offering material relating to the Program Securities has been or will be released, issued, distributed or caused to be released, issued or distributed to the public in France or used in connection with any offer or subscription or sale of the Program Securities to the public in France.

Such offers, sales and distributions will be made in France only to (i) providers of investment services relating to portfolio management for the account of third parties (*personnes fournissant le service d'investissement de gestion de portefeuille pour compte de tiers*) and/or (ii) qualified investors (*investisseurs qualifiés*), acting for their own account, all as defined in, and in accordance with, articles L.411-1, L.411-2 and D.411-1 of the French *Code monétaire et financier* ("CMF").



This Offering Circular and any other offering materials are strictly confidential and may not be distributed to any person or entity other than the recipients hereof.

## Hong Kong

### WARNING

The contents of this document have not been reviewed by any regulatory authority in Hong Kong. You are advised to exercise caution in relation to the offer. If you are in any doubt about any of the contents of this document, you should obtain independent professional advice.

Each Distribution Agent has represented and agreed (and each further Distribution Agent appointed under the Program will be required to represent and agree) that:

- (a) it has not offered or sold and will not offer or sell in Hong Kong, by means of any document, any Program Securities (except for Program Securities which are a "structured product" as defined in the Securities and Futures Ordinance (Cap. 571) of Hong Kong) other than (i) to "professional investors" as defined in the Securities and Futures Ordinance and any rules made under that Ordinance; or (ii) in other circumstances which do not result in the document being a "prospectus" as defined in the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) of Hong Kong or which do not constitute an offer to the public within the meaning of that Ordinance; and
- (b) it has not issued or had in its possession for the purposes of issue, and will not issue or have in its possession for the purposes of issue, whether in Hong Kong or elsewhere, any advertisement, invitation or document relating to the Program Securities, which is directed at, or the contents of which are likely to be accessed or read by, the public of Hong Kong (except if permitted to do so under the securities laws of Hong Kong) other than with respect to Program Securities which are or are intended to be disposed of only to persons outside Hong Kong or only to "professional investors" as defined in the Securities and Futures Ordinance and any rules made under that Ordinance.

## Ireland

In relation to each Tranche of Program Securities, each Distribution Agent subscribing for or purchasing such Program Securities has represented to, warranted and agreed with, or will represent to, warrant and agree with the Issuer and the Guarantor that:

- (a) it will not underwrite the issue of, or place, the Program Securities, otherwise in conformity with the Companies Act 2014 of Ireland (as amended, the "**Irish Companies Act**");
- (b) it will not underwrite the issue of, or place the Program Securities, otherwise than in conformity with the provisions of the European Union (Markets in Financial Instruments) Regulations 2017 (as amended) (the "**MiFID II Regulations**") including, without limitation, Regulation 5 (Requirement for Authorisation (and certain provisions concerning MTFS and OTFS)) thereof, or any rules or codes of conduct made under the MiFID II Regulations, and the provisions of the Investor Compensation Act 1998 (as amended);
- (c) it will not underwrite the issue of, or place, the Program Securities, otherwise than in conformity with the provisions of the Irish Central Bank Acts 1942 - 2018 (as amended) and any codes of conduct rules made under Section 117(1) of the Central Bank Act 1989 (as amended) or section 48 of the Central Bank (Supervision and Enforcement) Act 2013;
- (d) it will not underwrite the issue of, or place, or do anything in Ireland in respect of the Program Securities otherwise than in conformity with the provisions of the Irish Prospectus (Directive 2003/71/EC) Regulations 2005 as amended, the Irish Companies Act and any rules issued under Section 51 of the Irish Investment Funds, Companies and Miscellaneous Provisions Act 2005 or Section 1363 of the Irish Companies Act, by the Central Bank of Ireland;
- (e) it will not underwrite the issue of, place or otherwise act in Ireland in respect of the Program Securities, otherwise than in conformity with the provisions of the Market Abuse Regulation (EU 596/2014) (as

amended) and any rules and guidance issued by the Central Bank of Ireland under Section 1370 of the Irish Companies Act; and

- (f) any issue of the Program Securities with a legal maturity of less than one year will be carried out in strict compliance with the Central Bank of Ireland's implementation notice for credit institutions BSD C 01/02 of 12 November 2002 (as may be amended, replaced or up-dated) and issued pursuant to Section 8(2) of the Irish Central Bank Act, 1971 (as amended).

### **Republic of Italy**

The offering of the Program Securities has not been registered pursuant to Italian securities legislation and, accordingly, each Distribution Agent has represented and agreed that, save as set out below, it has not offered or sold, and will not offer or sell, any Program Securities in the Republic of Italy in an offer to the public and that sales of the Program Securities in the Republic of Italy shall be effected in accordance with all Italian securities, tax and exchange control and other applicable laws and regulation.

Accordingly, each of the Distribution Agents has represented and agreed that it will not offer, sell or deliver any Program Securities or distribute copies of this Offering Circular and any other document relating to the Program Securities in the Republic of Italy except:

- (a) to "qualified investors", as referred to in Article 100 of Legislative Decree No. 58 of 24 February 1998, as amended (the "**Decree No. 58**") and in Article 34-ter of CONSOB Regulation No. 11971 of 14 May 1999, as amended ("**Regulation No. 11971**").
- (b) that it may offer, sell or deliver Program Securities or distribute copies of any prospectus relating to such Program Securities in an offer to the public in the period commencing on the date of publication of such prospectus, provided that such prospectus has been approved in another Relevant Member State and notified to CONSOB, all in accordance with the Prospectus Directive as amended or, from 21 July 2019, all in accordance with the Regulation (EU) 2017/1129 of 14 June 2017 (the "**Prospectus Regulation**"), as implemented in Italy under Decree No. 58 and Regulation No. 11971, and ending on the date which is 12 months after the date of approval of such prospectus; and
- (c) in any other circumstances where an express exemption from compliance with the offer restrictions applies, as provided under Decree No. 58 or Regulation No. 11971.

Any such offer, sale or delivery of the Program Securities or distribution of copies of the Offering Circular or any other document relating to the Program Securities in the Republic of Italy must be:

- (i) made by investment firms, banks or financial intermediaries permitted to conduct such activities in the Republic of Italy in accordance with Legislative Decree No. 385 of 1 September 1993 as amended, Decree No. 58, CONSOB Regulation No. 20307 of 15 February 2018, as amended and any other applicable laws and regulations; and
- (ii) in compliance with any other applicable requirement or limitation which may be imposed by CONSOB or the Bank of Italy.

### ***Provisions relating to the secondary market in Italy***

Investors should also note that, in any subsequent distribution of the Program Securities in the Republic of Italy, Article 100-bis of Decree No. 58 may require compliance with the law relating to public offers of securities. Furthermore, where the Program Securities are placed solely with "qualified investors" and are then systematically resold on the secondary market at any time in the 12 months following such placing, purchasers of Program Securities who are acting outside of the course of their business or profession may in certain circumstances be entitled to declare such purchase void and, in addition, to claim damages from any authorised person at whose premises the Program Securities were purchased, unless an exemption provided for under Decree No. 58 applies.

### **Japan**

The Program Securities have not been and will not be registered pursuant to Article 4, Paragraph 1 of the Financial Instruments and Exchange Law of Japan (Law No. 25 of 1948, as amended) ("**FIEL**") and, accordingly, each Distribution Agent has undertaken, and each further Distribution Agent appointed under the Program will be required to undertake, that none of the Program Securities nor any interest therein may be offered or sold, directly or indirectly, in Japan or to, or for the benefit of, any Japanese Person or to others for re-offering or resale, directly or indirectly, in

Japan or to any Japanese Person except under circumstances which will result in compliance with all applicable laws, regulations and guidelines promulgated by the relevant Japanese governmental and regulatory authorities and in effect at the relevant time. For this purpose, a "**Japanese Person**" means any person resident in Japan, including any corporation or other entity organised under the laws of Japan.

### **The Netherlands**

Each Distribution Agent has represented and agreed, and each further Distribution Agent appointed under the Program will be required to represent and agree, that Program Securities may not be offered in the Netherlands other than to qualified investors as defined in the Prospectus Directive, and Notes of MFSL may not, directly or indirectly, be offered, sold, pledged, delivered or transferred in the Netherlands, on their issue date or at any time thereafter, other than Notes having a minimum denomination of at least EUR 100,000 (or the equivalent thereof in non-Euro currency).

### **Singapore**

Each Distribution Agent has acknowledged that this Offering Circular has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, this Offering Circular and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of Program Securities may not be circulated or distributed, nor may Program Securities be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor (as defined in Section 4A of the Securities and Futures Act, Chapter 289 of Singapore (the "**SFA**")) under Section 274 of the SFA or, as the case may be, Section 276(2), (ii) to an accredited investor (as defined in Section 4A of the SFA) in accordance with the conditions specified in Section 275 of the SFA or, as the case may be, Section 276(2), or (iii) to a relevant person (as defined in Section 275(2) of the SFA) pursuant to Section 275(1), or any person pursuant to Section 275(1A), or, as the case may be, Section 276(2) and in accordance with the conditions specified in Section 275 of the SFA where each such person is (1) an expert investor (as defined in Section 4A of the SFA) or (2) not an individual.

Where Program Securities are subscribed or purchased under Section 275 by a relevant person which is:

- (a) a corporation (which is not an accredited investor (as defined in Section 4A of the SFA)) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or
- (b) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary of the trust is an individual who is an accredited investor,

securities (as defined in Section 239(1) of the SFA) of that corporation or the beneficiaries' rights and interest (howsoever described) in that trust shall not be transferred within six months after that corporation or that trust has acquired the Program Securities pursuant to an offer made under Section 275 of the SFA except:

- (a) to an institutional investor or to a relevant person, or any person where the transfer arises from an offer referred to in Section 275(1A) or Section 276(4)(i)(B) of the SFA;
- (b) where no consideration is or will be given for the transfer;
- (c) where the transfer is by operation of law;
- (d) as specified in Section 276(7) of the SFA; or
- (e) as specified in Regulation 32 of the Securities and Futures (Offers of Investments)(Shares and Debentures) Regulations 2005 of Singapore.

### **Spain**

The Program Securities may not be listed, offered, sold or distributed in Spain nor any document or offer material be distributed in Spain or targeted at Spanish resident investors, except in accordance with the requirements set out in Spanish laws transposing the Prospectus Directive, in particular, Royal Legislative Decree 4/2015 of 23 October of the Securities Markets (*Real Decreto Legislativo 4/2015, de 23 de octubre, por el que se aprueba el texto refundido de la Ley del Mercado de Valores*) as amended and restated and Royal Decree 1310/2005 of 4 November on admission to

trading of securities in official secondary markets, public offerings and prospectus (*Real Decreto 1310/2005 de 4 de noviembre, por el que se desarrolla parcialmente la Ley 24/1988, de 28 de julio, de Mercado de Valores, en materia de admisión a negociación de valores en mercados secundarios oficiales, de ofertas públicas de venta o suscripción y del folleto exigible a tales efectos*) as amended and/or superseded, or any other related regulations that may be in force from time to time, as further amended, supplemented or restated.

### **Sweden**

Each Distribution Agent has represented and agreed, and each further Distribution Agent appointed under the Program will be required to represent and agree, that no offer will be made to the public in Sweden unless it is in compliance with the Swedish Financial Instruments Trading Act (*Sw. lag (1991:980) om handel med finansiella instrument*) as amended and/or replaced.

### **Switzerland**

This Offering Circular as completed by the pricing supplement shall be communicated in Switzerland to a small number of selected investors only. Each copy of this Offering Circular as completed by the pricing supplement shall be addressed to a specifically named recipient and may not be passed on to third parties.

The Program Securities shall not be publicly offered, sold, advertised, distributed or redistributed, directly or indirectly, in or from Switzerland, and neither this Offering Circular as completed by the pricing supplement nor any other solicitation for investments in the Program Securities may be communicated, distributed or otherwise made available in Switzerland in any way that could constitute a public offering within the meaning of Articles 652a and 1156 of the Swiss Code of Obligations (the "**CO**") or of Article 3 of the Swiss Federal Act on Collective Investment Schemes (the "**CISA**") unless the legal and regulatory conditions imposed on a public offering under the CO or CISA are satisfied. This Offering Circular as completed by the pricing supplement does not constitute a public offering within the meaning of Articles 652a, respectively 1156, of the CO and of Article 5 of the CISA and may not comply with the information standards required thereunder, and in particular with the guidelines on informing investors about structured products as published in July 2007 by the Swiss Bankers Association, as applicable. The Issuer may apply for a listing of the Program Securities on the SIX Swiss Exchange or any other regulated securities market in Switzerland, and therefore, the information contained in this Offering Circular as completed by the pricing supplement does comply with the information standards set out in the listing rules of the SIX Swiss Exchange.

The Program Securities do not constitute collective investments within the meaning of the CISA. Accordingly, holders of the Program Securities do not benefit from protection under the CISA or from the supervision of the Swiss Federal Banking Commission. Investors are exposed to the default risk of the Issuer.

## NO OWNERSHIP BY U.S. PERSONS

**The Program Securities may not be legally or beneficially owned by U.S. Persons at any time. The term "U.S. Person" will have the meaning ascribed to it in Regulation S under the Securities Act.**

Each purchaser of Program Securities, by accepting delivery of this Offering Circular or the Program Securities, will be deemed to have represented, agreed and acknowledged that:

- (a) it is, or at the time such Program Securities are purchased will be, the beneficial owner of such Program Securities and it is not, and is not acting for the account or benefit of, a U.S. Person and it is located outside the United States and was not solicited to purchase such Program Securities while present in the United States;
- (b) such Program Securities, any Guarantee in respect thereof and the securities to be delivered upon exercise or redemption of the Program Securities (if any) have not been and will not be registered under the Securities Act or the securities laws of any state or other jurisdiction of the United States and may not be offered, sold, pledged or otherwise transferred, exercised or redeemed except to a person that is not a U.S. Person (within the meaning of Regulation S) in an "offshore transaction" in accordance with Rule 903 or Rule 904 of Regulation S, in each case in accordance with all applicable securities laws of any state of the United States and any other applicable jurisdiction and it will provide notice of the foregoing transfer restriction to any subsequent transferee;

- (c) such Program Securities will bear a legend substantially to the following effect:

"THE SECURITIES AND ANY GUARANTEE IN RESPECT THEREOF AND THE SECURITIES TO BE DELIVERED ON EXERCISE OR REDEMPTION OF THE SECURITIES (IF ANY), HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "**SECURITIES ACT**"), OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION OF THE UNITED STATES. NONE OF THE ISSUERS OR THE GUARANTOR ARE REGISTERED, OR WILL REGISTER, UNDER THE U.S. INVESTMENT COMPANY ACT OF 1940, AS AMENDED. TRADING IN THE SECURITIES HAS NOT BEEN APPROVED BY THE U.S. COMMODITY FUTURES TRADING COMMISSION UNDER THE U.S. COMMODITY EXCHANGE ACT OF 1936, AS AMENDED (THE "**CEA**").

ANY INTEREST IN THE SECURITIES AND ANY GUARANTEE IN RESPECT THEREOF, AND THE SECURITIES TO BE DELIVERED ON EXERCISE OR REDEMPTION OF THE SECURITIES (IF ANY), MAY NOT BE OFFERED, SOLD, PLEDGED, ASSIGNED, DELIVERED OR OTHERWISE TRANSFERRED, EXERCISED OR REDEEMED AT ANY TIME, DIRECTLY OR INDIRECTLY, WITHIN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, U.S. PERSONS (AS DEFINED IN REGULATION S UNDER THE SECURITIES ACT). HEDGING TRANSACTIONS INVOLVING ANY "**EQUITY SECURITIES**" OF "**DOMESTIC ISSUERS**" (AS SUCH TERMS ARE DEFINED IN THE SECURITIES ACT AND REGULATIONS THEREUNDER) MAY ONLY BE CONDUCTED IN ACCORDANCE WITH THE SECURITIES ACT.

IN PURCHASING THE SECURITIES, PURCHASERS WILL BE DEEMED TO REPRESENT AND WARRANT THAT THEY ARE NEITHER LOCATED IN THE UNITED STATES NOR A U.S. PERSON AND THAT THEY ARE NOT PURCHASING ON BEHALF OF, OR FOR THE ACCOUNT OR BENEFIT OF, ANY U.S. PERSON."

and

- (d) the Issuers, the Guarantor, the Registrar, the Securities Registrar, the Distribution Agents and their affiliates, and others will rely upon the truth and accuracy of the foregoing acknowledgments, representations and agreements.

**FORM OF GUARANTEE FOR MORGAN STANLEY FINANCE LLC**

**THIS GUARANTEE** is made on 29 June 2018 by MORGAN STANLEY, a corporation incorporated under the laws of the State of Delaware (the "**Guarantor**" or "**Morgan Stanley**").

**WHEREAS:**

- (A) The Guarantor and Morgan Stanley Finance LLC ("**MSFL**") have established a Regulation S Program (the "**Program**") for the Issuance of notes, Series A and B ("**Notes**"), warrants ("**Warrants**") and certificates ("**Certificates**", together with the Warrants and Certificates, the "**Program Securities**").
- (B) Notes may be issued under the issue and paying agency agreement dated 30 November 2000 (such issue and paying agency agreement as modified and restated on 4 December 2001, 14 June 2005, 11 July 2006, 22 June 2007, 19 June 2008, 17 June 2009, 15 June 2010, 11 May 2011, 10 June 2011, 7 June 2012, 27 June 2013, 18 August 2014, 17 August 2015, 16 August 2016 and 29 June 2018 and as from time to time further modified and/or restated (the "**Issue and Paying Agency Agreement**") between (amongst others) Morgan Stanley B.V., MSI plc, MSFL, the Guarantor and The Bank of New York Mellon.
- (C) Warrants and Certificates may be issued under the securities agency agreement dated 30 November 2000 (such securities agency agreement as modified and restated on 4 December 2001, 30 June 2005, 11 July 2006, 22 June 2007, 19 June 2008, 17 June 2009, 15 June 2010, 11 May 2011, 10 June 2011, 7 June 2012, 27 June 2013, 18 August 2014, 17 August 2015, 16 August 2016 and 29 June 2018 and as from time to time further modified and/or restated, the "**Securities Agency Agreement**") between (amongst others) MSBV, MSI plc, MSFL, the Guarantor and The Bank of New York Mellon.
- (D) Notes issued under the Issue and Paying Agency Agreement, and Warrants and Certificates issued under the Securities Agency Agreement (together, "**Relevant Securities**"), will have the benefit of this Guarantee (subject as provided below). For the avoidance of doubt, Program Securities which are not Relevant Securities will not have the benefit of this Guarantee.

**THE GUARANTOR HEREBY** guarantees unconditionally and irrevocably the payment obligations under (a) the terms of the Relevant Securities issued by MSFL on or after the date hereof and (b) the terms of the Relevant Securities issued by any other of its subsidiaries on or after the date hereof that accedes to the Program and in respect of whom the Guarantor is referred to as guarantor in the Accession Agreement under which such subsidiary accedes to the Program as issuer and/or in the applicable Issuance Document (as such term is defined in the Issue and Paying Agency Agreement in respect of Relevant Securities which are Notes and in the Securities Agency Agreement in respect of Relevant Securities which are Warrants or Certificates) unless, in each case, otherwise stated in the applicable Issuance Document with respect thereto (each an "**Issuer**") in respect of the Relevant Securities, provided that any such Relevant Securities issued or after the date on which the Guarantor has granted a subsequent guarantee of Relevant Securities (in respect of which such Relevant Securities will have the benefit) shall not have the benefit of this Guarantee (save (i) in relation to any tranche of Relevant Securities which are expressed to be consolidated and form a single series with any tranches(s) of Relevant Securities which have the benefit of this Guarantee, and/or (ii) if expressly so provided in any such subsequent guarantee and/or applicable Issuance Document).

If the Relevant Securities are held by (or be a nominee on behalf of) a common depository for Euroclear Bank S.A./N.V. as Operator of the Euroclear System (the "**Euroclear Operator**"), Clearstream Banking, *société anonyme* ("**Clearstream**") or such other clearing system as specified in the applicable Issuance Document with respect to any series of Relevant Securities, the Guarantor covenants to each person who is for the time being shown in the records of the relevant clearing system or registrar (in the case of Relevant Securities in registered form) as the holder of a principal amount of the Relevant Securities (the "**Accountholders**") that it shall make such payments under this Guarantee and acknowledges that the Accountholders may take proceedings to enforce this Guarantee directly against the Guarantor. The holders of the Relevant Securities from time to time and the Accountholders are referred to herein as the Holders. References to the Euroclear Operator, Clearstream or any other clearing system shall include their respective successors and assigns.

The Guarantor hereby agrees that it shall not be necessary, as a condition to enforce this guarantee, that suit be first instituted against the applicable Issuer or that any rights or remedies against such Issuer be first exhausted. Rather, it is understood and agreed that the liability of the Guarantor hereunder shall be primary, direct, and in all respects, unconditional. The obligations of the Guarantor under this Guarantee constitute direct, unconditional and unsecured obligations of the Guarantor and rank without preference among themselves and, subject as aforesaid, *pari passu* with

all other outstanding unsecured and unsubordinated obligations of the Guarantor, present and future, but, in the event of insolvency, only to the extent permitted by laws affecting creditors' rights.

The Guarantor shall be fully liable as if it were the principal debtor under the Relevant Securities whether any time has been granted to the applicable Issuer, whether the obligations of the Issuer under the Relevant Securities have ceased to exist pursuant to bankruptcy, corporate reorganization or other similar event, whether the applicable Issuer has been dissolved or liquidated or consolidated or has changed or lost its corporate identity and whether or not any other circumstances have occurred which might otherwise constitute a legal or equitable discharge of or defense to a guarantor.

If any moneys shall become payable by the Guarantor under this Guarantee, the Guarantor shall not for so long as the same remain unpaid in respect of any amount paid by it under this Guarantee exercise any right or subrogation in relation to the applicable Issuer or any other right or remedy which may accrue to it in respect of or as a result of any such payment.

The Guarantee of the Guarantor of the Securities will terminate upon the merger of the Issuer with and into the Guarantor.

All payments pursuant to this Guarantee will be made without withholding or deduction for any taxes, duties, assessments or governmental charges of whatsoever nature imposed, levied collected, withheld or assessed by the United States of America, or any political subdivision or any authority thereof having power to tax unless such withholding or deduction is required by law. The Guarantor shall not be required to make any additional payments on account of such withholding or deduction (except with respect to any additional payments required to be made by any Issuer under the Program). If the Guarantor becomes subject at any time to any taxing jurisdiction other than the United States of America, references in the Guarantee to the United States shall be construed as references to such other jurisdiction.

This guarantee shall be governed and construed in accordance with New York law, without regard to the conflict of laws principles.

This guarantee shall expire and is no longer effective once all amounts payable on or in respect of the Relevant Securities has been paid in full.

Dated as of 29 June 2018

**MORGAN STANLEY**

By: .....

Name:

Title:

## GENERAL INFORMATION

### 1. No material adverse change in prospects

There has been no material adverse change in the prospects of:

- (a) Morgan Stanley, since 31 December 2018, the date of the latest published annual audited financial statements of Morgan Stanley; and
- (b) MSFL, since 31 December 2018, the date of the latest published audited financial statements of MSFL.

### 2. No significant change in the financial or trading position

There has been no significant change in the financial or trading position of:

- (a) Morgan Stanley, since 31 March 2019, the date of the latest published interim unaudited financial statements of Morgan Stanley; and
- (b) MSFL, since 31 December 2018, the date of the latest published interim unaudited financial statements of MSFL.

### 3. Legal and arbitration proceedings

Save as disclosed in:

- (a) the section entitled "Legal Proceedings" at pages 169-173 and in the paragraphs beginning with "Legal" under the heading "Contingencies" under the heading "Commitments, Guarantees and Contingencies" in "Notes to Consolidated Financial Statements" at pages 131-133 of Morgan Stanley's Annual Report on Form 10-K for the year ended 31 December 2018 (the "**Form 10-K**");
- (b) the paragraphs beginning with "Legal" under the heading "Contingencies" under the heading "Commitments, Leases, Guarantees and Contingencies" in "Notes to Consolidated Financial Statements (Unaudited)" at pages 60-62 and the section entitled "Legal Proceedings" at page 75 of Morgan Stanley's Quarterly Report on Form 10-Q for the quarterly period ended 31 March 2019; and
- (c) the Registration Document dated 7 June 2019,

there are no, nor have there been, any governmental, legal or arbitration proceedings involving Morgan Stanley (including any such proceedings which are pending or threatened of which Morgan Stanley is aware) during the 12-month period before the date of this Offering Circular which may have, or have had in the recent past, a significant effect on the financial position or profitability of Morgan Stanley or the Morgan Stanley Group.

- 4. The Program Securities have been accepted for clearance and settlement through Euroclear and Clearstream, Luxembourg. The appropriate code for each issue allocated by Euroclear and Clearstream, Luxembourg will be contained in the applicable Pricing Supplement. Transactions will normally be effected for settlement not earlier than two business days after the date of the transaction.
- 5. For so long as this Offering Circular remains in effect or any securities issued by Morgan Stanley or MSFL remain outstanding, the following documents will be available from the date hereof in physical or electronic form, during usual business hours on any weekday, at The Bank of New York Mellon, One Canada Square, London E14 5AL and also at the principal executive office of Morgan Stanley and registered office of MSFL:
  - (a) copies of the Distribution Agreement, the Issue and Paying Agency Agreement, the Securities Agency Agreement, the Deeds of Covenant, the Guarantee, the accession agreement dated as of 29 April 2016 relating to MSFL, the 2017 and 2018 published annual audited accounts of MSFL, the



2017 and 2018 published annual audited financial statements of Morgan Stanley, all of MSFL's future published financial statements and all of Morgan Stanley's future Annual, Quarterly and Current Reports. Morgan Stanley's Quarterly Reports on Form 10-Q contain unaudited quarterly financial statements;

- (b) the Certificate of Incorporation and Amended and Restated By-laws of Morgan Stanley (this shall not be available at the registered office of MSFL);
- (c) the Limited Liability Company Agreement of Morgan Stanley Finance LLC (as amended and restated from time to time) (this shall not be available at the registered office of Morgan Stanley);
- (d) all reports, letters and other documents, historical financial information, valuations and statements by any expert any part of which is included or referred to herein;
- (e) a copy of this Offering Circular and any document incorporated by reference herein;
- (f) any supplement to this Offering Circular; and
- (g) any Pricing Supplement (save that any Pricing Supplement relating to a Program Security which is not listed will only be available for inspection by a holder of such Program Security and such holder must provide evidence satisfactory to the Issuer as to the identity of such holder). The Pricing Supplements for Program Securities admitted to the Official List of Euronext Dublin and trading on its Global Exchange Market will be published on the website of Euronext Dublin ([www.ise.ie](http://www.ise.ie)). The Pricing Supplement for Program Securities admitted to the Official List of the Luxembourg Stock Exchange and to trading on the Luxembourg Stock Exchange's Euro MTF will be published on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)).

## 6. Authorisations

The Program was authorised by Morgan Stanley pursuant to resolutions adopted at a meeting of the Board of Directors of Morgan Stanley held on 25 September 1998, as amended and updated pursuant to resolutions adopted at meetings of the Board of Directors of Morgan Stanley held on 17 June 2003, 14 December 2004, 20 September 2005, 12 December 2006, 19 June 2007, 17 September 2007, 16 June 2008.

## 7. Credit Ratings

Program Securities may or may not be rated. Any credit rating applied for in relation to an issue of Program Securities will be specified in the applicable Pricing Supplement. Whether or not such credit ratings applied for will be issued by a credit rating agency established in the European Union and registered under Regulation 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (the "**CRA Regulation**") will be disclosed in the Pricing Supplement. In general, European regulated investors are restricted from using a rating for regulatory purposes if such rating is not issued by a credit rating agency established in the European Economic Area ("**EEA**") and registered under the CRA Regulation unless (1) the rating is provided by a credit rating agency operating in the EEA before 7 June 2010 which has submitted an application for registration in accordance with the CRA Regulation and such registration has not been refused, or (2) the rating is provided by a credit rating agency not established in EEA but is endorsed by a credit rating agency established in the EEA and registered under the CRA Regulation, or (3) the rating is provided by a credit rating agency not established in the EEA which is certified under the CRA Regulation. This Offering Circular includes details of the long-term and short-term credit ratings assigned to Morgan Stanley by DBRS, Inc. ("**DBRS**"), Fitch Ratings, Inc. ("**Fitch**"), Moody's Investors Service, Inc. ("**Moody's**"), Ratings and Investment Information, Inc. ("**R&I**") and Standard & Poor's Financial Services LLC through its business unit Standard & Poor's Global Ratings ("**S&P**"). The list of credit rating agencies registered under the CRA Regulation (as updated from time to time) is published on the website of the European Securities and Markets Authority (<http://www.esma.europa.eu/page/Listregistered-and-certified-CRAs>).

None of DBRS, Fitch, Moody's and S&P is established in the EEA or has applied for registration under the CRA Regulation. However, their respective affiliates are established in the EEA and registered under the CRA Regulation. Such affiliates endorse the ratings of DBRS, Fitch, Moody's and S&P for use for regulatory purposes in the EEA.

R&I is not incorporated in the EEA and is not registered under the CRA Regulation

As of 28 June 2019, Morgan Stanley's short-term and long-term debt has been respectively rated (i) R-1 (middle) and A (high), with a stable outlook, by DBRS, (ii) F1 and A, with a stable outlook, by Fitch, (iii) P-2 and A3, with a stable outlook, by Moody's, (iv) a-1 and A-, with a positive outlook, by R&I and (v) A-2 and BBB+, with a stable outlook, by S&P.

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