

## FORM OF TERMS AND CONDITIONS OF THE SUBSTITUTE NOTES

The following are the proposed terms and conditions (the "**Terms and Conditions**", which expression includes these terms and conditions as amended, modified, supplemented and/or replaced from time to time) of the Substitute Notes, which will be incorporated by reference in each Global Certificate and will be attached to each Individual Certificate, in the latter case, only if permitted by the relevant authority (if any) and agreed by the Issuer at the time of issue but if not so permitted and agreed, such Terms and Conditions will be endorsed upon such Individual Certificate.

The substitute notes (the "**Substitute Notes**") are issued by Lehman Brothers Treasury Co. B.V. *in liquidation* (the "**Issuer**") pursuant to the Issuer's solicitation memorandum dated 24 January 2019 (the "**Solicitation Memorandum**") and the composition plan dated 5 December 2012 and confirmed by the Amsterdam District Court on 22 March 2013 (*faillissementsakkoord*) (the "**Composition Plan**"), and pursuant to the agency agreement dated 29 March 2019 (the "**Agency Agreement**") between, inter alios, the Issuer and Deutsche Bank AG, London Branch, as principal paying agent (the "**Principal Paying Agent**", which expression shall include any successor principal paying agent) and Deutsche Bank Luxembourg S.A., as registrar (the "**Registrar**"), transfer agent (the "**Transfer Agent**") and paying agent (the "**Paying Agent**"). The Substitute Notes have the benefit of a deed of covenant (as amended, supplemented or replaced from time to time, the "**Deed of Covenant**") dated 29 March 2019, executed by the Issuer.

Copies of the Agency Agreement are available for inspection at the specified offices of the Principal Paying Agent and the Paying Agent. The Holders (as defined in Condition 1.1 (*Definitions*)) are deemed to have notice of, and are entitled to the benefit of, all the provisions of the Agency Agreement which are binding on them. The Deed of Covenant is held by the Principal Paying Agent.

Words and expressions defined in the Agency Agreement shall have the same meanings where used in these Terms and Conditions unless the context otherwise requires or unless otherwise stated. In the event of any discrepancy or inconsistency between words and expressions defined in the Agency Agreement and words and expressions defined in these Terms and Conditions, the words and expressions as defined in these Terms and Conditions shall prevail. In the event of any discrepancy or inconsistency between the Composition Plan and these Terms and Conditions, these Terms and Conditions shall prevail.

The Substitute Notes are not guaranteed by any person. Holders who have previously benefitted from guarantees of LBHI in respect of notes previously issued by the Issuer and which were subject to the Composition Plan are referred to the disclosure relating to these guarantees contained in the Solicitation Memorandum.

### 1. DEFINITIONS AND CONSTRUCTION

#### 1.1 Definitions

In these Terms and Conditions, the following words and expressions have the meanings set out below:

"**Accrued Expenses**" means, with respect to a Distribution Date, the aggregate amount determined by the Issuer to be Expenses which have been incurred by or on behalf of the Issuer and which remain unpaid as at that Distribution Date.

"**Agent**" means the Principal Paying Agent, the Registrar, any other Paying Agent, and the Transfer Agent, in each case as the context requires.

**"Aggregate Nominal Amount"** means, at any relevant date, the sum of all Nominal Amounts outstanding under the Substitute Notes as at that date.

**"Allocated Available Cash Amount"** means, with respect to a Distribution Date and the Nominal Amount of a Substitute Note, the amount equal to the result of the following calculation:

$$\left[ AC \times \frac{1}{ANA} \right]$$

Where:

**"AC"** = the Available Cash as determined by the Liquidators with respect to that Distribution Date; and

**"ANA"** = the Aggregate Nominal Amount as at the Record Date applicable to that Distribution Date.

**"Available Cash"** means, with respect to a Distribution Date, the amount of cash determined by the Issuer to be cash available to make payments on the Substitute Notes on that Distribution Date, such amount of cash to be determined by reference to, without limitation (i) any proceeds of sale received by the Issuer in respect of all or any part of the LBCCA Receivable, to the extent not distributed on any previous Distribution Date, plus (ii) the amount received by the Issuer in respect of the most recent LBHI Distribution to the extent not distributed on any previous Distribution Date, plus (iii) any cash proceeds of sale received by the Issuer in respect of all or any part of the Retained LBHI Receivable, to the extent not distributed on any previous Distribution Date, plus (iv) any other previously undistributed cash amounts available for distribution to Holders of Substitute Notes, plus (v) any amounts received in respect of Excess Substitute Notes, to the extent not distributed on any previous Distribution Date, plus (vi) any interest, income or other amounts earned or received by the Issuer from the investment of any amounts received by the Issuer in respect of items (i)-(v) above, to the extent available for inclusion in Available Cash on that Distribution Date, minus (vii) the sum of (x) any unpaid portion of the Final Distribution Amount and (y) all Accrued Expenses, Future Expenses and the Retention for Disputed Claims, in each case determined with respect to that Distribution Date.

**"Business Day"** means (a) for so long as the Global Certificate is held by the common depositary for Euroclear and Clearstream, a day other than a Saturday or a Sunday on which Euroclear and Clearstream are operating; (b) a day on which banks and foreign exchange markets are open for general business in the city of the Principal Paying Agent's specified office, and in Amsterdam, the Netherlands; and (c) if a payment is to be made on the Substitute Notes on that day, a day on which banks and foreign exchange markets are open for general business in New York, United States of America.

**"Certificate"** means a Global Certificate or an Individual Certificate, as applicable.

**"Clearstream"** means Clearstream Banking S.A., Luxembourg.

**"Composition Plan"** means the composition plan in respect of the Issuer dated 5 December 2012 and confirmed by the Amsterdam District Court on 22 March 2013, including all annexes thereto, as amended, modified, supplemented and/or replaced from time to time.

**"Custodian"** means Deutsche Bank AG, London Branch, as custodian appointed under the Custody Agreement, and any successor to or replacement thereof appointed as custodian under the Custody Agreement.

**"Custody Account"** means a custody account in the name of the Issuer held with Deutsche Bank AG, London Branch in accordance with the terms of the Custody Agreement.

**"Custody Agreement"** means the custody agreement entered into between the Issuer and Deutsche Bank AG, London Branch as custodian.

**"Disputed Claim"** means any actual claim against the Issuer under or in respect of the Composition Plan in existence as at the Substitution Date.

**"Disputed Claim Holder"** means the holder of a Disputed Claim.

**"Disputed Substitute Notes"** means, with respect to a Disputed Claim, the Substitute Notes issued by the Issuer in respect of that Disputed Claim, as determined by the Issuer in its sole and absolute discretion.

**"Distribution Date"** means each date on which the Issuer instructs the Principal Paying Agent and/or any other party engaged by the Issuer to make payments on the Substitute Notes as provided for in the Agency Agreement, these Terms and Conditions or under the Composition Plan.

**"Euroclear"** means Euroclear Bank SA/NV.

**"Excess Substitute Notes"** means, (i) with respect to a Disputed Claim which has been finally accepted by the Issuer, in whole or in part, pursuant to a final court order or a settlement agreement, (A) the Disputed Substitute Notes applicable to that Disputed Claim which remain in the Custody Account immediately after the Issuer has transferred to the Disputed Claim Holder the Settlement Substitute Notes applicable to that Disputed Claim, or (B) if no Settlement Substitute Notes are to be transferred, the Disputed Substitute Notes applicable to that Disputed Claim; or (ii) with respect to a Disputed Claim which is finally dismissed pursuant to a final court order or a settlement agreement, the Disputed Substitute Notes applicable to that Disputed Claim.

**"Expenses"** means, with respect to a Distribution Date, any and all fees, costs and expenses incurred by or on behalf of the Issuer, or expected to be incurred by or on behalf of the Issuer (including, without limitation, the fees, costs and expenses incurred, or expected to be incurred, by or on behalf of the Issuer to its agents and advisers, the fees, costs and expenses incurred, or expected to be incurred, by the Stichting and reimbursable by the Issuer, and all fees, costs and expenses incurred by or on behalf of the Issuer in connection with the Partial Wind-Down) in connection with the liquidation of the Issuer, including, without limitation, the fulfilment by the Issuer of its obligations under or in respect of the Substitute Notes and/or the Composition Plan.

**"Final Distribution Amount"** means the aggregate amount payable by the Issuer to the Cash-Out Noteholders (as defined in the Solicitation Memorandum) and those other creditors of the Issuer who are not receiving Substitute Notes pursuant to the election process described in the Solicitation Memorandum, such aggregate amount being payable from (among other sources) the proceeds of sale of a portion of the LBHI Receivable and the proceeds of sale of the LBCCA Receivable, as described in the Solicitation Memorandum (as defined in the Solicitation Memorandum as the **"Final Distribution"**).

**"Future Expenses"** means, with respect to a Distribution Date, the aggregate amount determined by the Issuer to be (i) Expenses which are expected to be incurred by or on behalf of the Issuer in the period commencing on that Distribution Date and (ii) Expenses which may be incurred by or on behalf of the Issuer after that Distribution Date in respect of which the

Issuer has determined it should retain cash reserves (for avoidance of doubt, without double-counting with any Accrued Expenses determined with respect to that Distribution Date).

"**Global Certificate**" has the meaning assigned to it in Condition 2.1 (*Form*).

"**Holder**" means, in relation to any registered Substitute Notes and any Substitute Notes represented by a Global Certificate, the person in whose name such Substitute Note is registered, and shall be construed in accordance with Condition 2.1 (*Form*).

"**Individual Certificate**" has the meaning assigned to it in Condition 2.1 (*Form*).

"**LBCCA Receivable**" means the Issuer's intercompany claim against Lehman Brothers Commercial Corp. Asia Ltd. filed in the amount of US\$2,312,632.

"**LBHI**" means Lehman Brothers Holdings, Inc., in bankruptcy.

"**LBHI Distribution**" means a distribution made by LBHI to the Issuer in respect of the Retained LBHI Receivable.

"**LBHI Receivable**" means the Issuer's original intercompany claim in the amount of US \$34,548,000,000 against LBHI (allowed as a Class 4A Claim under the confirmed Third Amended Joint Chapter 11 Plan of LBHI and its affiliated debtor), as held by the Issuer immediately before the sale process described in the Solicitation Memorandum.

"**Liquidators**" means Mr R.J. Schimmelpenninck and Mr F. Verhoeven, or any other person appointed as liquidator (vereffenaar) of the Issuer by the Stichting.

"**Nominal Amount**" means, as at any relevant date and in respect of a Substitute Note, US \$1.00.

"**Partial Wind-Down**" means the partial wind-down of the Issuer's estate pursuant to which, among other things, certain of the Issuer's existing noteholders were, by way of the Solicitation Memorandum, given the opportunity to opt to receive Substitute Notes and the Final Distribution Amount was paid to the Cash-Out Noteholders (as defined in the Solicitation Memorandum) and those other creditors of the Issuer not receiving Substitute Notes.

"**Paying Agent**" means Deutsche Bank Luxembourg S.A., as paying agent appointed under the Agency Agreement, and any successor to or replacement thereof appointed as Paying Agent pursuant to the Agency Agreement.

"**Principal Paying Agent**" means Deutsche Bank AG, London Branch, as principal paying agent appointed under the Agency Agreement, and any successor to or replacement thereof appointed as Principal Paying Agent pursuant to the Agency Agreement.

"**Record Date**" has the meaning assigned to it in Condition 6.2 (*Payments on the Substitute Notes*).

"**Registrar**" means Deutsche Bank Luxembourg S.A., as registrar appointed under the Agency Agreement, and any successor to or replacement thereof appointed as Registrar pursuant to the Agency Agreement.

"**Released Parties**" means (a) the Issuer, (b) the Liquidators, (c) the Stichting, (d) the current and future directors of the Stichting, (e) each of (i) Houthoff Coöperatief U.A., (ii) Akin Gump LLP, (iii) Kramer Levin Naftalis & Frankel LLP, and (iv) Gleiss Lutz Hootz Hirsch PartmbB, and their respective affiliates as well as their respective present or former partners, employees,

agents, officers, directors or principals, and (f) any other adviser, lawyer, accountant, independent auditor, expert, agent, officer or person engaged or hired by any of the aforementioned entities or persons and regardless of whether such engagement has been terminated or is ongoing at any relevant time, and including, but not limited to, PricewaterhouseCoopers Accountants N.V. and its affiliates, Deutsche Bank AG and any other person engaged by the Issuer to make payments on the Substitute Notes or otherwise to make distributions to its creditors under the Composition Plan, together with their respective affiliates, and all advisers retained by and all officers and employees of such entities or persons.

**"Retained LBHI Receivable"** means the Issuer's intercompany claim in the amount of US\$ 19,626,452,736.11 against LBHI (allowed as a Class 4A Claim under the confirmed Third Amended Joint Chapter 11 Plan of LBHI and its affiliated debtor).

**"Retention for Disputed Claims"** means, with respect to a Distribution Date, the amount determined by the Issuer to be the amount it requires to retain as a cash retention to cover any actual or potential claims against the Issuer under or in respect of the Composition Plan or otherwise howsoever (excluding any Disputed Claims in respect of which Disputed Substitute Notes have been issued).

**"Settlement Substitute Notes"** means, with respect to a Disputed Claim which has been finally accepted by the Issuer, in whole or in part, pursuant to a final court order or a settlement agreement, an amount of the Disputed Substitute Notes applicable to that Disputed Claim equal to:

$$\left[ A \times \frac{B}{C} \right]$$

Where:

- "A" = the aggregate Nominal Amount of the Disputed Substitute Notes applicable to that Disputed Claim;
- "B" = the amount in Euro of the Disputed Claim that has been finally accepted by the Issuer; and
- "C" = the total amount in Euro of the Disputed Claim.

**"Stichting"** means Stichting Lehman Brothers Treasury Co., a stichting incorporated in the Netherlands, whose registered office is at Strawinskylaan 3127, Atrium Building, 1077 ZX Amsterdam, The Netherlands.

**"Substitution Date"** means the date of the issuance of the Substitute Notes.

**"Transfer Agent"** means Deutsche Bank Luxembourg S.A., as transfer agent appointed under the Agency Agreement, and any successor to or replacement thereof appointed as Transfer Agent pursuant to the Agency Agreement.

**"U.S. Dollars"** and **"US\$"** mean the lawful currency of the United States of America.

## 1.2 Construction

In these Terms and Conditions:

- (a) any reference to any legislation, any provision thereof or to any instrument, order or regulation made thereunder shall be construed as a reference to such

legislation, provision, instrument, order or regulation as the same may have been, or may from time to time be, amended, replaced or re-enacted;

- (b) an "agreement" or any other document or instrument is a reference to that agreement or other document or instrument as amended, novated, supplemented, extended or restated;
- (c) any "party" shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under these Terms and Conditions;
- (d) the expression "obligations" includes any direct or indirect obligations of the Issuer and whether by way of guarantee, indemnity, other contractual support agreement or otherwise and regardless of name or designation, and any non-contractual obligations arising out of or in connection therewith; and
- (e) a "person" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality).

Any determination of Available Cash, Accrued Expenses, Expenses, Final Distribution Amount, Future Expenses and Retention for Disputed Claims required to be made under, pursuant to or for the purposes of the Substitute Notes shall be made by the Issuer in its sole and absolute discretion. Any such determination so made by the Issuer shall be absolute and binding on all Holders, absent manifest error.

## 2. **FORM AND TRANSFER**

### 2.1 **Form**

The Substitute Notes are issued in registered form and, in the case of definitive Substitute Notes, will be serially numbered. Each Substitute Note is denominated in U.S. Dollars in an amount equal to the Nominal Amount.

The Substitute Notes are issued in fully registered form and upon issue are represented by a registered global certificate (the "**Global Certificate**"). The Global Certificate will be exchangeable for Substitute Notes in individual certificated form ("**Individual Certificates**") only in certain limited circumstances specified in the Global Certificate. Each Certificate shall represent the entire holding of Substitute Notes by the same Holder.

Title to the Substitute Notes shall pass by registration in the register that the Issuer shall procure to be kept by the Registrar in accordance with the requirements of the Agency Agreement. Except as ordered by a court of competent jurisdiction or as required by law, the Holder of any Substitute Note shall be deemed to be and may be treated as its absolute owner for all purposes, regardless of any notice of ownership, trust, or an interest in it, any writing on it (or on the Certificate representing it) or its theft or loss (or that of its related Certificate) and no person shall be liable for so treating the Holder and none of the Issuer, the Registrar, the Principal Paying Agent or any other Paying Agent shall be affected by notice to the contrary.

### 2.2 **Note register**

The Registrar shall maintain the Note register in which shall be recorded the names and addresses of Holders of global and definitive Substitute Notes in registered form, the numbers

of the Substitute Notes and other details with respect to issuance, transfer and exchange of such Substitute Notes (the "**Register**").

### **2.3 Transfers of Substitute Notes**

One or more Substitute Notes may be transferred upon surrender (at the specified office of the Registrar or any Transfer Agent) of the Certificate representing such Substitute Notes to be transferred, together with the form of transfer endorsed on such Certificate (or another form of transfer substantially in the same form and containing the same representations and certifications (if any), unless otherwise agreed by the Issuer), duly completed, and any other evidence as the Registrar or the Transfer Agent may reasonably require. In the case of a transfer of part only of a holding of Substitute Notes represented by one Certificate, a new Certificate shall be issued to the transferee in respect of the part transferred and a further new Certificate in respect of the balance of the holding not transferred shall be issued to the transferor. In the case of a transfer of Substitute Notes to a person who is already a Holder of Substitute Notes, a new Certificate representing the increased holding shall only be issued against surrender of the Certificate evidencing the existing holding. All transfers of Substitute Notes and entries on the Register will be made subject to the detailed regulations concerning transfers of Substitute Notes scheduled to the Agency Agreement. These regulations may be changed by the Issuer, with the prior approval of the Registrar. A copy of the current regulations will be made available to the Holder of any Substitute Notes upon written request to the Registrar.

### **2.4 Delivery of new Certificates**

Each new Certificate to be issued pursuant to Condition 2.3 (*Transfers of Substitute Notes*) shall be available for delivery within five (5) Business Days of receipt of the form of transfer and surrender of the relevant Certificate. Delivery of new Certificate(s) shall be made at the specified office of the Registrar or of the Transfer Agent (as the case may be) to whom delivery or surrender of such form or Certificate shall have been made or, at the option of the Holder making such delivery or surrender and as specified in the relevant form of transfer or otherwise in writing, posted by uninsured post at the risk of the Holder entitled to the new Certificate(s) to such address as may be so specified, unless such Holder requests otherwise and pays in advance to the Registrar or the relevant Transfer Agent the costs of such other method of delivery and/or such insurance as it may specify.

### **2.5 Sums payable on transfer**

No service charge shall be made by the Issuer for any registration of transfer. However, in connection with any such registration of transfer the Issuer may require payment of a sum sufficient to cover any applicable stamp tax or duty, tax or any other governmental charge that may be imposed.

### **2.6 Closed periods**

No Holder of Substitute Notes may require the transfer of a Substitute Note to be registered during the period of seven (7) days ending on (and including) any Distribution Date.

## **3. STATUS OF SUBSTITUTE NOTES**

The Substitute Notes constitute direct, unconditional and (subject to the provisions in the Agency Agreement) unsecured obligations of the Issuer, subject to the terms of the Composition Plan and these Terms and Conditions.

## **4. DISPUTED SUBSTITUTE NOTES**

### **4.1 Disputed Substitute Notes**

If any Disputed Substitute Notes are issued pursuant to the Solicitation Memorandum, the Issuer shall transfer such Disputed Substitute Notes into the Custody Account. Any payment made by the Issuer in respect of the Disputed Substitute Notes shall be retained by the Issuer to the extent that it constitutes part of the Retention for Disputed Claims.

### **4.2 Accepted Disputed Claims**

If a Disputed Claim has been finally accepted by the Issuer, in whole or in part, pursuant to a final court order or a settlement agreement, the Issuer (a) may instruct the Custodian to transfer the applicable Settlement Substitute Notes in respect of that Disputed Claim to the Disputed Claim Holder and (b) shall cancel or procure the cancellation of the applicable Excess Substitute Notes in respect of that Disputed Claim. Any cash retained by the Issuer related to the Settlement Substitute Notes shall be paid to the Disputed Claim Holder.

### **4.3 Dismissed Disputed Claims**

If a Disputed Claim has been finally dismissed pursuant to a final court order or a settlement agreement, the Issuer shall cancel or procure the cancellation of the applicable Excess Substitute Notes in respect of that Disputed Claim. Any cash retained by the Issuer with respect to the Excess Substitute Notes shall be included in the calculation of Available Cash for purposes of determining the amounts available for distribution on the Substitute Notes on the next Distribution Date.

## **5. PAYMENT CURRENCY**

### **5.1 Payment in U.S. Dollars**

Payments on each Substitute Note will be made in U.S. Dollars.

### **5.2 Redenomination of U.S. Dollars**

In the event of an official redenomination of U.S. Dollars, the obligations of the Issuer to make payments in or with reference to such currency shall, in all cases, be deemed immediately following such redenomination to be obligations to make payments in or with reference to that amount of redenominated currency representing the amount of such currency immediately before such redenomination.

## **6. PAYMENTS ON THE SUBSTITUTE NOTES; PAYING AGENTS**

### **6.1 Limited recourse payments on the Substitute Notes**

All payments on the Substitute Notes will be made on Distribution Dates from Available Cash (as determined with respect to each Distribution Date) in accordance with and pursuant to the Composition Plan and these Terms and Conditions.

Notwithstanding the Nominal Amount of the Substitute Notes, each Holder of the Substitute Notes acknowledges and agrees that its sole recourse to the Issuer under the Substitute Notes is to such Holder's entitlement to receive payments from the Issuer in respect of the LBHI Distributions, as determined by the Composition Plan, and these Terms and Conditions, and that the Issuer's obligation to make payments on the Substitute Notes shall be satisfied only from the aggregate amount of Available Cash, determined in accordance with these Terms and



Conditions. Notwithstanding the foregoing, the Issuer may sell all, or any portion of, the Retained LBHI Receivable, in its sole and absolute discretion. Accordingly, the Issuer shall have no obligation (and assumes no liability) to make any payments on the Substitute Notes other than in accordance with the Composition Plan and these Terms and Conditions.

## 6.2 **Payments on the Substitute Notes**

Allocated Available Cash Amounts payable on the Substitute Notes on any Distribution Date in accordance with these Terms and Conditions and pursuant to the Composition Plan shall be paid to the person shown on the Register at the close of business on the fifth Business Day before the due date for payment thereof (each a "**Record Date**"). Payments on each Substitute Note shall be made in U.S. Dollars by cheque drawn on a bank that processes payments in U.S. Dollars and posted to the Holder (or to the first named of joint Holders) of such Substitute Note at its address appearing in the Register. Upon application by the Holder to the specified office of the Registrar or any Transfer Agent before the Record Date, such payment may be made by transfer to an account in U.S. Dollars maintained by the payee with a bank that processes payments in U.S. Dollars.

Notwithstanding the foregoing, so long as the Global Certificate is held on behalf of Euroclear and/or Clearstream, each payment in respect of the Global Certificate will be made to the person shown as the Holder in the Register at the close of business of the relevant clearing system on the Business Day before the due date for such payment.

## 6.3 **Stamp duties, etc.**

The Issuer will pay all stamp, transfer tax and other duties, if any, which may be imposed by the United States, the United Kingdom or the Netherlands or any political subdivision or taxing authority thereof with respect to the execution and delivery of the Agency Agreement or the issuance of the Substitute Notes.

## 6.4 **The Agents**

The names of the Registrar, the Principal Paying Agent, the Paying Agent and the Transfer Agent and their specified offices as at 2 April 2019 are listed at the end of these Terms and Conditions. The Issuer has designated Deutsche Bank AG, London Branch, as its Principal Paying Agent for the Substitute Notes. The Issuer has covenanted that until the Substitute Notes have been delivered to the Registrar for cancellation, there will at all times be a Paying Agent in a Western European city. A notice of any change of the Registrar, the Principal Paying Agent, Paying Agent or the Transfer Agent will be given to the Holders of the Substitute Notes in accordance with Condition 12 (*Notices*).

## 7. **PURCHASE AND CANCELLATION**

### 7.1 **Purchases**

The Issuer may at any time purchase Substitute Notes in the open market, by private treaty or by tender at any price and for consideration in any form including, without limitation, cash or a portion or portions of the Retained LBHI Receivable. Any Substitute Notes purchased by the Issuer shall be cancelled promptly upon the completion of any such purchase.

### 7.2 **Cancellation**

Each Substitute Note will be cancelled (irrespective of its then Nominal Amount outstanding) upon the determination made by the Issuer, in good faith, that no further amounts will be distributed to the Holders of the Substitute Notes in respect of the Retained LBHI Receivable

and as required by the Composition Plan. Any such determination shall be final and binding on the Holders, and shall be notified to the Holders in accordance with Condition 12 (*Notices*).

Upon cancellation of the Substitute Notes in accordance with this Condition 7.2 (*Cancellation*), each Holder of Substitute Notes shall be deemed to have waived, released and discharged (automatically, and without any further requirement for any instrument in writing), to the extent applicable, the Released Parties of and from any and all claims, rights and liabilities arising under or in respect of (i) these Substitute Notes, and/or (ii) the Composition Plan, and/or (iii) the implementation or performance thereof and/or any distributions made or not made thereunder, provided however that nothing in this Condition 7.2 (*Cancellation*) shall affect the liability of the Issuer for any act or omission which is determined by a final court order to have constituted gross negligence or wilful misconduct.

## 8. **DEFAULT**

No remedies shall be available to Holders of Substitute Notes or any other person in respect of any breach of these Terms and Conditions other than those remedies available under the Composition Plan.

## 9. **TAXATION**

Distributions made by the Issuer on the Substitute Notes are made in accordance with Article 3 of the Composition Plan and are therefore made free of withholding tax, unless such withholding is required by applicable law, rule, regulation or practice. Clearing systems, direct participants in clearing systems, other Holders, intermediaries and ultimate beneficial holders, as the case may be, and any other person entitled to any distributions from the Issuer under the Composition Plan and/or the Substitute Notes are responsible for any and all tax consequences in any jurisdiction related to the direct or indirect receipt of, or entitlement to these distributions. The payments made by the Issuer under the Substitute Notes qualify as payments of liquidation proceeds made in accordance with the Composition Plan. If the treatment of the payments on the Substitute Notes as liquidation proceeds is not recognised in certain jurisdictions, and as a consequence payments on the Substitute Notes would be characterised as a (partial) return of principal or interest in those jurisdictions, any such characterisation will be treated by the Issuer as made solely for operational and practical purposes in order to facilitate payment. The Issuer shall not be liable in any circumstances to pay any amount in respect of gross-up for withholding taxes or in respect of any other taxes assessable on the Holder of any Substitute Note by reason of that Holder's receipt of payments on the Substitute Notes.

## 10. **MEETINGS AND AMENDMENTS**

### 10.1 **Meetings**

A meeting of Holders of Substitute Notes may be called at any time and from time to time by the Issuer to make, give or take any request, demand, authorisation, direction, notice, consent, waiver or other action provided by the Agency Agreement or the Substitute Notes to be made, given or taken by Holders of Substitute Notes or to modify, amend or supplement the terms of the Substitute Notes, the Deed of Covenant or the Agency Agreement as provided in these Terms and Conditions.

The Principal Paying Agent may at any time, and shall upon the request of the Issuer, call a meeting of Holders of Substitute Notes for any such purpose to be held at such time and at such place as the Issuer shall determine. Notice of every meeting of Holders of Substitute Notes (including any adjourned meeting), setting forth the time and the place of such meeting and in general terms the action proposed to be taken at such meeting, shall be given as specified in Condition 12 (*Notices*) not less than 10 nor more than 30 days' prior to the date fixed for the

meeting. In case at any time the Holders of at least 50 per cent. in Aggregate Nominal Amount of the Substitute Notes shall have requested the Issuer to call a meeting of Holders of Substitute Notes to make, give or take any request, demand, authorisation, direction, notice, consent, waiver or other action provided by the Agency Agreement or the Substitute Notes, by written request setting forth in reasonable detail the action proposed to be taken at the meeting, the Issuer shall call such meeting for such purposes by giving notice thereof.

## 10.2 **Quorum requirements**

To be entitled to vote at any meeting of Holders of Substitute Notes, a person must be (i) a Holder of Substitute Notes, or (ii) a person appointed by an instrument in writing as proxy for a Holder or Holders of outstanding Substitute Notes by such Holder or Holders, which proxy need not be a Holder of Substitute Notes. The persons entitled to vote at least 75 per cent. in Aggregate Nominal Amount of the Substitute Notes shall constitute a quorum for the transaction of all business referred to in Condition 10.1 (*Meetings*). No business shall be transacted in the absence of a quorum unless a quorum is represented when the meeting is called to order. In the absence of a quorum within 15 minutes of the time appointed for any such meeting, the meeting shall, if convened at the request of Holders of Substitute Notes (as provided above), be dissolved. In any other case the meeting may be adjourned for a period of not less than 10 days as determined by the chairman of the meeting prior to the adjournment of such meeting. For the purposes of any such adjourned meeting, the persons entitled to vote at least 50 per cent. in Aggregate Nominal Amount of the Substitute Notes shall constitute a quorum for the transaction of all business referred to in Condition 10.1 (*Meetings*). Notice of the reconvening of any adjourned meeting shall be given as provided in Condition 12 (*Notices*) except that notice must be given not less than five days prior to the date on which the meeting is scheduled to be reconvened. Any Holder of a Substitute Note who has executed an instrument in writing appointing a person as his proxy shall be deemed to be present for the purposes of determining a quorum and be deemed to have voted; provided that such Holder shall be counted as present or voting only with respect to the matters covered by such instrument in writing (which may include authorisation to vote on any other matters as may come before the meeting).

## 10.3 **Voting threshold**

A resolution proposed at a meeting of Holders of Substitute Notes may be passed only if voted in favour by the Holders (or their duly appointed proxies) of not less than 75 per cent. of the total Nominal Amount of the Substitute Notes held by those Holders present at the meeting or represented by duly appointed proxies.

## 10.4 **Regulations for meetings**

The Registrar may make such reasonable and customary regulations as it shall deem advisable for any meeting of Holders of Substitute Notes with respect to the proof of the holding of Substitute Notes, the adjournment and chairmanship of such meeting, the appointment and duties of inspectors of votes, certificates and other evidence of the right to vote, and such other matters concerning the conduct of the meeting as it shall deem appropriate.

## 10.5 **Written resolutions**

A resolution in writing signed by or on behalf of Holders of not less than 75 per cent. of the Aggregate Nominal Amount of the Substitute Notes shall for all purposes be as valid and effective as a resolution passed at a meeting of Holders of the Substitute Notes duly convened and held. 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 Holders of the Substitute Notes.

## 10.6 **Amendments without the consent of Holders**

The Issuer may agree, without the vote or consent of any Holder of Substitute Notes, to any modification, amendment or supplement of any of these Terms and Conditions and/or to the Deed of Covenant and/or to any provision of the Agency Agreement (with the consent of the Principal Paying Agent) for the purpose of (i) evidencing the assumption by LBHI or any affiliate thereof of the obligations of the Issuer under the Agency Agreement, the Deed of Covenant and/or the Substitute Notes; (ii) correcting any defective provision contained in the Agency Agreement, the Deed of Covenant or in these Terms and Conditions in a manner which does not adversely affect the interests of any Holders of the Substitute Notes in any material respect; (iii) making any modification to any of these Terms and Conditions, the Deed of Covenant or any provision of the Agency Agreement in any manner which the Issuer and, in the case of the Agency Agreement, the Principal Paying Agent may determine and which does not adversely affect the interest of any Holders of Substitute Notes in any material respect; (iv) making any modification which is of a formal, minor or technical nature or correcting a manifest error; or (v) making any modification, amendment or supplement to these Terms and Conditions or to any of the provisions of the Deed of Covenant and/or the Agency Agreement as the Issuer may determine, in good faith, is necessary or desirable to ensure that these Terms and Conditions and/or the provisions of the Deed of Covenant and/or the Agency Agreement are consistent with the terms of the Composition Plan.

## 10.7 **Effect of amendments**

Substitute Notes authenticated and delivered after the effectiveness of any such modification, amendment, supplement, request, demand, authorisation, direction, notice, consent, waiver or other action may bear a notation in the form approved by the Registrar and the Issuer as to any matter provided for in such modification, amendment, supplement, request, demand, authorisation, direction, notice, consent, waiver or other action. New Substitute Notes modified to conform to any such modification, amendment, supplement, request, demand, authorisation, direction, notice, consent, waiver or other action may be prepared by the Issuer, authenticated by the Registrar and delivered in exchange for the outstanding Substitute Notes.

## 10.8 **Substitute Notes deemed to be outstanding**

As used in these Terms and Conditions, any Note authenticated and delivered pursuant to the Agency Agreement shall, as at any date of determination, be deemed to be "**outstanding**", except (i) Substitute Notes theretofore cancelled by any Paying Agent or the Registrar, or delivered to any Paying Agent or the Registrar for cancellation, or held by the Registrar for reissuance but not reissued by the Registrar; or (ii) Substitute Notes in lieu of or in substitution for which other Substitute Notes shall have been authenticated and delivered pursuant to the Agency Agreement.

## 10.9 **Number of votes**

A Holder of a Substitute Note may, at any meeting of Holders of Substitute Notes at which such Holder is entitled to vote, cast one vote for each Nominal Amount of the Substitute Notes held by such Holder.

## 10.10 **Voting in respect of Disputed Substitute Notes**

The Issuer shall not be entitled to vote in respect of any Disputed Substitute Notes, nor will the Disputed Substitute Notes held by the Issuer count in any respect in determining whether a quorum is represented or whether a resolution has been passed.

## 11. ASSUMPTION OF OBLIGATIONS

LBHI may assume the obligations of the Issuer to make payments in respect of the Substitute Notes and the performance of every covenant of the Agency Agreement and the Substitute Notes on the part of the Issuer to be performed or observed; provided that LBHI shall expressly assume such obligations by an amendment or supplement to the Agency Agreement, executed by LBHI and delivered to the Registrar for the benefit of the Holders of the Substitute Notes.

Upon any such assumption, LBHI shall succeed to, and be substituted for, and may exercise every right and power of, the Issuer under the Agency Agreement, the Deed of Covenant and the Substitute Notes, with the same effect as if LBHI had been named as the Issuer in the Agency Agreement, the Deed of Covenant and the Substitute Notes, and the Issuer shall be released from all liability under the Agency Agreement, the Deed of Covenant and the Substitute Notes.

For the avoidance of doubt, no consent of any Holder of Substitute Notes is required for the transactions contemplated by this Condition 11 (*Assumption of Obligations*).

## 12. NOTICES

### 12.1 Notices to Holders

Notices to the Holders of Substitute Notes will be valid if published on the Issuer's website (<https://www.lehmanbrotherstreasury.com>).

Notices to the Holders of the Substitute Notes may also be posted to them at their respective addresses in the Register and deemed to have been given on the fourth Business Day after the date of posting.

For so long as the Global Certificate is held on behalf of Euroclear and/or Clearstream, any notice to the Holders of the Substitute Notes shall be validly given by the delivery of the relevant notice to Euroclear and/or Clearstream, rather than by notification as required by these Terms and Conditions. Any such notice shall be deemed to have been given to the Holders of the Substitute Notes one Business Day after the day on which the said notice was given to Euroclear and/or Clearstream.

### 12.2 Notices to the Issuer

Notices given by any Holders of Substitute Notes to the Issuer shall be in writing and given by delivering the same to Lehman Brothers Treasury Co. B.V. *in liquidation*, Strawinskylaan 3127, Atrium Building, 1077 ZX Amsterdam, the Netherlands, Attention: the Liquidators (*vereffenaars*), with a copy to Lehman Brothers Treasury Co. B.V. *in liquidation*, c/o Gustav Mahlerplein 50, 1082 MA Amsterdam, the Netherlands, Attention: the Liquidators.

## 13. REPLACEMENT OF CERTIFICATES

If a Certificate is lost, stolen, mutilated, defaced or destroyed, it may be replaced, subject to applicable laws and regulations at the specified office of the Registrar or such other Agent, as the case may be, as may from time to time be designated by the Issuer for the purpose and notice of whose designation is given to the Holders of the Substitute Notes, in each case on payment by the claimant of the fees and costs incurred in connection therewith and on such terms as to evidence, security and indemnity (which may provide, *inter alia*, that, if the allegedly lost, stolen or destroyed Certificate is subsequently presented for payment, there shall be paid to the Issuer on demand the amount payable by the Issuer in respect of such Certificates)

and otherwise as the Issuer may require. Mutilated or defaced Certificates must be surrendered before replacements will be issued.

#### 14. **PRESCRIPTION**

All amounts paid by the Issuer to a Paying Agent for payment on any Substitute Note and remaining unclaimed for two (2) years after such payment has been made to such Paying Agent shall be repaid to the Issuer and, to the extent permitted by law, the Holder of such Substitute Note thereafter may look only to the Issuer for payment.

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

No person (other than the Released Parties, pursuant to Condition 7.2 (*Cancellation*)) shall have any right to enforce any term or condition of the Substitute Notes under the Contracts (Rights of Third Parties) Act 1999 but this shall not affect any right or remedy which exists or is available apart from such Act.

#### 16. **GOVERNING LAW; CONSENT TO JURISDICTION**

##### 16.1 **Governing law**

The Agency Agreement, the Substitute Notes and the Deed of Covenant are governed by, and shall be construed in accordance with, English law. The terms of the Composition Plan, and any remedies available in the event of any breach of the terms of the Composition Plan, are governed by, and shall be construed in accordance with, Dutch law.

##### 16.2 **Dutch courts**

The courts of the Netherlands have exclusive jurisdiction to settle any dispute arising from or connected with the Substitute Notes (including a dispute relating to any non-contractual obligation arising from or connected with these Terms and Conditions) (a "**Dispute**") and by holding Substitute Notes, each Holder submits to the jurisdiction of such courts.

##### 16.3 **Appropriate forum**

Each Holder acknowledges and agrees that the courts of the Netherlands are the most appropriate and convenient courts to settle any Dispute and, accordingly, that it will not argue to the contrary.

#### 17. **AGENTS**

The Agency Agreement contains provisions for the indemnification of the Agents and for their relief from responsibility. The Agents are entitled to enter into business transactions with the Issuer without accounting for any profit resulting therefrom.

In acting under the Agency Agreement and in connection with the Substitute Notes, the Agents are acting solely as agents of the Issuer and do not assume any obligation towards or relationship of agency or trust for or with any Holder. Any funds held by the Principal Paying Agent or the Paying Agent for payment of any sums due in respect of the Substitute Notes shall be applied as set forth in these Terms and Conditions and in the Agency Agreement, but need not be segregated from other funds held by it, except as required by law. Neither the Principal Paying Agent nor the Paying Agent may exercise any right of set-off or lien against the Issuer or any Holders of the Substitute Notes in respect of any moneys payable to or by it under the terms of the Agency Agreement. For a description of the duties and the immunities and rights of the Agents under the Agency Agreement, reference is made to the Agency Agreement, and

the obligations of the Agents to the Holder of each Substitute Note are subject to such immunities and rights.

18. **DESCRIPTIVE HEADINGS**

The descriptive headings appearing in these Terms and Conditions are for convenience of reference only and shall not alter, limit or define the provisions hereof.

## **THE AGENTS AND THEIR SPECIFIED OFFICES AS AT 2 APRIL 2019**

### **Principal Paying Agent and its Specified Office**

Deutsche Bank AG, London Branch

Winchester House  
1 Great Winchester Street  
London EC2N 2DB  
United Kingdom

### **Registrar and its Specified Office**

Deutsche Bank Luxembourg S.A.

2 Boulevard Konrad Adenauer  
L-115 Luxembourg  
Luxembourg

### **Transfer Agent and its Specified Office**

Deutsche Bank Luxembourg S.A.

2 Boulevard Konrad Adenauer  
L-115 Luxembourg  
Luxembourg

### **Paying Agent and its Specified Office**

Deutsche Bank Luxembourg S.A.

2 Boulevard Konrad Adenauer  
L-115 Luxembourg  
Luxembourg